

Date: 10 September 2018
Ask For: Charles Hungwe
Direct Dial: (01843) 577186
Email: charles.hungwe@officer.thanet.gov.uk



CABINET

18 SEPTEMBER 2018

A meeting of the Cabinet will be held at **7.00 pm on Tuesday, 18 September 2018** in the Council Chamber - Council Offices.

Membership:

Councillor Bayford (Chairman); Councillors: Ashbee, Savage, Game and I Gregory

AGENDA

Item
No

Subject

1. **APOLOGIES FOR ABSENCE**

2. **DECLARATIONS OF INTEREST**

To receive any declarations of interest. Members are advised to consider the advice contained within the Declaration of Interest form attached at the back of this agenda. If a Member declares an interest, they should complete that form and hand it to the officer clerking the meeting and then take the prescribed course of action.

3. **MINUTES OF EXTRAORDINARY MEETING** (Pages 3 - 4)

To approve the summary of recommendations and decisions of the extraordinary Cabinet meeting held on 19 July 2018, copy attached.

4. **MINUTES OF PREVIOUS MEETING** (Pages 5 - 8)

To approve the summary of recommendations and decisions of the Cabinet meeting held on 26 July 2018, copy attached.

5. **QUARTERLY PERFORMANCE REPORT Q1 2018/19** (Pages 9 - 32)

6. **QUARTER 1 BUDGET MONITORING REPORT 2018-19** (Pages 33 - 42)

7. **MEDIUM TERM FINANCIAL STRATEGY (MTFS)-2019/23** (Pages 43 - 60)

8. **FOOD LAW SERVICE PLAN AND ENFORCEMENT POLICY** (Pages 61 - 108)

9. **REGULATIONS OF INVESTIGATORY POWERS ACT 2000 (RIPA) POLICY & PROCEDURES GUIDANCE NOTE FOR 2018/19 AND ANNUAL REPORT ON THE USE OF RIPA IN 2017/18** (Pages 109 - 162)

Declaration of Interest form - back of agenda

Item
No

Subject



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EXTRAORDINARY CABINET

Minutes of the extraordinary meeting held on 19 July 2018 at 2.00 pm in Council Chamber, Council Offices, Cecil Street, Margate, Kent.

Present: Councillor Robert W Bayford (Chairman); Councillors Savage, Game, I Gregory and Taylor-Smith

In Attendance: Councillors: Ashbee, Bambridge, Campbell, Connor, L Fairbrass, Jaye-Jones, Messenger, D Saunders, M Saunders, Stummer-Schmertzing, Tomlinson and Wells

506. APOLOGIES FOR ABSENCE

There were no apologies received at the meeting.

507. DECLARATIONS OF INTEREST

There were no declarations of interest.

508. THANET LOCAL PLAN - PUBLICATION STAGE (REGULATION 19) & SUBMISSION FOR EXAMINATION (REGULATION 22)

Cabinet considered the recommendations from the Executive, Policy & Community Safety Scrutiny Panel and Members were advised that proposals from the 02 July Cabinet had been considered by the Panel on 11th July 2018. The Panel then agreed to forward the following recommendations to Cabinet:

1. That housing development being proposed in the Local Plan be phased to be implemented towards the end of the Plan period; and
2. That the committee report at paragraph 2.11 and the draft Local Plan text be amended to indicate that if a DCO or CPO process has not been agreed within two years that the status of the site be reviewed.

The following Members spoke under Council Procedure 20.1:

Councillor Campbell;
Councillor Messenger;
Councillor Bambridge;
Councillor Lin Fairbrass;
Councillor Wells.

After consideration of the views from the Panel, Councillor Bayford proposed, Councillor Savage seconded and Cabinet agreed the following recommendations:

1. **Recommendation 1:** amend Appendix B (housing supply phasing) of the draft Plan and other relevant references in the document to show an amended phasing; and
2. **Recommendation 2:** amend Addendum reference AD05 (final paragraph) to read:

“In the event that a DCO or CPO process is not accepted or granted, or does not proceed, the Council will need to consider the best use for this site, in the next Local Plan review after a minimum of two years.”

Meeting concluded: 2.15 pm

CABINET

Minutes of the meeting held on 26 July 2018 at 7.00 pm in Council Chamber - Council Offices.

Present: Councillor Robert W Bayford (Chairman); Councillors Savage, Game, I Gregory and Taylor-Smith

In Attendance: Councillors: Ashbee, Edwards, Jaye-Jones, L Piper, S Piper and Townend

509. APOLOGIES FOR ABSENCE

There were no apologies made at the meeting.

510. DECLARATIONS OF INTEREST

There were no declarations of interest.

511. MINUTES OF PREVIOUS MEETING

Councillor Savage proposed, Councillor Gregory seconded and Members agreed the minutes as a correct record of the meeting held on 14 June 2018.

512. MINUTES OF EXTRAORDINARY MEETING

Councillor Savage proposed, Councillor Taylor-Smith seconded and Members agreed the minutes as a correct record of the extraordinary meeting held on 02 July 2018.

513. 2017/18 PROVISIONAL OUTTURN AND ANNUAL TREASURY MANAGEMENT REVIEW

Cabinet considered the final outturn position for the General Fund, Housing Revenue Account and Capital Programme for the year ended 31st March 2018 and confirmed that, there were no changes to the outturn position following the audit.

The General Fund net revenue expenditure was in line with budget, and there had been an overall increase in reserves, as a result of the timing of income and expenditure flowing in and out of the business rates equalisation reserve. This was encouraging, after years of having to draw down reserves to fund past decisions.

Members noted that the General Fund capital programme was underspent as capital projects were not progressed as quickly as planned and these had been slipped into 2018-19. Many of these projects had external funding attached to them and this funding remained in place, despite the delays.

The Housing Revenue Account actual surplus was very close to the budget figures. The HRA capital programme was underspent, mainly in the areas of Housing Intervention and New Builds.

Councillor Gregory proposed, Councillor Savage seconded and Cabinet agreed:

1. That the provisional outturn for 2017-18 contained within this report be noted;
2. That the earmarked reserves as outlined in sections 1.6 and 2.8 of the Cabinet report be noted;

3. That the capital programme carry forwards shown in Annex 1 and Table 4 of the report be noted;
4. That the Annual Treasury Management Review of Activities for 2017-18 set out in section 4 of the report be noted.

514. ADOPT NEW ACTIVE THANET STRATEGIC FRAMEWORK

The core purpose of this proposed framework was to ensure there was a 'new' approach on how best a local authority could tackle the inactivity levels that challenged our local wards. The Council should encourage young children and adults to take part in outdoor activities like playing football and other sports by creating more opportunities for accessing such sporting activities.

This approach would help tackle many of the wider health inequalities that face the district, contributing to wider economic savings, increase resident engagement and participation and reduce long term health conditions by improving the health and wellbeing of the local communities.

Councillor Game proposed, Councillor Savage seconded and Cabinet adopted the proposed Active Thanet strategic framework 2018-2022 to replace the Sport and Active recreation 2015-2019 strategy.

515. ADOPTION OF THE TENANCY STRATEGY 2018

Members were advised that the proposed strategy set out to describe and protect the rights of the council's existing and future tenants. In particular the proposed strategy sought to:

- describe the arrangements for tenants, with different types of tenancies to swap homes,
- set out the things that will be considered when deciding whether to renew a flexible or fixed term tenancy,
- include appeal rights for tenants, and
- describe the council's approach to setting rents.

The council set two different types of rent. Social rents were set based on a government formula, which considered average local earnings and values, and applied to the majority of homes owned by the council. Affordable rents were applied to homes in the council's new build, refurbishment and acquisitions programme.

Regulations allowed for affordable rents to be set at up to 80% of the local market rent. However, rents set at this level locally would not be genuinely affordable for many tenants living on low incomes or reliant on housing benefit or universal credit.

Cabinet therefore proposed to limit our affordable rents to be no more than the relevant Local Housing Allowance (the maximum amount payable to someone in receipt of housing benefit or universal credit for housing costs) for the property to ensure that they were truly affordable for our tenants.

This was illustrated by comparing the current figures for a 2 bedroom property, where the median market rent was approximately £700 per month. A rent based upon 80% of this figure would be £560 per month, whereas a council affordable rent would be £520 per month. Social rents were generally lower than this, with the average social rent for a 2 bedroom flat currently set at £325 per month and for a 2 bedroom house at £360 per month.

The same principle of affordability was proposed for people living in temporary accommodation, with charges linked to the relevant local housing allowance for their accommodation.

The intention of the strategy was to offer tenancies that were suited to the needs of the council's tenants and to support tenants to remain in their home for as long as was needed. The proposals balanced the needs of existing and future tenants of the council and would ensure that decisions about tenancies and rents were taken fairly and openly.

Councillor Jaye-Jones spoke under Council Procedure Rule 20.1.

Councillor Game proposed, Councillor Savage seconded and Cabinet agreed to:

1. Approve the consultation draft of the Tenancy Strategy attached at annex 1 of the Cabinet report;
2. Delegate authority to the Head of Housing and Planning in consultation with the cabinet member for Housing and Safer Neighbourhoods to make any minor amendments required to the policy following consultation.

516. PUBLIC SPACES PROTECTION ORDER NO. 3 (ANTI-SOCIAL BEHAVIOUR)

Cabinet agreed the need for the introduction of new orders that would effectively manage anti-social behaviours (ASB) in areas that were currently experiencing a detrimental effect on the communities due the number of incidents of such behaviours.

Thanet already had two Public Spaces Protection Orders (PSPOs) to tackle alcohol related disorder and dog offences that covered the majority of the district. This proposed third PSPO was meant to tackle nuisance caused from anti-social groups and the deliberate misuse of public spaces.

Over half of all reported anti-social behaviour incidents in Thanet were in the following four wards which are:

- Margate Central;
- Central Harbour;
- Eastcliff and
- Cliftonville West.

It was therefore considered appropriate that these locations be the 'designated area' for this PSPO. Once adopted, the new Order would restrict for 3 years the following activities:

- Anti-Social group congregation of two or more persons when causing ASB and;
- Misuse of public spaces (when asked not to do so);
- Causing a deliberate nuisance to commercial premises;
- Using foul or abusive language;
- Excreting bodily fluids.

A public consultation was held between June and July this year, with the majority of consultees being strongly supportive of the proposals. Ward councillors and Ramsgate Town Council were directly consulted and were also supportive of this approach.

The introduction of the new Order would allow both council and police staff to tackle some of these issues which they were currently unable to do under current local arrangements.

Councillor Game proposed, Councillor Savage seconded and Cabinet agreed:

- i) To exercise its powers under the Anti-Social Behaviour, Crime and Policing Act 2014 to introduce a Public Space Protection Order;
- ii) To delegate any minor amendment of the PSPO to a service Director;
- iii) To then approve a Fixed Penalty Notice fine amount of £80 with early repayment of £60.

Meeting concluded: 7.18 pm

Corporate Performance Report Quarter 1 2018-19

Cabinet	18 September 2018
Report Author	Tim Willis, Deputy Chief Executive and S.151 Officer
Portfolio Holder	Councillor Ian Gregory, Cabinet Member for Financial Services and Estates
Status	Information
Classification:	Unrestricted
Key Decision	No
Ward:	All Wards

Executive Summary:

This report presents the latest Corporate Performance Report up to June 2018 setting out the performance of the Council against the Corporate Plan.

Recommendation(s):

To note the Council's performance and to consider the recommendations from the meeting of the Finance, Budget & Performance Scrutiny Panel on the 30 August 2018.

CORPORATE IMPLICATIONS

Financial and Value for Money	All activities listed have been planned within the Council's agreed budget. Remedial actions will usually be carried out within existing budgets, where this is not possible funding proposals will be taken through the appropriate channels in keeping with the Council's established financial controls.
Legal	There are no legal implications directly arising from this report.
Corporate	This is the monitoring report against the Corporate Priorities as agreed at Council on 15 October 2015 and details the performance against the targets set.
Equalities Act 2010 & Public Sector Equality Duty	<p>Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.</p> <p>Protected characteristics: age, gender, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.</p>

	Please indicate which aim is relevant to the report.	
	Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,	
	Advance equality of opportunity between people who share a protected characteristic and people who do not share it	✓
	Foster good relations between people who share a protected characteristic and people who do not share it.	
<p>The report looks to monitor the performance of the Council across all the residents within the District.</p> <p><i>An Equalities Impact Assessment has been undertaken and there is no reason to state at this time that the content of the Corporate Priorities will negatively impact on any groups with protected characteristics. The priorities focus on improving the quality of life in Thanet for all. Opportunities to further the aims of the Duty will be investigated during equality impact analysis of individual projects, plans and strategies arising from the priorities.</i></p>		

CORPORATE PRIORITIES	
A Clean and Welcoming Environment	✓
Promoting Inward Investment and Job Creation	✓
Supporting Neighbourhoods	✓

CORPORATE VALUES	
Delivering Value for Money	✓
Supporting the Workforce	✓
Promoting Open Communications	✓

1.0 Introduction and Background

- 1.1 The Council's Corporate Plan (CP) 2015-2019 was approved by Council on 15 October 2015. It sets out three key priorities the Council will focus on over the next four years with three corporate values that identify the way the council will work in order to deliver its priorities.
- 1.2 Annex 1 shows trend information on Key Performance Indicators and contextual information to ascertain the progress of the District against the corporate priorities and values.

2.0 Current Performance

- 2.1 The information attached outlines the Council's performance for the quarter ended June 2018. The following table summarises performance against targets:

Section of Report	R	A	G
Clean and Welcoming Environment	2	1	3
Supporting Neighbourhoods	4	1	5
Promoting Inward Investment and Job Creation	0	0	3
Statistical Information	3	2	5
Total	9	4	16

2.2 A Clean and Welcoming Environment

% of Environmental Health service requests responded to in the service standard response time	Missed Bins as % of bins collected	% of household waste sent for reuse, recycling and composting	% streets with litter below acceptable levels	% streets with detritus below acceptable levels	% streets with graffiti below acceptable levels
96%	0.14%	35%	7%	3%	2.5%
Target 95%	Target 0.15%	Target 36.4%	Target 5%	Target 7%	Target 1.4%

2.3 Supporting Neighbourhoods

% of anti-social behaviour service requests responded to in the service standard response time	Empty homes brought back into use	Number of dwellings where action taken to improve living conditions	Number of homeless cases prevented	Average time taken to make homelessness decisions
95%	35	89	74	53
Target 95%	Target 31.75	Target 71	Target 76	Target 28

Average number of days in hotel accommodation	Average re-let time in days (all stock including major works)	Current tenant arrears as a percentage of the projected annual rental income	Overall customer satisfaction with day to day repairs	Percentage of HRA capital programme spent
116	19.77	3.27%	99.7%	2.41%
Target 38	Target 20	Target 1.5%	Target 98%	Target 100%

2.4 Promoting Inward Investment and Job Creation

Major Planning Applications determined within 13 weeks or agreed timescale	Minor planning applications determined within 8 weeks or agreed timescale	Average total meterage of occupied permanent berths in Royal Ramsgate Harbour
83%	83%	3,949
Target 81%	Target 72%	Target 3,600

2.5 Statistical Information

Complaints Response Rate within 10 days	Freedom of Information Response Rate within 20 days	Sickness days per Full Time Equivalent	Average time to process all new claims & change events in Housing Benefit (HB) & Council Tax Benefit (CTB) (days)	% correct HB and CTB decisions	% Council Tax collected
81%	58%	11	7.3	96.3%	28.8%
Target 90%	Target 90%	Target 8	Target 8.50	Target 96%	Target 96.15%

% Business rates collected	Average call waiting time (seconds)	% availability of corporate website	% of calls dealt with by automation
38.1%	93	99.95%	43%
Target 99.5%	Target 90	Target 99.5%	Target 40%

3.0 Options

- 3.1 Cabinet to note the content of this report and to consider the two recommendations from the meeting of the Finance, Budget & Performance Scrutiny Panel on the 30 August 2018.

3.1.1 Recommendation 1

That the "Count of enterprises in Thanet" indicator should be amended to a 'Count of enterprises across Kent.' This was because the level of retention (under the business rates retention scheme) was dependent on how Thanet District Council performed against other councils participating in the scheme in attracting business enterprises to operate in the district.

3.1.2 Recommendation 2

That Cabinet introduces performance targets for the issues highlighted in 'Grey' in the report, if it was not possible to so, a report be brought back to the Panel advising why the proposal could not be implemented.

Contact Officer:	Hannah Thorpe – Head of Communications
Reporting to:	Tim Willis – Deputy Chief Executive and S.151 Officer

Annex List

Annex 1	Annex 1 – Key Performance Trends
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Background Papers

Title	Details of where to access copy
Corporate Priorities 2015-2019	http://tdc-mgapp-01:9070/ieListDocuments.aspx?CId=141&MId=4084&Ver=4
Corporate Priorities 2015-2019, Equalities Impact Assessment	Email: Carol.cook@thanet.gov.uk

Corporate Consultation

Finance	Ramesh Prashar – Head of Financial Services & Procurement
Legal	Sophia Nartey - Head of Legal and Deputy Monitoring Officer

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Annex 1 Corporate Performance Report - Performance Indicators

Thanet District Council

Update from the Chief Executive

The start of a new year of performance brings a refreshed performance report to ensure the way we share this information is as transparent and clear as possible. You will notice a few presentational changes to the way we report progress but rest assured, targets and priorities remain exactly the same to reflect what we know matters most to local people.

Encouragingly, the end of the first quarter has seen some positive progress for the council. 16 measures are now at or above target, an increase from 14 in the last report and we've seen a fall in those below target which now stands at 9 (previously 12).



Waste collections are going well, with performance above target and only 0.14% of collections missed. The levels of waste sent for reuse, recycling and composting continues to increase and although below target, litter below acceptable levels is now moving in the right direction - only 2% off target. This continues to be a priority focus for the council and dedicated operational and communication activity is underway to tackle the levels of litter. We hope to see this activity start to influence public behaviour in the coming months.

Despite the widely documented issues around homelessness which are reflected at a national level, significant strides are being made by our dedicated housing officers to address this. This quarter the team successfully prevented 90 cases of homelessness - more than double the same period last year. Although below target, the number of households living in hotel accommodation has also reduced from 51 in March 2018 to just five in August 2018 and none of these cases are families with children. We are not complacent and will continue to focus resources to tackle this issue.

Positive steps have been taken to address our response times when dealing with Anti-Social Behaviour meaning we're now on target. The team has worked hard and we hope to see this positive trend continue. Crime figures in general are still increasing however and the District Commander will be attending the Executive, Policy & Community Safety Scrutiny Panel in November.

The targets are RAG rated

Red	Below target.
Amber	Actuals are within 5% of the target.
Green	At target or above target.
	Does not have a target for information.

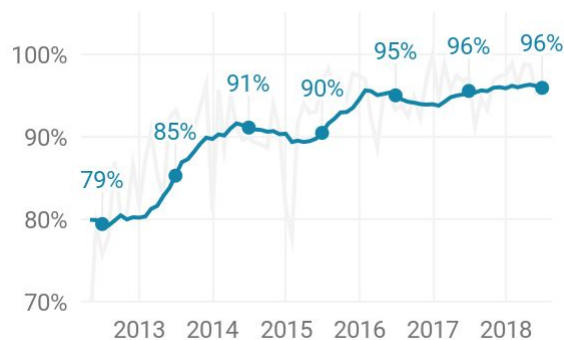
A Clean and Welcoming Environment

We want to encourage pride in our district by keeping Thanet clean. We are determined frontline services get it right.



Green

% of Environmental Health service requests responded to in the service standard response time
(LI369) (rolling 12 months)



The team has worked hard to continually increase their response times. Having a fully resourced team has had a positive impact on the figures with the target being exceeded and the team now demonstrating the best response rate on record.

Target 95% Higher figure is best

Green

Missed Bins as % of bins collected
(rolling 12 months)



We have improved performance this quarter despite challenging issues, such as vehicle maintenance issues and [ongoing access issues](#). The vehicle replacement programme is also helping to tackle this as the new vehicles are more flexible and agile. The missed bin collection still averages around 50 missed bins per day out of 18,000 successful collections.

Target 0.15% Lower figure is best

Amber

% of household waste sent for reuse, recycling and composting

(NI 192) (rolling 12 months)

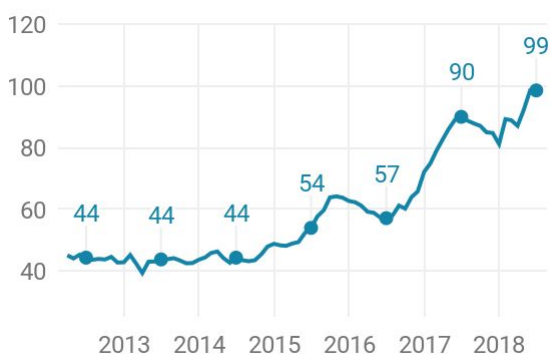


We're improving our overall performance through regular training of staff, by not contaminating recycling streams, issuing information to the public regarding contamination and ongoing education on recycling to increase [resident participation](#).

Target 36.4% Higher figure is better

Number of street scene enforcement actions

(LI362) (rolling 12 months)



1183 street scene enforcement actions were carried out in the last 12 months. A complete review has taken place to change the data used to include all enforcement actions undertaken. We continue to utilise more of the legislative tools and powers available to the enforcement team.

Number of dumped rubbish incidents reported on council-owned land

(LI364) (rolling 12 months sum)



We are continuing to use more powers to enforce against dumped rubbish and are making it easier for the public to report dumped rubbish incidents, hence the continued increase in reports. Our long-term plan is to increase targeted enforcement and court prosecutions to reduce the number of incidents.

Number of enforcement actions (Litter Fixed Penalty Notices – Environmental Enforcement Contract)

(LI362) (rolling 12 months)



2,171 Litter Fixed Penalty Notices have been issued over the last 12 months.

Agenda Item 5

Annex 1

Number of combined street scene enforcement actions

(LI362) (rolling 12 months)

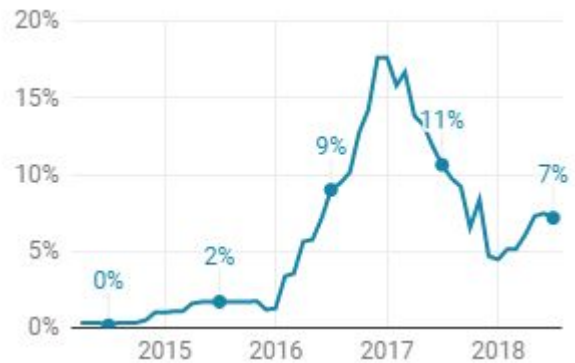


3,354 street scene enforcement actions were carried out in the last 12 months

Red

% streets with litter below acceptable levels

(NI195a) (rolling 12 months)



We now carry out more stringent inspections which is helping us to target our resources more effectively. we are confident that these targeted resources will enable us to achieve the target.

Target 5.0% Lower figure is better

Green

% streets with detritus below acceptable levels

(NI195b) (rolling 12 months)



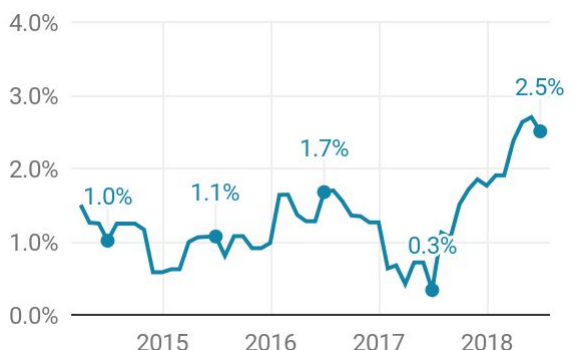
Mechanical sweepers became operational in 2017 and contribute to the significant improvement in our performance.

Target 7.0% lower figure is better

Red

% streets with graffiti below acceptable levels

(NI195c) (rolling 12 months)

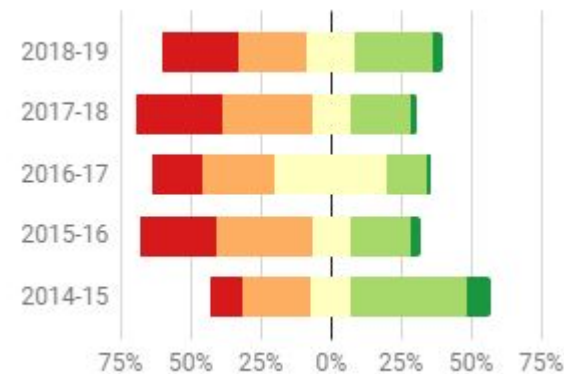


We have seen an increase of graffiti incidents, however from May 2018 a new graffiti cleaning and enforcement service is being tried to reduce these figures. A small decrease in this quarters figures is encouraging.

Target 1.4% lower figure is better

Public opinion of the Street Cleaning Service

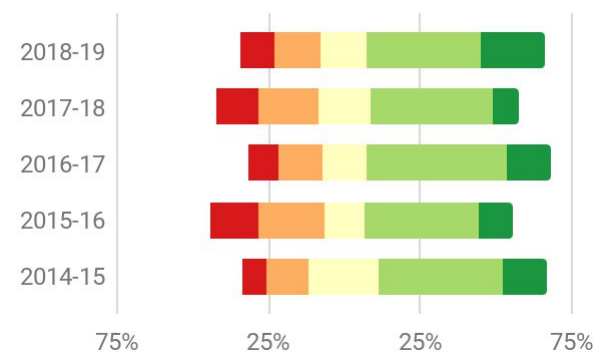
(annual survey)



It is encouraging to note an improvement in public perception which corresponds with an improvement in the cleanliness of our streets.

Public opinion of the Recycling Service

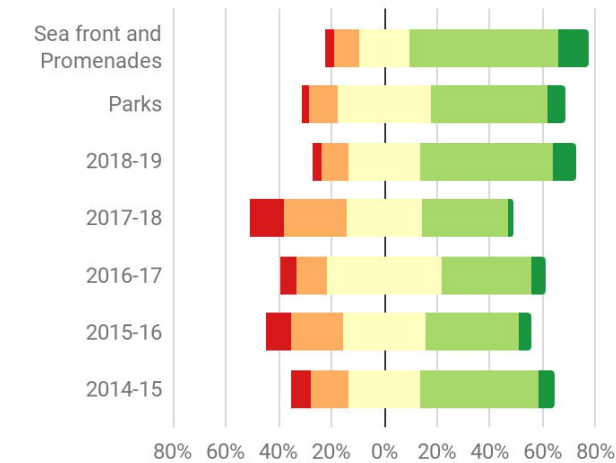
(annual survey)



We continue to work hard to improve recycling rates and the collection services we offer, which has started to improve customer service.

Public opinion of Parks and Open Spaces

(annual survey)



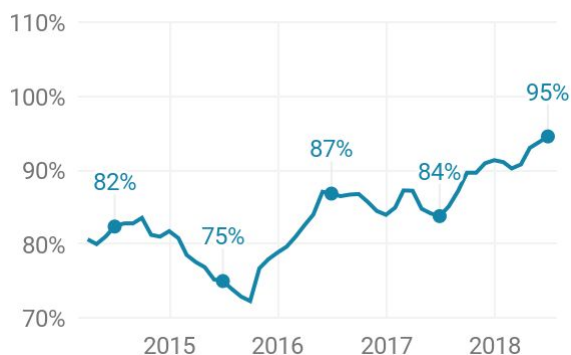
Supporting Neighbourhoods

We will work with partner agencies through the Thanet Health and Wellbeing Board to support people to make better lifestyle choices and operationally through our range of services provided directly to residents.



