



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

Date: Wednesday, 19th June, 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 11th April, 2019 1 – 10

Jo Miller
Chief Executive

Issued on: Tuesday, 11 June 2019

Governance Services Officer for this meeting: Sarah Maxfield
01302 736723

Doncaster Metropolitan Borough Council
www.doncaster.gov.uk

A. Reports where the public and press may not be excluded.

5.	Audit Committee Action Log	11 - 16
6.	Day Opportunities for People with Learning Disabilities and Highly Complex Needs.	17 - 36
7.	Annual Report of the Monitoring Officer.	37 - 44
8.	Covert Surveillance - Regulation of Investigatory Powers Act 2000 (RIPA) Update.	45 - 96
9.	Unaudited Statement of Accounts 2018/19.	97 - 104
10.	Audit Committee Prospectus, Terms of Reference and Work Programme 2019/20.	105 - 122
11.	Grant Thornton - Audit Progress Report and Sector Update.	123 - 134

Members of the Audit Committee

Chair – Councillor Austen White

Vice-Chair – Councillor Richard A Jones

Councillors Charlie Hogarth, Tosh McDonald and David Nevett

Co-opted Member: Kathryn Smart

Agenda Item 4

DONCASTER METROPOLITAN BOROUGH COUNCIL

AUDIT COMMITTEE

THURSDAY, 11TH APRIL, 2019

A MEETING of the AUDIT COMMITTEE was held in ROOM 9, CIVIC OFFICE, on THURSDAY, 11TH APRIL, 2019, at 10.00 am.

PRESENT:

Chair – Councillor Austen White

Vice-Chair – Councillor Richard A. Jones

Councillors Iris Beech, Mark Houlbrook (Minute No.'s 41 to 48) and Co-opted Member, Kathryn Smart.

APOLOGIES

An apology for absence was received from Councillor David Nevett.

ALSO IN ATTENDANCE:-

Patrick Birch	Strategic Lead Adults Transformation (Item No.6)
Joanne Hayes	Professional Business Support, Finance (Item No.6)
Debbie Hogg	Director of Corporate Resources
Peter Jackson	Head of Internal Audit
Steve Mawson	Chief Financial Officer and Assistant Director of Finance
Anthony Patterson	Professional Business Support, Finance (Item No.6)
Holly Wilson	Head of Strategic Procurement (Item No.7)
Perminder Sethi	Engagement Senior Manager, Grant Thornton

41. DECLARATIONS OF INTEREST

There were no declarations of interest made at the meeting.

42. MINUTES OF THE MEETING HELD ON 31ST JANUARY, 2019

RESOLVED that the minutes of the Audit Committee Meeting held on 31st January, 2019, be approved as a correct record and signed by the Chair.

43. AUDIT COMMITTEE ACTION LOG

The Committee considered the Audit Committee Actions Log, which updated Members on actions agreed during the Audit Committee meetings, allowing Members to monitor progress against actions, ensuring that satisfactory progress was being made.

Members were informed that all actions were progressing well. Of the 7 actions requested in October 2018 and January 2019, 3 had been completed and were to be removed from the next action log and the 4 remaining actions were progressing and would be cleared in the course of future meetings; none of these represented longer running issues.

The Head of Internal Audit provided an update on progress in managing the stock position in relation to the Smart Lights Project. It was reported that a cost benefit exercise had been carried out and the full purchase price would be paid for the items rather than a reduced rate offered in lieu of warranties. In response to a question from the Vice-Chair Councillor Richard A Jones

seeking clarity regarding retention of the 15 year warranty, the Head of Internal Audit advised that the warranty would commence from the date of purchase.

RESOLVED that the progress being made against the actions agreed at the previous Committee meetings, be noted.

44. INTERNAL AUDIT REPORT - DIRECT PAYMENTS FOLLOW UP REPORT

The Committee considered a report presented by the Head of Internal Audit, which represented the results of an audit follow up review of the Direct Payments audit undertaken in 2017/18 and a further follow up in 2018/19. The initial report presented to the Committee had given a limited assurance opinion and a follow up review was agreed with Adult Social Care and Support and the Committee had requested a further update in this area following progress being reported to the Committee in October 2018. The report also provided a progress update on the recovery of overpayments identified as a problem area from a further audit report from 2015/16.

Patrick Birch, Strategic Lead for Adults Transformation, Anthony Patterson and Joanne Hayes, Professional Business Support were in attendance at the meeting and responded to questions from Members.

The Head of Internal Audit provided an overview of key actions completed prior to October 2018, the key actions completed between October 2018 and March 2019 and the outstanding actions that were being progressed.

The Chair, in referring to Appendix A to the report, sought confirmation as to whether the dates of the outstanding actions were on track for completion. The Head of Internal Audit reported that there was a continuation of Direct Payments being taken up which was positive. He explained that this was in line with the Social Care Strategy on a national basis. There was a better grip on costs, which was as a consequence of all new Direct Payments now going through a Risk Assessment Panel.

A member of the public was in attendance at the meeting and wished to ask a question. As there was no provision on the agendas for members of the public to ask questions, the Chair Councillor Austen White, used his discretion to allow Mr Ferguson the opportunity to speak. Mr Ferguson was of the opinion that the reports presented to the Audit Committee in general and the minutes of meetings, did not clearly spell out the actions being taken by the Council to improve areas requiring improvement and the community benefits arising from such improvements. He felt that the focus appeared to be on how improvements would strengthen the Councils position only. Mr Ferguson also held the view that there was insufficient challenge by the Committee in respect of reports presented to the Committee. The Chair assured Mr Ferguson that the role of the Committee was to challenge Officers on all aspects of audit work. Following further questions from Mr Ferguson, the Chair and Vice-Chair offered to meet with Mr Ferguson outside of the meeting to discuss the issues he raised.

In response to a question from the Vice-Chair, Councillor Richard A Jones about whether any additional significant issues being identified during the follow-up review, the Head of Audit commented that in the evolving environment the Council operates in; the Internal Audit Team was focussing its work on areas of significant risk and this area was not considered to be as high a risk area as it previously was.

The Committee was pleased to note that 19 out of the original 24 recommendations had been completed. In relation to overpaid Direct Payments, it was reported that the amounts outstanding should continue to fall as a number of initiatives were implemented including, earlier intervention when individuals got into debt. Officers of the Council were working more collaboratively across services and with external partners to ensure that this function was being managed effectively, and offered support to those requiring assistance. Also, an Officers Value for Money Group had been established and Direct Payments could be an area for this group to examine.

The Committee welcomed the report and were pleased to note an increase in the figures and continued uptake of Direct Payments. Members acknowledged the robust systems that were now in place and the service was operating more effectively. In response to a question from the Chair, the Head of Internal Audit advised that there was no requirement for future reports on this issue to be brought back to the Committee, unless there was a downturn in governance and control in this area.

RESOLVED that the contents of the report, the actions taken and any outstanding actions, be noted.

45. BREACHES AND WAIVERS TO THE COUNCIL'S FINANCIAL AND CONTRACT PROCEDURE RULES

The Committee considered a report presented by Steve Mawson, Chief Financial Officer and Assistant Director Finance, which provided details of all the waivers and breaches to the Financial Procedure Rules and the Contract Procedure Rules for the period 1st September, 2018 to 28th February, 2019. The report provided a summary of the number of new waivers and breaches recorded for each Directorate since the last audit report in October 2018. Details of waivers and breaches, were summarised in Appendix 1 to the report.

It was reported that revisions had been proposed to the Council's Financial and Contract Procedure Rules, which were to be considered by the Elections and Democratic Structures Committee on 1st May and if supported, would be presented to full Council for approval on 17th May, 2019.

Holly Wilson, Head of Strategic Performance was also in attendance at the meeting and responded to questions from Members.

Members raised queries and some concern in relation to the new breaches to Council Procedure Rules as identified in the report, which had indicated that there was a lack of knowledge and understanding by some Officers in relation to contract and procurement arrangements resulting in breaches taking place. It was reported that a new training programme was to be implemented which would assist new managers coming in to the authority to understand the procedures. The Head of Strategic Performance had consulted on the revised Contract Procedure Rules, in order to make procedure rules clearer in terms of the tendering process. The Chair requested that the Committee be provided with further information regarding the arrangements being put in place to address this issue. It was agreed that progress would be reported to the Committee meeting in October, which would allow sufficient time for Officer training to be undertaken and its outcomes to be assessed. It was further agreed that a table be included in the report for comparative purposes, showing the prior number of breaches and waivers, in order for Members to see what progress was being made.

Further to a request from Members, the Head of Strategic Performance and the Strategic Lead Adults Transformation provided an update on the current status of the unresolved breaches, as set out in Appendix 1 of the report. It was subsequently agreed that an update on the Solar Centre, be provided to the Committee at its next meeting in June.

During further discussion, the Chair asked what outcomes had been achieved and what benefits had been identified as a result of changes to the structure of the Strategic Procurement Team. It was reported that the new structure had only recently been populated, therefore it was too early to provide an indication of the benefits. However, it was reported that internal Performance Indicators had been introduced to track progress within the Team and Directorates had indicated that they were satisfied with the level of service provided by the Team. Additional staffing had been put into the Regeneration and Environment Directorate, which had helped contracts being turned around more quickly.

RESOLVED that

- (1) the information and actions contained in the report regarding waivers and breaches in relation to the Financial and Contract Procedure Rules, be noted;
- (2) future reports detail the previous number of breaches and waivers for comparative purposes;
- (3) progress in implementing the training programme and its outcomes be reported in Octobers progress report; and
- (4) an update report on the Solar Centre, be submitted to the Committee's meeting in June.

46. ANNUAL REPORT OF THE HEAD OF INTERNAL AUDIT 2018/19

The Committee considered a report, which provided information on the work of Internal Audit during 2018/19 and the Head of Internal Audit's opinion on the Council's governance, risk management and internal control arrangements, which had been deemed as adequate and had operated satisfactorily during the year. The report was also used to inform the Council's Annual Governance Statement. The key headlines from the Head of Internal Audit's Annual Report, were outlined in paragraphs 1.1 to 1.7 and Appendix 1 of the report.

The Head of Audit provided a detailed summary of the salient points in the report. He advised that the report reflected a positive opinion and he was satisfied with the work of the Internal Audit Team during the Year.

The Committee sought clarity on various aspects of the report, during which the Head of Internal Audit, Chief Financial Officer and Director of Corporate Resources responded to Members questions and where appropriate, provided assurances that actions were being taken to address their queries and concerns raised, in particular relating to the following issues:-

- What further measures were being put in place to manage the small increase in the low level recommendations as at 19 March 2019 – no further measures were required
- Use of Internal Audit Resources - Details of the external organisation were support had been provided by audit services - this was to an internal Drainage Board
- What Internal Audit services were provided to schools – these are now minimal due to the relative low risk and there being no statutory audit to audit them as there had been historically
- Internal Audit services provided to St. Leger Homes of Doncaster – these have been provided for many years on a service level agreement basis
- When would the Committee receive a further report on progress on the outstanding recommendations – a progress report to be presented to the Committee at its meeting in July
- How many community schools in the Borough were under the Local Authority control in comparison to those schools that had moved to Academy status and what services did Internal Audit provide to schools – Internal Audit do not provide any services to academies in the Borough
- Feedback regarding the level of satisfaction and moral within the Internal Audit team – the team were looking forward to appointing an extra member to the team to help support their work
- Identified areas of Weakness – the Chair asked whether further reports would be submitted to the Committee in future for the areas identified at paragraphs 5.7 to 5.14. The Head of Audit responded that Stores was an ongoing audit and would be reported to committee at a future meeting. All actions for Occupational Therapy were fully complete. Actions from bereavement service would be reported within the future progress reports and there was no further need to report on Deprivation of Liberties as discussed earlier.

Members acknowledged that it had been a very challenging year for the Internal Audit Team as a consequence of the unprecedented work been carried out to support improvements to Governance and internal control arrangements, in particular in the Adults, Health and Wellbeing Directorate. The Committee welcomed the report and were pleased to note the positive outcomes.

To conclude, the Chair and Vice-Chair on behalf of the Committee conveyed their thanks for the work carried out by the Internal Audit Team.

RESOLVED

- (1) that the Internal Audit Annual Report for 2018/19, including confirmation that the Council's governance, risk management and control arrangements were adequate and operated satisfactorily during the year, be noted; and
- (2) to note that the Head of Internal Audit's self-assessment and the confirmation from the external peer assessment in 2016/17 that the service is compliant with the Public Sector Internal Audit Standards.

47. 2018/19 DRAFT ANNUAL GOVERNANCE STATEMENT (AGS)

Debbie Hogg, Director of Corporate Resources presented the draft Annual Governance Statement (AGS) for 2018/19, which outlined the statutory requirements upon the Council to prepare, approve and publish an Annual Governance Statement. The report set out the process for the preparation of the Statement, which the Committee was asked to review and to endorse the initial outline draft Statement, prior to publication and consultation of the Accounts in July 2019.

Members' attention was drawn to the diagram as set out in paragraph 11, where it was noted that this year, the Council had taken a top down and bottom up approach in the formulation of the AGS, in order to provide Members with a more comprehensive position regarding key governance issues. Items on the AGS would be reviewed as part of the quarterly resource performance management cycle, which would also identify emerging issues that were of concern for elevation to the Governance Group. This allowed the Council to react to emerging issues, and where possible, prevent entry onto future 'AGS's. The timing of the production of the AGS had been aligned with the production of the Annual Report of the Head of Internal Audit, to allow both reports to be considered at the same meeting.

10 key areas for improvement had been effectively managed to the extent that they were no longer significant and were considered complete in the context of the AGS. 7 new significant issues had been identified. An update on the 3 key areas identified during previous years that remained an issue in 2018-19, was also provided. The key actions to mitigate the issues identified for 2018/19 would be reviewed before the production of the final Annual Governance Statement in June 2019, so it would reflect the up to date position. It was highlighted that several of the issues for mitigation represented risks, whereas several of the items from prior years were actual governance failures.

Whilst recognising that some items had now been removed from the AGS which was welcomed, the Chair sought an update on progress of those items identified in the report that remained an issue, in particular in relation to 'Data Quality'. It was reported that additional resources had been established to provide support in this area and was being aligned with the implementation of the Doncaster Integrated Peoples System (DIPS), Care Management system for Children's Adults and Education Services. However, it was highlighted that this would take some time to implement and after that maintaining data quality would be an ongoing task.

Kathryn Smart referred to the current 10 key areas of risk identified on the AGS and asked whether the services had the capacity and capability to deliver and make significant progress on the issues, in view of some of the issues previously on the AGS continued to be recurring in

nature. It was acknowledged that some issues would be enduring in nature and would require time and capacity to implement.

A question was asked in relation to how Doncaster compared to other authorities in terms of disclosure, whether there was consistency across authorities and whether there were any key lessons to be learned that were deemed as significant issues. Members were informed that whilst no formal benchmarking had been undertaken regarding AGS reports and issues, there was some alignment between the types of key risks that all authorities were currently facing. Some risks would be specific to each authority and all authorities would be challenged in terms of resources and the impact of future risks. It was reported that most authorities followed a similar approach to that of Doncaster, who followed the CIPFA model, but the Council was also disclosing key governance risks as well as failures which was felt to be a more prudent and helpful approach to management of the AGS items.