Green

% of anti-social behaviour service requests responded to in the service standard response time
(rolling 12 months)



The team has worked hard to increase the number of cases which are receiving response rates within the service standard. We aim to continue to improve this and introduced this indicator specifically to address this. Results are already being seen with a steady increase in response rates being demonstrated.

Target 95% Higher figure is best

Number of Crimes per 1,000 of the population
(rolling 12 Months) (LI300)



The data for all recorded victim-based crimes for Thanet shows an increase. The Police force has previously stated that an increase in public confidence in reporting crime, improved recording practices, the introduction of new crime types and the inclusion of offences not previously recorded have all influenced these statistics.

The District Commander, Chief Inspector Adley, will be attending the Executive, Policy & Community Safety Scrutiny Panel in November to present the local crime figures.

Agenda Item 5

Annex 1

Green

Empty homes brought back into use

(per quarter) (LI401) (rolling 12 months)



The empty property team has continued to see strong results in the quarter and have exceeded their rolling target for the period. The team's work combines support and encouragement for owners with robust enforcement when appropriate. We have a dedicated email address for empty property reports; empty.homes@thanet.gov.uk. A short video is available online to further raise the initiative's profile:

<https://www.thanet.gov.uk/your-services/using-empty-properties/empty-property/>

Target 31.75 Higher figure is best

Green

Number of dwellings where action taken to improve living conditions

(category 1 and 2 hazards) (LI543)



A strong performance during the first quarter of 2018/19 has seen the rolling average increase to 89, exceeding the target. The team continues to pursue proactive initiatives, including a selective licensing inspection programme and a number of rogue landlord interventions that have increased the number of homes that have been inspected. We continue to take a robust approach to enforcement when we identify hazards in homes that we inspect, and ensure that successful prosecutions are highlighted with the media.

Target 71 Higher figure is best

Amber

Number of homeless cases prevented

(LI405D) (per quarter) (rolling 12 months)



The new Homelessness Reduction Act 2017 came into effect on 3 April 2018 and has refocused the service on homelessness prevention. The new legislation provides additional time for prevention, with up to 56 days before customers lose their accommodation and a further 56 days after becoming homeless. During this time every eligible customer is offered a personal housing plan and actions agreed with customers to help find a housing solution. A refreshed package of incentives for landlords has been completed and newly trained staff appointed to provide these services. As a result 90 cases were

successfully prevented during the last quarter, more than double for the same period in 2017. This represents 27% of all ongoing cases prevented, compared with 20% during the same period in 2017, with further time still available to increase this percentage further. The new service has made a positive start and further increases in prevention successes are anticipated.

Target 76 Higher figure is best

Agenda Item 5

Annex 1

Red

Average time taken to make homelessness decisions (rolling 12 months)

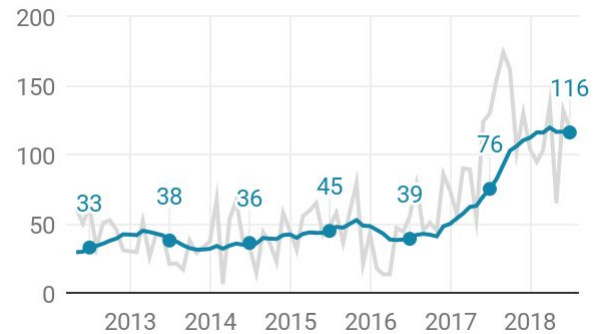


This indicator has seen an increase over time due to the growing number of homeless cases and the work required to reach a decision. Homeless Officers have been working through all cases that had applied prior to 3 April 2018 (legacy cases) under the previous legislation and have nearly cleared this workload, with only 9 remaining cases. Clearing this work has meant that this indicator has remained high during this period. As the new legislation provides additional time for prevention activity, we anticipate that the number of statutory homeless applications will begin to fall over time, enabling the team to process this workload more quickly. The last quarter showed a slight reduction in the number of decisions when compared to the same quarter in 2017, down from 116 to 106 (9%). The team have recently recruited an additional homelessness officer to support this work, help increase successful prevention and reduce the time to make decisions.

Target 28 Lower figure is better

Red

Average number of days in hotel accommodation (rolling 12 months)



Over the course of the past year the average time spent in hotel type accommodation has been steadily increasing. This indicator is based upon the total time that households have spent in hotel accommodation at the point when they move on. We have successfully moved on some complex and longstanding cases in the last quarter which means that this indicator is still showing as red. We are confident this will reduce in future quarters. We have successfully reduced the number of households living in hotel accommodation during the quarter. There were 51 cases at the end of March 2018, 26 cases at the end of June 2018 and only 5 remaining cases in August 2018. None of these cases are families with children. This reduction is the result of real management commitment and drive from the team and represents an outstanding achievement. In particular the recruitment of a dedicated Temporary Accommodation Officer has made a massive impact.

Target 38 Lower figure is better

Number of empty homes in the district (empty for more than 6 months)

Empty Homes in Thanet

	Mar-16	25 Months	Jun-18	% change since Mar 2016	Change since Mar 2016
Second Homes (Unoccupied and furnished)	1370		1,549	13%	179
Empties					
Unoccupied and unfurnished	614		564	-8%	50
Unoccupied and unfurnished for more than 2 years	244		292	20%	48
Unoccupied and unfurnished, requires or undergoing major repair and/or structural alteration	106		240	126%	134
Property left empty by a deceased person, waiting for probate or letters of administration to be granted	103		159	54%	56
Other	51		64	25%	13
Total (Excluding Second homes)	1118		1,319	18%	201
Total (including second homes)	2488		2,868	15%	380

Green

Average re-let time in days (all stock including major works)

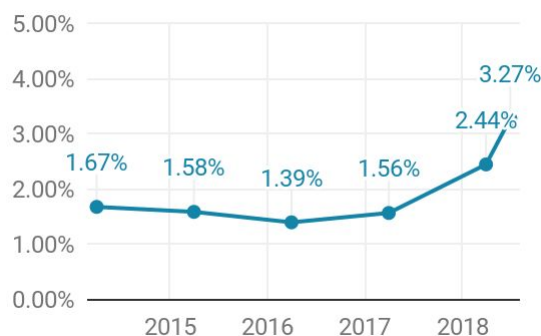


Although within target, there has been a drop in overall performance for this indicator. The additional time required to complete asbestos surveys has contributed to this.

Target 20 Lower figure is better

Red

Current tenant arrears as a percentage of the projected annual rental income



Performance is outside target, with Universal Credit (UC) continuing to have a negative impact on arrears. As at the end of June 2018, there were 483 full UC cases in Thanet and these made up £216,830 (approx. 50%) of the arrears.

Target 1.5% Lower figure is better

Agenda Item 5

Annex 1

Green

Overall customer satisfaction with day to day repairs



This reflects the high level of performance overall from our main repairs contractor, Mears.

Target 98% Higher figure is better

Red

Percentage of HRA capital programme spent

Q1 = 2.41%



HRA capital spend is anticipated to increase over future quarters, as work included in this year's programme is completed. Work is underway to procure significant projects and commit expenditure. It is currently projected that the 2018/19 programme will be delivered in full within the year. A recently completed condition survey will enable a longer term programme to be developed, which will help to ensure that a greater proportion of the budget is spent during the first half of the the year in future.

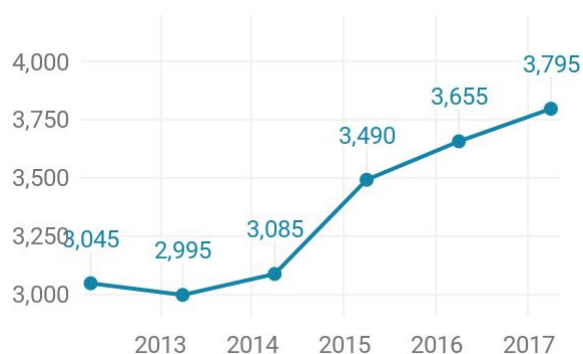
Target 100% Higher figure is better

Promoting Inward Investment and Job Creation



Source: Jeff Spicer/Getty Images

Count of Enterprises in Thanet
(nomis data)



Thanet has seen 24.6% increase in the number of enterprises from March 2012. This increase is more than the South East increase of 19.5% and just under the Great Britain increase of 24.8%.

Higher figure is better

All people - Economically active - In employment (nomis data)



Over the last three years employment levels have continued to increase.

Thanet has successfully reduced the employment gap compared to other areas of the South East, with the last year showing the highest levels since 2004

Higher figure is better

Agenda Item 5

Green

Major Planning Applications determined within 13 weeks or agreed timescale

(NI157a) (rolling 12 months)



On target - although a slight dip this quarter (and expected next quarter too) due to the determination of older applications without Planning Extension Agreements. Measures in place to support this and expectation to continue to meet rolling yearly target.

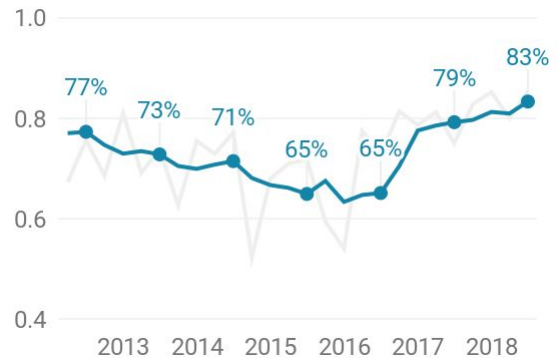
Target 81% Higher figure is better

Green

Annex 1

Minor planning applications determined within 8 weeks or agreed timescale

(NI157b) (rolling 12 months)



85% of the 323 Minor planning applications determined within the 8 week or agreed timescale deadline in the last 12 months. We have exceeded expected performance levels over the year.

Target 72% Higher figure is better

Visitor Nights

(LI730) (rolling 12 months)



We actively encourage visitors to the harbour to enjoy Thanet's coastline, towns and attractions. This engagement encourages visitors to stay longer in our district and increases the potential for repeat visits in the future. This customer interaction is considered to positively influence this indicator.

Higher figure is better

Green

Average total meterage of occupied permanent berths in Royal Ramsgate Harbour

(LI137) (Average rolling 12 months)

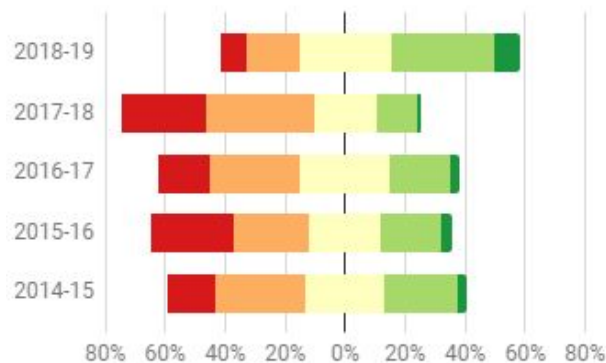


The regeneration of the Military Road quayside and overall success of the harbour have positively influenced permanent berth holder numbers and attracted new business to Ramsgate. Price point and consistent high quality customer service provided by marina staff also contributed to the overall success of the harbour

Target 3,600 Higher figure is better

Statistical Information

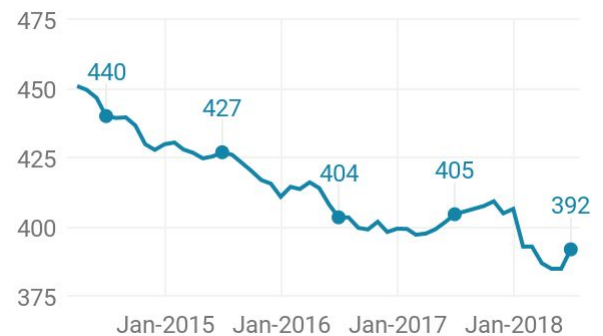
Public opinion of whether the council provides Value for Money (annual survey)



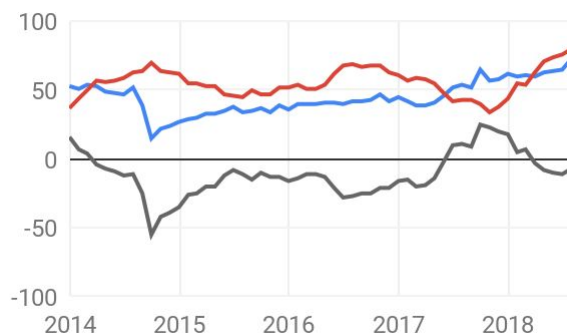
The result is very positive in comparison to the trend in recent years, with 43% agreeing or strongly agreeing that the council provides value for money, compared to 15% last year.

Higher figure is better

Thanet District Council Full time Equivalent count



Staff Starters and Leavers headcount (rolling 12 months totals)



Over the last 12 months there have been:

* **63 Leavers**

* **60 Starters**

Meaning a net decrease of 3 staff.

Registration rate for voting following annual canvas (%) (LI456)



Number of complaints made to the Standards Committee (LI519)



Lower figure is better

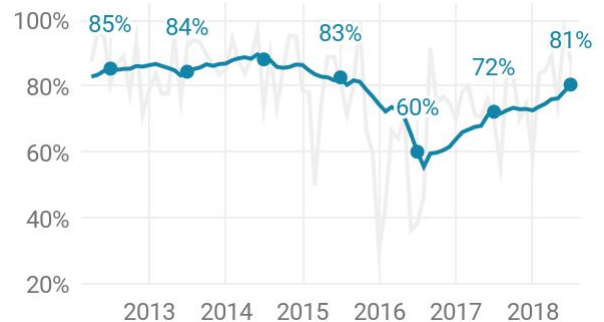
Number of complaints (rolling 12 months)



Following a review of systems, processes and resources, a large number of complaints were identified in 2017 as being excluded from the statistic. These are now being reflected in the numbers, which are based on a rolling 12 months.

Red

Complaints Response Rate within 10 days (rolling 12 months)

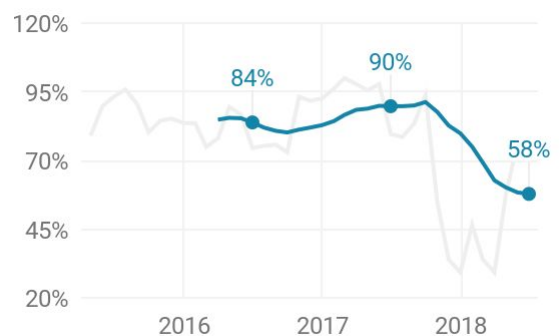


Complaint management has been centralised and is now being managed and monitored by the Executive Support Team. Existing processes have been updated and adapted to include additional checks with the aim of improving on current response times.

Target 90% Higher figure is better

Red

Freedom of Information Response Rate within 20 days (rolling 12 months)



Measures have been put in place to refresh the way in which FOI and SAR requests are dealt with to address this target. The expectation is that these changes will ensure that performance will improve.

Lower figure is better

Target 90% Higher figure is better

Red

Sickness days per Full Time Equivalent
(quarterly)

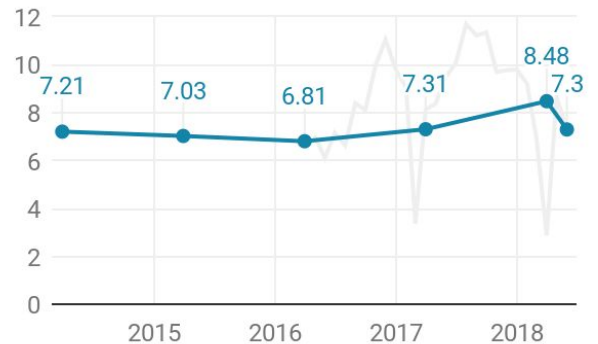


The target is 8 days per year. Performance remains below the target but has improved markedly after management action.

Target 8 Lower figure is better

Green

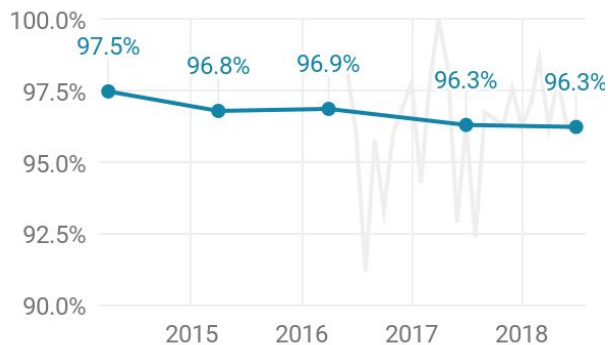
Average time to process all new claims & change events in Housing Benefit (HB) & Council Tax Benefit (CTB) (days)



Target 8.50 Lower figure is better

Green

% correct HB and CTB decisions

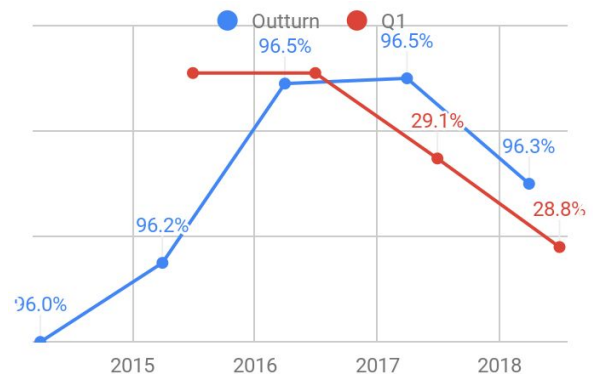


All weeks except one were above target. Measures have been taken to address the one week where performance dipped. Year to date remains above target and this is expected to continue.

Target 96% Higher figure is better

Amber

% Council Tax collected



Underlying performance for June was 8.97% which is 0.03% below target. Month end fell over a weekend and £118K of payments were made in June but were not credited to accounts until July. There is currently no risk to end of year performance

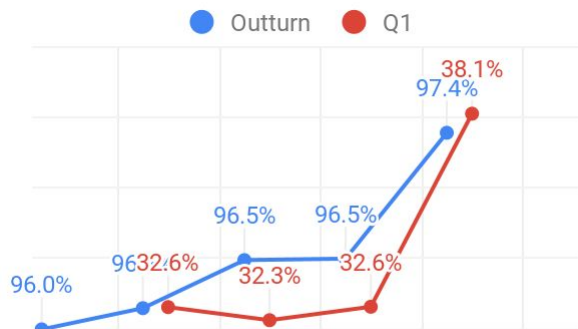
Target 96.15% Higher figure is better

Agenda Item 5

Annex 1

Green

% Business rates collected

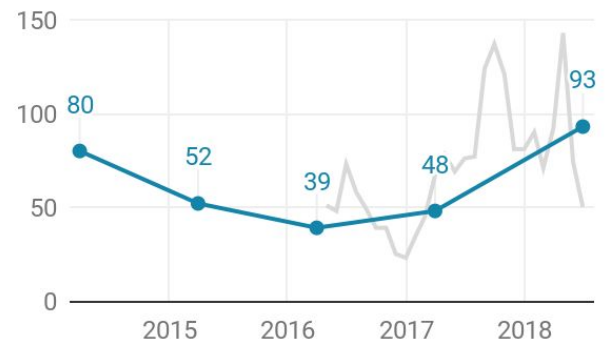


Performance has been positively distorted by a large payment from KCC that was incorrectly allocated to Business Rates. This was corrected in early July. Underlying performance is strong.

Target: 99.5% Lower figure is better

Amber

Average call waiting time (seconds)



32,150 calls received. Within target for month however year to date is not yet within target due to issues with April's performance (although brought down from 21 seconds above target in May to 3 seconds above target by month end).

Target: 90 Lower figure is better

Green

% availability of corporate website



Target 99.5% Higher figure is better

Green

% of calls dealt with by automation



7,842 contact centre calls and 6211 switchboard calls were automated

Target 40% Higher figure is better

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Quarter 1 Budget Monitoring Report 2018-19

Cabinet	18 September 2018
Report Author	Tim Willis, Deputy Chief Executive and s151 Officer
Portfolio Holder	Cllr Ian Gregory, Portfolio Holder for Financial Services and Estates
Status	For Decision
Classification:	Unrestricted
Key Decision	No
Ward:	All Wards

This report provides an update of the Council's 2018-19 revenue and capital forecasts against budget as at the end of June 2018.

Recommendation(s):

1. That Cabinet notes the 2018-19 Quarter 1 forecast position for:
 - (i) The General Fund.
 - (ii) The Housing Revenue Account.
 - (iii) The General Fund and Housing Revenue Account Capital Programmes.
2. Cabinet agrees to the updated General Fund and Housing Revenue Account capital programmes as set out in Annex 1 and 2 to this report.

CORPORATE IMPLICATIONS

Financial and Value for Money	The financial implications have been reflected within the body of the report. Achieving value for money is critical to the Council's medium term financial plan and one of the three Corporate Values.
Legal	Section 151 of the 1972 Local Government Act requires a suitably qualified named officer to keep control of the Council's finances. For this Council, it is the Deputy Chief Executive and s151 Officer, and this report is helping to carry out that function.
Corporate	Corporate priorities can only be delivered with robust finances and this report gives Members the opportunity to review the Council's current position.
Equalities Act 2010 & Public	Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty

Sector Equality Duty	<p>are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.</p> <p>Protected characteristics: age, gender, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.</p> <table><tr><td>Please indicate which aim is relevant to the report.</td></tr><tr><td>Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,</td></tr><tr><td>Advance equality of opportunity between people who share a protected characteristic and people who do not share it</td></tr><tr><td>Foster good relations between people who share a protected characteristic and people who do not share it.</td></tr></table> <p>There are no equity and equalities implications arising directly from this report, but the Council needs to retain a strong focus and understanding on issues of diversity amongst the local community and ensure service delivery matches these.</p> <p>It is important to be aware of the Council's responsibility under the Public Sector Equality Duty (PSED) and show evidence that due consideration had been given to the equalities impact that may be brought upon communities by the decisions made by Council.</p>	Please indicate which aim is relevant to the report.	Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,	Advance equality of opportunity between people who share a protected characteristic and people who do not share it	Foster good relations between people who share a protected characteristic and people who do not share it.
Please indicate which aim is relevant to the report.					
Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,					
Advance equality of opportunity between people who share a protected characteristic and people who do not share it					
Foster good relations between people who share a protected characteristic and people who do not share it.					

CORPORATE PRIORITIES (tick those relevant)✓	
A clean and welcoming Environment	✓
Promoting inward investment and job creation	✓
Supporting neighbourhoods	✓

CORPORATE VALUES (tick those relevant)✓	
Delivering value for money	✓
Supporting the Workforce	
Promoting open communications	

1.0 General Fund – Revenue Forecast 2018-19

- 1.1 The 2018-19 General Fund budget of £16.8m was agreed at the Council meeting on 8 February 2018. It was arrived at after allowing for £2.7m of savings proposals to bridge the funding gap.
- 1.2 Table 1 summarises the current projected General Fund spending position at the end of June 2018.

Table 1 - General Fund - Projected Forecast 2018-19

Function	2018-19 Budget £'000	2018-19 Forecast £'000	2018-19 Variance £'000	
Chief Executive	179	179	0	See paragraph 2.1
Deputy Chief Executive and s151 Officer	6,530	6,530	0	See paragraph 2.2

Corporate Governance	599	789	190	See paragraph 2.3
Operations and Commercialisation	7,204	7,764	560	See paragraph 2.4
Corporate Budgets	2,288	2,288	0	
Total Net Expenditure	16,800	17,550	750	

- 1.3 All budgets will continue to be regularly monitored to ensure that the council's expenditure remains within the agreed budget. This will include monitoring the savings targets introduced to bridge the funding gap identified in the report to February Council.

2.0 General Fund detail by Directorate:

Chief Executive

- 2.1 There are no major variances to report at this time.

Deputy Chief Executive and s151 Officer

- 2.2 The Housing Needs budget is experiencing significant pressure due to increased demand for temporary accommodation and additional statutory obligations. Although the direct housing costs are currently forecast to be contained within the budget, this has also had an impact on housing benefits payments and benefit subsidy. Balanced against this pressure is the forecast one-off benefit of the Kent Business Rates retention pilot.

Director of Corporate Governance

- 2.3 An overspend of £190k is currently forecast:

- (i) Work is ongoing to deliver savings attributable to Your Leisure, there remains £190k of the original £350k saving to be delivered.

Director of Operations and Commercialisation

- 2.4 An overspend of £560k is currently forecast:

- (i) Currently there is a predicted shortfall of £500k against the Port budget.
- (ii) Within Operational Services there remains pressure to deliver permanent savings and income generation, approved as part of the 2018-19 budget. The at-risk area is clinical waste £60k and there is a pressure in delivering on the commercial foreshore opportunities.

3.0 Housing Revenue Account (HRA) – Projected Revenue Forecast 2018-19

- 3.1 The HRA is currently forecast to have a deficit of £471k in 2018-19, which represents a £185k increase against the budgeted deficit of £286k.
- 3.2 Table 2 provides a summary of the projected spending position on the Housing Revenue Account compared to the original budget.

Table 2 - HRA – Projected Forecast 2018-19

	2018-19 Budget	2018-19 Projected Forecast	2018-19 Variance
	£'000	£'000	£'000
Income:			
Dwelling Rents	(12,786)	(12,640)	146
Non-dwelling Rents	(139)	(139)	0
Charges for services and facilities	(480)	(502)	(22)
Contributions towards expenditure	(349)	(299)	50
TOTAL INCOME	(13,754)	(13,580)	174
Expenditure			
Repairs & Maintenance	3,265	3,276	11
Supervision & Management	4,309	4,309	0
Depreciation & Impairments	3,771	3,771	0
Allowance for bad or doubtful debts	170	170	0
Contribution to Capital	300	393	93
Non-service specific expenditure	1,390	1,390	0
TOTAL EXPENDITURE	13,205	13,309	104
Other Adjustments:			
HRA Investment Income	(35)	(35)	0
Debt Interest Charges	1,007	1,007	0
Government Grants and Contributions	(1,034)	(1,034)	0
Adjustments, accounting /funding basis	897	804	(93)
Deficit/ (Surplus) for HRA Services	286	471	185

3.3 Table 3 outlines the key variances.

Table 3 - HRA Main Variances

Budget	(Under)/ Overspend £000	Explanation
Dwelling Rents	146	The budgeted figure includes rental income for properties in the Margate Housing Intervention and the New Build Programme. The current projection is based upon the current actual rent debit. This projection will be reviewed as properties are completed and let during the year and will reduce.
Charges for Services and Expenditure	(22)	Increase in income relating to service charges and recovered legal costs
Contributions towards expenditure	50	Decrease in former tenant re-chargeable works income
Repairs & Maintenance	11	Increase in costs of Electrical & Mechanical Servicing & Repairs - emergency lighting and roof ventilation.
Contribution to Capital/Adjustments	0	East Kent Housing (EKH) additional £93k loan for the single housing system to be funded from HRA balances.
TOTAL VARIANCES	185	

4.0 Capital Programme – Projected Outturn 2018-19

4.1 Spending officers have advised that the council's General Fund capital programme of £17.2m (£16.5m as per annex 1 + £0.7m flexible use of capital receipts) is all planned to be spent without significant variation. On the basis of last year's results (where it was found that a large slippage actually materialised at quarter 4) this assumption will be robustly challenged as we approach the half year monitoring position.