During further discussion, the Vice-Chair sought confirmation regarding when the draft Local Plan would be presented to Overview and Scrutiny, which, due to its complex nature, required Members to have sufficient time to consider the matter. The Director of Corporate Services confirmed that the draft Plan would be submitted to Overview and Scrutiny on 29th April, 2019 and gave an undertaking to ensure that it was provided to Members of that Committee.

Councillor Mark Houlbrook, as local ward Member for Thorne-Moorends Town Council spoke of how the Town Council was currently in the process of developing its Neighbourhood Plan and as part of the process, the Council had a duty to work with key stakeholders. He sought clarity in relation to what risk would there be to the authority of not completing the Local Plan within the required timeframe and what impact this would have. Members were informed that the Council had made preparations for the Plan and had due process to follow, both within the Council and with the local Planning Inspectorate, which was an extensive process. It was explained that there was a timeline in place and there were further stages of the process for the Plan to go through, prior to formal adoption by the Council.

RESOLVED that the initial outline of the draft Annual Governance Statement, prior to being published for consultation as part of the Draft Accounts in May 2019, be endorsed.

48. INTERNAL AUDIT PLAN 2019/20

The Head of Internal Audit presented the Internal Audit Annual Plan for 2019/20, which had been presented in line with the requirements of the UK Public Services Internal Audit Standards, which required Internal Audit's plans to be risk based and informed by the organisation's risk management, performance management, and other assurance processes. The Plan had been created following a comprehensive review of all Council risks and activities. The report provided a summary of last year's Plan and the proposed Plan for next year, including a breakdown of the Audit Plan by type of work.

The Head of Internal Audit provided an overview of the items that were currently on the Plan, as set out at Appendix A of the report and those lower risk items that were not able to be reviewed with existing resources at Appendix B. The key changes made in compiling the Internal Audit Plan, were set out at Paragraph 6 of the report. There were broad similarities in some areas to that of previous years but in Adults, Health and Wellbeing, there was planned to be more assurance based work rather than the comprehensive service support that had been needed in previous years.

Following the presentation of the report, Members were invited to comment on the report. It was noted by the Chair that Philip Holmes, the newly appointed Director of Adults, Health and Wellbeing would take up his post on 1st July, 2019 and would oversee the delivery of improvements previously managed by Damian Allen, Director of People. The Chair on behalf of the Committee thanked Damian Allen and those Officers in Adults, Health and Wellbeing for their contribution in driving forward improvements in this area over the past two years highlighted by the work of Internal Audit.

During discussion, Kathryn Smart sought clarity in relation to the Risk Management Policy, which was not explicit in the report and asked whether this was part of a wider piece of work. The Head of Internal Audit advised that following a review of the risk management arrangements last year, there would be no specific review taking place this year.

In response to a further question from Kathryn Smart as to whether the Bank mandate fraud, which she felt was a substantial issue, would be incorporated in to one of the financial reviews, the Head of Internal Audit confirmed that this was to be included in the scope of one of the data matching initiatives.

During further questions in relation to 'Responsive Work', the Head of Internal Audit confirmed that those audits that were most likely to be removed from the Plan, based on their risk rating, were marked with an asterisk. These items would provide additional capacity to work on areas with a higher risk rating if required.

Following further questions from the Committee, the Head of Audit outlined the rationale for Data Quality Arrangements being included in the Annual Governance Statement and remaining a priority in the future, which would help to ensure that good data quality arrangements were in place. Internal Audit would look specifically at the Doncaster Integrated Peoples System (DIPS) Payment Systems, which was an area of high risk, by reviewing the control processes for payments being generated through the new systems.

In relation to the Internal Audit service, the Chair asked the Chief Financial Officer and Assistant Director of Finance whether additional support would be provided if required in the future. He advised that monies in the temporary resource budget were being utilised to appoint to a permanent Senior Auditor post in order to provide stability to the team, which would help to support any additional work and hopefully avoid the need for further funding. Members were informed that there was more collaborative work across the finance and corporate functions, which should help manage risks and improve governances.

RESOLVED that

- (1) the 2019/20 Internal Audit Plan, be supported; and
- (2) the Committee's thanks be conveyed to Damian Allen and those Officers in Adults, Health and Wellbeing for their contribution in driving forward improvements in this area over the past two years highlighted by the work of Internal Audit

49. AUDIT COMMITTEE ANNUAL REPORT 2018/19

The Committee considered a report, which set out the key aspects of the work undertaken by the Committee during 2018/19. The Annual Report demonstrated that the Committee had fulfilled its Terms of Reference, made an effective contribution to the governance of the Council and showed its achievements with the whole Council. Examples of contributions made included:-

- Helping to maintain and improve the Council's system of internal control by reviewing internal and external audit work carried out during the year.
- Supporting improvement in the Council's control arrangements by ensuring appropriate action is taken to implement audit recommendations and calling officers to account where explanations over any lack of progress are required. This has been particularly important in monitoring the very high number of actions within the Adult, Health and Wellbeing Directorate and has eventually brought about a notable reduction in the number and significance of outstanding recommendations.
- Reviewing and ensuring appropriate action is taken in response to significant weaknesses found in the management of the Safeguarding Adults Personal Assets Team (SAPAT), Deprivation of Liberty Safeguard (DOLS) Assessments, Direct Payments, Business Waste and Recycling and the Smart Light Project.

- Critically assessing the Council's governance arrangements and supporting the production of an accurate Annual Governance Statement.
- Strengthening the Council's risk management policy by critically appraising the former policy and subsequently approving the revised policy.
- Supporting the maintenance of the good standards achieved in producing the Council's Statement of Accounts, while meeting shorter timescales now required.
- Supporting the Council's antifraud and corruption arrangements and noting progress in this area as set out in the annual fraud report.
- Supporting the development of the Council's Money Laundering Arrangements.
- Ensuring the Council's surveillance policies are kept up to date and reviewing surveillance carried out by the Council.

The Chair took the opportunity to highlight the improvements in risks, governance and control in particular in the Adults, Health and Wellbeing directorate, which had been reflected both in the Annual Governance Statement and the Annual report of the Head of Internal Audit, to which the Committee had also contributed to. The Committee welcomed the report, focussing on the positive aspects achieved.

The Vice-Chair, Councillor Richard A Jones, asked Mr. Sethi, Grant Thornton who was in attendance at the meeting if he could provide Members with an external audit opinion on the work carried out by the Audit Committee to date. Mr Sethi advised that he would not want to make a judgement at such an early stage of their appointment as external auditors, however, he indicated that from observation the Committee was asking pertinent questions. He added that presently, there wasn't anything specific that he could think of for the Committee to particularly focus on.

RESOLVED that the Audit Committee Annual Report 2018/19 be approved and be presented to a future meeting of full Council.

50. GRANT THORNTON AUDIT COMMITTEE PROGRESS REPORT AND SECTOR UPDATE

Perminder Sethi, Grant Thornton presented the report of the External Auditor, providing an overview on progress on delivering its responsibilities as the Council's External Auditor. The report also provided a summary of emerging national issues and developments relevant to the local government sector and specific issues for Doncaster as part of its Audit work.

Following the presentation of the report, the Chair invited questions from Members. Kathryn Smart asked whether it was anticipated that there would be any issues with Beever and Struthers, St. Leger Homes' external auditor and whether there were protocols in place and would these be shared with the Council.

Mr. Sethi advised that no issues had been identified and confirmed that there were protocols in place for the accounts and auditors to work together. Furthermore, Grant Thornton had written to Beever and Struthers and they had since responded to confirm that they would provide information to support the audit. Work was currently being undertaken on what work they would be required to do.

Kathryn Smart highlighted that there had been some issues in last year's ISA 260 report and asked the Chief Financial Officer and Assistant Director of Finance if the Council was prepared for this year's accounts preparation. In response, the Chief Financial Officer and Assistant Director of Finance confirmed that arrangements were in hand. There had been concerns in relation to the potential risk regarding valuations, due to Brexit not taking place on 29th March. Officers are working with the Councils Assets Team and a lot of work had been carried out. However, it was advised that there had been no significant changes in year, therefore didn't foresee any problems at present.

During further discussion, the Vice-Chair, Councillor Richard A Jones made reference to the Sector Update report and stated that he had read the report relating to 'Care Homes for the Elderly –

Where are we now', which he found of interest, however he observed that the report had been incorrectly referenced. Mr Sethi undertook to report back to his team in relation to this issue.

To conclude, the Chair on behalf of the Committee thanked Mr. Sethi for his presentation of the report and thanked all those present for attending the meeting.

RESOLVED that the External Auditor's progress report and sector update, be noted.

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Doncaster Council

Report

19th June 2019

To the Chair and Members of the AUDIT COMMITTEE

AUDIT COMMITTEE ACTIONS LOG

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. The action log shows detail relating to 7 actions requested in the October 2018, January 2019 and April 2019 meetings. There are no actions outstanding from earlier meetings. Of these:
 - 3 have been completed and will be removed from the next action log.
 - The remaining 4 are all in progress and will be cleared in the course of future meetings – none of these represent longer running issues.

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
 - Comment 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.

OPTIONS CONSIDERED AND RECOMMENDED OPTION

7. 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

8.

	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 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 	

	<p>Doncaster Schools that are good or better</p> <ul style="list-style-type: none"> • 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

9. 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 16/05/19)

10. 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 [ST 22/05/19]

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

HUMAN RESOURCES IMPLICATIONS [KG 16/05/19]

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

TECHNOLOGY IMPLICATIONS [PW 20/05/19]

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

EQUALITY IMPLICATIONS [PJ 16/05/19]

14. 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 17/05/19]

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

CONSULTATION

16. 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

17. None

REPORT AUTHOR & CONTRIBUTORS

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

APPENDIX 1

AUDIT COMMITTEE ACTION LOG – OCTOBER 2018

Follow-up actions from previous meetings:-

Minute/ Action	Progress update	Responsible Officer	Completed (Y/N)
Meeting April 2019			
Breaches and Waivers Future reports detail the previous number of breaches and waivers for comparative purposes	Scheduled for 24 th October 2019 Audit Committee	Holly Wilson	In Progress – for completion by October 2019 Audit Committee
Breaches and Waivers Progress in implementing the training programme and its outcomes be reported in Octobers progress report	Scheduled for 24 th October 2019 Audit Committee	Holly Wilson	In Progress – for completion by October 2019 Audit Committee
Breaches and Waivers An update report on the Solar Centre, be submitted to the Committee’s meeting in June.	Scheduled for 19 th June 2019 Audit Committee	Denise Bann	In Progress – for completion by June 2019 Audit Committee
Meeting January 2019			
RIPA authorisations – Update by Trading Standards Committee requested a pre-meeting training session be provided when the next RIPA report is presented to Audit Committee	Scheduled for 19 th June	Dave McMurdo	In Progress – for completion by June 2019 Audit Committee
Adults, Health and Wellbeing - Contract and Commissioning Report Committee requested an update in one year’s time	A report is scheduled for January 2020 Audit Committee	Denise Bann	In Progress – for completion January 2020 Audit Committee
Meeting October 2018			
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	Chief Financial Officer	In Progress for completion October 2019 Audit Committee

Minute/ Action	Progress update	Responsible Officer	Completed (Y/N)
<p>Risk Management - training Committee requested further training be considered for members as well as officers.</p>	<p>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</p>	<p>Sennette Wroot</p>	<p>In Progress – for completion by June 2019</p>



Doncaster Council

Report

Date: 19th June 2019

To the Chair and Members of the AUDIT COMMITTEE

Day Opportunities for People with Learning Disabilities and Highly Complex Needs

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

EXECUTIVE SUMMARY

- 1.1 The purpose of this report is to update Audit Committee of Cabinet approval (4th June 2019) to recommendations to resolve current and future commissioning arrangements with Rotherham, Doncaster & South Humber NHS foundation Trust (RDaSH) regarding day opportunities provided at the Solar Centre for individuals with profound learning disabilities and complex needs and behaviours that challenge.
- 1.2 In April 2017, Audit Committee members were informed of the circumstances surrounding the Solar Centre, in particular that the contract for this provision expired in 2014.
- 1.3 Services continued to be provided to and paid for by the Council after the end of the original contract and subsequent CPR waiver period was reached without a formal contractual arrangement having been set up.
- 1.4 Key improvement actions recommended by Internal Audit to remedy the matter were implemented (including putting a temporary formal Agreement in place to underpin the current arrangements), together with a series of progress reviews and further update reports to Audit Committee on 5th April 2018, 26th July 2018, 25th October 2018, 31st January 2019 and 11th April 2019.
- 1.5 On 4th June 2019 Cabinet considered and approved a report which is attached at **Appendix A**, to:-

- Delegate authority to agree and sign off a 3 year Section 76 Agreement from 1st January 2020, between the Council and the CCG, to the Director of People, or nominated Deputy, in consultation with the Cabinet member for Adult Social Care. The S76 Agreement is the legal mechanism to facilitate the transfer of funds from the Council to the CCG for the provision of day opportunities provided at the Solar Centre for those individuals with an assessed social care need.
- Note the contract extension of the current arrangements with the Solar Centre for a further period of up to nine months (to 31st March 2020) to provide continuity of day opportunities for individuals transitioning from RDaSH residential care to supported living.

2. EXEMPT REPORT

2.1 This report is not exempt

3. RECOMMENDATIONS

3.1. For Audit Committee to note the decision made by Cabinet on the 4th June 2019.

4. WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

4.1. Doncaster Council and the CCG :-

- Hold the principle that people with the most complex needs have the same rights as other people.
- Are committed to developing services that are person centred, giving people who use services, as much choice and control as possible about the services and support they receive.
- Are committed to service developments based on assessed needs of the people who will use them. Individuals who require building based day opportunities will continue to receive services and support without disruption to their care provision.

5. BACKGROUND

5.1 In April 2017, Audit Committee members were informed of the circumstances surrounding the Solar Centre, a day opportunities service provided by Rotherham, Doncaster & South Humber NHS Foundation Trust (RDaSH) for individuals with profound learning disabilities and complex needs and behaviours that challenge. The contract for this provision expired in 2014.

5.2 Services continued to be provided to and paid for by the Council after the end of the original contract and subsequent CPR waiver period was reached without a formal contractual arrangement having been set up. This constituted a breach of the Council's Contract Procedure Rules and as such was noted as a failing by the Council and not a comment on RDaSH or the Solar Centre itself.

5.3 Key improvement actions recommended by Internal Audit to remedy the matter were implemented (including putting a temporary formal Agreement in place to underpin the current arrangements), together with a series of progress reviews and further update reports submitted to Audit Committee

on 5th April 2018, 26th July 2018, October 2018, 31st January 2019 and 11th April 2019.

- 5.4 Specific actions undertaken by the Council and CCG have included reviews of the assessed needs of people attending the Solar Centre by a range of professionals alongside service users/family. Assessments included Assessment of health needs, Care Act and Best interest assessments.
- 5.5 In addition to these reviews, a range of potential commissioning options for day opportunities were also explored including soft market testing, development of in house provision, re-commissioning of the Solar Service.
- 5.6 The outcome of the review and the exploration of options concluded that:-
- Individuals value the Solar Centre as it offers a caring and supportive environment for people with Learning Disabilities
 - The service is safe and reliable that enables peace of mind, while offering day care respite services for their family member.
 - The service offers specialist resources to meet the needs of a specific group of people with highly complex and challenging needs.
 - Some families recognised the potential need for further development of Day Care Services and expressed their interest to participate in any future developments.
 - A small number of people attending the Solar Centre (the majority of which have assessed needs that are health related) will continue to need a building based service that
 - Provides a range of specialist resources to meet complex health, behavioural, personal and social care needs
 - Meets the therapeutic and health needs of people
 - Is outcomes based
 - Integrates with the wider community day opportunities
 - The future demand for a building based day service is likely to be health, rather than social care related.
- 5.7 This outcome was considered within the context that the Council currently commissions RDaSH to provide day opportunities at the Solar Centre on behalf of the Council and the CCG, however the CCG has statutory responsibility for the planning and commissioning of health services and as such it was appropriate for the Council to transfer funding to the CCG to enable the CCG to commission building based day opportunities on behalf of itself and the Council.