4.2 Annex 1 shows what has been currently committed against this year's budgets.

5.0 Housing Revenue Account (HRA) – Projected Capital Outturn 2018-19

5.1 Of the £20.834m of budget allocated to HRA capital schemes, it is currently anticipated that £9.1m will be unspent at year end. This is mainly due to Phase 2 and 3 of the New Build Programme, which require re-profiling.

5.2 A detailed breakdown of the above is shown at Annex 2.

5.3 A number of existing contracts are under review by EKH. EKH will provide an update and details of any spend re-profiling in Q2. The additional EKH loan for the single system project will be paid in 2018/19.

Contact Officer:	Ramesh Prashar, Head of Financial and Procurement Services and Deputy s151 Officer Mathew Sanham, Financial Services Manager
Reporting to:	Tim Willis, Deputy Chief Executive and S151

Annex List

Annex 1	GF Capital Programme Qtr1 2018-19
Annex 2	HRA Capital Programme Qtr1 2018-19

Background Papers

Title	Budget monitoring papers held in Financial Services
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Corporate Consultation

Finance	N/A
Legal	Sophia Nartey Head of Legal Services

**ANNEX 1 - General Fund Capital Programme Qtr1
2018-19**

Capital Programme 2018-19	Original Capital Budget 2018-19 (incl balances b/f from 17-18) £	Additions / Removals £	Revised Capital Budget 2018-19 to Cabinet 18 Sept 2018 £	Estimated Outturn £	Variance Overspend / (Underspend) £	Committed Spend to 30 June 2018 £	Comments
Deputy Chief Executive (incl East Kent Services)							
Disabled Facilities Grants	2,831,569	199,186	3,030,755	3,030,755	0	875,098	Additional government allocations to the DFG service mean that there is now capacity to review the provision of DFGs and consider enhancing the service. A review of the council's DFG policy is underway to achieve this.
Homelessness Accommodation	1,630,000		1,630,000	1,630,000	0	0	A suitable site to commence the project is yet to be identified.
Margate Housing Intervention - Loan scheme	130,000		130,000	130,000	0	0	
Private Sector Housing - Winter Warmth Grants	2,879		2,879	2,879	0	0	
Private Sector Housing - RHB	416,019	15,107	431,126	431,126	0	21,390	Additional repayable grants received boosting pot. The council is also reviewing its housing assistance policy to make better use of this resource.
Payroll-HR System	934		934	934	0	250	
End User Computing Refresh of Devices	298,160		298,160	298,160	0	38,070	
IT Infrastructure	48,131		48,131	48,131	0	0	
Total	5,357,691	214,293	5,571,985	5,571,985	0	934,808	
Corporate Governance							
Sunshine Café	21,420		21,420	21,420	0	0	
Dreamland	554,161		554,161	554,161	0	554,161	
Dreamland Car Park Enhancement	149,700		149,700	149,700	0	5,700	
Property Enhancement Programme	160,000		160,000	160,000	0	0	
Mill Lane Multi-Storey Car Park	2,996,355	188,000	3,184,355	3,184,380	0	3,184,380	Budget increase due to SDLT for the purchase of the car park to be funded from the decrim reserve (subject to consent from KCC)
Dalby Square	620,949		620,949	620,949	0	558,622	
Total	4,502,585	188,000	4,690,585	4,690,610	0	4,302,863	
Operational Services							
Allotments	6,452		6,452	6,452	0	0	
Crematorium Office Upgrade	1,829		1,829	4,464	2,635	1,776	
Pontoon Decking Improvements	85,000		85,000	85,000	0	0	
Upgrade of Western and Eastern Amenity Blocks	80,000		80,000	80,000	0	0	
Manston Depot Improvements	8,330	2,512	10,841	10,841	0	10,841	Budget increase funded from revenue
Replace Pontoon Piles	75,000		75,000	75,000	0	0	
Ramsgate Port - Berth 2/3 & 4/5 Replacement	477,814		477,814	477,814	0	0	
Ramsgate Port - Berth 1 Refurbishment	150,000		150,000	150,000	0	0	
CCTV	346,271	49,000	395,271	395,271	0	286,469	Budget increase funded from saving to Ramsgate Harbour Water Supply Upgrade budget
Vehicle & Equipment Replacement Programme	909,280		909,280	909,280	0	558,387	
Botany Bay Car Park	73,000		73,000	73,000	0	0	
Thanet Crematorial Memorial Chapel	3,844		3,844	3,844	0	2,649	
In-Cab System	60,000		60,000	60,000	0	0	
Boat Wash Separator	35,000		35,000	35,000	0	0	

**ANNEX 1 - General Fund Capital Programme Qtr1
2018-19 - cont**

Capital Programme 2018-19	Original Capital Budget 2018-19 (incl balances b/f from 17-18) £	Additions / Removals £	Revised Capital Budget 2018-19 to Cabinet 18 Sept 2018 £	Estimated Outturn £	Variance Overspend / (Underspend) £	Committed Spend to 30 June 2018 £	Comments
Marina Management System	14,500		14,500	14,500	0	9,658	
Ramsgate Flood and Coast Protection Scheme	1,103,177		1,103,177	1,103,177	0	2,768	
Ramsgate Harbour Water Supply Upgrade	77,076	-49,000	28,076	28,076	0	0	See above
Westbrook to St Mildred's Sea Wall Work	600,000		600,000	600,000	0	0	
Ramsgate Harbour Railings	100,000		100,000	100,000	0	28,048	
Ramsgate Harbour Aquastores	50,000		50,000	50,000	0	0	
Ramsgate Harbour Self Storage Containers	50,000		50,000	50,000	0	0	
Groyne Reconstruction	388,000	-290,000	98,000	98,000	0	0	Budget reduced to include only Westbrook Groyne and sea wall works only
Sea Wall Refacing - Minnis Bay to Grenham Bay	244,000		244,000	244,000	0	0	
Louisa Bay to Dumpton Gap Sea Wall Work	95,000		95,000	95,000	0	0	
Harbour Gate & Bridge	1,295,180		1,295,180	1,295,180	0	1,102,041	
Breakwater Piles & Guides	181,275		181,275	181,275	0	1,101	
Skatepark	59,487		59,487	59,487	0	0	
Total	6,569,513	-287,488	6,282,025	6,284,660	2,635	2,003,738	
Total Programme	16,429,789	114,805	16,544,594	16,547,254	2,635	7,241,409	
Capital Salaries	75,000		75,000	75,000	0	0	
Grand Total	16,504,789	114,805	16,619,594	16,622,254	2,635	7,241,409	

Funded By	Original Capital Budget 2018-19 (incl balances b/f from 17-18) £	Additions / Removals £	Revised Capital Budget 2018-19 to Cabinet 18 Sept £
Revenue and Reserves	453,097	190,512	643,609
Capital Receipts	3,456,091		3,456,091
Prudential Borrowing	6,361,998		6,361,998
External Funding	6,233,603	- 75,707	6,157,896
Total	16,504,789	114,805	16,619,594

ANNEX 2 - HRA Capital Programme

Capital Programme 2018-19	Original Capital Budget 2018-19 (incl balances b/f from 2017-18) £	Q1 Virements £	Revised Capital Budget 2018-19 £	Estimated Outturn £	Variance Overspend / (Underspend) £	Comments
<i>East Kent Housing Managed Budgets</i>						
2017-18 Overspends	69,945		69,945	109,347	39,402	Will be covered from existing budgets.
Re-Roofing	915,000		915,000	915,000	0	
Replacement Windows & Doors	110,000		110,000	110,000	0	
Kitchen & Bathroom Replacements	600,000		600,000	600,000	0	
Electrical Re-wiring	170,000		170,000	170,000	0	
Heating	435,000		435,000	435,000	0	
Fire Precaution Works	896,000		896,000	896,000	0	
Planned Refurbishments	77,000		77,000	77,000	0	
Structural Repairs/ Re-pointing	1,200,000		1,200,000	1,200,000	0	
Thermal Insulation	34,000		34,000	10,000	-24,000	No contract in place
Disabled Adaptions	300,000		300,000	300,000	0	
Lift refurbishments	319,000		319,000	319,000	0	
Soil Stacks	200,000		200,000	200,000	0	
Total	5,325,945	0	5,325,945	5,341,347	15,402	
<i>Thanet District Council Managed Budgets</i>						
<i>Margate Housing Intervention</i>						
19 Athelstan Road	23,016	-23,016	0	0	0	Complete. Remaining budget allocated to new MHI projects.
29 Athelstan Road	18,110	-18,110	0	0	0	Complete. Remaining budget allocated to new MHI projects.
54 Trinity Square	40,497	-40,497	0	0	0	Complete. Remaining budget allocated to new MHI projects.
40-46 Sweyn Road	16,125		16,125	0	-16,125	Complete. Retention held.
1 Godwin Road	497,533		497,533	124,383	-373,150	Start on site delayed to January 2019
17-21 Warwick Road	730,460		730,460	730,460	0	Delay during the planning stages of this project. Planning consent now granted and tender documentation being prepared.
24 Ethelbert Crescent	519,354		519,354	519,354	0	On site.
New Projects	2,526,922	98,725	2,625,647	0	-2,625,647	
<i>New Build Programme</i>					0	
Phase 1	1,989,505		1,989,505	1,989,505	0	Due to complete September 2019
Phase 2	2,788,285		2,788,285	557,657	-2,230,628	The project is currently out to tender with a scheduled start on site in March
Phase 3	4,863,279		4,863,279	972,656	-3,890,623	Tender documents are currently being prepared with the aim of starting on site in March.
1-4-1 Purchases Programme	1,339,961.00	25,043	1,365,004	1,365,004	0	
EKH Additional Loan		92,500	92,500	92,500	0	Additional loan to EKH to fund the Single System Project

ANNEX 2 - HRA Capital Programme - cont

Capital Programme 2018-19	Original Capital Budget 2018-19 (incl balances b/f from 2017-18) £	Q1 Virements £	Revised Capital Budget 2018-19 £	Estimated Outturn £	Variance Overspend / (Underspend) £	Comments
Fort Road Hotel	17,102	-17,102	0	0	0	Property Sold. Remaining budget allocated to new MHI projects.
Coastguard Cottages Flat Major Works	-15,249		-15,249		15,249	Works Complete. To be funded from MRR.
93 Westcliff Road	25,043	-25,043	0	0	0	Complete. Remaining budget allocated to 141 programme
St Johns Crescent	128,547.00		128,547	128,547	0	On site.
Total	15,508,490	92,500	15,600,990	6,480,066	-9,120,924	
Grand Total	20,834,435	92,500	20,926,935	11,821,413	-9,105,522	

Medium Term Financial Strategy 2019-23

Cabinet	18 September 2018
Report Author	Tim Willis, Deputy Chief Executive and s151 Officer
Portfolio Holder	Cllr Ian Gregory, Portfolio Holder for Financial Services and Estates
Status	For Decision
Classification:	Unrestricted
Key Decision	No
Ward:	All Wards

This document sets out the key issues arising from Thanet District Council's Medium Term Financial Strategy (MTFS) for the next four years. The MTFS provides an integrated view of the whole of the council's finances and sets out objectives to be met, risks to be managed and the policies to be applied over the period.

Recommendation(s):

- 1 To approve the Medium Term Financial Strategy 2019-23.
- 2 To approve the Capital Strategy and Non-Treasury Management Investment Report as attached in Annexes 2 and 3.

CORPORATE IMPLICATIONS

Financial and Value for Money	The financial implications have been reflected within the body of the report. Achieving value for money is critical to the Council's medium term financial plan and one of the three Corporate Values.
Legal	Section 151 of the 1972 Local Government Act requires a suitably qualified named officer to keep control of the Council's finances. For this Council, it is the Deputy Chief Executive and s151 Officer, and this report is helping to carry out that function.
Corporate	Corporate priorities can only be delivered with robust finances and this report gives Members the opportunity to review the Council's current position.
Equalities Act 2010 & Public Sector Equality Duty	Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.

	Protected characteristics: age, gender, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.
	Please indicate which aim is relevant to the report.
	Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,
	Advance equality of opportunity between people who share a protected characteristic and people who do not share it
	Foster good relations between people who share a protected characteristic and people who do not share it.
	There are no equity and equalities implications arising directly from this report, but the Council needs to retain a strong focus and understanding on issues of diversity amongst the local community and ensure service delivery matches these.
	It is important to be aware of the Council's responsibility under the Public Sector Equality Duty (PSED) and show evidence that due consideration had been given to the equalities impact that may be brought upon communities by the decisions made by Council.

CORPORATE PRIORITIES (tick those relevant)✓	
A clean and welcoming Environment	✓
Promoting inward investment and job creation	✓
Supporting neighbourhoods	✓

CORPORATE VALUES (tick those relevant)✓	
Delivering value for money	✓
Supporting the Workforce	
Promoting open communications	

1.0 Introduction

- 1.1 This document sets out the key issues arising from Thanet District Council's Medium Term Financial Strategy (MTFS) for the next four years. The MTFS provides an integrated view of the whole of the council's finances and sets out objectives to be met, risks to be managed and the policies to be applied over the period.
- 1.2 Whilst this document is focused on the council's future financial position, it is helpful to look back on past circumstances.
- 1.3 It isn't that long ago where this council was exposed to and having to manage a number of significant financial risks. Decisions made in the past meant the council was having to "firefight" events rather than being able to focus on improving service delivery. As a result, reserves diminished and the delivery of the council's corporate priorities was compromised. Action had to be taken to get the council at least on a stable footing, to be able to build for the future.
- 1.4 The council has just had its 2017-18 accounts audited, which showed a satisfactory financial position and a modest restoring to reserve levels. The council secured an

unqualified value for money conclusion and unqualified audit opinion from the auditors. In its Audit Findings Report, Grant Thornton stated “the Council’s current reserves position, despite the improvement during 2017-18, does not provide much room for manoeuvre should the full range of savings not be identified”. In short, the council has still some way to go on its road to recovery.

- 1.5 The council, like all local authorities, is in a challenging period whilst central Government pushes on with its drive to reduce the national deficit. The Government is currently undertaking a Fair Funding Review and a review of business rates. In addition the autumn budget and the 2019 Comprehensive Spending Review will also have a significant impact on the future direction of the MTFS. Therefore, this document must be considered within the context of these external uncertainties.

2.0 Thanet District Council

- 2.1 Thanet includes the towns of Margate, Ramsgate and Broadstairs, is situated on the most north-easterly edge of Kent with coast on three sides. It has usable land area of 10,330 hectares and has 19 miles of nationally recognised coastline with Blue Flag award winning beaches and bays.
- 2.2 Thanet has a resident population of 139,800 (2015) which is growing at roughly 1% per annum. As a council it has responsibility for a wide range of services including grounds maintenance, parking, waste collection, planning, housing and homelessness to name a few. Its General Fund budget requirement, after allowing for income from fees and charges and grants etc, for 2018-19 is £16.8m.

3.0 Corporate Priorities and Values 2015 - 2019

- 3.1 The council’s Corporate Plan has been approved for the period 2015-19. The plan sets out the council’s programme of priorities for the four year period and identifies three core aims that will help focus efforts towards achieving the vision.

Priority 1: A clean and welcoming environment

Priority 2: Supporting neighbourhoods

Priority 3: Promoting inward investment and job creation

- 3.2 The council has agreed a list of corporate values to identify the way the council will work in order to deliver its priorities and these are as detailed below:

Value 1: Delivering value for money

Value 2: Supporting the workforce

Value 3: Promoting open communications

- 3.3 Co-existing alongside the Corporate Plan are a number of other service-related plans, such as the Housing Revenue Account (HRA) Business Plan, individual service plans and capital and asset management strategies.
- 3.4 This Strategy provide a key link between all of these plans. It underpins these other strategic documents by translating the plans, actions and non-financial resources into financial terms so as to evidence their affordability and sustainability.

4.0 The Budget Strategy

- 4.1 Fundamental to the development of the budget and MTFS is an overarching Budget Strategy, the objective of which is a safe and sustainable budget that will deliver the policies and aspirations of the council over the next financial year. These principles are detailed below:
- (i) To adequately resource the council's statutory services and the corporate priorities as set out within the Corporate Plan.
 - (ii) To maintain a balanced General Fund such that income from fees and charges, council tax and Government and other grants is sufficient to meet all expenditure.
 - (iii) To maintain council tax increases as low as possible to avoid a local referendum.
 - (iv) To maintain the General Fund reserve at a level that is sufficient to cover financial risks and provide an adequate working capital.
 - (v) To maximise the council's income by promptly raising all monies due and minimise the level of arrears and debt write offs, so as to optimise treasury management potential.
 - (vi) To actively engage local residents in the financial choices facing the council.
- 4.2 The Budget Strategy for 2019-20 and its principles contained therein will be received by Cabinet in November 2018.

5 General Fund

- 5.1 The General Fund net budget requirement as approved at the Council meeting on 8 February 2018 was £16.8million.

Issues, Options and Analysis of Options

- 5.2 The Spending Review 2019 could potentially have a significant impact on the council's financial position moving into 2020-21. Planned Government Departmental reviews, future business rates retention proposals and the Government's Fair Funding Review means that projections can only be based on what is known currently.

Projected Funding

- 5.3 Table 1 outlines the projected funding for the Council.

Table 1 - Projected Funding

	2019-20 Indicative £'000	2020-21 Indicative £'000	2021-22 Indicative £'000	2022-23 Indicative £'000
Council Tax	10,205	10,630	11,056	11,507
Revenue Support Grant	97	0	0	0
New Homes Bonus	586	101	96	0
Business Rates	5,245	5,067	5,067	5,067
Other Grants	110	0	0	0
Collection Fund Surplus	100	100	100	100
Total Projected Funding	16,343	15,898	16,319	16,674
Cumulative Funding Reduction	457	902	481	126

- 5.4 **Council Tax:** It is anticipated that the Council Tax base will increase by 2% at Band D. The figures above also assume an increase in Council Tax of 3% in 2019-20 and £5 in future years.
- 5.5 **Revenue Support Grant (RSG)** will be phased out entirely by 2020-21. However, due to the complex formula the Government uses and subject to the Fair Funding Review and Business Rates reform, Thanet could be faced with a tariff/top adjustment which it is presumed will be top sliced from Business Rates income.
- 5.6 **The New Homes Bonus (NHB)** rewards local authorities that deliver sustainable housing development. Local authorities receive a New Homes Bonus equal to the national average for the Council Tax band on each additional property built in the area in the preceding year. This scheme which was previously paid for the following six years has been changed to being paid for four years from 2018-19. Additionally, there is a threshold applied, below which no NHB is paid. This threshold has been set at 0.4% of total dwellings, i.e. the first 0.4% of growth will not attract NHB with the the Government considering a potential increase in the threshold in future. The council has for some time treated NHB as part of its core government funding. The MTFS does not anticipate any new NHB at this stage.
- 5.7 **Business Rates** - The MTFS assumes the council's existing baseline position for now. From 2020-21, there is going to be a re-set of the business rates system. The nature and impact of the reset will not be confirmed until during 2019.

Pressures and Anticipated Savings

- 5.8 The current pressures and anticipated savings are outlined in Table 2.

Table 2 - General Fund - Current Pressures and Anticipated Savings

	2019-20 £'000	2020-21 £'000	2021-22 £'000	2022-23 £'000

Base budget 2018-19	16,800	16,800	16,800	16,800
Pressures/Savings				
Inflation	400	900	1,500	2,100
Your Leisure	190	190	190	190
Pension Fund Revaluation	0	0	200	200
Port	500	500	500	500
Net Cost of Borrowing	155	402	488	553
Loss of Housing Benefit Administration Grant	800	800	800	800
Fees and Charges	(200)	(400)	(600)	(800)
Homelessness withdrawal of growth	(250)	(500)	(575)	(575)
Net Transfers From Reserves	(220)	0	(150)	(150)
Total Pressures/Savings Required	1,375	1,892	2,353	2,818
Projected Budget	18,175	18,692	19,153	19,618

- 5.9 **Inflation:** For financial planning purposes a provision has been included for inflationary pressures.
- 5.10 **Your Leisure:** Shortfall in the 2018-19 savings target of £190k.
- 5.11 **Pension Fund Revaluations:** An allowance has been made for an increase in employer contributions following the next actuarial valuation.
- 5.12 **Port:** The Port is forecast to overspend this year, as it did last year. Some £500k growth has been included from 2019-20.
- 5.13 **Net cost of Borrowing:** This reflects the financing costs such as interest & Minimum Revenue Provision (MRP) for the Council's General Fund Capital Programme.
- 5.14 **Loss of Housing Benefit Administration Grant:** The housing benefits administration grant has been gradually reduced in previous years. Provision has been made in the MTFS to arrive at a more appropriate level of loss.
- 5.15 **Fees and Charges:** An increase of income by £200k per year is reflected.
- 5.16 **Homelessness:** The Housing Needs budget has been experiencing significant pressure due to increased demand for temporary accommodation and additional

statutory obligations. The 2018-19 budget was increased by to allow mitigating actions to be put in place. As these actions are implemented it is anticipated that this budget pressure will ease.

Reserves

- 5.17 **General Fund Reserves:** The Local Government Finance Act 1992 specifies that precepting authorities, such as Thanet District Council, must have regard to the level of reserves needed for estimated future expenditure when calculating the budget requirement. In order to comply with this requirement each year the council reviews its level of reserves, taking account of the financial risks that could pose a threat to the Authority over the medium term. Reserves of £2m are considered to be the minimum required for the planning period.
- 5.18 **Earmarked Reserves:** In addition to the General Reserve, a number of earmarked reserves are set aside for specific purposes. Essentially these allow income and expenditure to be smoothed and funds to be saved over a number of years for large and often one-off items of expenditure, thereby smoothing the impact on council tax. Where the exact demand on the reserve is not known sufficiently far enough in advance over the medium term, no estimates are allowed for within the MTFS. The council has faced a number of one off costs over the past year and in order to meet its liabilities has had to undertake a review of all reserves and the projects they have been set aside to deliver. General Fund earmarked reserves were re-aligned at year end 2016-17 to more effectively support the council's corporate priorities. The earmarked reserves as at 31 March 2018 are listed in Annex 1.

Summary of General Fund

- 5.19 Table 3 shows the impact of all the above on the council's budget position if no action is taken.

Table 3 - Council's Budget Position with no action taken.

	2019-20 £'000	2020-21 £'000	2021-22 £'000	2022-23 £'000
Net Forecast Spend	18,175	18,692	19,153	19,618
Total Forecast Funding	(16,343)	(15,898)	(16,319)	(16,674)
Funding gap if no action is taken	1,832	2,794	2,834	2,944
Working Balance b/f	2,011	179	(2,615)	(5,449)
Less: Funding Gap	1,832	2,794	2,834	2,944
Working Balance c/f	179	(2,615)	(5,449)	(8,393)

5.20 Table 3 identifies a potential funding gap of over £10.4m over the next 4 years if no action is taken. This is clearly not financially sustainable and the council is currently considering a plan to reduce costs and generate significant income to the council in order to bridge the funding gap. Some of the themes to be adopted are:

- Transforming the way we work, particularly through effectively realising the benefits digital technology can offer.
- Exploring alternative and sustainable income streams, for example in the trade waste area.
- Explore and look to invest in commercial opportunities that can generate positive economic returns to the district (cash returns or by promoting growth). The council can look to use some of its benefits from being in the Kent Business Rates Pool to good effect in this way.
- Focusing on making better use of the significant assets the council owns such as the Port of Ramsgate, Dreamland, office accommodation.
- Ongoing financial stewardship ie review of 2017-18 actual spend, 2018-19 base budget, appropriateness of reserve levels, fees and charges.

6 Housing Revenue Account (HRA)

- 6.1 The Housing Revenue Account is used by the Council to record the income and expenditure relating to the provision of its council dwellings and related services. The Housing Revenue Account has to be budgeted and accounted for separately and strict rules govern what can be charged to this account.
- 6.2 The main source of income into the HRA is the rental income from the properties let by the Council. Rents are calculated in line with government guidance. Both social and affordable rents will continue to be reduced by 1% in 2019-20, in accordance with the Welfare Reform and Work Act 2016. From 2020-21 to 2024-25, rents can be increased by CPI +1%. Further guidance will be issued for the period 2025-26.
- 6.3 The HRA Business Plan is currently being reviewed following the completion of the stock condition survey and the announcement regarding the rent increase period. The business plan will inform future HRA capital programme funding.
- 6.4 Government have recently announced a new bidding programme, where selected Local Authorities can bid for additional borrowing to increase the supply of new affordable council homes. The reviewed business plan will inform affordability and funding.

7 Capital Strategy

- 7.1 A revision to the CIPFA Prudential Code for Capital Finance in Local Authorities was issued in December 2017, with a new requirement being that local authorities produce a Capital Strategy for consideration and approval by Members.
- 7.2 The Capital Strategy forms part of this council's integrated revenue, capital and balance sheet planning. Capital expenditure and associated investment decisions are

taken in line with service objectives and properly take account of stewardship, value for money, prudence, sustainability and affordability. Due consideration is given to both risk and reward, and impact on the achievement of priority outcomes.

7.3 Recent budget monitoring and the 2017-18 out-turn have brought to the forefront the significant level of in-year under spending and carry forward of capital budgets. In response to this issue, the Capital Strategy makes provision for changes in the way that the Capital Programme can be monitored and managed from now on.

7.4 The Capital Strategy is attached at Annex 2.

8 Non-Treasury Investments

8.1 A revision to the CIPFA Treasury Management in the Public Services Code of Practice was issued in December 2017, with a new requirement being that local authorities produce a Non-Treasury Investments Report for consideration and approval by Members. It is appropriate to include this new requirement within the MTFS.

8.2 'Treasury management investments' activity covers those investments which arise from the council's cash flows and debt management activity, and ultimately represents balances which need to be invested until the cash is required for use in the course of business.

8.3 'Non-treasury investments' are investments in financial assets and property primarily for service purposes and/or financial return that are not part of treasury management activity.

8.4 The Non-Treasury Investments Report is attached at Annex 3.

Contact Officer:	Ramesh Prashar, Head of Financial and Procurement Services and Deputy s151 Officer
Reporting to:	Tim Willis, Deputy Chief Executive and s151 Officer

Annex List

Annex 1	Earmarked Reserves as at 31 March 2018
Annex 2	Capital Strategy
Annex 3	Non-Treasury Investments Report 2018-19

Background Papers

Title	Held in Financial Services
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Corporate Consultation

Finance	N/A
Legal	Sophia Nartey Head of Legal Services

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Annex 1 - Earmarked Reserves as at 31 March 2018

Reserve	Description	Balance 31 March 2018 £'000
Local Taxation Funding Reserve	Used to accommodate technical balances between financial years in respect of business rates, appeals, housing benefit subsidy and other service movements.	3,069
Investment and Growth Reserve	Used to encourage inward investment and promote growth in the district changing the way the council operates in support of these activities.	2,035
Risk and Insurance Reserve	Held to fund excess costs, self-insurance and TUPE obligations.	1,618
Repairs and Renewals Reserve	Used to fund planned maintenance in respect of buildings, coastal sites, information technology and other equipment, including a mechanism to avoid peaks and troughs in service budgets.	1,051
Lottery Reserve		4
Total		7,777

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Annex 2

THANET DISTRICT COUNCIL - CAPITAL STRATEGY

1. Background

A revision to the CIPFA Prudential Code for Capital Finance in Local Authorities was issued in December 2017, with a new requirement being that local authorities produce a Capital Strategy for consideration and approval by Members.