6. FINANCIAL ARRANGEMENT

- 6.1 The budget for the Solar Centre provision in 2019/20 is £604,600.
- 6.2 The cost to the Council will reduce as overall numbers of attendees and sessions continue to decline.
- 6.3 Once the S76 is in place, the Council will fund the service for people with social care assessed needs and the CCG will fund the day opportunities for those people with assessed health needs through the contract extension period onwards.

7. APPROVED RECOMMENDATION

7.1 On 4th June 2019 Cabinet considered and approved a report to Delegate authority to agree and sign off a 3 year Section 76 Agreement from 1st January 2020, between the Council and the CCG, to the Director of People, or nominated Deputy, in consultation with the Cabinet member for Adult Social Care, on the basis that the approach:-:

- a) Was consistent with the identified needs and choices of the individuals, recognising that the majority of individuals in question have health based needs
- b) The S76 Agreement was the appropriate legal mechanism to facilitate the transfer of funds from the Council to the CCG for the provision of day opportunities provided at the Solar Centre for those individuals with an assessed social care need.
- c) Was legally compliant with the NHS Act 2006 (2013 Directions) and does not breach EU procurement legislation or Doncaster Council CPRs
- d) Was supported by both the CCG and RDaSH
- e) Promotes Doncaster's aspirations to jointly commissioning services as set out in the new Health and Social Care Joint Commissioning Strategy

7.2 In addition Cabinet were requested to note the contract extension of the current arrangements with the Solar Centre for a further period of up to nine months (to 31st March 2020) to provide continuity of day opportunities for individuals transitioning from RDASH residential care to supported living.

8. IMPACT ON THE COUNCIL'S KEY OUTCOMES

	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>This proposals will enable people to have more choice about how they spend their day opportunities.</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 	<p>Ensures the services are viable and sustainable for the future for younger people coming through transitions with similar needs</p>

	<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>This proposal will enable people to have more choice about how they spend their day and have more fulfilling lives with greater levels of opportunities for of independence.</p>
	<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>This proposal will enable continuity of quality of care for people with profound complex needs and behaviours that challenge whilst supporting and creating opportunities for greater independence.</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 	<p>This proposal will ensure a more modern model of service delivery, and will enable the Council/CCG to ensure that future services provide value for money and that they align to the personalisation agenda.</p>

9. RISKS AND ASSUMPTIONS OF PREFERRED OPTION

9.1 Risks

There is a risk of failure to agree the Section 76 with the CCG or the CCG fail to agree the contract with RDASH for day care provision at the Solar Centre. The Council is currently working with the CCG and RDASH to agree both contracts and mitigate this risk.

9.2 Assumptions

- a) That the attendance of the individuals will remain stable and consistent in the long term.
- b) That any future increase in demand will be led by Health, whilst social care needs will likely diminish over time as other day opportunity options are identified and explored.

10. LEGAL IMPLICATIONS [Officer Initials PC Date 08/05/19]

10.1 As set out in para 12 of the Cabinet report of 4th June 2019.

11. FINANCIAL IMPLICATIONS [Officer Initials CE Date 08/05/19]

11.1 As set out in para 13 of the Cabinet report of 4th June 2019.

12. HUMAN RESOURCES IMPLICATIONS [Officer Initials BT Date 08/04/19]

12.1 As set out in para 14 of the Cabinet report of 4th June 2019.

13. TECHNOLOGY IMPLICATIONS [Officer Initials PW Date 04/04/19]

13.1 As set out in para 15 of the Cabinet report of 4th June 2019.

14. HEALTH IMPLICATIONS [Officer Initials HC Date 09/04/19]

14.1 As set out in para 16 of the Cabinet report of 4th June 2019.

15. EQUALITY IMPLICATIONS [Officer Initials...MW 10/6/19.....]

15.1 As set out in para 17 of the Cabinet report of 4th June 2019.

16. CONSULTATION

16.1. Doncaster Council, has undertaken a comprehensive consultation and review of the needs, preferences and best interests of the people using the Solar Centre and their families.

17. BACKGROUND PAPERS

Progress reviews and further update reports to Audit Committee on 5th April 2018, 26th July 2018, 25th October 2018, 31st January 2019 and 11th April 2019.

REPORT AUTHOR & CONTRIBUTORS

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Doncaster Council

Report

Date: 4th June 2019

THE CHAIR AND MEMBERS OF CABINET

Day Opportunities for People with Learning Disabilities and Highly Complex Needs

Relevant Cabinet Member(s)	Wards Affected	Key Decision
Cllr Rachael Blake	All	Yes

1. EXECUTIVE SUMMARY

- 1.1 On 4th September 2018, Cabinet approved an initiative to transform residential care services provided by Rotherham, Doncaster and South Humber (NHS) Foundation Trust (RDaSH) from a Residential to a Supported Living Model to enable people with Learning Disabilities to live a life with greater independence and greater choice.
- 1.2 A formal tender process has been undertaken and in March 2019, Walsingham Support were awarded the contract to provide Supported Living Services to individuals currently living in the nine RDASH residential care homes. This contract is due to commence on the 1st July 2019 and Walsingham Support is working positively with residents, families and staff to support the transition from residential care to supported living.
- 1.3 The September Cabinet report also set out that the provision of day services provided by RDASH at the Solar Centre would be reviewed and a further report submitted to Cabinet regarding the future provision of day opportunities at the Solar Centre.
- 1.4 The purpose of this report is to set out proposals regarding the use of the Solar Centre from the end of June 2019, when the current contractual arrangement with RDASH for the provision of day opportunities at the Solar Centre is due to expire.

- 1.5 The SOLAR Centre is a day centre for individuals with a learning disability, some have complex physical disabilities or behaviours that challenge, some individuals also have health needs associated with ageing.
- 1.6 Since July 2017, the number of people attending the Solar Centre has declined by 14 people, predominantly due to alternative provision being identified. In addition referrals from the Council has declined (one in the last 12 months), whereas the CCG advise that the number of people with assessed health care needs who require building based day opportunities has not declined.
- 1.7 19 of the current 43 individuals attending the Solar Centre live in the RDASH Residential homes which are transforming to supported living. Many of these will not need a building based service and Walsingham Support will need a transition period to allow sufficient time to work with individuals/their families/advocates to develop their day opportunities offer. It is likely that this period will be up to nine months to ensure continuity of day opportunities for individuals over the transition period.
- 1.8 At the end of the transition period, it is anticipated that there will be a remaining cohort of approximately 20 individuals (needing a building based service to meet their complex needs), eight individuals have health related needs (CCG responsibility), eight individuals have social care needs (remain the responsibility of the Council) and four individuals have both health and social care needs (will require joint funding).
- 1.9 The Council currently commissions RDASH to provide day opportunities at the Solar Centre on behalf of the Council and the CCG. However, as the CCG has statutory responsibility for the planning and commissioning of health services, the Council propose to transfer funding to the CCG to enable the CCG to commission building based day opportunities on behalf of itself and the Council.

2. EXEMPT REPORT

- 2.1 No

3. RECOMMENDATIONS

- 3.1. For Cabinet to:-
 - Delegate authority to agree and sign off a 3 year Section 76 Agreement from 1st January 2020, between the Council and the CCG, to the Director of People, or nominated Deputy, in consultation with the Cabinet member for Adult Social Care. The S76 Agreement is the legal mechanism to facilitate the transfer of funds from the Council to the CCG for the provision of day opportunities provided at the Solar Centre for those individuals with an assessed social care need.
 - Note the contract extension of the current arrangements with the Solar Centre for a further period of up to nine months (to 31st March 2020) to provide continuity of day opportunities for individuals transitioning from RDASH residential care to supported living.

4. WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

4.2. Doncaster Council and the CCG :-

- Hold the principle that people with the most complex needs have the same rights as other people.
- Are committed to developing services that are person centred, giving people who use services, as much choice and control as possible about the services and support they receive.
- Are committed to service developments based on assessed needs of the people who will use them. Individuals who require building based day opportunities will continue to receive services and support without disruption to their care provision.

5. BACKGROUND

- 5.1. The Council currently commissions residential care and day opportunities for individuals with profound learning disabilities and complex needs and behaviours that challenge from RDASH. The day opportunities are provided at the Solar Centre which is owned by RDASH under contractual arrangements.
- 5.2 On 4th September 2018, Cabinet approved an initiative to transform residential care services provided by Rotherham, Doncaster and South Humber (NHS) Foundation Trust (RDASH) from a residential to a Supported Living Model to enable people with Learning Disabilities to live a life with greater independence and greater choice.
- 5.3 Reviews of the residents living in the RDASH Residential Care Homes and consultation with families concluded, in the majority of cases, it is in the individuals best interests to remain in their current accommodation with their needs better met and life opportunities enhanced through supported living.
- 5.4 This accords with a key principle agreed by all partners that people with the most complex needs have the same rights as other people; to live in a home of their own and be an active part of their local community. There are already many people with complex needs living safely in supported accommodation in Doncaster with good outcomes being achieved.
- 5.5 Transformation of the RDASH Residential Care Homes will increase citizenship and the extent to which people with more complex needs are active members of their communities and have greater choice and control. Services they receive will be based on need and aspiration
- 5.6 A formal tender process has been undertaken and in March 2019, Walsingham Support were awarded the contract to provide Supported Living Services to the individuals currently living in the RDASH residential care homes. This contract is due to commence on the 1st July 2019 and Walsingham Support is working positively with residents, families and staff to support the transition from residential care to supported living.
- 5.7 The September Cabinet report also set out that the provision of day services provided by RDASH at the Solar Centre would be reviewed and a further report submitted to Cabinet regarding the future provision of day opportunities at the Solar Centre.

- 5.8 The purpose of this report is to set out proposals regarding the use of the Solar Centre from the end of June 2019, when the current contractual arrangement with the Solar Centre is due to expire.
- 5.9 During January and February 2019, a review of the assessed needs of people attending the Solar Centre was undertaken by Care Management Social Workers, Continuing Health Care team and Section 117 Nurse from RDASH. Assessments included Assessment of health needs, Care Act and Best interest assessments (where required).
- 5.10 The reviews focussed on individuals who were identified as potentially needing continued access to a building based day opportunity service post implementation of the new supported living contract with Walsingham Support.
- 5.11 The needs assessments were reviewed in collaboration with the individual's family members and/or advocate and supporting health and social care professionals.
- 5.12 Alongside the review, a range of potential options for day opportunities were also explored including soft market testing, development of in house provision, re-commission of the Solar Centre Service.
- 5.13 The outcome of the review and the exploration of options concluded that:-
- Individuals who use the Solar Centre, value it highly,
 - A small number of people will continue to need a building based service to meet their highly complex needs,
 - Alternative day opportunities which better meets the needs of individual should be made available where this has been expressed as a preference by the individual, their family member and or their advocate.
 - The future demand for a building based day service is likely to be health, rather than social care related.
- 5.14 The service provided at Solar Centre will be further developed, with a refresh of the Service Specification, to ensure that the people of Doncaster continue to receive services that are needs and strengths based and enable them to achieve their potential outcomes.
- 5.15 There are 43 individuals attending the Solar Centre during the day, 19 individuals live in RDASH residential homes, 16 live with family and 8 individuals live in other residential accommodation. The individuals all have a learning disability, some have complex physical disabilities or behaviours that challenge, some individuals also have health needs associated with ageing.
- 5.16 The number of people attending the Solar Centre has declined by 14 people since July 2017. The Council has made one referral to the Solar Centre in the past 12 months, which shows that there is a declining number of people with assessed social care needs requiring Solar Centre day care provision. On the other hand, the CCG, has indicated that the number of people with assessed health care needs who require building based day opportunities has not declined over the past 12 months.

- 5.17 The Council in partnership with the CCG are committed to move to a position where services are more personalised, which means giving people who use services as much choice and control as possible about the services and support they receive. A clear strategic aim for the Council and the CCG is to increase choice, control and independence about the day opportunities individuals choose to receive to improve life outcomes and wherever possible to enable alternative day opportunities for individuals in community settings closer to where people live
- 5.18 Of the 43 individuals attending the Solar Centre, those individuals who do not need a building based service and who reside in Walsingham homes or other residential accommodation will either access day opportunities provided by Walsingham Support or in their community setting. It is recognised that Walsingham will need a transition period to allow sufficient time for them to work with individuals/their families/advocates to develop their day opportunities offer i.e. for those individuals whose preference is to access alternative day opportunities outside of the Solar Centre arrangements. It is proposed that this period should be up to nine months to ensure that we provide continuity of day opportunities for individuals over the transition period.
- 5.19 At the end of the nine months, it is anticipated that there will be a remaining cohort of approximately 20 individuals (assessed as needing a building based service to meet their complex needs), eight individuals have health related care needs, where the CCG is responsible for commissioning healthcare services their behalf, eight individuals have social care needs and remain the responsibility of the Council and four individuals have both health and social care needs and will require joint funding by the Council and the CCG.
- 5.20 The Council currently commissions RDASH to provide day opportunities at the Solar Centre on behalf of the Council and the CCG. However, as the CCG has statutory responsibility for the planning and commissioning of health services, the Council propose to transfer funding to the CCG to enable the CCG to commission building based day opportunities on behalf of itself and the Council.
- 5.21 The new arrangements will be under a 3 year legal Agreement (known as a Section 76 Agreement) under a joint service specification, i.e. recognising that the Council has a diminishing need to commission building based day opportunities for individuals with social care needs and enabling the CCG to continue to provide building based day opportunities to support individuals with complex health care needs.

7. FINANCIAL ARRANGEMENTS

- 7.1. The budget for the Solar Centre provision in 2019/20 is £604,600.
- 7.2. The cost to the Council will reduce as overall numbers of attendees and sessions continue to decline.
- 7.3. Once the S76 is in place, council will fund the service for people with social care assessed and the CCG will fund the day opportunities for those people

with assessed health needs through the contract extension period onwards.

8. OPTIONS APPRAISAL

8.1 The transformation of Residential Services, coupled with recent needs review of people attending the Solar Centre Service has identified that currently circa twenty people with learning disabilities, complex needs and behaviours that challenge, will continue to need access to a building based day service that:

- a) Provides a range of specialist resources to meet the complex health, behavioural, personal and social care needs of this group of people
- b) Meets the therapeutic and health needs of this group of people
- c) Is outcomes based
- d) Integrates with the wider community day opportunities

9. OPTIONS EXPLORED AND CONSIDERED

8.1 During 2018, a range of potential options for day opportunities was explored including soft market testing, development of in house provision, re-commissioning of the Solar Service.

8.2 The exploration of options was undertaken in recognition of:-

- The majority of the individuals assessed needs are health related. The CCG is responsible for the planning and commissioning of healthcare services for the local area and is supportive, in fulfilling this function of taking the lead commissioning role for the provision of day care services at the Solar Centre.
- Future demand for a building based day service is likely to be health rather than social care related
- Individuals who use the Solar Centre service value it very highly,

10. RECOMMENDED OPTION

10.1. Based on the review of the options explored as referred to in paragraph 8, it is recommended that the Council enter into a Section 76 Agreement (as set out in paragraph 3) with the CCG on the basis that this approach:-

- f) Is consistent with the identified needs and choices of the individuals, recognising that the majority of individuals have health based needs
- g) promotes Doncaster's aspirations to jointly commissioning services as set out in the new Health and Social Care Joint Commissioning Strategy
- h) Is legally compliant with the NHS Act 2006 (2013 Directions) and does not breach EU procurement legislation
- i) Is supported by both the CCG and RDASH

11. IMPACT ON THE COUNCIL'S KEY OUTCOMES

	Outcomes	Implications
	Doncaster Working: Our vision is for more people to be able to pursue their ambitions through work that gives	This proposals will enable people to have more choice about how they spend their day

	<p>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 	opportunities.
	<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 	Ensures the services are viable and sustainable for the future for younger people coming through transitions with similar needs
	<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 	This proposal will enable people to have more choice about how they spend their day and have more fulfilling lives with greater levels of opportunities for of independence.
	<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 	This proposal will enable continuity of quality of care for people with profound complex needs and behaviours that challenge whilst supporting and creating opportunities for greater independence.
	<p>Connected Council:</p> <ul style="list-style-type: none"> • A modern, efficient and flexible workforce 	This proposal will ensure a more modern model of service delivery, and will enable the Council/CCG

	<ul style="list-style-type: none"> • 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>to ensure that future services provide value for money and that they align to the personalisation agenda.</p>
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12. RISKS AND ASSUMPTIONS OF PREFERRED OPTION

11.1 Risks

There is a risk of failure to agree the Section 76 with the CCG or the CCG fail to agree the contract with RDASH for day care provision at the Solar Centre. The Council is currently working with the CCG and RDASH to agree both contracts

11.2 Assumptions

- a) That the attendance of the individuals will remain stable and consistent in the long term.
- b) It is anticipated that any future increase in demand will be led by Health, whilst Social Care needs will likely diminish over time as other day opportunity options are identified and explored).

13. LEGAL IMPLICATIONS [Officer Initials PC Date 08.05.19]

- 13.1. Section 1 of the Localism Act 2011 provides the Council with a general power of competence, allowing the Council to do anything that individuals generally may do.
- 13.2. The Care Act 2014 sets out the Council's duties in relation to assessing the need for care and support of service users within its area.
- 13.3. A Letter of Agreement has been put in place with RDaSH to regulate the current service.
- 13.4. Section 76 of the National Health Service Act 2006 (as amended by the Health and Social Care Act 2012 and the National Health Service (Conditions Relating to Payments by Local Authorities to NHS Bodies) Directions 2013 permits a local authority to make payments to a Clinical Commissioning Group towards expenditure incurred or to be incurred by that body in connection with the performance by it of prescribed functions.
- 13.5. Doncaster Clinical Commissioning Group is responsible for the planning and commissioning of healthcare services for the local area and is supportive, in fulfilling this function of taking the lead commissioning role for the provision of day care services at the Solar Centre.
- 13.6. Legal Services to be consulted over the drafting of the section 76 Agreement which should incorporate an obligation on the CCG to only use the monies for the stated purpose and provide a power for the Council to take part in contract monitoring and reviews of the service.
- 13.7. Legal Services to also be consulted over extending the Letter of Agreement until such time as a section 76 Agreement can be put in place.
- 13.8. The decision maker (cabinet) must be aware of their obligations under the public sector equality duty ("PSED") in s149 of the Equality Act 2010. It requires public authorities when exercising their functions to have due regard to the need to eliminate discrimination, harassment and victimization; advance equality of opportunity; and foster good relations between people who share relevant protected characteristics and those who do not.
- 13.9. As the decision maker, Cabinet must ensure that they have seen the due regard statement. The duty must be exercised in substance, with rigour, and with an open mind. It is for the decision-maker to decide how much weight should be given to the various factors informing the decision, including how much weight should be given to the PSED itself. The decision maker must also pay regard to any countervailing factors and decide the weight to be given to these, which it is proper and reasonable to consider which includes budgetary pressures, economics and practical factors that affect the delivery of the service.

14. FINANCIAL IMPLICATIONS [Officer Initials...CE Date...08/05/2019

- 14.1. The annual cost of the current block contract for the Solar Centre is £656k, which takes account of an agreed £85k reduction applied in 2018/19 due to changes in demand / activity levels.
- 14.2. The Council meets the full cost of this contract; the Doncaster CCG doesn't currently make contributions towards it, The total annual budget held to

meet the cost of this contract is £605k. The Council is therefore currently absorbing a cost pressure of circa £51k per annum (based on 2018/19 contract value).

- 14.3. The current contract for the Solar Centre is due to end on 30th June 2019. An extension is to be agreed with RDaSH for a further nine months, to allow for continuity of service until a section 76 agreement takes effect. A cost reduction (value still to be agreed) for the Council should be achieved as part of the contract extension due to a decrease in attendance levels of social care clients, but also as a result of the CCG paying their share of the contract cost from 1st July 2019; this will help to bring the costs for the Council under budget and so will immediately begin contributing towards the savings targets for Day Opportunities.
- 14.4. Following the review of Service Users' needs, a costing exercise was undertaken to estimate the future cost of specialist building based day opportunities for the 20 individuals who will still require this type of provision in the long term. This exercise considered the current attendance data as well as the current Continuing Health Care (CHC) status of each individual, and applied a sessional cost derived by RDaSH (which the AHWB Commissioning Team judged to be competitive based on the available market test data).
- 14.5. The conclusions drawn from the exercise was that the future provision would cost in the region of £568k per annum. Please note; this figure is underpinned by numerous assumptions, including:
 - a) The cost per session being a fair reflection of the true cost of the provision described
 - b) The attendance of the individuals remaining stable and consistent in the long term;
 - c) Doesn't take into account any potential growth / decline in client numbers for these services (it is anticipated that any future increase in demand will be led by Health, whilst Social Care needs will likely diminish over time as other day opportunity options are identified and explored).
- 14.6. The majority share of the estimated cost would relate to Health needs, which the Doncaster CCG would meet following the transfer of the Lead Commissioning role from the Council to the CCG under a section 76 agreement (as per the preferred option specified in this report). The estimated cost share for the CCG is £293k p.a.; the Council would meet the remaining cost of £275k p.a. Any future change to the CHC status of an individual would alter the apportionment of the contract costs.

15. HUMAN RESOURCES IMPLICATIONS [Officer Initials BT Date 08/04/19]

- 14.1. There are no obvious HR implications as a result of the proposed option to transfer of the lead commissioning of these services currently provided by Doncaster Council to the Doncaster CCG

16. TECHNOLOGY IMPLICATIONS [Officer Initials PW Date 04/04/19]

- 16.1. There are no anticipated technology implications in relation to this report.

16. HEALTH IMPLICATIONS [Officer Initials...HC.....Date 09/04/19]

16.1. The approach should improve and protect health and reduce inequalities, as the preferred option will promote maximum independence and asset based support, whilst still catering for small numbers of people who need a traditional building based model of care. Decision makers will want to be aware of impact of the current approach, and how measuring could be strengthened, including the cost-effectiveness of the approach and any opportunity costs.

17. EQUALITY IMPLICATIONS [Officer Initials..... Date.....]

17.1 See Legal Implications Section.

18. CONSULTATION

18.1. Throughout 2018/9 Doncaster Council, has undertaken a comprehensive consultation and review of the needs, preferences and best interests of the people using the Solar Centre and their families.

18.2. The consultation, as part of the wider review of RDASH Residential services, included agreed communications from RDASH, Doncaster CCG and Doncaster Council, to the individuals, their families and advocates; and individual consultations undertaken by Social Workers and the wider Multidisciplinary team supporting those clients.

18.3. Staff and service users of the Solar Centre were asked for their views on the benefits, limitations and potential developments of the Solar Centre, with a particular focus on the views of clients and their families and / or advocates.

18.4. 55 clients and their families, and /or advocates where appropriate, were consulted, including:

- 24 people living in RDASH Residential Care Homes
- 16 people living with their family
- 15 people living in the community / other residential care.

18.5. The consultation identified that the majority of people who use the service:

- Value the Solar Centre as it offers a caring and supportive environment for people with Learning Disabilities and a wide range of health and care needs.
- The Building offers specialist resources to meet the needs of a specific group of people with highly complex and challenging needs.
- Value the service as a safe and reliable service that enables them peace of mind, while offering day care respite services for their family member.
- Families and the multidisciplinary team identified that there is a defined group of people with highly complex needs and behaviours that challenge, who will continue to need the Solar Centre or alternative building based day service, to ensure their needs will continue to be met.

- 8 families recognise the potential need for further development of Day Care Services and expressed their interest to participate in any future developments.

19. BACKGROUND PAPERS

4th September Cabinet Report titled Transformation of residential care services for people with learning disabilities, provided by Rotherham, Doncaster and South Humber NHS Foundation Trust

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Doncaster Council

Date: 19th June 2019

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

ANNUAL REPORT OF MONITORING OFFICER

EXECUTIVE SUMMARY

1. This paper sets out the Monitoring Officer's (MO's) Annual Report on matters relating to ethical governance, including details of any complaint handling activity carried out in consultation with the Independent Person in relation to allegations of Member misconduct, details of disclosures made under the Council's Whistleblowing Policy during the last 12 months and any reports under the Money Laundering Policy.

RECOMMENDATIONS

2. It is recommended that the Committee:-
 - (i) notes the MO's annual report on complaint handling activity for 2018/19;
 - (ii) notes the whistleblowing return for 2018/19.
 - (iii) notes the nil money laundering reports for 2018/2019.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

3. Having robust ethical governance policies and procedures in place helps to maintain openness, transparency and probity in the way in which the Council conducts its business. This in turn should help increase public confidence in local governance through maintaining high standards of conduct by Members and Officers.

BACKGROUND

4. In accordance with adopted practice, this Committee receives a report by the MO on an annual basis, which summarises complaint handling and ethical governance activities during the previous 12 months.

Councillor Complaint Handling Activity – 1st April 2018 to 31st March 2019

5. The Monitoring Officer works closely with the Council's designated Independent Person (IP), Philip Beavers on matters of Member Behaviour and Complaints.

Borough Councillors

6. Over the last 12 months, 2 formal complaints against Borough Councillors have been received by the MO. One complaint was not considered to be a breach of the code and the Monitoring Officer spoke to the Councillor involved regarding the complaint. One matter was considered sufficiently serious to warrant further investigation and this matter is on-going.

This report only details those complaints which followed the Council's policy & were submitted on the Code of Conduct complaints form. Other matters were brought to the attention of the Monitoring Officer and were dealt with appropriately.

Parish & Town Councillors

7. The Monitoring Officer has received eight formal complaints against Parish & Town Councillors during the period 1st April 2018 to 31st March 2019.
8. It was noticeable that of those eight complaints received against Parish & Town Councillors, they all relate to Councillors from just two Councils. This is a worrying development and has necessitated in action being taken by the Monitoring Officer. The Monitoring Officer and the Independent Person attended a meeting of one of the Town Councils and addressed the members about the issues of Councillor behaviour and complaints. It was clear from that visit that the Town Council was otherwise acting extremely effectively but that the behaviour of two members potentially soured that. Since that visit no further complaints have been received.

The other Town Council continues to be an issue and members of this Committee will recall the Audit Committee (Hearings Sub-Committee) which took place during January 2019, when three Hatfield Town Council Councillors were censured as to their behaviour and had sanctions imposed against them as a result of that behaviour. Sadly the situation at that particular Town Council has not yet improved and complaints continue to be received, often on a tit-for-tat basis.

On a more positive note, most Town & Parish Councils in Doncaster do not appear on my radar and that point should be noted by the Committee.

9. A detailed summary of all complaints dealt with by the MO in consultation with the IP during 2018/19 is set out in **Appendix A** to this report.

General

10. In previous reports, the Monitoring Officer and the Independent Person have expressed their frustration about the lack of sanctions available to us since the changes introduced by the Localism Act 2011. Monitoring Officers and commentators have long suggested that the return of a balanced standards regime with appropriate sanctions would provide Monitoring Officers with the ability to deal with issues they come across and would encourage complainants to share their issues in the knowledge that a satisfactory outcome was possible. During the past year, the Committee on Standards in Public Life have published a supportive report and have recommended to Government that it is time to provide Monitoring Officers with greater powers such as the power of suspension from office. The proposals also suggest introducing more standardised Code of Conduct to deal with local variations and dealing with the number of social media based complaints. These proposals will require Government legislation and I am happy to update the Committee as matters develop.

Whistleblowing Returns for 2018/19

11. The MO has overall responsibility for the maintenance and operation of the Whistleblowing Policy, which includes keeping a record of all whistleblowing cases and presenting a summary of these to the Audit Committee on an annual basis.
12. The Whistleblowing policy was revised in February 2018. This applied the policy to members of the public, stakeholders, and contractors as well as employees. Whistle blowers are asked to report their concerns to named senior officers. This ensured that senior management were aware of any matters and that the correct processes were followed and reported to the Monitoring Officer for inclusion in the annual report.
13. We have had one whistleblowing matter during 2018/19 as detailed below.

Date	Name of officer reported to	Brief Summary of Matter	Outcome
April 2018	Peter Jackson (Head of Audit)	Member of public concerned over the background to a planning permission.	Matter investigated by Head of Audit and no further action taken as allegations not proven.

Anti- Money Laundering Returns for 2018/19

14. Money laundering is the method by which cash or funds obtained illegally are passed or “laundered” through financial systems to disguise their criminal origin. The “laundered” funds can then be used for legitimate transactions that do not arouse suspicion. The Council’s Anti-Money Laundering Policy has been revised due to changes in the law in 2017 and the revised Policy is presented to the Committee as a separate report today.

Where an officer suspects (or knows) that money laundering activity is taking place it must be reported to the Money Laundering Reporting Officer and obtain advice and permission to continue the transaction.

15. For the period April 2018 to March 2019 there have been no reports made to the Money Laundering Reporting Officer.

OPTIONS CONSIDERED AND REASONS FOR RECOMMENDED OPTION

- 16 Not applicable – this report is primarily for noting.

IMPACT ON THE COUNCIL’S KEY OUTCOMES

- 17.

Outcomes	Implications
<p>Connected Council:</p> <ul style="list-style-type: none"> • Working with our partners and residents to provide effective leadership and governance 	<p>The work of the Audit Committee in monitoring the Council’s ethical governance activities helps to:</p> <ul style="list-style-type: none"> • ensure that Council arrangements are open, accountable and ethically strong; • promote high standards of conduct; • build a ‘bond of trust’ between the Council and its communities.