The Capital Strategy forms part of this council's integrated revenue, capital and balance sheet planning. Capital expenditure and associated investment decisions are taken in line with service objectives and properly take account of stewardship, value for money, prudence, sustainability and affordability. Due consideration is given to both risk and reward, and impact on the achievement of priority outcomes.

2. Priorities and Objectives

Like most councils, this council has capital expenditure needs that far exceed its potential capital resources, particularly given public sector funding cuts and resource pressures.

Accordingly, this council's Capital Protocol is that financial resources and assets are used to their maximum effect, and that Financial Procedure Rules and Contract Standing Orders are adhered to, with the following objectives:

- a) Corporate Plan/council priorities, including any environmental impact, are considered when prioritising limited resources (see section 3 below).
- b) All financial implications arising from the project are identified e.g. match funding requirements and ongoing unsupported revenue costs etc.
- c) The correct authorisation is obtained to enter into an agreement for capital expenditure.
- d) The project progresses as approved.
- e) Monitoring takes place in a timely manner.
- f) All expenditure is properly incurred and recorded.
- g) All project outcomes, outputs and results are achieved.
- h) There is an audit trail for all expenditure and income relating to the project.
- i) Issues that may arise for project delivery are identified and considered appropriately e.g. legal, VAT and capacity issues.
- j) Any significant changes to the project are considered in the overall prioritisation of the capital programme and the correct authorisation is obtained.

3. Corporate Priorities and Values

The council will use its corporate priorities to help prioritise its investment in, and disposal of, assets. The current corporate priorities are:

- a) A clean and welcoming environment.
- b) Supporting neighbourhoods.
- c) Promoting inward investment and job creation.

Additionally, the following corporate values identify the way the council will work to deliver these priorities:

- a) Delivering value for money.
- b) Supporting the workforce.
- c) Promoting open communications.

4. Revenue Implications

As per section 2b, council rules require that all financial implications arising from a capital project are identified, including revenue implications which can include:

- a) The cost of borrowing (Minimum Revenue Provision and interest charges).
- b) Loss of investment income from capital receipts.
- c) Running costs associated with the project.
- d) The positive impact of investment and economic growth on the council's tax base and business rates income.

Accordingly, a key consideration is that council capital schemes generate revenue savings and/or are externally funded.

5. Focussing the capital programme on delivering the council's priorities

The capital programme demands significant resources which, if not managed effectively, can actually impede what the council is looking to deliver. The Capital Strategy is to pay particular attention to better aligning the capital programme to the council's corporate values and priorities.

In particular:

Slippage will not be the acceptable norm - capital schemes will be at risk of having their council funding re-directed should there be delays that cannot be substantiated (schemes that are externally funded may require more flexibility however).

Assumptions that a council owned asset should be invested in or disposed of will be challenged - consideration of whether that asset could be better utilised will need to be evaluated and demonstrated.

Opportunities for non-treasury investment should be explored - subject to being able to stabilise its financial position the council should consider investing in a wider choice of assets that can generate better economic returns. Annex 3 below sets out a new report which the council has to produce in respect of its non treasury management investments.

Corporate Management Team will be taking the lead on achieving the focus the capital programme requires.

6. Assessing and Monitoring Schemes

Officer arrangements for assessing and monitoring capital schemes is overseen by CMT (which includes the council's Section 151 Officer). The role of CMT in this regard is:

- a) To coordinate all aspects of the council's Capital Programme including the assessment of bids, preparation of the programme, monitoring and post audit reviews.
- b) To review annually the capital assessment and prioritisation methodology.
- c) To evaluate and prioritise all projects submitted according to the council's prioritisation methodology.
- d) To produce a capital programme based upon the prioritised scoring methodology .
- e) To monitor capital schemes and to summarise all variation reports received by client officers.
- f) To consider requests for capital bids during the year and, where the request is considered urgent, to score and prioritise within the whole programme, together with making funding arrangements.
- g) To review the scheme evaluation reviews and ensure lessons learnt and where necessary, to amend the Capital Protocol.
- h) To review all capital slippage and underspends at financial year end and re-evaluate with regards to the council's priorities and resources.

The criteria for capital bids include:

- a) Meeting Corporate Priorities or requiring Health and Safety action.
- b) Not having a revenue impact that cannot be funded.
- c) Being clear as to the benefits the project provides.
- d) Identifying how the project will be managed.

On the basis of recommendations drawn up by the CMT Capital Programme Group, Cabinet considers and approves the proposed draft capital programme for inclusion within the budget. This budget is then recommended to Full Council for approval of the final capital budgets for the year ahead. Cabinet is to receive quarterly capital budget monitoring reports and a final outturn report at year end showing scheme performance - specifically underspends, overspends and slippage supported by explanations.

7. Additional Resources and Links with External Bodies

Project appraisals consider additional and alternative funding sources, match funding requirements, bidding time frames and the likely success in being awarded grants.

Grants are allocated in relation to specific programmes or projects and this council aims to maximise such funding; developing appropriate partnership, joint working and cross agency initiatives to address council priority needs. Partners include central and local government, government agencies, representative bodies of the local community, voluntary groups, housing associations, health bodies, the police, and the private sector business community.

8. Asset Management

An Asset Management Plan is the report on the systematic preparation of information to optimise the deployment and utilisation of land, buildings and other assets. Accordingly the

council's Asset Management Plan informs the links to both the council's capital strategy and capital programme.

9. The council's capital spending

Details of the Council's capital programme, capitalisation policies, capital financing, borrowing/funding restrictions, commercial activity, knowledge and skills, long-term liabilities and treasury management are shown in the following documents (which are all available on the Council's website www.thanet.gov.uk):

- a) Medium Term Financial Strategy
- b) Treasury Management Strategy Statement, Minimum Revenue Provision Policy Statement and Annual Investment Strategy
- c) Flexible Use of Capital Receipts Strategy
- d) Statement of Accounts
- e) Non-Treasury Investments Report
- f) Budget monitoring reports

The council's Section 151 Officer is satisfied with the affordability and risk associated with this Capital Strategy and, where appropriate, has access to specialised advice to enable him to reach this conclusion.

ANNEX 3

THANET DISTRICT COUNCIL - NON-TREASURY INVESTMENTS REPORT 2019-20

1. Background

A revision to the CIPFA Treasury Management in the Public Services Code of Practice was issued in December 2017, with a new requirement being that local authorities produce a Non-Treasury Investments Report for consideration and approval by Members.

'Treasury management investments' activity covers those investments which arise from the council's cash flows and debt management activity, and ultimately represents balances which need to be invested until the cash is required for use in the course of business.

'Non-treasury investments' are investments in financial assets and property primarily for service purposes and/or financial return that are not part of treasury management activity.

2. Permissible non-treasury investments

This council may:

- a) purchase property for service and/or commercial purposes.
- b) make investments for service purposes.
- c) make loans for service purposes.

Service investments are held in relation to operational services (including regeneration) whereas commercial investments are held for mainly financial reasons.

3. Existing non-treasury investments

This council's existing non-treasury investments include:

- a) Investment Property

The council's 2017/18 Statement of Accounts show a 31 March 2018 balance sheet value of £22,865,000 for investment property. These accounts disclose a net yield of £913,000 from investment property (rental income less direct operating expenses), which represents an annual percentage yield of 4.0%.

- b) Investments and Loans

East Kent Housing Limited (EKH): EKH is a company limited by guarantee without share capital, owned and controlled by this council, together with Canterbury City Council, Dover District Council and Folkestone & Hythe District Council. EKH, which was incorporated on 11 January 2011, is run as an Arms Length Management Organisation (ALMO) and its principal activity is to manage and maintain each of the four council's housing stock.

Your Leisure Kent Limited (YL): This council engages YL, which is an Industrial and Provident Society with charitable status, to run its leisure facilities. YL was registered on the Mutuels Public Register on 16 April 1999 and was called Thanet Leisure Force Limited until

Agenda Item 7

Annex 3

26 March 2013. The principal activity of YL is to manage leisure, catering and entertainment facilities and associated service provision for the local communities of Dover and Thanet.

East Kent Opportunities LLP (EKO): To aid economic development and regeneration in Thanet, this Council in partnership with Kent County Council set up EKO as a limited liability partnership. EKO was incorporated on 4 March 2008 with this Council and Kent County Council having 50:50 ownership, control and economic participation in EKO.

The council acts as guarantor for EKH in respect of its pension liability and for YL in respect of certain loans taken out by YL. These arrangements are described in the Contingent Liabilities note to the council's Statement of Accounts.

In addition, the council makes loans from time to time to one or more of EKH, YL and EKO for service purposes.

4. Investment Management Practices

Non-treasury investments are subject to the council's normal approval processes for revenue and capital expenditure and need not comply with the specific requirements of the council's annual Treasury Management Strategy Statement and Investment Strategy. These processes ensure effective due diligence and consideration of the council's risk appetite (including proportionality in respect of overall resources), that independent and expert advice is taken where appropriate, that scrutiny arrangements are properly made, and that ongoing risk management is properly undertaken and acted upon.

Details of risk management, performance measurement and management, decision making, governance, due diligence, reporting and knowledge and skills are shown in the following documents (which are all available on the council's website www.thanet.gov.uk):

- a) Medium Term Financial Strategy
- b) Treasury Management Strategy Statement, Minimum Revenue Provision Policy Statement and Annual Investment Strategy
- c) Flexible Use of Capital Receipts Strategy
- d) Statement of Accounts
- e) Capital Strategy

The key principle of control of risk, and optimising returns consistent with the council's risk appetite, is applied across all investment activities (including any commercially based investments). Where any commercial investment does not give priority for security and liquidity over yield, whether because of the nature of the asset itself or for service reasons, then such a decision should be explicit, the additional risks set out clearly, and the impact on financial sustainability identified and reported.

Food Law Service Plan and Enforcement Policy 2018-2020

Cabinet	18 September 2018
Report Author	Debbie Huckstep – Public Protection Manager
Portfolio Holder	Cllr Lesley Ann Game – Cabinet Member for Housing & Safer Neighbourhoods
Status	For Decision
Classification:	Unrestricted
Key Decision	No
Reasons for Key	N/A
Ward:	All Wards

Executive Summary:

The Food Standards Agency requires local authorities to produce a Plan that outlines how we intend to provide an effective food safety service, the TDC Food Law Enforcement Plan and Enforcement Policy sets out how the Public Protection Team will prioritise and manage their work for the next 24 months, taking into consideration the unknown elements of BREXIT and the Food Standards Agency (FSA) 'Regulating our Future' which plan to change the UK food safety service delivery with regards to local authorities. The Enforcement Policy is in accordance with the 'Enforcement Concordat' agreed by all appropriate UK local authority services on 11th June 1998 and remains in line with best practice and advice/guidance in the Food Law Code of Practice, the latest version being March 2017.

The implications of BREXIT are unknown, particularly with regards to food traceability and imports/exports, we will review this document as we receive information and instruction from the FSA. The Food Standards agency 'Regulating Our Future' plan is a controversial strategic plan which will coincide with BREXIT, and lead to major modernisation of the programme of regulatory change, the FSA seeking to modernise comprehensively, the delivery and enforcement of its regulatory regime regarding food businesses. This will affect local authority delivery from March 2019 with central registration of food businesses as discussed in their plan. The FSA are aiming for a graduated and sustainable approach although consultation with local authorities has been limited and details are awaited. The FSA aim to have delivered a new regulatory model for food by 2020.

In the meantime, the service plan has accounted for the statutory/non statutory functions that we currently perform, by carrying out programmed inspections on our 1359 food premises according to the Food Law Code of Practice, as well as health and safety duties, wheel traceability, events work, routine sampling, street auditing, complaints, caravan parks and infectious disease work.

Recommendation(s):
To recommend to Council for approval, the Service Plan and Enforcement Policy

CORPORATE IMPLICATIONS									
Financial and Value for Money	There are no additional financial costs associated with the plan, although the financial impact of BREXIT it currently unknown.								
Legal	<p>The statutory duty is imposed on the Council under the Food Safety Act 1990 to ensure the effective implementation of Government Strategy on food safety issues, having regard for the Food Law Code of Practice issued by the Food Standards Agency and guidance issued by the Local Authority Co-Ordinating Body and Regulatory Services (LACORS)</p> <p>The Food Standards Agency are currently implementing their 'Regulating Our Future, why food regulation needs to change and how we are going to do it' plan between now and 2020, full details are not available but those that are have been included within the proposed plan.</p>								
Corporate	Failure to comply with the effective implementation of the Food Safety Act 1990 and the relevant guidance and codes of practice leave the authority open to challenge by the Food Standards Agency. More importantly it leaves our residents and visitors at risk of food poisoning and in worse case death due to poor hygiene standards practiced in food premises.								
Equality Act 2010 & Public Sector Equality Duty	<p>Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.</p> <p>Protected characteristics: age, gender, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.</p> <table border="1"> <tr> <td colspan="2">Please indicate which aim is relevant to the report.</td></tr> <tr> <td>Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,</td><td></td></tr> <tr> <td>Advance equality of opportunity between people who share a protected characteristic and people who do not share it</td><td></td></tr> <tr> <td>Foster good relations between people who share a protected characteristic and people who do not share it.</td><td></td></tr> </table> <p>It is not felt that the renewal of this service plan and enforcement policy should have any negative impact in respect of protected characteristics and the public sector equality duty.</p> <p>The Service Plan and enforcement policy does not discriminate against any of the protected characteristics in the diverse community that make up our many food businesses which we inspect, visit and give advice to as explained in the service plan. The FSA Codes of Practice and legislation that we follow are neutral to any protected characteristics.</p>	Please indicate which aim is relevant to the report.		Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,		Advance equality of opportunity between people who share a protected characteristic and people who do not share it		Foster good relations between people who share a protected characteristic and people who do not share it.	
Please indicate which aim is relevant to the report.									
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Advance equality of opportunity between people who share a protected characteristic and people who do not share it									
Foster good relations between people who share a protected characteristic and people who do not share it.									

	Regarding Customer Impact Assessment, there is no change to the service at the current time or cessation of a service. There are no changes regarding the introduction or increases in fees and charges. Staffing remains the same.
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CORPORATE PRIORITIES (tick those relevant)✓	
A clean and welcoming Environment	✓
Promoting inward investment and job creation	✓
Supporting neighbourhoods	✓

CORPORATE VALUES (tick those relevant)✓	
Delivering value for money	✓
Supporting the Workforce	✓
Promoting open communications	

1.0 Introduction and Background

- 1.1 A statutory duty is imposed on the Council under the Food Safety Act 1990 to ensure the effective implementation of Government Strategy on food safety issues in the UK, they produce the standards and codes of practice that local authorities must follow to ensure that food is safe for people to eat and to prevent food poisoning and disease.
- 1.2 A Food Service Plan and Enforcement Policy is written to ensure that as a local authority we carry out our statutory functions, we adequately resource the statutory services we provide and that the local authority is aware of changes that may occur in the future, it is part of the Constitution that we produce a service plan.

2.0 The Current Situation

- 2.1 In 2015 the FSA announced plans to change food service delivery by 2020, refreshing our plan was delayed in order to incorporate these changes. Delivery of this change has been delayed and we did not expect to still be facing the unknown changes that will occur regarding BREXIT and the Food Standards Agencies 'Regulating our Future' (ROF) plan' so close to the deadlines.
- 2.2 This position is unprecedented and makes the service difficult to plan ahead. The plan produced is an honest, transparent service plan that clarifies the lack of control that the Public Protection Team currently has in planning for the future.

3.0 Options

- 3.1 Recommend to Council approval the Food Law Service Plan and Enforcement Policy 2018-2020.
- 3.2 Make relevant changes to the Food Law Service Plan and Enforcement Policy 2018-2020 and recommend to Council approval of the amended Food Law Service Plan and Enforcement Policy 2018-2020.

Contact Officer:	Debbie Huckstep, Public Protection Manager
Reporting to:	Penny Button, Head of Safer Neighbourhoods

Annex List

Annex 1	Food Law Service Plan and Enforcement Policy 2018-2020
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Background Papers

Title	Details of where to access copy
FSA's Regulating Our Future	www.food.gov.uk/sites/default/files/media/document/rof-paper-july2017.pdf

Corporate Consultation

Finance	Matthew Sanham, Financial Services Manager
Legal	Interim Head of Legal Services & Deputy Monitoring Officer

Thanet District Council

Environmental Health Public Protection Team

FOOD SERVICE PLAN AND ENFORCEMENT POLICY

2018/2020

Prepared July 2018
Review April 2020

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Introduction

This Service Plan sets out how the Council intends to provide an effective food safety service that meets the requirements of the Food Standards Agency (FSA) Framework Agreement. It covers the functions carried out by authorised officers of the Public Protection Team under the provisions of the Food Safety Act 1990, the Food Safety & Hygiene (England) Regulations 2013 and relevant regulations made under the European Communities Act. Duties are statutory unless otherwise stated.

The 2018/20 service plan will be under constant review and will continue to be developed to include improving the use of social media and the internet to maintain an up to date database, and to gather local intelligence. An internal auditing regime continues to be implemented in order to ensure consistency and maintain standards of service delivery and accuracy. The team has made excellent progress and is now a well-functioning and organised unit achieving 100% accuracy of data in the 2016/17 LAEMS return.

Traditional ways of working by the Public Protection Team in the future will be heavily influenced and affected from March 2019 by two main factors, one being 'BREXIT' and the second being the Food Standards Agency's Transformation plan 'REGULATING OUR FUTURE' (ROF).

BREXIT

On 30th March 2019 under Article 50 of the Treaty on European Union the UK will cease to be a member of the EU. The decision by the UK to leave the EU will have implications for the regulatory regime for food safety in the UK.

Food law throughout the current EU members largely consists of directly applicable EU legislation. The Withdrawal Bill will seek to ensure that The FSA has a statute book that works on day one after exit, it is presumed that we will adopt the current EU legislation, although information is not currently available on this.

There are many 'unknowns' at the current time particularly regarding food that after Brexit may be classed as imported from the EU into UK ports and there is a substantial volume of export trade from the UK to EU member states and beyond which may no longer be able to rely on the current EU systems and procedures for traceability, documented evidence trails, customs checks and import duties etc., all statutory functions which may require additional qualified and competent officers, training, resources and accommodation at designated ports in Thanet. Manston airport became a DPE (Designated Point of Entry) in January 2013, but has been closed since May 2014, we currently do not have activities at the airport.

Port health (imported food) and shellfish activities (whelks) through Ramsgate Harbour are included in our duties, the registration of shellfish (whelks) landed through Ramsgate is regulated and monitored by officers and registration documents are recorded onto a database system, currently we are unsure if the EU traceability system for whelks will remain as it is.

Imported food through Ramsgate harbour is not currently active but is monitored on a regular basis through the Harbour office, where we liaise regarding shipping movements where food may be imported.

We do not currently carry out shellfish sampling for cockles/pacific oysters etc., as our beds are not active, but they may become active at any time via CEFAS (Government Centre for Environment Fisheries & Aquaculture Science) and local fishermen, at which time extra resources would be required, we have no information on how commercial fishing will be regulated after Brexit, this may include new duties for local authorities being statutory.

REGULATING OUR FUTURE

The Food Standards Agency (FSA), the regulators for UK food safety, have published a controversial strategic plan for the period 2015-2020 to coincide with Brexit. The plan will lead to a major programme of regulatory change (ROF) through which the FSA is seeking to modernise comprehensively, the delivery and enforcement of its regulatory regime regarding food businesses. The FSA need to move ahead with this programme before March 2019 and are beginning with the central registration of food businesses known as 'Enhanced Registration'.

Following this centralisation of an enhanced registration process, the idea is that in the future the FSA will 'risk assess' businesses according to the details given and then inform the local authorities which need to be inspected, the details of this are not currently clear to local authorities and have been challenged by local authorities as well as the Chartered Institute of Environmental Health.

The registration of food businesses has always been managed at local authority level, with registration forms on the council's website as well as available by post or email. Premises are tracked locally by the Public Protection Team through social media, street auditing, liaison with the planning and licensing departments as well as local intelligence. The FSA have suggested that this role may be expanded by local authorities to include liaising with solicitors, conveyancers, citizens advice etc., but further detail has not yet been made available, so we are unable to predict resource requirements.

According to current codes of practice, all premises must be inspected so that they can be accurately rated and included in the Food Hygiene Rating Scheme (FHRS) and then published on the National database, we are presuming that this will continue to 2020 so resources are predicted on the current food premises register of 1359 food businesses and this plan estimates this to be approx. 50% of officer time.

We have no information regarding new FSA IT systems and their compatibility with local systems regarding ROF, this has been questioned but no clarification has been provided. The FSA system of central registration of food businesses will begin with the development of their online service, testing is taking place from May – September 2018 with further testing September – February 2019 with a view to being launched by March 2019. The suggested system by the FSA has been questioned and challenged at various forums and meetings that the FSA have held but there are still a large number of unknowns.

ROF also plans to change who is able to conduct food safety inspections in the UK in the future, which is also extremely controversial, and there may be a proposal to transfer responsibility for many food safety inspections and audits to private commercial firms by 2020, we have no further details at the current time.

The FSA also intend to step up the regime on Primary Authorities/National Inspection strategies (NIS), this will be published by the FSA, following pathfinding trials with six partnerships to test the concept of NIS in practice. The first version of FSA standards for Primary Authorities (PA) will be published in Summer 2018. These will then be tested in practice and partnerships with LA's in late 2018 and throughout 2019.

Primary Authorities (PA)

Basically this means that any food business or chain of food businesses can apply to have a 'Primary Authority'. Primary Authority is based on legal partnerships between businesses and an individual local authority of their choosing. Primary authorities provide advice to businesses that all other local authorities must respect, they can also produce their own inspection plan. Outside local authorities cannot take enforcement action against businesses who are signed up, registered and paid members of the scheme without extensive consultation, for example Co-Op have a Primary Authority which is Manchester City Council. We are unable to progress enforcement without following stringent time scales and rules.

National Inspection Strategies (NIS)

NIS is a negotiated agreement 'inspection strategy/form' between the PA (local authority) and the business, for example Co-Op. Local authorities are then only allowed to inspect the pre-agreed parts of the business/paperwork etc., whereas Thanet currently conduct full inspections on any high risk businesses in the Thanet area, particularly those with a 'history', the NIS does not take poor history into account or previous enforcement actions. We have no further details or timescales on the issue of NIS.

TDC Public Protection staffing levels

Staffing levels remain at 4 Officers. The Public Protection Manager's (EHO) role involves carrying out all of the duties the team are responsible for and also focuses on the auditing of officers work, ensuring accuracy and consistency leading to an accurate LAEMS return to the FSA, as dictated in the FSA external and internal audits.

Public Protection Auditing

Public Protection Officers work is audited 100% on inspections and this will continue in order to ensure consistency of scoring and to maintain standards of service delivery. Other duties are audited monthly, but as the team have progressed through audit feedback this auditing has been relaxed. All food officer's now have the NEBOSH Health and Safety Diploma and carry out limited health and safety duties.

Food Officer training 2018-2020

In 2016 the baseline qualification for Food Safety Officers was changed by the Food Standards Agency to include 'food standards' and 'food identification' modules which have never been required previously. A conversion course was designed for holders of the Higher Certificate in Food Premises Inspection (our officers have this) by the University of Birmingham. The new qualification is called The Higher Certificate in Food Control. Thanet Public Protection Officers managed to secure three of the very limited places for the first part of the course which was only provided by Birmingham University, they are awaiting the exam results. There is a second part still to be sourced, funded and completed.

Health and Safety at Work Enforcement/RIDDOR

Local authorities are responsible for statutory Health and Safety at Work duties according to the Health and Safety (Enforcing Authority) Regulations 1998, specific duties are divided between local authorities and the Health and Safety Executive.

Public Protection Officers have Health and Safety duties included within their core hours. The Public Protection Manager, as an EHO, is the lead on Health and Safety, in addition one officer spends 20% of their time on Health and Safety and the other two FTE's spend 10% of their time on health and safety complaint work and investigating RIDDOR reports.

Licensing of Caravan Parks

Public Protection Officers duties include health and safety inspections of local caravan sites for licensing purposes. A report has been produced regarding caravan sites in Thanet considering their characterisation/planning consent and comparing that information as to whether they actually meet the criteria as genuinely residential or non-residential sites. Residential site owners are afforded greater protection under The Mobile Homes Act 2013 and the residential sites are subject to fees for inspection by the Housing teams. A number of 'residential sites' have now been passed to the Housing team, but an in depth investigation has shown obvious anomalies, for example 'non residential sites' owners paying council tax. Unfortunately to progress this investigation further is proving difficult because legislation is not clear, or supporting of change or challenge. We will continue to monitor this situation and investigate the correct categories for these sites.

Public Protection intends to produce a Health and Safety Service Plan for 2018 – 2020 but the resources are food team resources and the document is planned to be completed by the end of 2018.

1. Service Aims Objectives & Priorities

1.1 Aims Objectives and Priorities

Aims

- The overall aim of the Food Safety Service is to ensure that food intended for human consumption produced, stored, distributed, handled or purchased within Thanet is without risk to public health and safety of the consumer.
- To encourage good practice amongst those responsible for preparing, handling and cooking food intended for human consumption, and to ensure they comply with their statutory obligations.
- To rate all premises under the Food Hygiene Rating Scheme (FHRS) enabling Thanet consumers to make informed decisions about where they consume food.