RISKS AND ASSUMPTIONS

18. There are no identified risks associated with this report.

LEGAL IMPLICATIONS [Officer Initials...NC... Date...03/06/19]

19. Section 27(1) of the Localism Act 2011 places a duty on relevant authorities to promote and maintain high standards of conduct by Members and Co-opted Members of the authority.
20. Section 28 of the Localism Act 2011 requires Principal Authorities to have in place arrangements for investigating allegations of Member misconduct (both Members of the Council and Parish/Town Councils in the Borough) and taking decisions on those allegations. It also requires Councils to appoint at least one Independent Person who is to be consulted as part of the complaint handling process. The Council has in place arrangements for discharging these arrangements.
21. Whistleblowing protection for workers is provided in the Public Interest Disclosure Act 1998, incorporated into the Employment Rights Act 1996, and amended by the Enterprise and Regulatory Reform Act 2013. It gives protection from detrimental treatment of workers who disclose reasonable concerns about serious misconduct or malpractice at work. Workers are protected from detrimental treatment if their disclosure qualifies as a ‘protected disclosure’. In order to ensure that they qualify for protection, the worker should follow a certain procedure as set out in our Policy.

22. The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 came into force on 26 June 2017. They implement the EU's 4th Directive on Money Laundering and replace earlier Regulations which were previously in force. A key difference with the new Regulations is that they require the adoption of a more risk based approach towards anti-money laundering. Whilst the new Regulations do not directly place specific responsibilities on local authorities in respect of money laundering, it is accepted best practice for the Council, as a guardian of public finances, to comply with the spirit of the legislation and put in place appropriate anti-money laundering safeguards.

FINANCIAL IMPLICATIONS [Officer Initials...S Fairburn Date...03/06/19.]

- 23 There are no specific financial implications associated with this report.

HUMAN RESOURCES IMPLICATIONS [Officer Initials RH Date 7/6/2019]

24. There are no specific HR implications in relation to the parts of this report which refer to complaints made against elected members and anti-money laundering returns.

Whistleblowing complaints which relate to the conduct of council employees are dealt with in line with the appropriate HR policy and procedure and any action taken, as appropriate, within the framework of the relevant policy.

EQUALITY IMPLICATIONS [Officer Initials...SRF... Date...1/06/19.]

25. There are no specific equalities implications associated with this report.

BACKGROUND PAPERS

Whistleblowing Policy
Code of conduct for Councillor
Anti-Money Laundering Policy

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Appendix A
Summary of Member Code of Conduct Complaints Received in 2018/19

Date received/ Ref.	Complainant(s)	Subject Member/ Council	Details of Allegation(s)	Outcome
PC3-18 10/04/18	A Town Council Employee	Town Councillor G	Alleges G ignores processes, shouts at the Town Mayor and shows her no respect in meetings, speaking to her in a belittling and insulting manner.	SF sent correspondence to IP together with previous complaint form for consideration.
PC4-18	Town Councillor	A Town Councillor & Employee	Behaviours.	See below
PC5-18	Town Council Employee	Cllrs Glynn, Credland, Morrison and Rutherford Hatfield	Bullying & harrassment	Initial investigation undertaken and report with recommendations produced. Referred to Audit Sub-Ctte.
DC3-18	Member of Public	DMBC Councillor	Complaint that Cllr had failed to deal with his request	Not a breach of the Code
PC6-18	DMBC employee	Town Councillor	Inappropriate communications	Town Councillor apologised
PC7-18	2 Town Councillors	Town Councillor W	Complaints about Cllr behaviour in meetings	Investigation followed by Informal resolution
PC8-18	Town Councillor	Town Councillor C	Complaint regarding Cllr behaviour towards the clerk and in meetings	Investigation followed by informal resolution

Appendix A
Summary of Member Code of Conduct Complaints Received in 2018/19

PC9-18	Town Councillor	Town Councillor B	Complaint about Cllr behaviour in meetings	Investigation followed by informal resolution
PC1-19	Town Councillor	Town Councillor C	Complaint about Cllr behaviour and attitude in meetings and toward the clerk	Investigation followed by informal resolution
DC5-18	Member of public	DMBC Councillor	Allegation about Councillor business arrangements.	Investigations on-going



Doncaster Council

Date: 19th June 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. A yearly report and a six monthly update report are brought each year; this is the yearly report.
- 1.3 This report also provides details on the outcome of the inspection undertaken by the Investigatory Powers Commissioner's Office on the 25th March 2019, and the action required as a result of that inspection.

RECOMMENDATIONS

3. To note that the Council has had 3 directed surveillance applications authorised under RIPA since the last report to the Audit Committee on the 31st January 2019.
4. To note the positive outcome and recommendations of the Investigatory Powers Commissioner's Inspection of Doncaster Council on 25th March 2019. The report is attached at Appendix 1.

- To approve the minor amendments to the Council's RIPA Procedure, attached at Appendix 2, following the Inspection recommendations.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

- 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

- 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 six inspections namely in, 2003, 2004, 2009, 2012, 2016 and March 2019.
- 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.
- 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.
- Details of the three authorisations since the last report to the Audit Committee are:

Date:	Reference:	Details:	Authorising officer:
March 2019	URN 111	Illegal product sales	Chief Trading standards officer
May 2019	URN 112	Illegal product sales	Chief Trading standards officer
May 2019	URN 113	Illegal product sales	Chief Trading standards officer

The matters are ongoing so there is no further detail to provide at present.

- The Council was inspected by IPC on 25th March 2019. The inspection report was very positive and concluded: 'The Council deserves considerable credit for attaining high standards of compliance. The recommendations

from the 2016 inspection have been discharged and the extensive training programme has certainly reaped dividends in terms of the overall quality of the applications and authorisations. The Council enjoys a good relationship with the Magistrates' Court and no significant delays in securing the magistrates' approval were identified. There is one recommendation from this inspection relating to minor revisions of the RIPA policy document and another relating to considerations of collateral intrusion at reviews. Both can be easily addressed.' With regard to the procedure and policy the report at section 5.1.2 states: 'It is a comprehensive and well written document supplemented by a Policy Statement'.

12. The two recommendations were to:
 - i) amend the RIPA Procedures document; and
 - ii) ensure proper consideration should be given to collateral intrusion at reviews.

13. With regard to the first recommendation, the revised RIPA Procedure is attached at Appendix 2 with the following amendments:
 - i) The table on page 8 has been amended to so it is clear that test purchases are covert and require directed authorisation where a hidden camera is used and the reference to other test purposes has been removed to avoid confusion.
 - ii) Sections 8.8 and 14.8 currently state: *Authorisations can be renewed in writing when the maximum period has expired* and this has been amended to read: *'shortly before the maximum period has expired.'*
 - iii) Section 13.9 prescribes monthly reviews for CHIS authorisations and to comply with the Code, this has been amended to stipulate that reviews should be undertaken as frequently as is considered necessary and proportionate by the authorising officer.

14. With regard to the second recommendation, to ensure proper consideration of collateral intrusion at the review of authorisations, a guidance note has been included in the review form to prompt the authorising officer with regard to this.

15. The inspectors made some minor observations, which have also been implemented. These were:
 - i) on the review form, substitute the reference to the 'reviewing officer' with 'authorising officer'; and
 - ii) cancellations should include the authorising officer's directions in respect of the management of the surveillance product.

16. Before the inspection, trading standards and relevant enforcement officers did receive their comprehensive annual RIPA update training by Legal Services on the 14th March 2019.

OPTIONS CONSIDERED

14. The IPC is the government appointed regulator in relation to the Council's use of RIPA powers. Therefore, the only option considered is the revision of the Council's RIPA Policy and Procedures in compliance with the inspector's recommendations.

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: 8.5.2019]

18. RIPA provides Local Authorities with the mechanism by 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 and statutory codes of practice 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/statutory codes of practice, or recommendations made by the IPC 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 SEF 16.05.19]

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 22.5.19]

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.

HEALTH IMPLICATIONS [Officer Initials HC Date: 21.05.2019]

21. 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.

EQUALITY IMPLICATIONS [Officer Initials NC Date 8.5.19.]

22. 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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Investigatory Powers
Commissioner's Office

Inspection Report – Doncaster Metropolitan Borough Council

Inspection report ref: 075

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1 Introduction

- 1.1 The most recent inspection of Doncaster Metropolitan Borough Council (DMBC) was conducted by His Honour Norman Jones, Assistant Surveillance Commissioner, on the 5th January 2016. This inspection has been conducted to assess the level of compliance with the Regulation of Investigatory Powers Act 2000 (RIPA) in respect of the use and management of covert surveillance and covert human intelligence sources (CHIS).
- 1.2 This inspection took place on the 25th March 2019 and was conducted by Mr Ges Horne, Inspector.
- 1.3 This report is addressed to the Chief Executive, Jo Miller, whose address for correspondence is Civic Office, Waterdale, Doncaster, South Yorkshire DN1 3BU. Her email address is: Jo.Miller@doncaster.gov.uk

2 Inspection methodology

- 2.1 In the period since the last inspection, DMBC has granted thirteen directed surveillance authorisations and no CHIS authorisations. This figure is consistent with previous inspections.
- 2.2 The inspection is based on a dip sampling exercise of all available records and therefore does no more than provide a snapshot of the Council's compliance based on what has been reviewed.
- 2.3 Statistics relating to what was viewed are captured in table 1 below. Please see section 7 for a full list of which records were viewed during the inspection.

For the period: 5 th January 2016 to 25 th March 2019				
Doncaster Metropolitan Borough Council	Total authorisations in current reporting period	Total authorisations in previous reporting period	Total records viewed at Inspection	Of this total, number of urgent oral records viewed
Directed Surveillance	13	13	4	0
CHIS	0	0	0	0

Table 1. Key Statistics

2.4 The following officers from DMBC were met:

- Scott Fawcus, Assistant Director of Legal and Democratic Services and Senior Responsible Officer (SRO)
- Helen Potts, Principal Legal Officer and RIPA Co-ordinating Officer
- Dave McMurdo, Head of Trading Standards (RIPA Authorising Officer)
- Neil Concannon, Head of Service for Litigation (RIPA Authorising Officer)
- John Davies, Enforcement Manager (RIPA Authorising Officer)

3 Key findings

3.1 Recommendations

3.1.1 Two recommendations have been made. The first concerns a number of minor amendments required to the Policy document. These are outlined in further detail in paragraph 5.1.2. The second recommendation relates to the considerations of collateral intrusion at reviews and is covered in paragraph 5.2.3.

3.1.2 The key recommendations arising from the inspection are listed in

3.1.3 Table below.

Number	Reference	In relation to	Recommendation	Recommendation type
R1	5.1.2	Policies	Amend the RIPA Procedures document as detailed in paragraph 5.1.2	Recommendation - observed potential for improvements
R2	5.2.3	Surveillance	Proper consideration should be given to collateral intrusion at reviews	Recommendation - observed potential for improvements

Table 2. Key recommendations resulting from inspection

3.2 Observations

3.2.1 The key observations arising from the inspection are listed in Table 3 below.

Number	Reference	In relation to	Recommendation	Observation type
O1	5.2.3	Surveillance	On the review form, substitute the reference to the reviewing officer with authorising officer	Observation
O2	5.2.3	Surveillance	Cancellations should include the authorising officer's directions in respect of the management of the surveillance product	Observation

Table 3. Key observations resulting from inspection

4 Actions taken on previous inspection recommendations

4.1 R1: Amend the Central Record of Authorisations (paragraph 10).

Discharged: The relevant paragraph referred to the date of authorisation. The Central Record was inspected and found to be fully compliant with the Code.

R2: Establish a training programme to embrace regular refresher training either by the RIPA officers or by e-training and address the issues raised in the examination of RIPA documentation in this report.

Discharged: DMBC should be commended for its response to this recommendation. A number of internal and externally sourced RIPA awareness courses have been delivered, together with mandatory on-line training for over one hundred staff.

R3: Amend the RIPA Procedures document (paragraph 29).

Discharged: The suggested amendment regarding the Protection of Freedoms Act 2012 has been incorporated. Although minor changes have been recommended as a result of this inspection, this specific recommendation can be considered discharged.

5 Inspection findings

5.1 Policies and procedures

5.1.1 In addition to the Chief Executive who is the authorising officer in respect of the enhanced level authorisations specified in Annex A of the Code of Practice, there are three trained authorising officers. All the authorising officers were present and impressed the Inspector with their knowledge and understanding of the legislation.

5.1.2 The RIPA policy was updated after the last inspection in 2016. It is a comprehensive and well written document supplemented by a Policy Statement – RIPA 2000. Although largely accurate, a number of recommendations were made in relation to the Policy document which are summarised below:

- The table on page 8 should reflect the fact that test purchases are covert even if the officer behaves no differently from a member of the public. This is because the council officer is not declaring himself as such nor the true purpose of the purchase.
- Sections 8.8 and 14.8 currently state: *Authorisations can be renewed in writing when the maximum period has expired*. This should be amended to read: shortly before the maximum period has expired.
- Section 13.9 prescribes monthly reviews for CHIS authorisations. To comply with the Code, this should be amended to stipulate that reviews should be undertaken as frequently as is considered necessary and proportionate by the authorising officer.

5.1.3 Recommendation 1: The Policy Guidance document should be revised in accordance with paragraph 5.1.2 of this report.

5.1.4 The most recent RIPA training was delivered in March 2019 and there is mandatory on-line training for staff in specific roles who require an enhanced awareness of RIPA. Since 2017, an impressive figure of 110 staff have successfully completed this on-line course.

5.1.5 A report on the Council's RIPA use is submitted to the Audit Committee every six months in compliance with Section 4.47 of the Code of Practice.

5.2 Surveillance

5.2.1 Two directed surveillance authorisations were inspected in support of Operation Taco. The first authorisation involved a group of five residential addresses from where it was believed illicit tobacco was being sold. The second focused on five retail premises which were again suspected of selling counterfeit and illegal tobacco. The surveillance

activity included test purchase operations. Although none of the subjects were linked, the intelligence cases were sufficiently strong to counter any allegations that these were “fishing expeditions”. The construction of one authorisation to combine each set of addresses appeared a sensible and less bureaucratic approach than authorising each individual subject and address separately. However, the authorising officers’ attention was drawn to the fact that the statutory considerations, particularly collateral intrusion, needed to be carefully addressed in relation to each premise which was subject to surveillance.

5.2.2 The statutory considerations of necessity, proportionality and collateral intrusion were articulated well in the applications and authorisations. In the earlier authorisations the applicant and authorising officer incorrectly cited the “economic well-being of the UK” and “public safety” as grounds for the authorisation. However, this error had been rectified in the more recent authorisations, evidence (if any was needed) of the value of refresher training.

5.2.3 Reviews and cancellations were completed timeously but there were a number of predominantly “fine tuning” rather than strictly compliance issues that were highlighted to the authorising officers:

- Firstly, attention was drawn to the assessment of collateral intrusion at reviews. Invariably the applicant would state that no collateral intrusion had occurred although the review itself contained details of legitimate shoppers and innocent members of the public visiting the suspect addresses. This level of collateral intrusion was anticipated at the time of authorisation and is unavoidable. An acknowledgement of this at the review does not vitiate the grounds of the authorisation provided this intrusion is considered proportionate to what is sought to be achieved.

Recommendation 2: Proper consideration to collateral intrusion should be given at reviews including what measures have been taken to minimise unnecessary intrusion in to the privacy of those who are not the intended subjects of surveillance.

- Secondly, the review form contains a section named “reviewing officer’s” comments. In reality, it is the authorising officer who completes this section and this ambiguity needs to be removed as this section contains the justification for the continued deployment which is the prerogative of the authorising officer.
- Finally, the cancellations recorded the reason for cancellation and the value of the surveillance. In accordance with note 110 of the OSC (as was) Procedures & Guidance document, it is suggested that the authorising officer includes directions for the management of the surveillance product.

5.2.4 *Social media*

Trading standards and enforcement officers use the internet for research. There was a good understanding amongst the group interviewed as to what activity would require the protection of a directed surveillance authorisation. All staff employed in these teams have received the relevant training. Although the IT system used by Trading Standards (M3) will provide an audit trail of activity, a more effective process for recording ongoing use was being considered by the Enforcement Manager.

6 Conclusion

6.1 The Council deserves considerable credit for attaining high standards of compliance. The recommendations from the 2016 inspection have been discharged and the extensive training programme has certainly reaped dividends in terms of the overall quality of the applications and authorisations. The Council enjoys a good relationship with the Magistrates' Court and no significant delays in securing the magistrates' approval were identified. There is one recommendation from this inspection relating to minor revisions of the RIPA policy document and another relating to considerations of collateral intrusion at reviews. Both can be easily addressed. Particular thanks should be passed to Helen Potts who made all the arrangements for the inspection and provided comprehensive background reading material in advance of the inspection.

7 List of records reviewed

7.1 For completeness, a full list of all records viewed during the inspection is captured below in Table 2.

7.2 Records listed here may have been viewed fully or only in part depending on the inspection methodology and approach taken.

Total records viewed	Operation URN	Operation name
Directed Surveillance (4)	98	Taco
	99	Taco
	100	N/A
	101	N/A

Table 2. List of records viewed

Ges Horne

IPCO Inspector

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Appendix 2

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)

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- 24. Security and Retention of Documents**
- 25. Internal Overview, Equipment and Records Management**
- 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. -
<p><u>Covert :Directed</u></p> <p>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>Covert: Intrusive</u></p> <p><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 shortly before 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 and as frequently as is considered necessary and proportionate by the authorising officer.) 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 shortly before 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**
- 9th Amendment - June 2019**



Doncaster Council

Report

Date: 19th June, 2019

To the Chair and Members of the
AUDIT COMMITTEE

UNAUDITED STATEMENT OF ACCOUNTS 2018/19

EXECUTIVE SUMMARY

1. This report presents the Council's unaudited Statement of Accounts for the 2018/19 financial year. The report highlights the overall financial position for the year, a summary accounts closure timetable and information on performance including improvements achieved in accuracy and quality.
2. The Accounts and Audit (England) Regulations 2015 apply to the preparation, approval and audit of the Statements of Accounts and other financial statements. These regulations are based on International Financial Reporting Standards (IFRS) which attempt to standardise accounts in a consistent format across both the public and private sectors with the aim of achieving greater transparency.
3. Whilst there is no longer a requirement to present the unaudited accounts to Members before the external audit process commences, the Council has continued this practice as it gives Members early notification of the financial outcome of the previous financial year and is considered to be good practice.
4. There is a requirement to obtain certification of the accounts by the responsible financial officer, for the Council this is the Chief Financial Officer & Assistant Director – Finance, by the 31st May each year. The statutory deadline for the date of approval and publication of the final Statement of Accounts is 31st July.

EXEMPT REPORT

5. Not applicable.

RECOMMENDATIONS

6. Members are requested to note the 2018/19 Statement of Accounts.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

7. An unqualified audit opinion on the Council's financial statements and a good VfM conclusion resulting from the annual audit process would indicate that there is excellent internal control in place safeguarding Council resources.

BACKGROUND

8. The Council's 2018/19 accounts have been prepared in accordance with IFRS and the appropriate accounting codes of practice and were approved by the Council's responsible financial officer on the 31st May in line with the statutory deadline.
9. The statutory 6 week period in which the accounts are available for public scrutiny must include the 1st 10 working days in June. The accounts are available for public scrutiny from 1st June to 12th July. This was advertised on the Council's website on 31st May. The unaudited accounts were placed on the Council's website on 31st May in line with the Government's policy of increased transparency in the public sector with public scrutiny of the accounts being a key feature of the financial governance framework of local authorities.
10. The accounts will be subject to external audit during the period 1st June to 28th June and it is expected that the audit opinion will be finalised (subject to the continuing work on the Whole of Government Accounts) by 12th July. Legislative requirements significantly reduce the timeframe allowed for the accounts closure process and Members of the Audit Committee will now be aware that the Council is required to produce the audited Statement of Accounts for the 2018/19 financial year by 31st July 2019, with the unaudited 2018/19 accounts being produced by 31st May 2019.
11. The Council is planning to finalise its audited 2018/19 accounts by 24th July. The accounts and a report will be presented by Grant Thornton to this Committee on 24th July setting out the result of the external audit in the form of their 'Communication with those charged with governance' report (ISA 260 report), which formally sets out the findings of their audit of the financial statements.

The 2018/19 Financial Statements and Supporting Disclosure Notes

12. The style and format of the accounts used for 2018/19 is similar to that used last year, the main changes are: -
 - a. Repositioning of the Expenditure and Funding Analysis (EFA) – the EFA is now included as note 1 of the supporting disclosure notes rather than before the core financial statements;
 - b. Removal of Note 5 Material Items of Income and Expenses as there were none in 2017/18 or 2018/19;
 - c. A change in accounting policy and additional disclosure requirements for Note 16 Financial Instruments and the Nature and Extent of Risks arising from Financial Instruments required by IFRS 9 Financial Instruments. The main effect was the classification and measurement of financial instruments into 3 new categories based on the business model for holding the instruments with an option to designate equity investments and a new 3-stage expected credit loss model for impairment replacing the incurred loss model in IAS 39;

- d. A new Note 19 Debtors for Local Taxation required by IFRS 9;
 - e. A new Note 25h Financial Instruments Revaluation Reserve showing the gains / losses arising from changes in the fair value of equity instruments designated as other comprehensive income;
 - f. Removal of Note 42 Contingent Assets as there are none in 2018/19;
 - g. Additional table provided in Note 43 Trust Funds to provide the split between Adult Trust Funds and Other Trust Funds; and
 - h. A full Note C Property, Plant and Equipment provided in Group Accounts rather than an extract.
13. Members of this Committee have a key role in scrutinising the accounts in order to maintain strong governance over financial reporting. Early production of the accounts enables the Members of this Committee sufficient time to review the statements and ask challenging and pertinent questions. Whilst the Narrative Report provides the summary of the financial year and the associated statements, it is worthwhile highlighting some specific points for the year: -
- a. At the meeting on 19th June, Cabinet will be presented with the final outturn positions for both revenue and capital for the 2018/19 financial year. On the normal day to day operating budget the Council underspent by £2.1m with underspends across the Council and one-off grant funding being utilised to manage the significant pressures and any shortfall in the delivery of savings. The social care pressures have been managed using circa. £10m one-off funding (£4m Minimum Revenue Provision (MRP) budget previously earmarked for capital purposes and £6m one-off grants for Adult Social Care);
 - b. For Members, probably the most important issue will be whether the Council has a surplus or deficit compared to its budget for the year. The (increase)/decrease in 2018/19 on the Movement in Reserves Statement (MiRS) gives this information for both the General Fund and the Housing Revenue Account (HRA). The General Fund balance increased by £6.2m due to a £2.1m underspend at outturn and a £4.1m increase in earmarked reserves (Note 11) and the HRA reserves increased by £1.8m;
 - c. Statutory adjustments (shown in Note 10 and mainly capital related) convert the Council's movement in reserves performance from the £7.9m increase to a deficit of £46.5m (General Fund £44.5m and the HRA £2.0m) shown in the Comprehensive Income and Expenditure Statement (CIES). This represents the position that would have been reported under 'commercial accounting' rules;
 - d. The Council's net worth has decreased by £51.7m to £570.1m since the previous financial statements (see 'Balance Sheet' on page 21 of the accounts). This is mainly due to an increase in the liability related to the defined benefit pension scheme (the pension liability is volatile from year to year as it is based on the Actuary's assumptions and performance of the fund), partially offset by an increase in Property, Plant & Equipment;
 - e. The reclassification of the element of the Insurance Fund provision (Note 23) relating to potential future claims / liability as an ear-marked reserve (Note 11). Provisions are recognised only when the Council has a present obligation as a result of a past event. As potential claims fail this test, £5.4m was released from the Insurance Fund provision and moved into a new Insurance Fund ear-marked reserve;

- f. The change in accounting policy referred to in paragraph 12c, required by IFRS 9 Financial Instruments, had 3 main impacts mostly affecting financial liabilities: -
- i. All financial instruments were classified into 3 different categories based on the business model for holding the instruments, each having different accounting implications: -
 - Amortised Cost;
 - Fair Value through Other Comprehensive Income (FVOCI);
 - Fair Value through Profit and Loss (FVPL)
- The main impact for the Council was on its' equity investments. These are now valued based on the net worth of the company rather than the cost of the shares and are treated as FVPL, meaning the increase in valuation of the equity investments would ordinarily result in a gain in the CIES. However, as the shares are held for strategic purposes rather than investment purposes, the Council took the option to designate them as FVOCI meaning any gain or loss in valuation is only recognised on disposal;
- ii. A new 3-stage expected credit loss model for impairment replacing the incurred loss model in IAS 39 meaning impairment is based on expected future losses rather than actual incurred losses. This had a minimal effect for the Council as our loans do not represent a significant credit risk;
 - iii. Additional narrative and table disclosures in Note 16;
- g. Reserves are an indication of the temporary resources available to assist an authority to deliver services. Not all reserves can be used to deliver services and this is reflected by reporting reserves in two groups – 'usable' and 'unusable' reserves. Usable reserves have decreased by £1.0m or 0.9% from £118.2m to £117.2m (these are shown on page 20), largely due to capital financing.

Usable Reserves (see Movement in Reserves Statement)	31st March 2018	31st March 2019	Movement in year
	£m	£m	£m
General Fund (including Earmarked reserves)	61.5	67.7	6.2
Housing Revenue Account	6.5	8.3	1.8
Capital Receipts Reserve	13.9	15.6	1.7
Major Repairs Reserve	7.9	3.9	(4.0)
Capital Grants Unapplied	28.4	21.7	(6.7)
Total Usable Reserves	118.2	117.2	(1.0)

Unusable reserves are determined by technical accounting rules and are not available for use by the Council. These have decreased by £50.6m to £401.2m mainly reflecting the changes in the Revaluation Reserve, Pension Reserve (due to changes in assumptions from the Actuary) and the Capital Adjustment Account (due to the disposal of academies and Doncaster Rail College).

Unusable Reserves (Note 25)	31st March 2018	31st March 2019	Movemen t in year
	£m	£m	£m

Revaluation Reserve	245.5	276.0	30.5
Capital Adjustment Account	616.0	597.0	(19.0)
Financial Instruments Adjustment Account	(1.0)	(0.8)	0.2
Pension Reserve	(415.5)	(476.5)	(61.0)
Deferred Capital Receipts Reserve	4.8	4.8	0.0
Collection Fund Adjustment	3.8	2.0	(1.8)
Accumulated Absences Account	(1.8)	(2.2)	(0.4)
Financial Instruments Revaluation Reserve	0.0	0.9	0.9
Total Unusable Reserves	451.8	401.2	(50.6)

Financial Ratios

14. The following financial ratios promote the accountability of councils for their spending decisions. These include: -

- The ratio of **current assets to current liabilities**, an indicator of how a council manages its short-term finances
- The ratio of **usable reserves to gross revenue expenditure**, highlighting how much money a council is retaining for future plans and to cover unpredictable spending
- The ratio of **long term borrowing to long term assets**, representing the percentage of a council's assets that are financed with borrowing. A low figure means a council is less dependent on debt and has lower risk associated with its operation.
- The ratio of **school balances to dedicated schools grant**, showing whether schools, maintained by the Council, are retaining a high or low proportion of the funding provided for spending on education

The ratios for the Council are provided below and reflect continued, sound financial management and governance arrangements: -

DMBC Financial Ratios	2016/17	2017/18	2018/19
Current assets to current liabilities (working capital)	1.229	1.020	0.959
General Fund balances to gross revenue expenditure	11.48%	8.65%	10.15%
Long term borrowing to long term assets	0.276	0.304	0.291
School balances to Dedicated Schools Grant	7.14%	5.49%	3.94%

The proportion of current assets to current liabilities (ideal ratio of 1.0) indicates that the Council is managing its short term finances effectively.

The comparison of General Fund balances (which includes, for these purposes, earmarked reserves but not school balances) to gross revenue spend is now higher at 10.15% (up from 8.65% in 2017/18).

OPTIONS CONSIDERED

15. Not applicable.

REASONS FOR RECOMMENDED OPTION

16. The main content and format of the Statement of Accounts is set out in the Code of Practice on Local Authority Accounting for 2018/19. The Council has a statutory obligation to submit its unaudited 2018/19 Statement of Accounts to the External Auditor by 31st May. Failure to do so could result in an audit qualification and consequential reputational damage.

IMPACT ON THE COUNCIL'S KEY OUTCOMES

17. 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>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>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 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>
	<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 	

RISKS AND ASSUMPTIONS

18. The table below highlights the most significant risks that could have a negative impact on the deliverability of the Council's financial position and the action taken to mitigate them: -

Risks / Assumptions	Probability	Impact	Proposed Action
Robustness of correct outturn figure	Low	Medium	Work has been undertaken during monitoring and closedown process to process all transactions and prepare for audit. This has included an increase in senior officer quality assurance review and control; and internal verification and checks by finance and technical officers.
The Audit identifies a material / significant finding or inaccuracy in the production of the accounts.	Low	High	Continuous dialogue with Grant Thornton throughout the year. Specific discussions on key complex / technical areas are as part of the monthly audit liaison group meetings

LEGAL IMPLICATIONS [Officer Initials...SRF... Date...07/06/19]

19. The Statement of Accounts is prepared in accordance with the appropriate

Regulations and the Council is subject to statutory external audit and performance evaluation by Grant Thornton.

FINANCIAL IMPLICATIONS [Officer Initials...RI... Date...06/06/19]

20. The Council's Statement of Accounts are prepared in line with the Accounts and Audit Regulations 2015 and International Financial Reporting Standards.

HUMAN RESOURCES IMPLICATIONS [Officer Initials...KG... Date...07/06/19]

21. There are no specific HR implications relating to the content of this report.

TECHNOLOGY IMPLICATIONS [Officer Initials...PW...Date...07/06/19]

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

HEALTH IMPLICATIONS [Officer Initials...RS...Date...07/06/19]

23. Good Governance is important for good health and wellbeing. However there are no obvious direct health impls.

EQUALITY IMPLICATIONS

24. This report has no specific equality implications.

CONSULTATION

25. Not applicable.

BACKGROUND PAPERS

26. Following background papers: -
- Unaudited Statement of Accounts 2018/19 published on the Council website: - <http://www.doncaster.gov.uk/services/the-council-democracy/statement-of-accounts>
 - Accounts and Audit Regulations 2015
 - The Code of Practice on Local Authority Accounting 2018/19 ('The Code') - based on IFRS

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& Assistant Director – Finance**



Doncaster Council

Report

19th June 2019

To the Chair and Members of the AUDIT COMMITTEE

AUDIT COMMITTEE PROSPECTUS, TERMS OF REFERENCE AND WORK PROGRAMME 2019/20

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

EXECUTIVE SUMMARY

1. The report sets out the formal Terms of Reference for the Audit Committee for 2019/20, which were approved at Annual Council meeting on 17th May 2019.
2. The report also contains a 'Prospectus' which sets out the scope and standards applicable to the Audit Committee, and shows how these and the Terms of Reference enable the Committee to comply with Local Government Audit Committee standards and the Council's requirements of the Committee.
3. The Prospectus includes a draft work programme, which demonstrates how the Committee will fulfill its Terms of Reference for the year.