Objectives

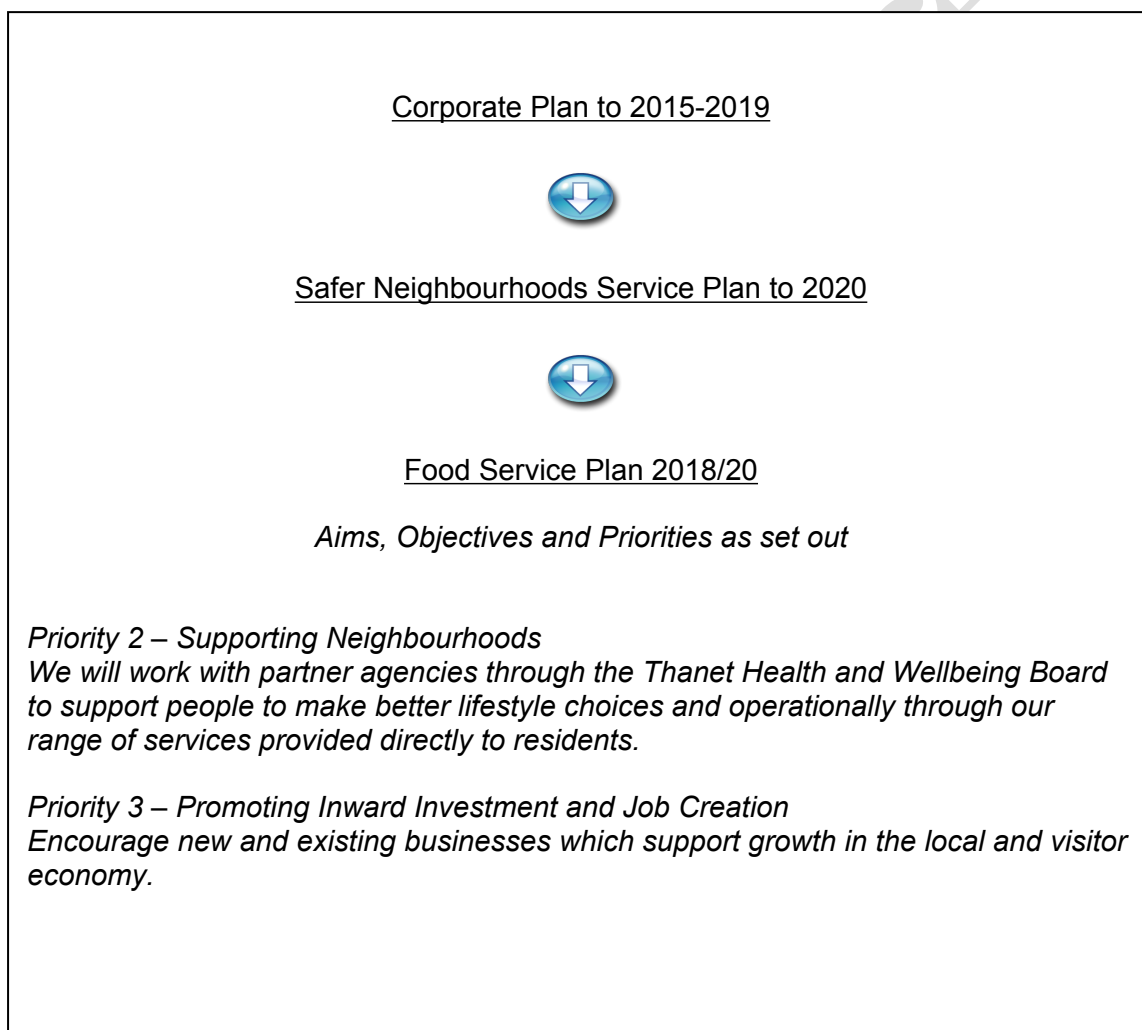
- To fulfil the statutory duty imposed on the Council under the Food Safety Act 1990 as 'The Food Authority' and ensure the effective implementation of Government Strategy on food safety issues, having regard to the most recent Food Law Code of Practice Issued by the Food Standards Agency and other practice guidance issued by government organisations.
- Protect the public as far as reasonably practicable by delivering a complimentary programme of education and enforcement which endeavours to ensure that food businesses are conversant with the law, understand the principles of hygiene and are operated and maintained at a standard that complies with relevant legislation.
- To satisfy statutory requirements and have effective documented and procedural systems to enable accurate returns to the Government, ensuring these are reviewed and updated with key legislative changes.
- To take appropriate enforcement action using an educative approach where appropriate, but closing premises through either voluntary means or Magistrates' Court where an imminent risk to health is found.
- To achieve the above objectives, the following priorities for the two year period 2018 – 2020 have been identified. The Food Service plan will be reviewed annually or more frequently if appropriate.

1.1 Priorities:

Thanet District Council priorities, response work and service improvements are listed below. The consequences of not satisfying statutory obligations can lead to Central Government putting in 'measures' to manage the 'The Food Authority', to enable statutory functions to be carried out and recharging the local authority the costs.

1.2 Links to corporate objectives and priorities:

The service plans in TDC link and support each other as shown below:



1.2.1 Programmed work

- Effectively deliver a comprehensive risk assessed inspection programme for all higher risk premises (Rated A, B and C).
- All food premises are considered as 'approved premises' on routine inspections and effective recording and monitoring system is put in place, both documentary and on the councils computer system for any premises that need approval. We currently have no 'approved premises' that fit the FSA criteria. For example a dairy farm.
- Develop and implement an alternative intervention programme including education, questionnaires and use of intelligence for some lower risk premises (Rated D and E).
- Carry out food hygiene rating re-rating inspections when requested by food business operators who have scored less than 5 at routine inspection.
- Carry out compliance re-visits and follow up visits to premises that have historical and/or ongoing compliance issues found during an intervention.
- Regularly review and update the Food Safety Procedure Manual. Develop and provide officers with guidelines/checklists to enable them to make consistent decisions in the field in line with current Government advice.
- Deliver a food sampling programme in accordance with County or National-wide programmes and sampling priorities.
- Monitor seaports for landing of third country imported foods, and ensure that landings of fish/shellfish are monitored and correctly registered in accordance with EU Legislation.
- Carry out a 100% audit of the inspections/revisits/complaint work carried out by the food team to ensure consistency, accuracy and efficiency.
- Carry out monthly checks of the LAEMS reports to ensure accuracy.
- Routine checks of the FHRS website for accuracy of published scoring and other information shown online compared to current data held.
- Routinely monitor the M3 database entries for local food businesses for accuracy and regularly carry out checks to cross-reference information against tourism websites/yellow pages/internal databases
- Implement the National Food Hygiene Rating Scheme as accurately and consistently as possible and using the Food Standards Agency Brand Standard when carrying out food hygiene rating inspections.

1.2.2 Response work

- Provide an effective response service able to deal proportionately with complaints regarding food hygiene
- Provide an effective service for new business enquiries, to include providing new businesses with written advice and guidance to help achieve compliance and drive up standards in the district.
- Provide an effective response service able to deal proportionately with incidents or outbreaks of food poisoning or other notifiable diseases.
- Ensure all new and emerging food businesses are registered and are assessed and receive a full initial inspection.
- Respond within appropriate timescales to FSA food alerts and withdrawals.
- Provide other advice and information to both the public and businesses within available resource.

1.2.3 Service improvements

- Expand on officer training as appropriate to ensure a consistent approach to food related enforcement within the district.
- Carrying out peer review and consistency exercises with all food team members as required by the Food Standards Agency.
- Put procedures in place to improve the consistency and accuracy of data held on the M3 data base.
- Seek to improve the safe and effective sharing of information within the Council and with external agencies, according to the Data Protection Act 2018 and General Data Protection Regulations 2018.
- Expand the intelligence based checking of food businesses visiting from outside the local authority area and show a presence at small and large scale public events. Share information and intelligence with other local authorities.
- Continue monthly accountability meetings with the Head of Safer Neighbourhoods to improve performance and management of food team activities.
- Ensure that out of hours inspections are up to date and carried out at a frequency stated in the Food Law Code of Practice.

- Take a pro-active approach to any imported food duties and accurately recording those activities for the LAEMS return.
- Promote food safety and monitor food businesses through the use of social media. To improve and make best use of online presence through the new Thanet Council website and using the Food Team Facebook page.

1.2.4 Service Reviews

- Review, update and then maintain officer training programmes, internal e-Learning courses to assist with the competency of Food Enforcement Officers who must achieve a minimum CPD of 20 Hours per annum.
- Review the procedure manual in full during 2018 to ensure that all references to documentation, practice guidance and other material is up to date and accurate.
- Carry out monthly 1:1 meetings as well as team meetings between Public Protection Manager and Public Protection Officers to ensure consistency.
- Review the work required in relation to the Port of Ramsgate for ferry and cargo services ensuring any requirements under the Food Law Code of Practice are met.
- Review the procedures in relation to the principles of Regulatory Delivery and Primary Authority as set out in the Regulatory Enforcement and Sanctions Act 2008 to ensure that requirements are being met.

2. Background

2.1 Profile of Thanet District Council

The District of Thanet comprises a mixture of rural and urban coastal resort communities with a population of approximately 143,941 in an area of 112 km sq. making it the second most densely populated district in Kent. Principal population areas are the resorts of Margate, Ramsgate and Broadstairs alongside a number of smaller villages. Thanet is one of 13 local authorities in Kent sharing some services with Dover and Canterbury Councils and is located on the South East Coast neighbouring the City of Canterbury to the West and the Port of Dover to the South West.

The area is recognised as deprived with low social mobility and an ageing population which is predicted to grow at a higher rate than elsewhere in the County. Six of the ten most deprived wards in Kent are in the Thanet area. This level of deprivation is evident in the significant difference in life expectancy of 11 years between the most affluent wards in Broadstairs and the most deprived ones in Central Margate.

The main industries were Ramsgate New Port, Kent International Airport, Manston, closed since 2014; light industry and tourism. The Port has been largely inoperative since 2013 however it is hoped that some services will resume in the future. There is a retail and food area at Westwood Cross on the borders of Broadstairs and Margate. Due to its history as a resort area, the district has an above average number of food premises; many of them meet the criteria for high risk which presents a challenge for the food safety enforcement function.

The Public Protection Team is based at:

Thanet District Council
P O Box 9
Cecil Street
Margate
Kent
CT9 1XZ

Telephone number: 01843 577000
Environmental health: 01843 577423

E-mail: environmental.health@thanet.gov.uk

Thanet District Council can be contacted via telephone or at the Gateway offices as follows:

Mon – Fri 08:45am – 5:00pm

An out of hours contact is available 24 hours for emergency contact.

2.2 Organisational Structure

The Council operates on a Leader and Cabinet system with lead members delivering specific portfolios as follows:

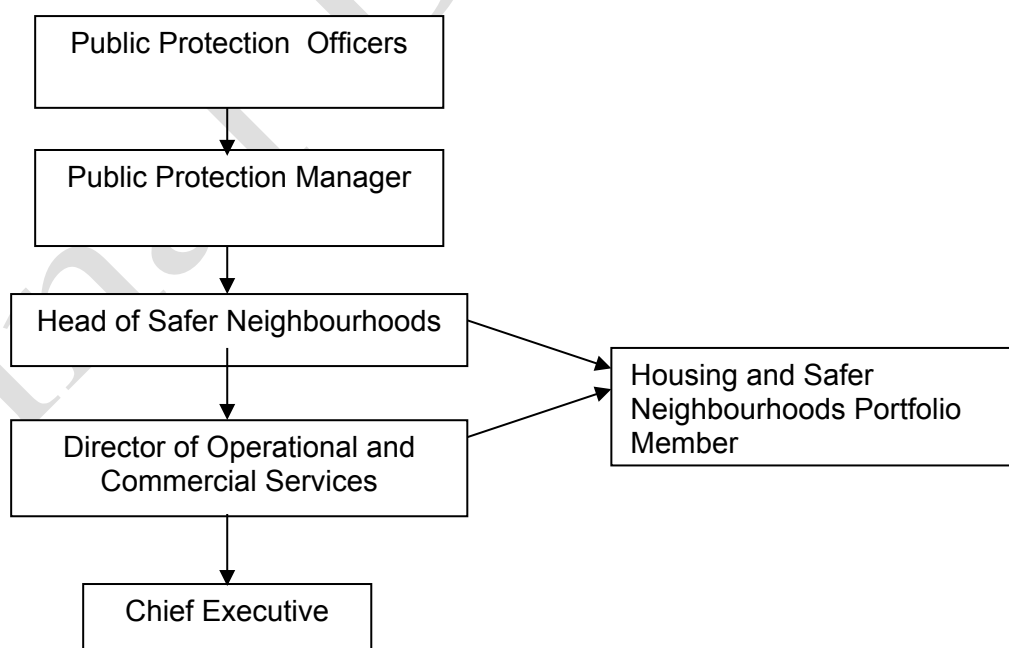
Cllr. Robert W Bayford is Leader of the Council.
Cllr. Jason Savage is Deputy Leader.

The Cabinet posts for the council year 2018 are:

Portfolio	Cabinet Member
Cabinet Member for Housing and Safer Neighbourhoods	Cllr Lesley Ann Game
Cabinet Member for Operational Services	Cllr Jason Savage
Cabinet Member for Financial Services and Estates	Cllr Ian Gregory
Cabinet Member for Corporate Governance and Coastal Development	Cllr Ash Ashbee

The Food functions are considered to be part of Housing & Safer Neighbourhoods portfolio and Cllr Lesley Ann Game is the relevant portfolio member. Her main contact is with Penny Button, Head of Safer Neighbourhoods.

The key reporting lines for the flow of food safety/health and safety issues are:



Specialist appointments

The food team are supported in delivery of their functions by the following specific appointments:

Public Health England Infectious diseases	Directors of HPA	Kent Health Protection Unit Kennington Road Ashford Kent
Public Analyst	General lab	Kent Scientific Services 8 Abbey wood Road Kings Hill West Malling Kent
Food Examiners	Government lab	FW&E Microbiology Lab (Collindale) London, 61 Collindale Avenue London NW9 5 EQ
Food Examiners	Shellfish Port Health samples	CEFAS Lowestoft Laboratory Pakefield Road Lowestoft SUFFOLK
Fish Inspectors	Internal appointments	Debbie Huckstep TDC

2.3 Scope of the Food Law Service Plan

The Public Protection Team are responsible for the following statutory duties:

- Implementing the proactive programme for food hygiene interventions and subsequent revisits for food premises
- Investigating the possibility of premises requiring 'Approval' at the time of inspection.
- Investigating reported cases of food poisoning and potential outbreaks in accordance with Public Health England (PHE) guidance and framework agreement
- Imported Food Controls at Ramsgate Port
- Investigating requests for service (complaints) regarding the hygiene of food premises, or food safety issues relating to foods purchased or produced in Thanet
- Registration of new food premises
- Responding to food alerts from the FSA
- Health and Safety enforcement duties (Health and Safety at Work Act 1974)
- Development and maintenance of partnerships and liaisons to the furtherance of the Food Service
- Providing the Food Standards Agency with statistical returns
- Carrying out enforcement of inland imported food/controls

And non-statutory duties:

- Provision of training, advice and support to existing and prospective food business operators and the users of the service
- Delivering a food sampling programme in line with national and regional programme and priorities
- Implementing projects and campaigns within available resources that promote good food hygiene
- Maintaining the database regarding food premises
- Delivering the National Food Hygiene Rating Scheme

2.4 Demands on the Food Service

As at April 2018 there are 1359 Food Premises in Thanet the District Council area. The following tables provide more detail regarding premises types and risks:

2.4.1 Establishment numbers by Groups (April 2018)

Description (MAFF Code)	No. of premises
Producers (A)	0
Manufacturers/Processors (C)	13
Importers/Exporters (E)	1
Distributors/Transporters (F)	13
Supermarket/Hypermarket (G01)	25
Smaller Retailers (G02)	179
Retailers Others (G03)	62
Restaurant/Canteen (H01)	360
Hotel/Guest House (H02)	46
Pub/Club (H03)	158
Take-away (H04)	135
Caring Establishment (H05)	140
School/College (H06)	71
Mobile Food Unit (H07)	25
Restaurant/Caterer – others (H08)	131
GRAND TOTAL	1359

2.4.2 Establishment numbers by risk groups (April 2018)

Risk Rating	Number of premises
A	2
B	5
C	152
D	763
E	430
F	0
Not categorised	7
TOTAL	1359

2.4.3 Inspection frequency

In accordance with 5.6 of Food Law Code of Practice the food hygiene intervention frequencies are as set out below:

Category	Score	Minimum intervention frequency
A	92 or higher	At least every 6 months
B	72 to 91	At least every 12 months
C	52 to 71	At least every 18 months
D	31 to 51	At least every 24 months
E	0 to 30	A programme of alternative enforcement strategies or interventions every 3 years

2.4.4 Inspections due per annum

Category	No of premises	Inspections per annum
A	2	4
B	5	5
C	152	101
D	763	382
E	430	143
No Cat	7	7
Total	1359	642

2.4.5 Inspections - Categories A-E

642 planned inspections per annum

(Total working days per year per FTE officer: 216 days; for time available see table 2.4.7)

Allocation of inspections to officers is by way of a rotating bi-annual geographical area, with an average of 165 inspections allocated per officer, per annum, the number of inspections fluctuates per season/per year. Officers split their time between inspections and non-inspection food responsibilities, with Category A and B food inspections being priority. Health and Safety work is split geographically and combined with food inspections where possible.

2.4.6 Non inspection Food Responsibilities:

- Port Health function – monitoring of Ramsgate Port for imported food
- Shellfish monitoring and registration documentation (whelks)
- Monitoring of Thanet events for food traders
- Street auditing for premises changes
- Complaints regarding food premises
- Infectious disease notification work
- Projects and Campaigns
- Reviewing internet/social media sites for intelligence

(Health and Safety duties)

- Health and Safety inspections and complaints
- Attending inquests
- Caravan licensing inspections
- Health and Safety admin
- RIDDOR investigations

2.4.7 Staffing Resource – Public Protection Team

EHO Environmental Health Officer x 0.8 from 1st April 2018
 PPO Public Protection Officer x 3 from 1st April 2018

Task	PPM EHO x 80% FTE DH	PPO (Qualified) x 1 FTE MAK	PPO (Qualified) x 1 FTE SH	PPO (Qualified) x 1 FTE EW
Deduction for Statutory Health and Safety Duties	10%	10%	20%	10%
Auditing officers work	25%	-	-	-
HR/Occ health/pay	10%	-	-	-
Allocation and monitoring of workload	20%	-	-	-
Inspections A-E	10%	50%	45%	50%
Ramsgate port – whelk traceability		2.5%	2.5%	2.5%
Events	2.5%	10%	2.5%	2.5%
Routine Sampling				
Street Auditing	2.5%	5%	5%	5%
Complaints	10%	10%	10%	10%
Caravan Parks		5%	5%	10%
Infectious Disease work	5%	2.5%	5%	5%
Training	5%	5%	5%	5%
TOTAL	1 x 100%	1 x 100%	1 x 100%	1 x 100%

2.5 Regulation Policy

The Council adopted the enforcement concordat for all appropriate services on 11th June 1998. The Food Law Enforcement Plan has been developed in line with best practice and advice/guidance from the Food Standards Agency (FSA) and LACORS.

3. Service Delivery

3.1 Food Premises interventions Statement (Statutory Duty)

The interventions programme for food premises on Categories A, B & C premises forms the core activity of the Food Safety Team. The programme of interventions which is detailed in Annexe 2 has been prepared to meet the aims, objectives and priorities summarised in paragraph 1.1 of this document in line with the Food Law Code of Practice (England).

3.1.1 Intervention reports: (FSA Food Law Code of Practice FLCOP)

Checklists and aides-memoire are used at each inspection for consistency purposes, depending on high risk or low risk premises, and are used at the end of the inspection to produce a hand written report of the officer's findings. A copy of the handwritten report is left with the FBO so it is clear what they have to do and within a specified timescale. Where there are a number of serious contraventions, a holding report is left and a typed full inspection report is delivered/emailed/posted.

3.1.2 Types of interventions:

Full inspections/ Partial Inspections/ Audits. (Statutory duty)

The presumption is that enforcement officers in all cases will undertake full inspections of all parts of the premises. However, there are options available for partial inspections and audits. Officers, after researching the previous history of the premises, may decide to carry out a partial inspection. The options are considered in a little more detail below:

Full Inspection: (FLCOP)

This is a check on compliance with legal requirements in accordance with elements set out in the Code. A full inspection will consider all aspects of a food business including structure, food safety management and management arrangements.

Partial Inspection: (FLCOP)

An inspection that covers only certain elements of the inspection as laid down in Section 4.2.2 of the Code. Partial inspections have been tried but do not assist us in scoring for the FHRS, they are rarely appropriate in premises other than multi-nationals, where the documented system is generic, tried and tested.

Planned audits (FLCOP)

An audit may be undertaken instead of a partial or full inspection, where any food business operator, including those providing a high risk business has put in place an acceptable documented food safety management system (addressing Article 5 Regulation 852/2004). Details of the system will be required in advance of the audit so the Officer can plan the appropriate audit, these are rarely appropriate in our District.

The audit may include one or more of the following elements (FLCOP)

- Complete audit of the food safety management system
- Audit of selected elements of the food safety management system where the system is complex
- Partial Audit concentrating on a particular produce

- Operational audit concentrating on certain arrangements such as temperature monitoring.

3.1.3 Revision of intervention rating: (Statutory duty)

On completion of the food inspection, partial inspection or audit the officer will revise the intervention rating of the establishment in accordance with Annexe 5 FLCOP. The FHRS rating is also awarded based on this scoring, records of the inspection are left with the FBO at the conclusion of the inspection, the premises may be scored at the end of the inspection on site or may be scored once the officer has returned to the council offices, in the latter case the food business will be notified on the inspection report.

3.1.4 New premises (FLCOP) (Statutory duty)

TDC responds positively and supportively to new food businesses which approach the authority prior to starting up. In response to initial enquiries they will receive as a minimum verbal advice, usually by telephone along with a registration form and advice on where to find the FSA 'starting up' booklet on the FSA website. The team are part of a Kent wide food group exercise to provide 'information packs' for new businesses. An initial advisory visit may be provided in exceptional circumstances, the preferred method is to visit the premises after a food registration has been received so that the advice given can be recorded on their entry on M3, which may avoid disputes on what was said at the time, if a pre-inspection visit does take place, a written record of what was agreed at the time is left with the FBO. There is an obligation to register the food premises 28 days before any food activities take place.

In all cases, new registrations will be recorded onto the M3 data base once received and then an initial full inspection will take place.

3.1.5 Routine planned inspections – high risk premises (A and B rated) (FLCOP) (Statutory duty)

The preferred method for A and B premises is to carry out a full inspection, unless a partial one or audit has been decided after reviewing the premises history. All such interventions are identified as appropriate by the FLCOP.

3.1.6 Planned interventions medium risk (rated C) (Statutory duty) (FLCOP)

Until an establishment is considered to be 'broadly compliant' an intervention will comprise either a full inspection, partial inspection or audit as defined above at the frequency identified by Annexe 5 FLCOP.

Once it is considered to be broadly compliant, planned interventions may alternate between inspections, partial inspection or audits and other official controls as defined in the Food Law code of practice and listed below and defined in Annexe 3:

- Monitoring
- Surveillance
- Verification
- Audit
- Sampling for analysis (more than just a visit to collect a sample)

Broadly compliant is defined as:

Either an establishment that has an intervention rating score of not more than 10 points under each of the following three parts of Annexe 5:

Part 1 – Hygiene& Safety

Part 2 - Structure

Part 3 - Confidence in Management

3.1.7 Planned interventions low risk premises (rated D) (Statutory duty) (FLCOP)

Interventions can alternate between an official control and an intervention that is not an official control, (for example a questionnaire) the frequency will remain that established by the Food law Code of Practice Annexe 5. Category D establishments that are also rated 30 or 40 for 'type of food and method of handling' must be an inspection, partial inspection or audit. Interventions such as questionnaire, although a useful resource saving method, are often not appropriate because the premises cannot be rated for the FHRS without an inspection.

3.1.8 Planned Interventions low risk premises (rated E) (Statutory duty)

Premises in this category will be subject to alternative interventions at least once every three years in accordance with the Food law code of practice. These are not considered useful methods by TDC because the premises cannot be rated for the FHRS without an inspection

3.1.9 Alternative Enforcement Strategies (Statutory duty) (FLCOP)

Premises in this category (E) can be subject to alternative interventions at least once every three years in accordance with the Food law code of practice, unless the premises is subject to Approval. These are not considered useful methods by TDC because the premises cannot be rated for the FHRS without a full inspection

3.1.10 Large scale public events

To improve the prospects for Thanet, the Council is concentrating on regeneration and bringing in more investment. Alongside this a lot of emphasis is placed on putting on events to bring in tourism. These will range from small and local events to major show case events such as 'Broadstairs Food Festival'. There are between 50 – 100 events planned during the year which will have TDC involvement either because they are on Council land, or are arranged by Parish or Town Councils or have food businesses in attendance.

The Public Protection Team have a system in place to respond to such events and carry out risk based desk top assessments using the information requested from event organisers 28 days before the event take place. Some events are spot checked by food officers on a regular basis to match the desk top data against premises are on site.

3.2 Food complaints (Statutory duty)

All incoming complaints are directed to the Public Protection Manager to audit and passed to the officer who deals with the geographical area if it requires further action. The officer considers following key criteria:

- Implied or actual risk to public health – public health significance
- Justification/seriousness or likely impact of the complaint
- Likely recurrence in the future
- Number of complainants
- Number of people potentially at risk
- History of premises from which food was produced/purchased/consumed etc.
- Last inspection details if relevant
- Date of next scheduled inspection

All complaints will be considered and will have a response within 3 working days, dependant on resources. Anonymous complaints are not accepted. This may comprise a phone call or a letter or email dependant on the nature of the complaint and the outcome of the assessment.

Complaints regarding suspected food poisoning receive a standard letter which explains the onset times and the criteria of sampling through a GP or hospital to confirm food poisoning. The information provided in this letter is very comprehensive and educative.

Complaints are investigated according to risk and the information provided. If a visit is warranted, where possible the next inspection will be brought forward and carried out at the same time as the complaint visit. Complaints are dealt with by officers, and changes to inspection frequency are supervised by the Public Protection Manager. Complaints are part of the PPM's audit.

3.3 Primary Authority Scheme (Mandatory)

We recognise the Better Regulation Delivery Office 'Primary Authority Scheme'. Inspection plans will be followed where required and it is expected that contact will be made with Primary Authorities as explained in the introduction where advice or enforcement action is considered, before action is taken against those premises who have a Primary Authority.

Primary authority partnerships are available to any business that trades across two or more council boundaries, regardless of size. Primary Authority partnerships are legally nominated by the Better Regulation Delivery office and partnerships are automatically recognised by all local regulators.

3.4 Advice to business (mandatory & corporate plan)

The service is committed to ensuring that advice and support is available to all food businesses in the District when requested. The key ways this is provided is through

TDC Website	Reviewed quarterly to ensure accuracy and usefulness of data
Leaflets/ Booklets	Use is made of FSA website, starting up booklet and SFBB booklets
Verbal advice.	This is absorbed into routine work and will take place either in the case of routine official interventions or resulting from business enquiries for new or changed premises
Global advice	TDC and Kent have developed factsheets for businesses which incorporate all of the departments and outside agencies that are involved in starting up a food business and explains their role. Most contact from businesses is regarding starting a new business or changes to an existing business.

3.5 Food sampling

We take part in both the UK National sampling programme and shellfish sampling as appropriate.

Routine samples

Within resources, TDC will take samples to meet the UK and County wide sampling programme based normally on the priorities set by Public Health England and the Food Standards Agency.

Environmental Swabbing

Environmental swabbing of food premises is a proven, cost effective, enforcement tool. Swabs can be tested for *E Coli* 0157 and other coliforms. The results can clearly demonstrate serious lapses in cross contamination control, personal hygiene and faecal contamination, all areas that can be difficult and time consuming to evaluate during routine inspections.

Following the FSA Audit in 2011, a sampling programme was said to be 'crucial in protecting public health', and Thanet have now been actively taking part in local and national sampling since January 2014. Procedures are based on the Kent Sampling procedures.

3.6 Infectious Diseases control and investigation (Statutory duty)

Officers investigate food related infectious disease notifications in accordance with the documented procedures, which are reviewed regularly. The primary objective of every investigation is to identify the cause of infection and prevent any further spread. One officer carries out the administration and investigation of notifications.

Response times and the nature of response are all set out in the procedures documented in the 'Public Health England South East Single Case Plan for Kent and Medway Environmental Health Teams and Ashford Health Protection Team'.

Officers liaise with Public Health England, a number of 'Proper Officers' are currently appointed under the Public Health Act 1984 and Section 47 of the National Assistance Act 1948 (as amended).

A GCSX secure mailbox is used to ensure confidentiality of the health information being provided to TDC and is a requirement of the agreement between PHE and Local Authorities.

3.7 Food Alerts/Incidents (Statutory duty)

A food incident is considered to be any event where, based on the information available, there are concerns about actual or suspected threats to the safety or quality of food that could require intervention to protect consumers' interests. TDC received routine reports of Food Alerts which in most circumstances do not require additional input from the enforcement officers; they are dealt with as part of normal duties.