EXEMPT REPORT

4. The report does not contain exempt information.

RECOMMENDATIONS

5. The Audit Committee is asked:

- to note the Terms of Reference for the Audit Committee for the 2019/20 Municipal Year
- to agree the Prospectus setting out the Audit Committee's scope, standards and work programme for the year.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER

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

BACKGROUND

Audit Committee prospectus

7. An Audit Committee prospectus has been produced which provides an oversight of the role of the audit committee, clearly setting out the scope and standards of the committee, the scope of its work and how it will seek the assurances about the management of risks across the Council. Importantly, it sets out the intended outcomes sought from the work of the committee.

Terms of Reference

8. At its Annual Meeting on 17th May 2019, the Council approved the Terms of Reference for Council Committees and Sub-Committees, which included the Audit Committee. The Terms of Reference for the Audit Committee are attached to this report at **Appendix A**.
9. In 2018, CIPFA (Chartered Institute of Public Finance and Accountancy) issued a publication, "Audit Committees; Practical Guidance for Local Authorities and Police". This publication contained a model set of Terms of Reference for an Audit Committee. These model terms have been reflected in the changes approved to the existing terms of reference. Most changes generally reflect terminology changes following auditing standards revisions. The new terms approved still reflect local requirements e.g. to discharge the role of the Standards Sub-Committee.
10. The Audit Committee is asked to formally note the changes to the Terms of Reference for the year.

Prospectus and Draft Work Programme

12. The Terms of Reference are augmented by the draft Audit Committee Prospectus, attached at **Appendix B**. The Prospectus is a public facing document that sets out the role, scope and standards of the Audit Committee, as well as some of the expected outcomes from its work during the year.

13. The work programme is also an integral part of the prospectus and demonstrates the Committee's coverage of the areas identified in its Terms of Reference, as follows:
 - a. Internal Audit
 - b. External Audit
 - c. Regulatory Framework
 - d. Accounts
 - e. Ethical Governance
14. Within the work programme, it is proposed as a default to maintain reporting the following regular items to the Audit Committee on a six monthly basis:
 - Compliance with Contract Procedure Rules and Procurement Breaches
 - Regulation of Investigatory Powers Act 2000 (RIPA) surveillance.
15. However, if there are any significant issues in any of these areas they will be reported immediately to the Audit Committee.
16. Update briefings and/or training for Members will be provided as required.
17. Internal Audit Update reporting for 2019/20 is scheduled for July 2019, October 2019 and January 2020, with an annual report of the Head of Internal Audit in April 2020.

OPTIONS CONSIDERED AND RECOMMENDED OPTION

18. In order to discharge its functions effectively, the Committee is required to operate within an agreed Terms of Reference.
19. The work programme is designed to ensure that, where appropriate, the Audit Committee is able to ensure the Council meets certain statutory deadlines and also discharge its responsibilities under its Terms of Reference, whilst achieving a balanced and manageable work load.
20. It should be noted that the programme of work may have to be varied in response to any issues emerging during the course of the year.

IMPACT ON THE COUNCIL'S KEY OUTCOMES

21. The Audit Committee 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. The Audit Committee's work is, therefore, relevant to all priorities but in particular the following:

	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 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

22. 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 (SRF 24/05/19)

23. There are no specific legal implications associated with this report.

FINANCIAL IMPLICATIONS (ST 22/05/19)

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

HUMAN RESOURCES IMPLICATIONS (KG 22/05/19)

25. There are no specific human resources issues associated with this report.

TECHNOLOGY IMPLICATIONS (PW 22/05/19)

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

EQUALITY IMPLICATIONS (PJ 21/05/19)

27. 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 22/05/19)

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

CONSULTATION

29. The Council's Section 151 Officer; the Chief Financial Officer and Assistant Director of Finance, and the Council's Governance Group have been consulted in the production of the Terms of Reference. The Chair of the Audit Committee was consulted on the changes to the terms of reference prior to being presented to Annual Council.

BACKGROUND PAPERS

30. None

REPORT AUTHOR & CONTRIBUTORS

Peter Jackson, Head of Internal Audit
Tel 01302 862938, Email: peter.jackson@doncaster.gov.uk

BACKGROUND PAPERS

Report to Annual Council on 17th May 2019 - Council Appointed Committees' And Sub-Committees' Terms of Reference for 2019/20.

Steve Mawson
Chief Financial Officer &
Assistant Director of Finance

AUDIT COMMITTEE

This Committee is a Committee of the Council constituted under Sections 101 and 102 of the Local Government Act 1972.

Statement of Purpose

1. Our Audit Committee is a key component of Doncaster Council's Corporate Governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.
2. The purpose of our Audit Committee is to provide independent assurance to the Members on the adequacy of the risk management framework and the internal control environment. It provides an independent review of Doncaster Council's governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.

FOR RECOMMENDATION TO COUNCIL:-

- (a) The adoption or revision of the Members' Code of Conduct.

DELEGATED MATTERS:- (the Committee may recommend any matter to Full Council when it considers it expedient to do so, after taking advice from the Head of Paid Service)

1. Audit Activity

INTERNAL AUDIT

- I. To approve the Internal Audit Charter.
- II. To approve the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.
- III. To approve significant interim changes to the risk-based internal audit plan and resource requirements.
- IV. To make appropriate enquiries of both management and the Head of Internal Audit to determine if there are any inappropriate scope or resource limitations.

- V. To consider any impairments to independence or objectivity arising from additional roles and responsibilities outside of internal auditing of the Head of Internal Audit. To approve and periodically review safeguards to limit such impairments.
- VI. To consider reports from the Head of Internal Audit on internal audit's performance during the year, including the performance of external providers of internal audit services where used. These will include:
 - a) Updates on the work of internal audit including key findings, issues of concern and action in hand as a result of internal audit work.
 - b) Regular reports on the results of the Quality Assurance Improvement Programme (QAIP).
 - c) Reports on instances where the internal audit function does not conform to the Public Sector Internal Audit Standards (PSIAS) and Local Government Advisory Note (LGAN), considering whether the non-compliance is significant enough that it must be included in the Annual Governance Statement (AGS).
- VII. To consider the Head of Internal Audit's annual report:
 - a) The statement on the level of conformance with the PSIAS and LGAN and the results of the QAIP that support the statement – these will indicate the reliability of the conclusions of internal audit.
 - b) The opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control together with the summary of the work supporting the opinion – these will assist the Committee in reviewing the AGS.
- VIII. To consider summaries of specific internal audit reports as requested.
- IX. To receive reports outlining the action taken where the Head of Internal Audit has concluded that management has accepted a level of risk that may be unacceptable to the authority or where there are concerns about progress with the implementation of agreed actions.
- X. To contribute to the QAIP and in particular, the external quality assessment of internal audit that takes place at least once every five years.

- XI. To provide free and unfettered access to the Audit Committee Chair for the Head of Internal Audit, including the opportunity for a private meeting with the Committee.

EXTERNAL AUDIT

- XII. To support the independence of external audit through consideration of the External Auditor's annual assessment of its independence and review of any issues raised by Public Sector Audit Appointments (PSAA) or the authority's auditor panel as appropriate.
- XIII. To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.
- XIV. To consider the external auditor's annual letter, relevant reports and the report to those charged with governance.
- XV. To consider specific reports as agreed with the external auditor.
- XVI. To comment on the scope and depth of external audit work and to ensure it gives value for money.
- XVII. To liaise with the Officers of the Council regarding Public Sector Appointments Ltd and the appointment of the Council's external auditor.
- XVIII. To commission work from internal and external audit.
- XIV. To receive training on matters related to the Audit Committee's responsibilities.

2. Regulatory Framework

- I. To review and where appropriate make recommendations to Council on proposed revisions to the Council's Constitution and other policies and procedures in relation to Corporate Governance issues.
- II. To review any issue referred to it by the Chief Executive or a Director or any council body as the Chair considers appropriate within the general Terms of Reference of the Audit Committee.
- III. To monitor the effective development and operation of risk management in the Council.

- IV. To monitor progress in addressing risk-related issues reported to the Committee.
- V. To monitor counter-fraud strategy, actions and resources.
- VI. To review the assessment of fraud risks and potential harm to the Council from fraud, bribery and corruption.
- VII. To review the Annual Governance Statement (AGS) prior to approval and consider whether it properly reflects the risk environment and supporting assurances, taking into account internal audit's opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control.
- VIII. To review the Council's corporate governance arrangements against the good governance framework, including the ethical framework and consider the local code of governance.
- IX. To consider the Council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.
- X. To consider the Council's framework of assurance and ensure that it adequately addresses the risks and priorities of the Council.
- XI. To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions.
- XII. To review the governance and assurance arrangements for significant partnerships or collaborations.
- XIII. To report and make recommendations to the Executive or Council on major issues within the remit of the Committee.
- XIV. To have rights of access to other Committees of the Council and to strategic functions as it deems necessary.
- XV. To maintain oversight of any major issues arising from Police or other enquiries into the conduct of the Council in order to minimise disruption to other branches of the Authority.
- XVI. To receive periodic reports from appropriate Directors on probity and corporate governance issues not specifically referred to elsewhere within the Committee's Terms of Reference.
- XVII. To review the Council's policy under the Regulation of Investigatory Powers Act 2000 annually and to monitor compliance with the policy on a twice yearly basis.

Accounts

- I. To review the annual statement of accounts. Specifically, to consider whether appropriate whether accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.
- II. To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

Ethical Governance

- I. To promote and maintain high standards of conduct by Members and Officers.
- II. To grant dispensations to Councillors and Co-opted Members from requirements relating to interests set out in the Members Code of Conduct, where not delegated to the Monitoring Officer.
- III. To hear appeals against decisions of the Monitoring Officer not to grant a dispensation.
- IV. To monitor and review the Council's Whistleblower's policy.
- V. To monitor and review protocols for standards of behaviour for Members and Officers.
- VI. To monitor and review protocols for Members and Officers on relationships and dealings with outside organisations and individuals.
- VII. To monitor and review Member and Officer procedures relating to gifts and hospitality and disclosable pecuniary interests and other interests.
- VIII. To monitor and oversee the response by the Council to complaints to the Ombudsman.
- IX. To deal with complaints of alleged Member misconduct referred to the Monitoring Officer under Section 28(6) of the Localism Act 2011.
- X. To arrange for the exercise of all the above functions in relation to Parish Councils wholly or mainly in its area and to the members of those Parish Councils.

HEARINGS SUB-COMMITTEE

TERMS OF REFERENCE

This Sub-Committee is a Sub-Committee of the Council constituted under Sections 101 and 102 of the Local Government Act 1972.

1. To consider complaints referred to it by the Monitoring Officer in consultation with the Independent Person in accordance with Section 28 of the Localism Act 2011.
2. To hear appeals against decisions of the Monitoring Officer not to grant a dispensation.



Doncaster
Council

Audit Committee Prospectus, Terms of Reference and Work Plan 2019/20

The purpose of an audit committee is to provide to those charged with governance independent assurance on the adequacy of the risk management framework, the internal control environment and the integrity of the financial reporting and governance processes. By overseeing internal and external audit it makes an important contribution to ensuring that effective assurance arrangements are in place. CIPFA 2018

The Audit Committee at Doncaster Council

The Audit Committee has primary responsibility for ensuring there are effective governance arrangements in place and operating throughout the organisation, and is the principal advisory function to the Council and Executive on governance related matters.

This Prospectus sets out the scope and the standards of the Audit Committee, which are consistent with Local Government standards. It also describes the approach that will be taken by the Audit Committee and outlines its 2019/20 work programme.

Scope and Standards

In accordance with the Chartered Institute of Public Finance and Accountancy's Position Statement and guidance on Audit Committees, the Audit Committee will:

- ✓ Satisfy itself and others that the Annual Governance Statement reflects the Council's arrangements and position
- ✓ Monitor the effectiveness of the risk, governance and control arrangements and assurances obtained about its operation
- ✓ Consider the accuracy and effectiveness of risk management
- ✓ Ensure Internal Audit is independent and effective. In particular the Committee will:
 - review and approve the responsibilities of the internal audit function and ensure the function has the necessary resources to enable it to perform in accordance with appropriate professional standards
 - review and assess the annual internal audit work plan
 - receive a report on the results of the internal auditor's work and its compliance with its professional standards on a periodic basis
- ✓ Review the arrangements for employees to raise concerns, in confidence, about possible wrongdoing in financial reporting or other matters (whistleblowing)
- ✓ Review the Council's arrangements for managing the risk of fraud

- ✓ Review and approve the external auditor's annual audit plan and ensure that it is consistent with the scope of the audit engagement
- ✓ Review the findings of the external auditor's work with the external auditor, including a discussion of any major issues which arise during the audit
- ✓ Review the financial statements and the external auditor's opinion on the statements. In particular, the Committee will review and challenge where necessary:
 - the consistency of, and any changes to, significant accounting policies
 - the methods used to account for significant or unusual transactions where different approaches are possible
 - whether the Council has followed appropriate accounting standards and made appropriate estimates and judgements, taking into account the views of the external auditor
 - the clarity and completeness of disclosure in the financial reports and the context in which statements are made
- ✓ Consider external audit and inspection recommendations and ensure these are fully responded to.

The Audit Committee has *Terms of Reference* that reflect the scope and standards, and agrees an annual work-plan showing how the Committee will deliver its responsibilities. The 2019/20 work-plan, which is a 'live' document that is updated throughout the year, is attached at **Appendix 1**.



The Audit Committee has a current membership of five Council Members and one independent Co-opted member. It will meet five times per year. The Committee's operating model ensures that it:

- ✓ Has clear rights of access to other committees and functions, for example scrutiny
- ✓ Will have as regular attendees, the Director of Corporate Resources, the Chief Financial Officer & Assistant Director of (Section 151 Officer), the Head of Internal Audit and the External Auditor. Other attendees may include the Chief Executive and the Monitoring Officer
- ✓ Is able to meet privately and separately with the External Auditor and with the Head of Internal Audit
- ✓ Has the right to call on any other officers as required
- ✓ Will report regularly on its work to the Council.

The Role of the Audit Committee

The Audit Committee has a lead role in ensuring risks are managed effectively across the Council. The Committee challenges the Council and its managers to demonstrate their awareness, reporting and controlling of any risks that could either prevent the Council from achieving its objectives or could cause major disruption of any nature.

For 2019/20, the Committee will:

- ✓ Keep an active interest in the maintenance of the Council's overall risk management framework, policy and strategy,

In addition, the Committee aims to strengthen its own contribution. It will:

- ✓ Complete a detailed self-assessment against revised CIPFA guidance for audit committees, released in May 2018 and undertake the actions arising from this self-assessment.
- ✓ Receive regular, detailed, update sessions on relevant topics throughout the year.
- ✓ Receive other development and support as required, individually and/or collectively.

How will we know we have succeeded?

The role of the Audit Committee is crucial. The Committee has primary responsibility for

ensuring there are effective governance arrangements in place and operating throughout the organisation.

The Audit Committee will be accountable for meeting its responsibilities. We expect the following outcomes to be achieved:

- ✓ Comprehensive risk registers, including fraud risks, with risks demonstrably controlled
- ✓ Demonstrable implementation of audit and inspection recommendations
- ✓ A clear risk-based Internal Audit plan that is adequately delivered
- ✓ The achievement of a clear opinion on the Statement of Accounts
- ✓ An Annual Governance Statement, external audit Value for Money opinion and Internal Audit opinion of the risk, governance and control arrangements that fairly reflect the Council's position.