3.8 National Food Hygiene Rating Scheme

In April 2011, the Food Standards Agency made representations to all Local Authorities on the implementation of the National Food Hygiene Rating Scheme. TDC's Corporate Management Team made the decision that Thanet will implement the National Scheme as long as there was minimum cost to the LA.

The Food Hygiene Rating scheme makes it easier for consumers to choose places with good hygiene standards when they're eating out or shopping for food. The food hygiene rating tells them about the hygiene standards by awarding a 'star rating' which is shown by way of standard stickers. The same stickers are used across the whole of the UK, by participating local authorities.

Thanet's scheme was launched in April 2012, alongside most other Kent authorities. The scheme is working well in Thanet with a small number of businesses asking for re-rating visits.

3.9 Liaison with Other Organisations

The team works in partnership with other organisations to deliver services, some examples are given below:

External Partnerships/Liaisons

Customs and Excise (HMRC) & UKBA	Imported Foods and potential Fraud
Association of Port Health Authorities (APHA)	Imported Food, air and sea port
Kent Environmental Health Managers (KEHM) Food Technical Working Group	County-wide liaison group for all food safety issues with representatives from the Health Protection Agency and Trading Standards as well as local Authorities.
CEFAS	Government Laboratories for Shellfish and Imported Food issues
Thames Port (City of London)	Port Health, advice and support
Trading Standards	Food complaints, Port Health
Food Standards Agency	Wide range of advice and support
Public Health England (PHE)	Outbreak control or advice
Food Sampling Group and Labs	Food sampling
Kent Infection Control Committee	Infectious disease investigations
Kent Food Group	Consistency meetings/Policy
Health and Safety Executive	RIDDOR/Gas Safety/Electricity at Work
CIEH	Chartered Institute of Environmental Health

Internal Partnerships

External partnerships and liaisons are good; the sharing of information with internal partners is improving. Particularly important partnerships include the Events team, Licensing Department, Building Control, Estates Team and Planning Department who make the best use of shared intelligence, all within FOI and data protection criteria. Since 2016 partnership work with the Community Safety Unit has increased.

3.10 Promotional Work

The overall resources available to the Public Protection Team have reduced since 2016, all working practices have been frequently reviewed and in turn, this has streamlined activities like promotional work, which is now based on FSA promotions.

4. Resources

4.1 Financial Allocation

Following the March 2018 restructure, the budgets for the Food Safety function are managed by the Head of Safer Neighbourhoods.

4.2 Staffing Allocation

The resources for Food Safety are currently:

Staff resource	Number (FTE)
Public Protection Manager	0.8 FTE
Public Protection Officers	3 FTE
Health and Safety Officer	0
Support (admin)	0
Total	3.8 FTE

4.3 Qualifications and competence

From 6th April 2016 the non-EHO Qualifications and competency for food officers was changed by the FSA. As well as Lead Officers and Authorised officers possessing the baseline qualification (Higher Certificate in Food Premises Inspection) or equivalent Officers must now complete a 'bolt on course' which leads to the new qualification of 'Higher Certificate in Food Control'. In addition Managers must consider the relevant competencies needed for their roles and build that into their personal development and reporting cycle. (Food Law Code of Practice Chapter 4). All Food Officers must also maintain 20 hours a year CPD, which is audited by the Chartered Institute of Environmental Health.

Annexe II of Regulation (EC) 882/2004 outlines the subject matters for the training of staff performing official controls. 10 hours of the core CPD must include at least one of the following elements:

- Different control techniques, such as auditing, sampling and inspection
- Control procedures
- Feed and Food law
- Different stages of production, processing and distribution and the possible risks to human health.
- Assessment for non-compliance
- Hazards in animal, feed and food production
- The evaluation of the application of HACCP procedures
- Management systems such as quality assurance programmes
- Official certification systems
- Contingency arrangements
- Legal proceedings
- Examination of written, documentary material and other records

- Any other area, including animal health and welfare

The qualifications required for types of establishment within the TDC area require the following officers/qualifications:

Establishment type or Action	Officer/Qualification
All establishments requiring inspection at intervals of 12 months or less (A & B rated)	HCFC/ EHO or Officer with Higher Certificate in Food Premises Inspection with 1 years' experience.
Approved premises – those requiring inspection under Regulation 853/2004	HCFC/EHP or Higher Certificate in Food Premises Inspection And with detailed knowledge of enforcement in approved establishments. If no experience, must be accompanied by experienced officer
Service of Improvement Notices (Reg 6)	HCFC/ EHP or Officer with Higher Certificate in Food Premises Inspection and one year's experience
Service of Prohibition Notice (Regulation 8)	HCFC/ EHP plus 2 years post qualification experience in food (only with PP Manager/Head of Safer Neighbourhoods agreement)
Service of application for closure order to Magistrates Court	EHO Food Safety Specialist with 2 years experience (PPM)

Qualifications – Food Law Code of Practice

Higher Certificate in Food Control (Baseline):

- The Environmental Health registration Board (EHRB)
- The Scottish Food Safety Officers Registration Board (SFSORB)

Baseline Equivalent Qualifications (EHO or Diploma):

- Certificate of Registration of the Environmental Health registration Board (EHRB) or
- Diploma in Environmental Health (or its antecedents) awarded by EHRB or the Royal Environmental Health Institute of Scotland (REHIS)

The Higher Certificate in Food Premises Inspection may be awarded by one of the following:

- The Environmental Health registration Board (EHRB)
- The Scottish Food Safety Officers Registration Board (SFSORB)
- The Institute of Food Science and Technology (IFST)

Agenda Item 8

Annex 1

The staffing establishment in April 2018 when this document was prepared, included the following officers whose qualifications are indicated in the table below:

Officer	Qualifications	CPD notes
Deborah Huckstep, Public Protection Manager (EHO)	MSc Environmental Health 2009 NEBOSH: General Certificate 2009 FSA Official Fish Inspector March 2006 EHORB Registration 2009	20 hours required p.a. (10 core)
Mark Kennedy Public Protection Officer	Higher Certificate in Food Premises Inspection 1998 NEBOSH: National Certificate 2016 EHORB Registration 1998	20 hours p.a. (10 core)
Simon Hogben Public Protection Officer	Higher Certificate in Food Premises Inspection 2014 NEBOSH: National Certificate 2016 EHORB Registration 2014	20 hours p.a. (10 core)
Emily Whittaker Public Protection Officer	Higher Certificate in Food Premises Inspection 2015 NEBOSH: National Certificate 2017 EHORB Registration 2015	20 hours p.a. (10 core)

4.4 Staff development plan

As at April 2018 the appraisal scheme has been changed and no longer incorporates the pay for contribution element. 3 Objectives are set annually and 1:1 meetings arranged monthly, together with monthly team meetings. The appraisal scheme includes new staff development plans, improved training plans and encourages meeting attendance. Documentation of training qualifications and training courses attended are now recorded and contribute to the issue of authorisations for officers, to consider competence.

4.5 Training and Development

There is no specific training budget for food team officers. Officers have the opportunity to apply for funding for specific courses that would aid their development, as well as ample time off and opportunity to attend FSA food courses. The Food Standards Agency had highlighted this issue and the consideration of a specific budget was considered and not agreed by TDC, the FSA have now withdrawn funding for training courses.

In 2018 Public Protection Officers will attend the University of Birmingham and undertake a conversion course which on successful completion will award them the Higher Certificate in Food Control (the new baseline qualification). This will enable better use of staff resources and allow officers to carry out a wider range of official controls.

Funding has not yet been agreed for the second part of the course.

5. Quality Assessment and internal monitoring

The team is placing considerable emphasis on its effectiveness and accuracy within its available resources. This makes 'getting it right first time' and 'Making every inspection count' particularly important (FSA).

Following the FSA Audit recommendations, an auditing regime based on the FSA document 'Making every inspection count' has been established and has been operational since January 2014. Carrying out the following audits:

- 100% desktop audit of the officers inspections recorded on a control sheet checked against the inspection report, completed inspection checklist, to ensure that the Annex 5 scores, the FHRs scores and the chosen star rating agree and are correct, as well as the FHRs status and whether the premises should be included in the scheme. Consistency is considered with regards to the scores and compared against other officers scoring. This audit is signed off by the Public Protection Manager before the administration team input any information and scoring onto the database, hence the database scoring and FHRs scoring is correct, and the correct FHRs sticker is sent out, this gives protection to the database, as well as the resulting LAEMS return.
- The PPM's targeted auditing is documented and the results passed to the Head of Safer Neighbourhoods for review (**targeted auditing**) areas are prioritised according to the FSA audit and issues arising from daily activities.

PPM's general audit includes: 100% audit of all inspections within 48 hours of inspection and

- Inspections due and carried out within 28 days (**targeted auditing**)
- Intervention anomalies (**targeted auditing**)
- Complaints anomalies (**targeted auditing**)
- Premises scoring
- Premises risk group categories
- Evening visit arrangements
- Fortightly upload of FHRs scores to FSA website
- Scores randomly checked on FSA website (**targeted auditing**)
- Correct risk ratings
- Contraventions identified correctly
- Written warnings annotated for input
- Port health – any imports (**targeted auditing**)
- Whelk documentation checks carried out (**targeted auditing**)
- Authorisations reviewed (monthly auditing)
- Revocations completed

6. Review Process

The Food Law Enforcement Plan is reviewed once per year but will be reviewed according to changes regarding BREXIT and ROF.

Annexe 1: Food Service Enforcement Policy

Food Law Enforcement Objective

It is council policy to strive to ensure that food and drink intended for sale for human consumption, which is produced, stored, distributed, handled or consumed within the district is without risk to the health or safety of the consumer.

The Aim of this Policy

- To ensure a consistent approach to food related enforcement within the district;
- To provide officers with guidelines to enable them to make decisions in the field, consistent with current Government advice;
- To inform the public and food businesses of the principles by which enforcement action is taken.

Enforcement

Purpose of food hygiene inspections

- To establish whether food is being handled and produced hygienically;
- To establish whether food is, or will be having regard to further processing, safe to eat;
- To identify foreseeable incidences of food poisoning or injury as a consequence of consumption of food;
- The identification of breaches in hygiene or processing legislation will be incidental to the above aims.

Factors influencing the enforcement approach

- An authorised officer has a range of options available in seeking to ensure the above aims are met. These range from the giving of advice and verbal warnings, to the service of statutory notices, or prosecution or closure of premises.
- This authority has signed the Enforcement Concordat and has adopted a graduated approach to enforcement as described in that document. As the first step towards securing compliance, an authorised officer will adopt an educative approach and discuss the requirements of the legislation relating to hazard analysis and the supervision and instruction and/or training with the food business operator.
- This authority will have regard to the BRE Regulator Compliance Code of Practice (attached as Appendix 1) in the conduct of its enforcement work.
- The Food Law Code of Practice (England) gives guidance on the appropriate use of the available procedures. This authority strictly follows advice issued by central government departments and authorised officers are required to follow this enforcement policy.
- Departures from this policy must be exceptional and the reasons will be documented.

- Enforcement action will be proportionate to the risk to public health arising from the contraventions identified. Combinations of formal notice and informal advice may be appropriate.
- Decisions on appropriate enforcement action will be taken based primarily on an assessment of risk to food safety and public health, but will also be influenced by the history of compliance by the food business operator with food safety legislation and his willingness to remedy contraventions.
- This authority has regard to the Primary Authority Agreement principle and will consider whether a relevant Primary Authority should be consulted before giving detailed advice or taking enforcement action.
- This authority recognises that some organizations, including voluntary and charitable ones operated by volunteers will need help and guidance to understand food safety requirements and an informal approach will be used where public health is not compromised.
- This authority recognises that many businesses in the District are small and family run on a tight budget. Consideration will always be given to low-cost solutions to contraventions, as long as this does not present a threat to the public health.
- This authority recognises that many businesses are seasonal and operate out of normal office hours and will need inspection and advice during these trading hours.
- This authority recognises that English is not the first language of many traders in its area and will take care to ensure its enforcement actions are clearly understood in an appropriate language wherever possible.
- Where there is a shared or complimentary enforcement role this authority will consult with those other enforcement agencies to ensure that the proposed action is consistent with the policies and actions of that other authority. An example would be consultation with Trading Standards over sampling programmes or the labelling of foodstuffs.
- Enforcement action taken by this authority will take into account the requirements of other departments of the Council and of other teams within the Environmental Services department to ensure consistency of action.
- Before taking action that the authority believes may be inconsistent with that taken by other food authorities, it will first discuss the area of difficulty with those bodies through the Kent Technical Food Group.

Legal Safeguards influencing the Enforcement Approach

- The Regulation of Investigatory Powers Act 2000 as amended by Investigatory Powers Act 2016

Any covert surveillance which is conducted as part of any investigation of any case which falls within this policy, will comply with the Regulation of Investigatory Powers Act 2000 (RIPA) & Investigatory Powers Act 2016, in that covert surveillance falling within RIPA will be authorised and conducted in accordance with the statutory framework and any Code or Codes made there under.

- The Human Rights Act 1998 and the European Convention on Human Rights

The Human Rights Act 1998 (HRA) makes it unlawful for a public authority to act in a way that is incompatible with the European Convention on Human Rights (ECHR). This policy will be implemented taking into account the legal and procedural implications of both the HRA and the ECHR.

Related Documents:

- The Code for Crown Prosecutors (available from: The Crown Prosecution Service, Information Branch, 50 Ludgate Hill, London, EC4M 7EX,
- Criminal Procedure and Investigations Act 1996 (CPIA)
- Police & Criminal Evidence Act 1984 (PACE), and associated Codes
- Internal Procedure and Policy of TDC
- Statutory Code of Practice for Regulators, December 2007: Department of Business Enterprise and Regulatory Reform.

Qualification and Authorisation of Officers

- No officer will carry out food hygiene inspection and enforcement duties unless suitably trained and experienced and authorised in writing by the Head of Safer Neighbourhoods.
- High risk premises (categories A and B), all food manufacturers and processors classified as substantial and premises approved under product specific legislation will only be inspected by qualified Environmental Health Officers, or Food Safety Officers holding the Higher Certificate in Food Premises Inspection/Food Control.
- Officers will be authorised to sign Hygiene Improvement Notices only for premises within the categories for which they are qualified.
- Hygiene Emergency Prohibition Notices and voluntary closure agreements will only be signed by specifically authorised officers, having a minimum of two years post-qualification experience of food safety enforcement and currently involved in

food safety enforcement. Only officers holding specific food inspection qualifications will be authorised to inspect, detain or seize foodstuffs (EHO).

- Only officers holding specific food inspection qualifications and specific imported foods training will be authorised to inspect, detain or seize imported foodstuffs.
- Newly qualified officers will only be authorised after a minimum of 6 months of structured practical training in enforcement procedures at the appropriate level.
- Continuing professional development training will be provided for all food safety officers to enable them to keep abreast of changes in legislation and good practice and meet the requirements of the Food Law Code of Practice
- Officers will be fully acquainted with the requirements of this Enforcement upon appointment and with any revisions as they arise.

The Informal Approach option

- The existing procedure of giving advice and informing of minor contraventions by informal letters is accepted and understood by Thanet's food businesses. Officers will use this approach as long as they believe that this will achieve compliance with food safety legislation within a time-scale that will protect the public health and ensure safe food production.
- An authorised officer will be prepared to offer advice where this is requested by the operator of an existing or new food business, and will seek to encourage food businesses to adopt good food hygiene practice through this approach.
- This informal approach will be consistent with the Food Law Code of Practice and Practice Guidance.
- Officers will clearly differentiate between legal requirements and recommendations of good hygiene practice in both verbal and written communications.

The Use of Hygiene Improvement Notices

An improvement notice is a legal document issued under the Food Safety and Hygiene (England) Regulations 2013, Reg 6. It details contraventions of the EU Hygiene Regulations, the works required to correct the contraventions and a time-scale for completion. Failure to comply with the notice is an offence.

Improvement notice procedure will be used where major contraventions of food hygiene or food processing regulations are found and where any of the following conditions are satisfied:

- where formal action is proportionate to the risk to public health;
- there is a documented history of non-compliance with food safety legislation;
- an informal approach has been tried but has not been successful, or the authorised officer has reason to believe that informal action will not be successful;
- in the case of new business or requirements, where the authorised officer assesses that the operator is unwilling or unlikely to comply, for whatever reason;
- Where there is a breakdown of controls critical for food safety, or where no such controls exist.

An improvement notice will not be used where:

- the contravention is minor and presents no risk to public health;
- The contravention is a continuing one, e.g. cleanliness or temperature control, and a notice would only secure an improvement at one point in time. (prosecution may be the only option);
- Swift action is required, such as at a one day event where there exists a risk to public health.

Improvement notice procedure will only be implemented after the authorised officer has discussed the need for such action and its requirements with the food business operator informally and considered alternatives. The food business operator will be offered the opportunity for the matter to be referred to the officer's manager in the event of a dispute.

Only suitably qualified and experienced officers will be authorised by the Council to sign improvement notices.

Non-Compliance with Notices

Non-compliance with an improvement notice is a serious offence and will be considered to be grounds for prosecution with the following exceptions:

- Where the remaining contraventions detailed in the notice are minor and do not pose a risk to public health;
- Where the outstanding works are in hand, (confirmation from contractor or supplier required), and an extension of time to complete the works would have been granted, if requested.

Non-compliance with an informal notice will not be considered grounds for prosecution, but the authorised officer will reconsider at this stage the enforcement options available to remedy the contravention using the criteria described above. The failure to respond in the first instance to an informal approach will influence that decision.

The Use of Hygiene Prohibition Orders

A prohibition order may be imposed by the courts following a conviction for a food hygiene offence, if the contravention has not been corrected or there still exists a risk of injury to health. The prohibition order may prohibit the use of a process, the use of premises or equipment, or the participation in a food business by a convicted food business operator.

- An application for a prohibition order will be made if an inspection of premises, prior to a court hearing to consider a food hygiene offence, reveals that the contravention is continuing and there is a risk of injury to health.

The Use of Hygiene Emergency Prohibition Notices

An emergency prohibition notice has the effect of immediately closing a food business or prohibiting the use of equipment or a process where there is an imminent risk of injury to health.

Conditions where prohibition of premises may be appropriate:

- Premises which contravene food safety legislation and have been or are involved in an outbreak of food poisoning or present an imminent risk of one;
- Serious infestation of vermin resulting in actual or imminent risk of contamination of food;
- Poor structural condition and poor equipment and/or poor maintenance of routine cleaning and/or serious accumulations of refuse, filth or other extraneous matter resulting in actual or imminent risk of food contamination;
- Serious drainage defects or flooding of the premises leading to actual or imminent risk of food contamination;
- Any combination of the above or any cumulative effect of contraventions which together represent an imminent risk of injury to health.

Additionally, equipment or a process may be prohibited where there is a risk of cross contamination of ready to eat food or where there is a failure to achieve critical control criteria such as minimum cooking or pasteurisation temperatures or the use of a process which is inappropriate.

An emergency prohibition notice will only be signed by a specifically authorised officer being an Environmental Health Officer having a minimum of two years post qualification experience of food enforcement matters and being currently involved in food enforcement. Such actions will, additionally, have to be approved by the Public Protection Manager or other suitably qualified senior officer.

Outside, expert advice will be sought where the process or treatment under consideration requires specialist knowledge or qualifications to establish that the health risk conditions above are met.

Voluntary Closure

- There may be occasion where an authorised officer is satisfied that grounds for Emergency Prohibition exist, but where the food business operator offers to close voluntarily until the health risk is removed.
- Such an offer will only be accepted if the authorised officer is satisfied that there is no likelihood of the premises being used as a food business, or of the use of equipment, or of a process without the express agreement of the food authority.
- Such an offer will only be accepted if the offer to close and its acceptance are fully documented and signed by the food business operator and by a specifically authorised officer, as for an emergency prohibition notice.
- When considering such an offer, great care will be taken to ensure that the food business operator is aware that in closing voluntarily they are relinquishing the rights to compensation for unjustified action contained in formal emergency prohibition notice procedure.

Prosecution

- Prosecution may be considered as an alternative, in addition to, or as a consequence of failure to comply with the above enforcement procedures.
- In considering prosecution action for food safety offences an authorised officer will consider whether that course of action is proportionate to the risk presented to the public health by the contravention, using the principles outlined in the paragraph “Factors influencing the enforcement approach” above.
- Primary authorities will be consulted where prosecutions are planned and due regard will be paid to opinion of that authority. Such authorities will be notified of the outcome of prosecutions taken.
- The recommendation to prosecute will be made by the Public Protection Manager after careful consideration of a written report from the inspecting officer.
- The decision to prosecute will be made by the Principal Solicitor, who will take account of the criteria set out in the Code for Crown Prosecutors, in particular the Evidential Test and the Public Interest Test.

Factors that will be considered before initiating prosecution procedures include:

- The seriousness of the alleged offence;
- The previous compliance history of the food business;
- The likelihood that a *due diligence** defence could be established;
- The ability of any important witness and their willingness to co-operate;
- The willingness of the food business operator to prevent a recurrence of the contravention;
- The probable public benefit of a prosecution and the importance of the case in establishing a precedent;
- Whether other action, such as issuing a formal caution, serving an improvement notice, or imposing a prohibition, would be more appropriate or effective;
- Any explanation offered by the food business.

** due diligence: The Food Safety Act 1990 provides a defence for a person charged with an offence that he took all reasonable precautions and exercised all due diligence to avoid the offence. This requires that, not only are suitable precautions set up, but that these are adequately implemented and monitored to ensure their effectiveness.*

Unfit Food Prosecution

(LACORS Guidance on Food Complaints – second edition)

The decision to prosecute for Food Safety Act 1990 offences relating to the sale of food unfit for human consumption, or not of the quality demanded by the purchaser will be taken at the earliest opportunity to avoid unnecessary and time consuming investigations by both authorised officers and food businesses.

Prosecution will be indicated where:

- the offence has resulted in a risk to public health;
- there is evidence of negligence in failing to adopt basic food hygiene precautions;
- The food business has failed to respond to an informal approach to prevent a recurrence of the problem.

Particular regard will be paid to the possibility of establishing a *due diligence* defence.

Only officers holding a relevant food inspection qualification will be authorised to consider whether food is fit for human consumption. Independent advice will be sought from the appointed food examiner or public analyst, or other expert, where appropriate.

In all cases where a prosecution is being considered, a report will be requested from the originating food authority as appropriate and particular regard will be paid to that report.

The integrity and co-operation of a complainant in providing witness support is especially important with food complaints. The wishes of the complainant as to whether to proceed to prosecution will be respected, unless it is felt to be in the public interest to proceed independently.

Formal Cautions

The Home Office issued a circular (30/2005) in relation to the cautioning of offender to which reference should be made. Reference should also be made to the Code of Practice under Section 22 of the Legislative and Regulatory Reform Act 2006 and the Code for Crown Prosecutors. Cautions are a non-statutory disposal for adult offenders and Local Authorities may therefore exercise discretion when deciding to use them; as such it is not possible to be definitive about the circumstances in which they are appropriate.

The aims of the simple caution are:

- to deal quickly and simply with less serious offences;
- to divert offenders where appropriate from appearing in the criminal courts;
- to reduce the likelihood of re-offending.

Formal caution will only be considered where there is sufficient evidence to give a realistic expectation of success if the case went to the courts. It will not be seen as an alternative to prosecution where it is felt the prosecution case is weak.

A caution can only be administered where the suspected offender is prepared to admit the offence. Care will be taken to ensure that the suspected offender understands the significance of the caution and is able to give an informed consent to being cautioned.

The decision to offer a formal caution will be taken by the Principal Solicitor upon receiving the report of the Public Protection Manager (PPM). The PPM is authorised as the "Cautioning Officer" for the purpose of implementing the caution.

If the offer of a formal caution is declined, further enforcement action will be considered. This will usually be prosecution, but the option of a written warning will be considered.

Home and originating authorities will be notified of formal cautions issued by this authority where appropriate.

Review of Policy

This Enforcement and Prosecution Policy will be reviewed annually or when changes in legislation or centrally issued guidance make this necessary.

Appendices

1. Notes on BRE Regulators Compliance Code of Practice
2. Guidance on enforcement of Article 5 requirement for documented food safety systems.

Annexe 2: Definitions

BREXIT On 30th March 2019 under Article 50 of the Treaty on European Union the UK will cease to be a member of the EU. The decision by the UK to leave the EU will have implications for the regulatory regime for food safety in the UK.

ROF The FSA, the regulators for UK food safety, have published a controversial strategic plan for the period 2015-2020 to coincide with Brexit. The plan will lead to a major programme of regulatory change (ROF) through which the FSA is seeking to modernise comprehensively, the delivery and enforcement of its regulatory regime regarding food businesses, stating that it sends a sharper focus for the need for the FSA to move ahead with this programme before March 2019 beginning with central registration of food businesses 'Enhanced Registration'.

FLCOP Food Law Code of Practice and Practice Guidance – issued by the Food Standards Agency and mandatory for local authorities to adhere to.

From the FLCOP:

'Inspection' means the examination of any aspect of feed, food, animal health and animal welfare in order to verify that such aspect(s) comply with the legal requirements of feed and food law and animal health and welfare rules.

'Monitoring' means conducting a planned sequence of observations or measurements with a view to obtaining an overview of the state of compliance with feed or food law, animal health and animal welfare rules.

'Surveillance' means a careful observation of one or more food businesses, or food business operator or their activities

'Verification' means the checking, by examination and the consideration of objective evidence, whether specified requirements have been fulfilled.

'Audit' means a systematic and independent examination to determine whether activities and related results comply with planned arrangements and whether these arrangements are implemented effectively and are suitable to achieve objective.

'Sampling for analysis' means taking feed or food or any other substance (including for the environment) relevant to the production, processing and distribution of feed or food or to the health of animals, in order to verify thought analysis compliance with feed or food law or animal health rules.

'Intervention' is defined as *Activities that are designed to monitor, support and increase food law compliance within a food establishment. This includes 'official controls'*

‘Official controls’ are defined as *any form of control for the verification of compliance with food law. This includes:*

- *Inspections*
 - *Monitoring*
 - *Surveillance*
 - *Verification*
 - *Audit*
 - *Sampling (where analysis is to be carried out by an Official laboratory).*
- (These terms are defined in Annexe 3)*

‘Other interventions’ are also defined and can include *‘other interventions, i.e. those which do not constitute official controls include:*

- *Targeted education, advice and coaching at food establishment*
- *Information and intelligence gathering (including sampling where analysis is not carried out by an Official laboratory)*

NOTE: *a visit to an establishment for the purpose of obtaining a sample does NOT constitute a planned intervention unless the sampling activity forms a component part of a wider reaching official control that overall provides sufficient information to allow the officer to determine the level of compliance. .*

Full Inspection: This is a check on compliance with legal requirement in accordance with elements set out in the Code. A full inspection will consider all aspects of a food business including structure, food safety management and management arrangements.

Partial Inspection: An inspection that covers only certain elements of the inspection as laid down in the Code.

Where a partial examination is agreed, the reasons for adopting this approach will be documented on the central data base M3 in the agreed format. The scope of the partial inspection will be specified in the inspection report provided to the food business operator.

Planned audits: An audit may be undertaken instead of a partial or full inspection, where any food business operator, including those providing a high risk business has put in place an acceptable documented food safety management system (addressing Article 5 Regulation 852/2004). Details of the system will be required in advance of the audit so the Officer can plan the appropriate audit.

The audit may include one or more of the following elements (FLCOP):

- Complete audit of the food safety management system
- Audit of selected elements of the food safety management system where the system is complex

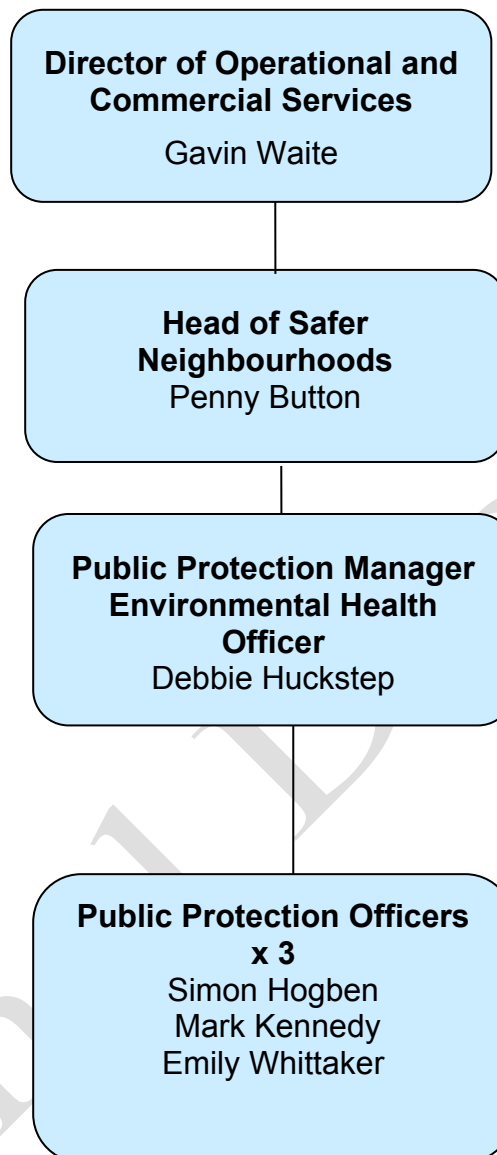
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- Partial Audit concentrating on a particular produce
- Operational audit concentrating on certain arrangements such as temperature monitoring.

Final Draft

Annexe 3: Organisation Chart: Public Protection Team



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Regulations of Investigatory Powers Act 2000 (RIPA) Policy & Procedure Guidance for 2018-2019 & Annual report on the use of RIPA IN 2017.

Cabinet Meeting - 18 September 2018

Report Author	Trevor Kennett, Head of Operational Services
Portfolio Holder	Cllr Savage
Status	For Determination
Classification:	Open
Key:	Non-key
Wards:	All

Executive Summary:

The adopted RIPA Policy & Procedure Guidance requires the Cabinet to receive an annual report on the use made of RIPA powers in the previous year. It is also timely to review the RIPA Policy & Procedures Guidance 2018/19 at the same time to reflect any recent practice or legislative changes.

Recommendation(s):

To approve the amended RIPA Policy & Procedure Guidance and to note the use of RIPA by the authority in 2017.

CORPORATE IMPLICATIONS

Financial and Value for Money	There are no financial implications to this report. Any financial implications identified as a result of this report will be covered by existing budgets.
Legal	<p>The Regulation of Investigatory Powers Act 2000 ('RIPA') provides a statutory mechanism (i.e. in accordance with the law) for authorising covert directed surveillance operations or the use of a 'Covert Human Intelligence Source' (CHIS) (an undercover agent).</p> <p>Failure to comply with RIPA could result in the exclusion by a court of evidence needed to convict a criminal. Failure to comply with RIPA also risks claims from individuals seeking compensation for alleged breaches of privacy.</p>
Corporate	<p>Priority 1: A clean and welcoming environment</p> <ul style="list-style-type: none"> Keeping streets, parks and open spaces clean for residents and visitors.

	<ul style="list-style-type: none"> Maintaining zero tolerance to encourage positive behaviour to help improve our environment. <p>Priority 2: Supporting neighbourhoods</p> <ul style="list-style-type: none"> Continuing to work with partners to improve community safety.
Equality Act 2010 & Public Sector Equality Duty	It is the author's opinion that the Public Sector Equality Duty (PSED) is not engaged by the subject matter. In accordance with the continuing nature of the Duty the Council will keep the matter under review

CORPORATE PRIORITIES (tick those relevant)✓	
A clean and welcoming Environment	✓
Promoting inward investment and job creation	
Supporting neighbourhoods	✓

CORPORATE VALUES (tick those relevant)✓	
Delivering value for money	✓
Supporting the Workforce	✓
Promoting open communications	

1.0 Introduction

- 1.1 The Regulation of Investigatory Powers Act 2000 ('RIPA') provides a statutory mechanism (i.e. in accordance with the law) for authorising covert directed surveillance operations or the use of a 'Covert Human Intelligence Source' (CHIS) (an undercover agent).
- 1.2 By requiring directed covert surveillance operations or the proposed use of a CHIS to be authorised in advance and kept under review by a limited number of senior officers, RIPA seeks to ensure that any interference with an individual's right to privacy under Article 8 of the Convention on Human Rights and Fundamental Freedoms, is both necessary and proportionate.
- 1.3 RIPA, as amended by the Protection of Freedom Act 2012 also imposes three further important restrictions on the Council. Firstly, it provides that the Council cannot under any circumstances engage in the most intrusive form of covert surveillance (called 'intrusive surveillance') - operations which involve the presence of a person or a listening device in residential premises or a private vehicle. Therefore, by definition, the Council can only carry out covert, non intrusive surveillance (called 'directed surveillance'). Secondly, the only lawful basis on which the Council can conduct a surveillance operation is for the prevention or detection of a criminal offence that attracts a sentence of imprisonment of six months or more or a criminal offence that relates to the under age sale of alcohol or tobacco. Thirdly, every authorisation given pursuant to RIPA to carry out directed surveillance or for the use of CHIS must also be approved by the Magistrates Court before it can be acted on - as must any renewal of an authorisation.

2.0 Investigatory Powers Commissioner's Office (IPCO)

- 2.1 The IPCO provides independent oversight of the use of investigatory powers by intelligence agencies, police forces and other public authorities.

- 2.2 The Investigatory Powers Commissioner, Lord Justice Fulford, and his Judicial Commissioners are responsible for overseeing the use of investigatory powers by public authorities which include law enforcement, the intelligence agencies, prisons, local authorities and other government agencies (e.g. regulators).

3.0 Council RIPA Inspection

- 3.1 On the 26 February 2017 the IPCO (formally the Surveillance Commissioners Office) inspected the Council's RIPA Policy and Procedures Guidance and our use of the RIPA legislative tools and powers.
- 3.2 The IPCO concluded that Thanet District Council's RIPA policy and procedure guidance was up to date and in order and our use of the RIPA powers were correct and all being carried out in accordance with the legislation, as a result of this successful inspection the IPCO will not inspect the Council again until 2020.

4.0 Authorisations in 2017 and Policy for 2018/19

- 4.1 The current RIPA Policy & Procedure Guidance commits the Senior Responsible Officer to inform Cabinet annually of the use of RIPA authorisations by Council Officers and for the Cabinet to approve any amendments to the Policy & Procedure Guidance.
- 4.2 In 2017 the Council never sought authorisation to use a Covert Human Intelligence Source (CHIS).
- 4.3 In 2017 2 RIPA applications were authorised by the Council's Authorising RIPA officers for covert directed surveillance and sent to Court for Judicial approval. These applications were for criminal offences such as fly-tipping.
- 4.4 In 2017 1 Non RIPA application was authorised for the collection of data. This small number of RIPA applications reflects the fact that nearly all enforcement activity by Council Officers is overt and does not require prior authorisation.
- 4.4 So far as Policy for 2018/19 is concerned, Cabinet is asked to consider and approve Appendix 1 - RIPA Policy & Procedures Guidance 2018/19. The proposed amendments to the Policy are italicised and underlined and can be found in the following sections:

- Section 1A - 1.11, 1.12 & 1.14
- Section 2 - 2.14
- Section 4 - 4.1.16
- Section 6 - 6.1

Contact Officer(s):	Trevor Kennett, Head of Operational Services & Corporate RIPA Gatekeeper
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Annex List

Annex 1	RIPA Policy & Procedure Guidance Note 2018/19
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Corporate Consultation

Finance	Ramesh Prashar, Head of Financial and Procurement Services
Legal	Tim Howes, Director of Corporate Governance



REGULATION OF INVESTIGATORY POWERS ACT 2000

POLICY & PROCEDURES GUIDANCE

2018 - 2019

Version Control				
Document owner	Published on	Version	Changed on	Amended by
Trevor Kennett	16 th January 2017	1.0	01/09/2017	Trevor Kennett
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3. The Use of a Covert Human Intelligence Source (CHIS)	11 - 16
4. Authorisation of Surveillance & Non-RIPA applications	17 - 27
5. Social Media	27
6. Complaints	28

Appendix	Appendix content
1	Standard Form – Surveillance Application
2	Standard Forms – Surveillance Renewal
3	Standard Forms – Surveillance Cancellation
4	Standard Forms – Monthly Review
5a	Flow Chart - Authorisation Procedures - General
5b	Flow Chart - Authorisation Procedures - Directed Surveillance
5c	Flow Chart – Authorisation Procedures - CHIS
6	Application for judicial approval – standard form
7	Flow Chart – Procedures relating to judicial approval application

1A. Introduction

Regulation of Investigatory Powers Act 2000 (as amended by the Protection of Freedoms Act 2012)

- 1.1 The Regulation of Investigatory Powers Act 2000 (RIPA) was enacted to provide a clear statutory framework for the operation of certain intrusive investigative techniques, to provide for compliance with the Human Rights Acts 1998. The main purpose of the Act is to ensure that individuals' rights are protected whilst allowing law enforcement and security agencies to do their jobs effectively and act proportionately.
- 1.2 RIPA covers the interception, acquisition and disclosure of communications data (Part I of RIPA); the carrying out of surveillance and use of covert human intelligence sources (Part II); and the investigation of electronic data protected by encryption (Part III).
- 1.3 Thanet District Council is included within this framework with regard to **Directed Surveillance** and **Covert Human Intelligence Sources**, in accordance with section 28 and section 29 of the said Act.
- 1.4 Thanet District Council is **not** empowered to undertake Intrusive Surveillance involving entry on or interference with property or with wireless telegraphy as regulated by the Regulation of Investigatory Powers Act 2000.
- 1.5 This document will focus on the provisions of Part II of RIPA (as amended by the Protection of Freedoms Act 2012 (POFA) that cover the use and authorisation of directed surveillance and the steps that must be taken by Council Officers to comply with the Act.
- 1.6 The use of Covert Human Intelligence Sources (CHIS) has not been identified as a normal investigative technique applied and used by the Council. However there may be investigations where it is identified that CHIS may be used and authorisation sought
- 1.7 For each of the above powers, RIPA (as amended by POFA) ensures that the law clearly covers:
 - the purposes for which they may be used;
 - which authorities can use the powers;
 - who should authorise each use of power;
 - the use that can be made of material gained;
 - independent judicial oversight and approval;
 - a means of redress for the individual.

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- 1.8 Surveillance is not simply for the targeting of criminals but is also a means of protecting the public from harm and preventing crime.
- 1.9 The provisions of RIPA do not cover authorisation for the use of overt CCTV surveillance systems. Members of the public are aware that such systems are in use, for their own protection, and to prevent crime.
- 1.10 Thanet District Council operate an overt policy of providing signage information for all overt CCTV cameras within public places ensuring the public are aware of their operation and who is responsible for the system.
- 1.11 RIPA also provides for the appointment of independent Surveillance Commissioners who will oversee the exercise by public authorities of their powers and duties under the Act (Part IV of RIPA) as amended by the Investigatory Powers Act 2016.
- 1.12 Investigatory Powers Commissioner's Office (IPCO) provides independent oversight of the use of investigatory powers by intelligence agencies, police forces and other public authorities under the Investigatory Powers Act 2016.
- 1.13 **No** request for RIPA authorisation can be progressed without advice, guidance and review from the Council's RIPA Gate-keeper prior to obtaining authorisation from an Authoring Officer or without a URN (Unique Reference Number) being allocated.
- 1.14 The Council's corporate RIPA Gatekeeper is the Head of Operational Services.

1B. Policy Summary

- 1.12 Local authorities are required to respect the private and family life of citizens, their homes and correspondence in accordance with the Human Rights Act 1998. This right is qualified where interference is necessary and proportionate and carried out in accordance with the law.
- 1.13 The Regulation of Investigatory Powers Act 2000 ('RIPA') contains powers for various bodies to carry out covert surveillance and other covert activities. Certain covert powers under RIPA are available to local authorities and can be used in appropriate circumstances in accordance with the requirements of the Act to support the delivery of their functions.
- 1.14 This Policy covers the use of Directed Surveillance and the deployment of Covert Human Intelligence Sources by the Council.
- 1.15 In summary, **Directed Surveillance** is surveillance that is covert, is conducted for the purposes of a specific investigation or operation, is likely to result in the obtaining of private information about a person and is conducted otherwise than by way of an immediate response to events.
- 1.16 In summary, a person is a **Covert Human Intelligence Source** ('CHIS') if they establish or maintain a personal or other relationship and they covertly use the relationship to obtain information or provide access to any information to another person, or they covertly disclose information obtained through that relationship or as a consequence of the existence of that relationship.
- 1.17 Use of Directed Surveillance (or deployment of a CHIS) could potentially be used by the Council in an investigation as a means of obtaining information. Use of Directed Surveillance or deployment of a CHIS must be authorised. There are designated officers within the Council ('Authorising Officers') who are able to authorise such activity. The Authorising Officer must consider the detailed legal tests when deciding whether to authorise the covert activity. If the Authorising Officer does authorise the activity, it is still subject to a judicial approval process. This means that an application must be made to the Magistrates Court for approval of the authorisation and it cannot take effect until such approval is obtained.
- 1.18 In practical terms, if officers consider that you might wish to carry out directed surveillance or deploy a CHIS as part of an investigation, (or even if you are not certain whether the activities that you are proposing require a RIPA authorisation), please ensure that you seek advice from the Council's RIPA Gate-keeper and/or legal services early on and consult the Monitoring Officer as appropriate.
- 1.19 If you do require a RIPA authorisation for your proposed activity, you will then need to contact the Council's RIPA Gate-keeper who maintains a secure Central Register of all requests for authorisation. (You will be issued with a unique reference number URN). The Council's RIPA Gate-keeper also retain all original RIPA forms.
- 1.20 It is important to be aware that once a RIPA authorisation has been granted by the Authorising Officer and approved by the Magistrates Court, and you are carrying out the

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activity, you must still adhere to this Policy & Procedure Guidance. There are ongoing requirements concerning review of the authorisation for example and record keeping requirements.

2. **Definitions**

2.1 What is Surveillance?

Surveillance is:

- Monitoring, observing or listening to persons, their movements, their conversations or their other activities or communications
- Recording anything monitored, observed or listened to in the course of surveillance
- Surveillance by or with the assistance of appropriate surveillance device(s).

Surveillance can be **overt** or **covert**.

2.2 Overt Surveillance

2.2.1 Most of the surveillance carried out by the Council will be done overtly – there will be nothing secretive, clandestine or hidden about it. In many cases, Officers will be behaving in the same way as a normal member of the public and/or will be going about Council business openly.

2.2.2 Similarly, surveillance will be overt if the subject has been told it will happen (e.g. where a noisemaker 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).

2.3 Covert Surveillance

2.3.1 Covert Surveillance as defined in Section 26 RIPA:

“Surveillance is covert if, and only if, it is carried out 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”.

2.3.2 General observation forms part of the duties of many enforcement officers. Such observation may involve the use of equipment or merely reinforce normal sensory perceptions, such as binoculars or the use of cameras, where this does not involve systematic surveillance of an individual. It forms part of the everyday functions of law enforcement or other public bodies. This low level activity will not usually be regulated under the provisions of RIPA.

2.3.3 The installation of CCTV cameras for the purpose of generally observing activity in a particular area with signage is not surveillance which requires

authorisation. Members of the public are aware that such systems are in use, for their own protection and to prevent crime.

Authorisation may be required if a CCTV camera is being used for a specific type of surveillance.

Part II of RIPA applies to the following conduct:

Directed surveillance

Intrusive surveillance

The conduct and use of covert human intelligence sources

2.4 Directed Surveillance Section 26(2) RIPA

2.4.1 Surveillance will be covert where it is carried out in a manner calculated to ensure that the person or persons subject to the surveillance are unaware that it is or may be taking place.

2.4.2 Directed surveillance is conducted where it involves the observation of a person or persons with the intention of gathering **private information** to produce a detailed picture of a person's life, activities and associations. However, it does not include covert surveillance carried out by way of an immediate response to events or circumstances which, by their very nature, could not have been foreseen. For example, enforcement officers would not require authorisation to conceal themselves and observe a suspicious person who they come across in the course of their normal duties. However the longer the observation continues, the less likely it would be considered to be an immediate response.

2.5 Intrusive Surveillance – Section 26(3) RIPA

2.5.1 **Local Authorities cannot conduct intrusive surveillance** involving entry on or interference with property or with wireless telegraphy as regulated by the Regulation of Investigatory Powers Act 2000.

2.5.2 Surveillance is intrusive, only if it is covert surveillance that is carried out in relation to anything taking place on residential premises or in any private vehicle. This kind of surveillance may take place by means either of a person or device located inside residential premises or a private vehicle of the person who is subject to the surveillance or by means of a device placed outside which consistently provides a product of equivalent quality and detail as a product which would be obtained from a device located inside.

2.5.3 Therefore, use of a device is only “intrusive” if it consistently provides information of the same quality and detail as might be expected to be obtained from a device actually present on the residential premises or in any private vehicle. Thus, an observation post outside premises, which provides a limited view and no sound of what is happening inside the premises, would not be considered as intrusive surveillance.

2.5.4 The covert recording of suspected noise nuisance where the intention is only to record excessive noise levels from adjoining premises and the recording device is calibrated to record only excessive noise levels constitutes neither directed nor intrusive surveillance. In such circumstances, the perpetrator would normally be regarded as having forfeited any claim to privacy and an authorisation may not be necessary.

2.6 Covert Human Intelligence Source (CHIS) – Section 26(8) RIPA

A person is a covert human intelligence source (CHIS) if:

- he establishes or maintains a personal or other relationship with a person for the *covert purpose* of facilitating one or both of the following;
- he covertly uses such a relationship to obtain information or to provide access to any information to another person; or
- he covertly discloses information obtained by the use of such a relationship, or as a consequence of the existence of such a relationship.

In establishing or maintaining a relationship, a *covert purpose* exists where the relationship is conducted in such a manner that it is calculated to ensure that one of the parties to the relationship is unaware of its purpose.

Further information about the use of CHIS is dealt with in the next section of this policy.

2.7 Private Information

“Private information”, in relation to a person, includes any information relating to his private or family life.

2.8 Private Vehicle

“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 the 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, aircraft or hovercraft.

2.9 Confidential Material

This consists of:

- **Matters subject to legal privilege** - for example oral and written communications between a professional legal adviser and his client or any person representing his client, made in connection with the giving of legal advice to the client or in contemplation of legal proceedings and for the purposes of such proceedings, as well as items enclosed with or referred to in such communications. Communications and items held with the intention

of furthering a criminal purpose are not subject to legal privilege where there is evidence that the professional legal advisor is intending to hold or use them for a criminal purpose.

- **Confidential personal information** - which is information held in confidence concerning an individual (living or dead) who can be identified from it, and relating to a) his physical or mental health or b) to spiritual counselling or other assistance given or to be given, and which a person has acquired or created in the course of any trade, business, profession or other occupation, or for the purposes of any paid or unpaid office. It includes oral and written information and also communications as a result of which personal information is acquired or created. Information is held in confidence if:

It is subject to a restriction on disclosure or an obligation of secrecy contained in existing or future legislation

- **Confidential journalistic material** - which 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 an undertaking.

2.10 Residential Premises

“Residential premises” means any premises occupied or used, however temporarily, for residential purposes or otherwise as living accommodation.

2.11 Right to Privacy

Great care is required as the right to privacy (Article 8 Human Rights Act 1998) can also extend to business premises or residential premises used for business purposes. It is essential that Authorising Officers should seek legal guidance on this matter prior to authorisation.

2.12 Collateral Intrusion

This is interference with the privacy of a person other than the surveillance subject.

- 2.12.1 Before authorising applications for directed surveillance, the authorising officer should also take into account the risk of obtaining private information about persons who are not subjects of the surveillance activity.
- 2.12.2 Measures should be taken, wherever practicable, to avoid or minimise the unnecessary intrusion into the privacy of those who are not the intended subjects of the surveillance activity. Where such collateral intrusion is unavoidable, the activities may still be authorised, provided the intrusion is considered proportionate to what is sought to be achieved. The same proportionality tests apply to the likelihood of collateral intrusion as to intrusion into the privacy of the intended subject of the surveillance.

2.13 Authorising Officer

This is the person designated, for the purpose of the Act, to grant authorisation for directed surveillance.

2.14 Investigatory Powers Commissioners Office (IPCO)

The Investigatory Powers Commissioner and Judicial Commissioners are responsible for overseeing the use of investigatory powers by public authorities which include law enforcement, the intelligence agencies, prisons, local authorities and other government agencies (e.g. regulators).

3. The use of a Covert Human Intelligence Source (CHIS)

The concept of “covertness” is very similar to that used in relation to directed surveillance. Here, however, it is used at two stages, both of which must be met for an authorisation to be required: the *covert purpose* of the relationship; and the *covert actions* of obtaining or providing access to information and of disclosing such information. **If a person has a relationship with another person which is not established or maintained for a covert purpose, the fact that he or she does in fact covertly disclose information to the local authority will not require an authorisation and that person will not be a CHIS.**

There is no use of CHIS merely because a person offers information to the local authority that may be material to the investigation of an offence, but there would be if the authority asks the person to obtain further information.

3.1 The use of Covert Human Intelligence Sources

Authorisation for the use and conduct of a source is required prior to any tasking, i.e. an assignment given to the source. There will normally be two persons involved in the process of the authorisation of the person carrying out the surveillance. There will be the person who completes and signs the application form by which authorisation is applied for and the Authorising Officer (legal advice must be sought via the Council’s RIPA Gatekeeper before embarking on a CHIS authorisation) to whom the form must be submitted for consideration. In the case of the use of CHIS, whilst it is not unlawful for the source to make the application him or herself, **the extensive welfare provisions that have to be made for him or her make this inappropriate.**

Where confidential material is likely to be particularly sensitive (see below) then the Authorising Officer should be the Director/Head of Service, or in his/her absence the Monitoring Officer.

The test is set out in Section 29(2) RIPA and is listed for convenience in the authorisation. Included in the requirements under Section 29 are that sufficient arrangements must be made to ensure that the source is independently managed, records are kept of the use made of the source, and that the identities of the source are protected from those who do not need to know it (see below).

3.2 Authorising a CHIS – See flow chart at Appendix 5c

3.2.1 This is similar to the authorisation of directed surveillance. Firstly, **the authorisation must be necessary** on the same ground as for directed surveillance, for the purpose of preventing or detecting crime or preventing disorder.

3.2.2 Secondly, **the authorised conduct or use of the source must be proportionate to the goal sought.** In this connection, and on the question

of proportionality, it may be considered that the chances of collateral intrusion are particularly significant in the case of the use or conduct of CHIS. The Home Office Code of Practice recommends that the application includes a risk assessment for collateral intrusion.

3.2.3 As with the authorisation of directed surveillance, the forms themselves set out clearly what information is required from the applicant and also from the Authorising Officer in order to give a valid authorisation. (Both the person applying for the authorisation and the Authorising Officer must complete the forms in handwriting).

3.2.4 **From November 2012 the authorisation process for use of a CHIS has been subject to judicial approval meaning that any authorisation granted will require the approval of a Justice of the Peace, which necessitates making an application to the Magistrates Court.**

3.2.5 The Authorising Officer must be satisfied that arrangements exist for the proper oversight and management of the source that satisfy the requirements of section 29(5) of the Act and such other requirements as may be imposed by order made by the Secretary of State.

3.3 Covert Human Intelligence Sources may only be authorised if the following arrangements are in place:

Section 29(5) requires:

- that there will at all times be an officer within the local authority who will have day to day responsibility for dealing with the source on behalf of the authority, and for the source's security and welfare (section 29(5)(a));
- that there will at all times be another officer within the local authority who will have general oversight of the use made of the source (section 29(5)(b));
- that there will at all times be an officer within the local authority who has responsibility for maintaining a record of the use made of the source (section 29(5)(c));
- that the records relating to the source maintained by the local authority will always contain particulars of all matters specified by the Secretary of State in Regulations.

(The current regulations are The Regulation of Investigatory Powers (Source Records) Regulations 2000). These particulars are:

- (a) the identity of the source;
- (b) the identity, where known, used by the source;
- (c) any relevant investigating authority other than the authority maintaining the records;

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- (d) the means by which the source is referred to within each relevant investigating authority;
 - (e) any other significant information connected with the security and welfare of the source;
 - (f) any confirmation made by a person granting or renewing an authorisation for the conduct or use of a source that the information in paragraph (d) has been considered and that any identified risks to the security and welfare of the source have where appropriate been properly explained to and understood by the source;
 - (g) the date when, and the circumstances in which, the source was recruited;
 - (h) the identities of the persons who, in relation to the source, are discharging or have discharged the functions mentioned in section 29(5)(a) to (c) of the Act (see bullet points above) or in any order made by the Secretary of State under section 29(2)(c);
 - (i) the periods during which those persons have discharged those responsibilities;
 - (j) the tasks given to the source and the demands made of him in relation to his activities as a source;
 - (k) all contacts or communications between the source and a person acting on behalf of any relevant investigating authority;
 - (l) the information obtained by each relevant investigating authority by the conduct or use of the source;
 - (m) any dissemination by that authority of information obtained in that way; and
 - (n) in the case of a source who is not an undercover operative, every payment, benefit or reward and every offer of a payment, benefit or reward that is made or provided by or on behalf of any relevant investigating authority in respect of the source's activities for the benefit of that or any other relevant investigating authority
- that records maintained by the local authority that disclose the identity of the source will not be available to persons except to the extent that there is a need for access to them to be made available to those persons.

These requirements make it very unlikely that an investigation could involve the use of CHIS without there having been prior planning within the investigating department/section. It is important to realise that it may well be a member of staff of the department and, indeed, an investigator him or herself, who becomes the source, depending on the manner of working used. It is not only persons outside the employ of the local authority who may be used as a source. If it is intended to

make use of CHIS, then appropriate and specific training should be arranged for the officers responsible for the functions under section 29(5) (a) to (c) of the Act and also for any officer of the Council who is to be the CHIS.

It is very important that the two forms of authorisation are not confused, because of the important welfare provisions listed above attaching to the CHIS. Whilst those requirements are detailed and specific, it is recognised that they fall into line with the approach that the Council takes for the welfare of its staff. The Council recognises a duty of care to its covert sources and it is important that a risk assessment and management approach is taken with regard to the welfare of the source. The risks to the source may not only be physical but also psychological, for example, relating to stress caused by the very activity itself.