The Audit Committee will produce an Annual Report which will show how the Audit Committee is delivering these success measures and contributing positively to improving risk, governance and control and adding value to the organisation.

.....
Councillor Austen White, Chair

.....
Councillor R. Allan Jones, Vice-Chair

19 June 2019

APPENDIX 1

Doncaster Council- Audit Committee Workplan 2019/20

Objective and Agenda Item	June 2019	July 2019	Oct 2019	Jan 2020	April 2020
Internal Audit					
Internal Audit Strategy and Internal Audit Charter		✓			
Internal Audit Progress Report for the period: April to July 2019		✓			
Internal Audit Progress Report for the period: July to October 2019			✓		
Internal Audit Progress Report for the period: November 2019 to January 2020				✓	
Annual Report of the Head of Internal Audit 2019/20					✓
Internal Audit Plan 2020/21					✓
External Audit					
External Auditor Annual Audit letter 2018/19			✓		
External Auditor's Audit Plan 2019/20 and Arrangements for the Preparation of the 2019/20 Accounts				✓	
Certification of Claims and Returns – Annual Audit Report 2019/20					✓
Regulatory Framework					
Audit Committee Actions Log	✓	✓	✓	✓	✓
Regulation of Investigatory Powers Act	✓			✓	
Audit Committee Prospectus, Terms of Reference and Work programme 2019/20	✓				
Solar Centre Update Report	✓				
Final Annual Governance Statement 2018/19		✓			
Review of Risk Management Framework			✓		
Report on non-compliance with Financial Procedure Rules and Contract Procedure Rules			✓		✓
Income Management Progress Report			✓		
Annual Governance Statement 2018/19 – Progress Update			✓		
Update Reports on Contract Commissioning in Adults, Health & Wellbeing				✓	
Draft Annual Governance Statement 2019/20					✓

Objective and Agenda Item	June 2019	July 2019	Oct 2019	Jan 2020	April 2020
Audit Committee Annual Report 2019/20					✓
Accounts					
Unaudited Statement of Accounts 2018/19	✓				
Audited Statement of Accounts 2018/19 - ISA 260 Report to those charged with Governance		✓			
Ethical Governance					
Monitoring Officer Annual Whistleblowing and Standards Report 2018/19	✓				
Preventing and Detecting Fraud and Error - October 2018 to September 2019			✓		

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Audit Progress Report and Sector Update

Doncaster Metropolitan Borough Council

Year ending 31 March 2019

5 June 2019



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Introduction

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This paper provides the Audit Committee with a report on progress in delivering our responsibilities as your external auditors.

The paper also includes:

- a summary of emerging national issues and developments that may be relevant to you as a local authority; and
- includes a number of challenge questions in respect of these emerging issues which the Committee may wish to consider (these are a tool to use, if helpful, rather than formal questions requiring responses for audit purposes).

Members of the Audit Committee can find further useful material on our website, where we have a section dedicated to our work in the public sector. Here you can download copies of our publications www.grantthornton.co.uk

If you would like further information on any items in this briefing, or would like to register with Grant Thornton to receive regular email updates on issues that are of interest to you, please contact either Gareth or Perminder.

PSAA Contract Monitoring

Doncaster Metropolitan Borough Council opted into the Public Sector Audit Appointments (PSAA) Appointing Person scheme which starts with the 2018/19 audit. PSAA appointed Grant Thornton as auditors. PSAA is responsible under the Local Audit (Appointing Person) Regulations 2015 for monitoring compliance with the contract and is committed to ensuring good quality audit services are provided by its suppliers. Details of PSAA's audit quality monitoring arrangements are available from its website, www.psa.co.uk.

Our contract with PSAA contains a method statement which sets out the firm's commitment to deliver quality audit services, our audit approach and what clients can expect from us. It will also be a benchmark for you to provide feedback on our performance to PSAA via its survey in Autumn 2019.

Progress as at 5 June 2019

Financial Statements Audit

We started planning for the 2018/19 financial statements audit in late 2018 and issued a detailed audit plan, setting out our proposed approach to the audit of the Council's 2018/19 financial statements in January 2019.

We commenced our interim audit in February 2019 with a further visit in March. Our interim fieldwork included:

- Updating our review of the Council's control environment
- Updating our understanding of financial systems
- Reviewing Internal Audit reports on core financial systems
- Early work on emerging accounting issues
- Early substantive testing.

The work completed and findings from our interim audit visit were reported to the Audit Committee on 11 April 2019.

The statutory deadline for the issue of the 2018-19 opinion is 31 July 2019. We have discussed our audit plan and timetable with officers.

The final accounts audit commenced on 3 June with findings to be reported in our Audit Findings (ISA260) Report. Our initial review of the draft accounts indicates the Council's approach to new standards is good compared to others authorities.

We will present our report at the July Audit Committee meeting and issue our audit opinion by the 31 July deadline.

Value for Money

The scope of our work is set out in the guidance issued by the National Audit Office. The Code requires auditors to satisfy themselves that; "the Council has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources".

The guidance confirmed the overall criterion as: "in all significant respects, the audited body had proper arrangements to ensure it took properly informed decisions and deployed resources to achieve planned and sustainable outcomes for taxpayers and local people".

The three sub criteria for assessment to be able to give a conclusion overall are:

- Informed decision making
- Sustainable resource deployment
- Working with partners and other third parties

Details of our initial risk assessment to determine our approach were included in our Audit Plan presented to the Audit Committee in January 2019.

We will report our work in the Audit Findings Report and give our Value For Money Conclusion by the deadline in July 2019.

Other areas

Meetings

We continue to meet with senior officers including the Chief Financial Officer & Assistant Director of Finance as part of our regular liaison meetings and continue to be in discussions with finance staff regarding emerging developments and to ensure the audit process is smooth and effective.

We plan to meet with the Chief Financial Officer & Assistant Director of Finance on 11 June to discuss the 2018-19 draft accounts and any early emerging issues from our final accounts audit.

Events

We provide a range of workshops, along with network events for officers and members in addition to publications to support the Council. Key finance staff attended our annual accounts workshop on 5 February.

A number of members from the Audit Committee attended a workshop on the roles and responsibilities of audit committees including governance issues, accounting developments and value for money arrangements on 26 February. We would like to thank Members who attended the event for their contribution to the day.

Further details of the publications that may be of interest to the Council are set out in our Sector Update section of this report.

Audit Deliverables

2018-19 Deliverables	Planned Date	Status
<p>Fee Letter</p> <p>Confirming audit fee for 2018-19.</p>	April 2018	Complete
<p>Accounts Audit Plan</p> <p>We are required to issue a detailed accounts Audit Plan to the Audit Committee setting out our proposed approach in order to give an opinion on the Council's 2018-19 financial statements.</p>	January 2019	Complete. This was presented to the Audit Committee on 31 January 2019.
<p>Interim Audit Findings</p> <p>We will report to you the findings from our interim audit and our initial value for money risk assessment within our Progress Report.</p>	April 2019	Complete. Our findings were reported to the Audit Committee on 11 April 2019.
<p>Audit Findings (ISA260) Report</p> <p>The Audit Findings Report will be reported to the July Audit Committee.</p>	July 2019	Not yet due
<p>Auditors Report</p> <p>This is the opinion on your financial statements, annual governance statement and value for money conclusion.</p>	July 2019	Not yet due
<p>Annual Audit Letter</p> <p>This letter communicates the key issues arising from our work.</p>	August 2019	Not yet due

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Council responsibilities

In our Audit Plan presented to the Audit Committee in January 2019 we have communicated our expectations around the Council's responsibilities for timely production of the draft accounts supported by appropriate working papers. Should delays be experienced in the provision of these requirements or should additional work be required on our part due to complex technical issues, new arrangements and delays in response to queries additional costs will be incurred.

Any additional fees are subject to approval by PSAA.

Sector Update

Councils are tackling a continuing drive to achieve greater efficiency in the delivery of public services, whilst facing the challenges to address rising demand, ongoing budget pressures and social inequality.

Our sector update provides you with an up to date summary of emerging national issues and developments to support you. We cover areas which may have an impact on your organisation, the wider NHS and the public sector as a whole. Links are provided to the detailed report/briefing to allow you to delve further and find out more.

Our public sector team at Grant Thornton also undertake research on service and technical issues. We will bring you the latest research publications in this update. We also include areas of potential interest to start conversations within the organisation and with Audit Committee members, as well as any accounting and regulatory updates.

- [Grant Thornton Publications](#)
- [Insights from local government sector specialists](#)
- [Reports of interest](#)
- [Accounting and regulatory updates](#)

More information can be found on our dedicated public sector and local government sections on the Grant Thornton website by clicking on the logos below:

A teal rectangular button with the text "Public Sector" in white, sans-serif font.

Public Sector

A purple rectangular button with the text "Local government" in white, sans-serif font.

Local
government

National Audit Office – Planning for new homes

The National Audit Office (NAO) has recently published a report on *Planning for new homes*. This report is part of a series on housing in England, including *Housing in England: overview (2017)* and *Homelessness (2017)*. The latest report focuses on the Ministry of Housing, Communities and Local Government's (MHCLG's) objective for housing in England to deliver a million homes by the end of 2020; half a million by the end of 2022; and to deliver 300,000 net additional homes a year on average.

The report recognises that increasing the supply of new homes is a complex task and one of the measures MHCLG has introduced to help achieve the objective is reforming the planning system. The report notes that the planning system is fundamental to providing new homes and it assesses how effectively MHCLG supports the planning regime to provide the right homes in the right places through:

- supporting local authorities to produce plans for how the supply of new homes will meet need in their area;
- supporting local authorities and the Planning Inspectorate in having effective and sufficiently resourced planning processes and teams to deal with planning applications and appeals; and

working effectively with local authorities, other government departments and developers to ensure infrastructure to support new homes is planned and funded.

The report finds that at present, the system is not providing value for money and that the supply of new homes has failed to meet demand. It notes that a number of factors have contributed to the planning system not working and some of these include:

- the process of setting the need for new homes;
- the reductions in local authority capability;
- the under-performing Planning Inspectorate; and
- failures in the system to ensure adequate contributions for infrastructure.

The report recognises that MHCLG's new National Planning Policy Framework is an important step, but it is too early to tell whether the changes it introduces will be effective. The report also makes a number of recommendations for MHCLG to implement alongside the framework to help the planning systems work more effectively.

The report concludes that the Department and government more widely need to take this much more seriously and bring about improvement if they are to meet their ambition of 300,000 new homes per year by the mid-2020s.

The report is available on the NAO website:

<https://www.nao.org.uk/report/planning-for-new-homes/#>



NAO Report

Challenge question:

Has your Authority got a robust plan in place to deliver the additional houses needed over the next five years?



National Audit Office – Pressures on children’s social care

The Local authorities in England have statutory responsibility for protecting the welfare of children and delivering children’s social care. In extreme cases they may use their statutory powers to place children in need on protection plans or even take them into care. Local authorities are also responsible for delivering non-statutory services for all children and young people, such as children’s centres. The Department for Education (the Department) provides statutory guidance on delivering these functions. It also has overall policy responsibility for children’s services, and has the strategic vision that all vulnerable children, no matter where they live, should have access to high-quality support by 2022.

The report sets out recent trends in pressures on children’s social care demand and activity and the response of both national and local government to these pressures. It also sets out analysis the NAO conducted about what is causing variations in children’s social care demand and activity between different local authorities. The report covers:

- the pressures on children’s social care;

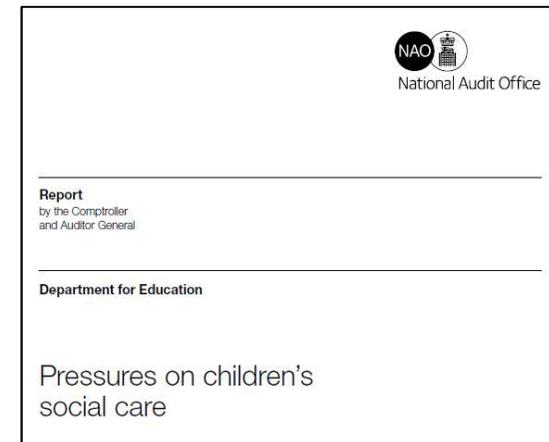
Page 130 the response of national and local government to increasing demand for children’s social care; and

130 NAO analysis of what is causing variations in demand for children’s social care between local authorities.

The report notes that, while the Department has put in place a programme of reform, it still does not fully understand what is driving demand for children’s social care or why there is such wide variation between local authorities in their children’s social care activity and costs. It has not yet done the work to tie together available sources of information and therefore lacks a well-informed pathway to achieve its goal. While the Department has recognised the need for this analysis, it will not complete the work until summer 2019. Even if its analysis is completed successfully it will be a tall order for the Department to achieve its goal within three years.

The report is available on the NAO website:

<https://www.nao.org.uk/report/pressures-on-childrens-social-care/>



NAO Report

Challenge question:

Has your Authority considered the NAO report, and how any local variations in demands can be addressed?



CIPFA – Social Care risk tool

The Chartered Institute of Public Finance and Accountancy (CIPFA) and the Association of Directors of Adult Social Services' (ADASS) have updated the Social Care Risk Tool; an advisory risk assessment tool for discretionary use by councils with adult social care responsibility.

The tool's objective is to help authorities assess whether unsustainable financial pressures might be faced by the adult social services department. It seeks to do this by assessing the extent to which various risk factors apply. This is the third version of the risk tool and it has been expanded to include new risks that have emerged since the previous version. In addition, a number of risks have been revised to make them clearer.

The risk assessment adopts a survey format and covers the following areas:

- savings;
- local pressures; and
- culture and relationships.

Each of the areas above includes a series of questions (or indicators), and authorities are required to assess whether the indicators are strongly present (score of 5); only present to some extent (scores 2 to 4); or not at all (score of 1). The total score helps to give an indication of where the authority lies. The maximum score is 195 (there are 39 questions altogether) which represents the highest risk possible. Some of the metrics (particularly those relating to unit costs) are more illustrative than prescriptive and local authorities may wish to adjust these to reflect their local circumstances.

To download the tool:

<https://www.cipfa.org/cipfa-thinks/health/articles/social-care-risk-tool>



CIPFA Social Care risk tool



Challenge question:

Has your Authority completed the Social Care risk tool? Have your Directors shared the results and responses with you?

Links

Grant Thornton

<https://www.grantthornton.co.uk/>

<http://www.grantthornton.co.uk/industries/publicsector>

National Audit Office

<https://www.nao.org.uk/report/local-auditor-reporting-in-england-2018/>

<https://www.nao.org.uk/report/local-authority-governance-2/>

<https://www.nao.org.uk/report/planning-for-new-homes/#>

<https://www.nao.org.uk/report/pressures-on-childrens-social-care/>

Ministry of Housing, Communities and Local Government

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/728722/BRR_Pilots_19-20_Prospectus.pdf

Institute for Fiscal Studies

<https://www.ifs.org.uk/uploads/publications/comms/R148.pdf>

Public Sector Audit Appointments

<https://www.psa.co.uk/audit-quality/reports-on-the-results-of-auditors-work/>

CIPFA

<https://www.cipfa.org/cipfa-thinks/health/articles/social-care-risk-tool>

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