It must be made clear that the source is not also engaging in criminal activity (excluding activity that would be criminal but is rendered lawful by authority under the Act – e.g. the lawful interception of communications).

3.4 Juveniles and vulnerable persons as a CHIS.

This is governed by the Regulation of Investigatory Powers (Juveniles) Order 2000. A person under 16 cannot be used as CHIS if the relationship that would be covertly used is between the juvenile and his/her parent or person with parental responsibility for him/her. (Whether or not a person who is not a parent has parental responsibility for a child may only be determined by having sight of documentation, e.g. a court order providing for that person to have parental responsibility. Further, a person may have parental responsibility for a juvenile, even though they no longer live together).

The Regulations also provide in the case of a source under 16 that there is at all times a person within the local authority responsible for ensuring that an appropriate adult (parent or guardian, any other person who has assumed responsibility for the juvenile's welfare, or where there are no such persons, any responsible person over 18 who is not a member or employee of the local authority – therefore a local authority social worker is *not* eligible to act as appropriate adult) is present at meetings between the juvenile source and any person representing the investigating authority.

Where the source is under 18, authorisation may not be granted or renewed unless there has been made or updated a risk assessment sufficient to demonstrate that the nature and magnitude of any risk of physical injury or psychological distress to the juvenile arising out of his or her use as a source has been identified and evaluated.

The Authorising Officer must have considered the risk assessment and satisfied him/herself that the risks are justified and have been properly explained to and understood by the source. The Authorising Officer must also be clear whether or not the covert relationship is between the juvenile and any relative, guardian or person who has assumed responsibility for his/her welfare and, if it is, has given particular consideration to whether the authorisation is justified (“necessary” and “proportionate”) in the light of that fact.

The Code of Practice on Covert Human Intelligence Sources also makes provision for vulnerable persons. These are individuals who are or may be in need of community care services by reason of mental or other disability, age, illness or who are unable to take care of themselves or unable to protect themselves against significant harm or exploitation. Any such individual should only be used as a source in the most exceptional circumstances. As with confidential information, the authorisation of the Chief Executive, or the Monitoring Officer in their absence, is required to use a juvenile or vulnerable person as a source.

With juveniles and vulnerable persons, particular emphasis must be placed on the operation of the provisions for the source's welfare.

3.5 What Conduct of a CHIS is Authorised by an Authorisation?

- any conduct that is comprised in any such activities as are *specified or described* in the authorisation; and
- any conduct by or in relation to the source *specified or described* in the authorisation;
- which is carried out for the purposes of or in connection with the investigation or operation that is *specified or described*.

3.6 Judicial Approval of CHIS authorisations

3.6.1 The Protection of Freedoms Act 2012 amended RIPA 2000 to make local authority authorisation of a CHIS subject to judicial approval. The change means that local authorities need to obtain an order from a Justice of the Peace, approving the grant or renewal of an authorisation, before it can take effect. If the Justice of the Peace is satisfied that the statutory tests have been met and that the use of the technique is necessary and proportionate he/she will issue an order approving the grant or renewal for the use of the technique as described in the application.

3.6.2 **This new judicial approval mechanism is in addition to the existing authorisation process. The requirements to internally assess necessity and proportionality, complete the RIPA authorisation/application forms and seek approval from an Authorising Officer remain. Therefore, there is a three-stage process. First, advice and URN will need to be obtained from the Council's RIPA Gate-keeper. Secondly, an authorisation must be obtained from an Authorising Officer. Thirdly, approval of the authorisation must be obtained from a Justice of the Peace. This involves applying to a Magistrates Court.**

3.6.3 A Justice of the Peace will only give approval to the granting of an authorisation for use of a CHIS if they are satisfied that:

- at the time the Authorising Officer granted the authorisation, there were reasonable grounds for believing that the authorisation was necessary and that the activity being authorised was proportionate, that arrangements existed that satisfied section 29(5) (see paragraph 3.3),

that the Authorising Officer was a designated person for the purposes of section 29 of RIPA, that the grant of the authorisation was not in breach of any restrictions imposed by virtue of section 29(7)(a) or 30(3) of RIPA, that any other conditions provided for by any Order were satisfied; and

- that there remain reasonable grounds for believing that the necessary and proportionate tests are satisfied and that any other requirements provided for by Order are satisfied.

3.7 CHIS Record Keeping

Records should be kept as prescribed by the Code of Practice (please see paragraph on Records and Documentation above). Where a source wearing or carrying a surveillance device is invited into residential premises or a private vehicle and records activity taking place inside those premises or vehicle, authorisation for use of that covert source should be obtained in the usual way.

The source should not use an invitation into residential premises or private vehicle as a means of installing equipment. If equipment is to be used other than in the presence of the covert source, an intrusive surveillance authorisation is necessary which **cannot be granted by the local authority**.

4.

Authorisation (see flowchart at appendix 5b)

4.1 Authorisation of Surveillance

- 4.1.1** Since November 2012, when the Protection of Freedoms Act 2012 amended RIPA 2000, the framework governing how local authorities use RIPA has changed. Authorisation of the use of certain covert powers, including the use of directed surveillance, will only have effect once an order approving the authorisation has been granted by a Justice of the Peace. This new judicial approval mechanism is in addition to the existing authorisation process. The current processes of assessing necessity and proportionality, completing the RIPA application forms and seeking authorisation from an Authorising Officer remain the same.
- 4.1.2** Therefore, there is a three-stage process. First, advice and URN will need to be obtained from the Council's RIPA Gate-keeper. Secondly, an authorisation must be obtained from an Authorising Officer. Thirdly, approval of the authorisation must be obtained from a Justice of the Peace. This involves applying to a Magistrates Court.
- 4.1.3** Authorising Officers will be nominated by the Monitoring Officer following the Monitoring Officer being satisfied they are appropriately trained to undertake the task.
- 4.1.4** Written authorisations must be completed whenever an investigation involves the use of Directed Surveillance. This provides lawful authority to carry out covert surveillance. Authorisation must be sought before surveillance is undertaken.
- 4.1.5** All applications for authorisation of **Directed Surveillance** must be in writing and record:
- the grounds on which authorisation is sought (i.e. for the prevention and detection of crime and disorder only); NB The power to authorise surveillance exists only for the prevention and detection of crime and disorder and no other purpose
 - an assessment of **the Directed Surveillance Crime Threshold**. Directed surveillance can only be authorised under RIPA to prevent or detect criminal offences that are either punishable, whether on summary conviction or indictment, by a maximum term of at least 6 months imprisonment. (There are certain specified offences related to the underage sale of alcohol or tobacco which are exempt from the directed surveillance crime threshold. However, investigation of these offences does not form part of the District Council's functions).

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- Further information about the implications of the Directed Surveillance Crime Threshold are outlined in paragraph 4.1.6 below
- consideration of why the Directed Surveillance is proportionate to what it seeks to achieve;
- that other options for the gathering of information have been considered and that Directed Surveillance is necessary
- the identity or identities, where known, of those to be the subject of Directed Surveillance;
- the action to be authorised and level of authority required;
- an account of the investigation or operation;
- an explanation of the information which it is desired to obtain as a result of the authorisation;
- any potential for collateral intrusion;
- the likelihood of acquiring any confidential material.

Both the person applying for the authorisation and the Authorising Officer must complete the forms in handwriting.

Standard Document: See Appendix 1 – Surveillance Application Form

- 4.1.6 The Directed Surveillance Crime Threshold was introduced by The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012 which came into force on 1st November 2012. The introduction of this new threshold means that the Council may continue to authorise the use of Directed Surveillance in more serious cases provided the other tests are met (ie. that it is necessary and proportionate and that prior approval from a Justice of the Peace has been obtained). However, it also means that the Council may not authorise the use of Directed Surveillance to investigate disorder that does not involve criminal offences, or to investigate low level offences, which may include, for example, littering, dog control and fly-posting.
- 4.1.7 Those carrying out the covert surveillance should inform the Authorising Officer if the operation/investigation unexpectedly interferes with the privacy of individuals who are not the original subjects of the investigation or covered by the authorisation in some other way. In some cases the original authorisation may not be sufficient and consideration should be given to whether a separate authorisation is required.
- 4.1.8 Any person giving an authorisation should first satisfy him/herself that the authorisation is **necessary** on particular grounds and that the surveillance is **proportionate** to what it seeks to achieve. It is important that sufficient

weight is attached to considering whether the surveillance required is proportionate. These concepts of “necessity” and “proportionality” occur regularly throughout human rights law and RIPA and they must be considered afresh in the case of each authorisation of surveillance. Therefore this will involve balancing the intrusiveness of the surveillance on the target and others who might be affected by it against the need for the surveillance in operational terms. The surveillance 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 surveillance should be carefully managed to meet the objective in question and must not be arbitrary or unfair.

4.1.9 When proportionality is being assessed, the following elements should be considered:

- balancing the size and scope of the proposed activity against the gravity and extent of the perceived crime or offence;
- explaining how and why the methods adopted will cause the least possible intrusion on the subject and others
- considering whether the activity is an appropriate use of the legislation and a reasonable way, having considered all reasonable alternatives, of obtaining the necessary result; and
- evidencing, as far as reasonably practicable, what other methods had been considered and why they were not implemented.

4.1.10 The Authorising Officer must be able to produce evidence that the relevant issues have been considered for monitoring purposes, for example a note of the documents and information available to the officer at the time the authorisation is given, together with a note of the date and time authorisation was given. It is essential that the Authorising Officer considers each request for an authorisation on its merits and a rubber stamping approach must never be used.

4.1.11 The fullest consideration should be given in cases where the subject of the surveillance might reasonably expect a higher degree of privacy, for instance in his/her home, or where there are special sensitivities, such as where the surveillance may give access to confidential material or communications between a minister of any religion or faith and another individual relating to that individual relating to that individual's spiritual welfare.

4.1.12 An authorisation should not be sought or obtained where the sole purpose of the authorisation is to obtain legally privileged material. However, an authorisation may be appropriate for other purposes but which, incidentally, catches legally privileged material.

4.1.13 Particular consideration should be given to collateral intrusion on or interference with the privacy of persons other than the subject(s) of surveillance. Such collateral intrusion or interference would be a matter of greater concern in cases where there are special sensitivities, for example

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in cases of premises used by lawyers or for any form of medical or professional counselling or therapy.

4.1.14 An authorisation request should include assessment of any collateral intrusion or interference. This will be taken into account, by the Authorising Officer, particularly when considering the proportionality of the surveillance.

4.1.15 Directed surveillance undertaken by the Council requires the written approval of a post holder identified in 4.1.16 of this document.

4.1.16 The following table identifies appropriate authorisation levels in the Council's staffing structure.

Type of Request		Authorising Officer
1	Written authorisation to conduct investigations using Directed Surveillance.	CEO, Director, Head of Service as Authorising Officers
2	Written authorisation to conduct investigations using Directed Surveillance likely to obtain confidential information.	<u>CEO only or in their absence, the Deputy Chief Executive or the Monitoring Officer</u>

NB For the avoidance of doubt, only those Officers outlined above **and** designated and certified (and also notified to the Monitoring Officer) to be "Authorising Officers" for the purpose of RIPA can authorise "Directed Surveillance". The Monitoring Officer will only certify Authorising Officers if they are satisfied that they have had appropriate training to undertake the role.

4.1.18 Judicial approval

a) **Where an Authorising Officer has granted an authorisation (for Directed Surveillance, the authorisation is not to take effect until a Justice of the Peace has made an order approving the grant of the authorisation.**

b) A Justice of the Peace will only give approval to the granting of an authorisation for **Directed Surveillance** if they are satisfied that:

- at the time the Authorising Officer granted the authorisation, there were reasonable grounds for believing that the authorisation was necessary and that the surveillance being authorised was proportionate, that the Authorising Officer was a designated person for the purposes of section 28 of RIPA, that the grant of the authorisation was not in breach of any restrictions imposed by virtue of section 30(3) of RIPA, that any other conditions provided for by any Order were satisfied; and

- that there remain reasonable grounds for believing that the necessary and proportionate tests are satisfied.
- c) If a Magistrates' Court refuses to approve the grant of the authorisation, then it may make an order to quash that authorisation.
- 4.1.19 **No activity permitted by the authorisation granted by the Authorising Officer may be undertaken until the approval of the Magistrates Court of that authorisation has been obtained.**
- 4.1.20 **Authorising Officers must when making authorisations be aware that each authorisation (or renewal of an authorisation) will be subject to judicial approval. The Council is required to make an application without notice to the Magistrates Court to seek judicial approval.**
- 4.1.21 **Therefore, any Authorising Officer who proposes to approve an application for the use of directed surveillance must immediately inform the Monitoring Officer who will then make arrangements for an application to be made by the Council's lawyers or an appropriate officer to the Magistrates Court for an order to approve the authorisation to be made.**
- 4.1.22 There is no need for a Justice of the Peace to consider either cancellations or internal reviews.
- 4.1.23 The Council will provide the Justice of the Peace with a copy of the original RIPA authorisation form and the supporting documents setting out the case. This forms the basis of the application to the Justice of the Peace and should contain all information that is relied upon. In addition, the Council will need provide the Justice of the Peace with a partially completed judicial application/order form, which is shown for information at Appendix 6 of this Policy. The flow-chart at Appendix 7 shows the procedure for making an application to a Justice of the Peace seeking an Order to approve the grant of a RIPA authorisation or notice.

4.2 Duration of authorisations

- 4.2.1 A written authorisation for directed surveillance will cease to have effect at the end of a period approved by the Magistrates Court beginning with the day on which it took effect, unless otherwise directed by the court at the time of authoring the application.

4.3 Renewals

- 4.3.1 If at any time before an authorisation would cease to have effect, the Authorising Officer considers it necessary for the authorisation to continue for the purpose for which it was given, he/she may approve a renewal in writing for a further period of three months, beginning with the day when the authorisation would have expired but for the renewal.

Authorisations may be renewed more than once, provided they continue to meet the criteria for authorisation.

4.3.2 All requests for the renewal of an authorisation for Directed Surveillance must record:

- whether this is the first renewal or every occasion on which the authorisation has been renewed previously;
- the information required in the original request for an authorisation;
- (a) any significant changes to the information in the previous authorisation;
- (b) why it is necessary to continue with the surveillance;
- (c) the content and value to the investigation or operation of the information so far obtained by the surveillance;
- (d) an estimate of the length of time the surveillance will continue to be necessary.

Standard Document: See Appendix 2 – Surveillance Renewal form

4.3.3 **Renewals of authorisations will also be subject to approval by the Magistrates Court. The Authorising Officer must therefore advise the Monitoring Officer immediately when they are minded to grant a renewal.**

4.3.4 Applications for renewals should not be made until shortly before the original authorisation period is due to expire but officers must take account of factors which may delay the renewal process (eg. intervening weekends or the availability of the Authorising Officer and a Justice of the Peace to consider the application).

4.4 Cancellations

4.4.1 The Authorising Officer must cancel an authorisation if he/she is satisfied that the Directed Surveillance no longer meets the criteria for authorisation. When cancelling an authorisation, an Authorising Officer must ensure that proper arrangements have been made for the activity's discontinuance, including the removal of technical equipment, and directions for the management of the product.

Standard Document: See Appendix 3 – Surveillance Cancellation form.

4.4.2 Authorisations for Directed Surveillance, and any subsequent renewals and cancellations, are subject to review by the Government appointed Surveillance Commissioner.

4.5 Reviews

4.5.1 Authorising Officers will review all “Directed Surveillance” applications and authorisations. The results of a review should be recorded on the appropriate form, and kept in the central record of authorisations. The Authorising Officer should determine how often the review should take place. This should be done as frequently as is considered necessary and practicable, but not later than once a month following the date of authorisation; sooner where the surveillance provides access to confidential material or involves collateral intrusion.

4.5.2 Reviews of an authorisation for Directed Surveillance must record:

- any significant changes to the information in the previous authorisation;
- why it is necessary to continue with the surveillance;
- the content and value to the investigation or operation of the information so far obtained by the surveillance;
- an estimate of the length of time the surveillance will continue to be necessary.

Standard Document: See Appendix 4 – Monthly Review Form

4.6 Records and Documentation

4.6.1 All documentation regarding Directed Surveillance should be treated as confidential and should be kept accordingly.

4.6.2 Records should be maintained for a period of at least five years from the ending of the authorisation. Where it is believed that the records could be relevant to pending or future criminal proceedings, they should be retained for a suitable period, commensurate to any subsequent review.

4.6.3 If there is any reason to believe that the results obtained during the course of investigation might be relevant to that investigation or to another investigation or to pending or future civil or criminal proceedings then it should not be destroyed but retained in accordance with established disclosure requirements. Particular attention is drawn to the requirements of the Code of Practice issued under the Criminal Procedure and Investigations Act 1996, which requires that material should be retained if it forms part of the unused prosecution material gained in the course of an investigation, or which may be relevant to an organisation.

4.6.4 Authorising Officers are reminded of the importance of safeguarding confidential and sensitive information. They must also ensure compliance with the appropriate data protection requirements and any relevant codes of practice produced by individual authorities in the handling and storage of material. Where material is obtained by surveillance, which is wholly unrelated to a criminal or other investigation or to any person who is subject

of the investigation, and there is no reason to believe it will be relevant to future civil or criminal proceedings, it should be destroyed immediately. Consideration of whether or not unrelated material should be destroyed is the responsibility of the Authorising Officer.

4.6.5 Each Service Department undertaking Directed Surveillance must ensure that adequate arrangements are in place for the secure handling, storage and destruction of material obtained through the use of covert surveillance.

4.6.6 There is nothing in the 2000 Act, which prevents results obtained through the proper use of the authorisation procedures from being used on other Council Department Investigations.

However, the disclosure outside of surveillance results obtained by means of covert surveillance and its use for other purposes should be authorised only in the most exceptional circumstances. Before doing so the Authorising Officer must be satisfied that the release of material outside of the Council, complies with and meets Human Rights Act requirements.

4.6.7 The Director is responsible for ensuring that arrangements exist for ensuring that no information is stored by the authority, except in so far as is necessary for the proper discharge of its functions. Such persons are also responsible for putting arrangements in place to ensure that no information is disclosed except in specified circumstances e.g. where it is necessary for the proper discharge of the authority's functions, for the purpose of preventing or detecting serious crime for the purpose of any criminal proceedings.

4.6.8 A copy of all authorisations must be sent to the Council's RIPA Gate-keeper, so that there is a central record maintained, and so that responsibilities of the Monitoring Officer of ensuring the Act is being complied with.

Authorisation forms are also open to inspection by the Investigatory Powers Commissioners Office (IPCO).

4.7 Monitoring of Authorisations

Information must be supplied to the Council's RIPA Gate-keeper using the forms attached to this guidance. The Gate-keeper will maintain a Central Register of all forms completed by the Authorising Officer. Authorising Officers are responsible for sending **the original authorisation** in the appropriate form for each authorisation, cancellation and renewal granted, to the Gatekeeper for inclusion in the Central Register and keeping a **copy** for their own records in the individual departments.

A review will be carried out regularly to ensure all forms have been sent for inclusion in this Central Register. The Monitoring Officer is required by law to ensure that the Council does not act unlawfully.

Authorising Officers are required to ensure that:-

- Authorisations have been properly cancelled at the end of the period of surveillance
- Surveillance does not continue beyond the authorised period
- Current authorisations are regularly reviewed
- At the anniversary of each authorisation, the destruction of the results of surveillance operations has been considered
- At the fifth anniversary of each authorisation the destruction of the forms of authorisation, renewal or cancellation has been considered.

The Gatekeeper/Monitoring Officer will:

- Monitor the authorisations to ensure correct procedure has been followed
- Receive and investigate complaints by members of the public who reasonably believe they have been adversely affected by surveillance activities carried out by the Council.

The Office of Surveillance Commissioners has a duty to keep under review the exercise and performance of the Council of its surveillance powers. The Office of Surveillance Commissioners will regularly inspect the Council and may carry out spot checks unannounced.

4.8 Refusals

All refusals to grant authority to undertake Directed Surveillance must be recorded and retained for inspection.

4.9 Breach of RIPA

Evidence gathered where RIPA has not been complied with may not be admissible in Court and could lead to a challenge under Article 8 of the Human Rights Act.

Any perceived breach of this policy or the RIPA procedures should be reported to the Monitoring Officer in order that they may notify the Investigatory Powers Commissioner immediately.

4.10 Undertaking Non-RIPA investigations

Obtaining authorisation for directed surveillance and conducting the surveillance in accordance with the authorisation means that the evidence obtained cannot be questioned. Surveillance which is obtained outside of the RIPA regime is not necessarily unlawful but its admissibility can be questioned. It is therefore important that officers consider why the surveillance is required, whether or not the information can be obtained in some other way and how the surveillance can be conducted in order to minimise the intrusion into people unconnected with the investigation.

RIPA authorisation must be obtained prior to undertaking directed surveillance. It is only where the matter being investigated falls outside of RIPA that the procedure in this policy can be followed. Even where this policy is followed, it is important to remember that the council's actions could be challenged both by way of arguing that the evidence obtained is inadmissible or that the council has infringed a person's civil liberties.

This could lead to action being against the council in the civil courts. A person might also complain to the Local Government Ombudsman about the council's actions. It is therefore very important that surveillance is only considered in appropriate cases and this policy is followed.

4.10.1 Examples of non-RIPA investigations

- Where the person under investigation is warned that surveillance is taking place or where the surveillance does not obtain private information (e.g. where noise levels only are recorded) the surveillance does not need to be authorised under RIPA or this policy.
- Non-live or after the event data collection using computerised records. No live tracking or surveillance is allowed under this non-RIPA procedure.

4.10.2 The procedure for obtaining authorisation for non-RIPA directed surveillance is the same as applying for authorisation under RIPA except there is no requirement to obtain judicial approval and officers should refer to the RIPA policy for full details.

4.10.3 As an initial step officers considering non-RIPA applications **must** talk to the Council's RIPA Gate-keeper, **before** proceeding.

5. Social Media

5.1 It is important to be aware that use of social media in an investigation could, depending on how it is used and the type of information likely to be obtained, constitute covert activity that requires authorisation under RIPA.

5.2 The rule of thumb, is that researching 'open source' material would not require authorisation, but return visits in order to build up a profile could change the position – this may constitute directed surveillance depending on the circumstances. Examples of 'open source' material, are materials you could view on social media without becoming a friend, subscriber or follower.

5.3 If privacy controls would be breached, for example by an investigator becoming someone's Facebook "friend", in order to access their profile and activity pages, then a directed surveillance authorisation is required. If any relationship was to be established by the investigating officer, so that their activities went beyond merely reading the site's content, then this would be deployment of a CHIS requiring an authorisation.

- 5.4 Officers should not use false personae (eg. a false Facebook profile or Twitter handle) to disguise their online activities. False personae should not be used for a covert purpose without authorisation. In accordance with OSC note 289
- 5.5 Home Office codes of practice on covert surveillance and CHIS contain some guidance in relation to online covert activity.
- 5.6 To ensure that no unauthorised online covert activity takes place within the Council, please ensure that advice is sought from the Council's RIPA Gate-keeper, Legal services or the Monitoring Officer.

6. **Complaints**

6.1 **Procedure**

The Council will maintain the standards set out in this guidance and the current Codes of Practice. The Investigatory Powers Commissioner has responsibility for monitoring and reviewing the way the Council exercises the powers and duties conferred by the Act.

Contravention of the RIPA and/or Data Protection Act 1998 may be reported to the Investigatory Powers Commissioner:

<https://www.ipco.org.uk/>
PO Box 29105, London, SW1V 1ZU
info@ipco.gsi.gov.uk

However before making such a reference, any person who reasonably believes they have been adversely affected by surveillance activity by or on behalf of the Council may complain to the Monitoring Officer who will investigate the complaint. A complaint concerning a breach of this Policy and Guidance document should be made using the Council's own internal complaints procedure.

**BEFORE COMPLETING THESE FORMS YOU MUST TALK TO THE COUNCIL'S RIPA
GATE-KEEPER**

**PART II OF THE REGULATION OF INVESTIGATORY
POWERS ACT (RIPA) 2000**

**APPLICATION FOR AUTHORISATION TO CARRY OUT
DIRECTED SURVEILLANCE**

Public Authority <i>(including full address)</i>			
Name of Applicant		Unit/Branch/Division	
Full Address			
Contact Details			
Investigation/Operati on Name (if applicable)			
Investigating Officer (if a person other than the applicant)			
DETAILS OF APPLICATION			
1. Give rank or position of Authorising Officer in accordance with the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010; No. 521 .			

2. Describe the purpose of the specific operation or investigation.
3. Has the Directed Surveillance crime threshold been reached? How? Please specify the offence that is being investigated. (See paragraph 4.1.5 of the Council's RIPA Policy).
4. Describe in detail the surveillance operation to be authorised and expected duration, including any premises, vehicles or equipment (e.g. camera, binoculars, recorder) that may be used.
5. The identities, where known, of those to be subject of the directed surveillance.
<ul style="list-style-type: none">● Name:● Address:● DOB: ● Other information as appropriate:
6. Explain the information that it is desired to obtain as a result of the directed surveillance.

7. Explain <u>why</u> this directed surveillance is necessary for the purpose of preventing or detecting crime or of preventing disorder (Section 28(3)(b) RIPA). <i>(This is the only statutory ground available to local authorities upon which applications for directed surveillance may be authorised – SI 2010/521).</i> (Code paragraphs 3.3 and 5.8)
8. Supply details of any potential collateral intrusion and why the intrusion is unavoidable. (Bear in mind Code paragraphs 3.8 to 3.11) Describe precautions you will take to minimise collateral intrusion.

9. Explain why this directed surveillance is proportionate to what it seeks to achieve. How intrusive might it be on the subject of surveillance or on others? And why is this intrusion outweighed by the need for surveillance in operational terms or can the evidence be obtained by any other means? (Code paragraph 3.4 to 3.7)

**10. Confidential information. (Code paragraphs 4.1 to 4.31)
Indicate the likelihood of acquiring any confidential information:**

11. Applicant's Details.

Name (print)		Tel No	
Grade/Rank		Date	
Signature			

12. Authorising Officer's Statement. (Spell out the "5 Ws" – Who; What; Where; When; Why and How – in this and the following box.)

I hereby authorise directed surveillance defined as follows: *(Why is the surveillance necessary? Whom is the surveillance directed against? Where and When will it take place? What surveillance activity/equipment is sanctioned? How is it to be achieved?)*

13. Explain why you believe the directed surveillance is necessary. (Code paragraphs 3.3 and 5.8)

Explain why you believe the directed surveillance to be proportionate to what is sought to be achieved by carrying it out. (Code paragraph 3.4 to 3.7)

14. (Confidential Information Authorisation) Supply detail demonstrating compliance with Code paragraphs 4.1 to 4.31.			
Date of first review			
Programme for subsequent reviews of this authorisation: (Code paragraph 3.23 and 3.24). Only complete this box if review dates after first review are known. If not or inappropriate to set additional review dates then leave blank.			
Name (print)		Grade/Rank	
Signature		Date and time	
Expiry date and time (eg authorisation granted on 1 April 2005 – expires on 30 June 2005, 23:59)			

**PART II OF THE REGULATION OF INVESTIGATORY
POWERS ACT (RIPA) 2000**

**APPLICATION FOR RENEWAL OF A DIRECTED
SURVEILLANCE AUTHORISATION**
(Please attach the original authorisation)

Public Authority (including full address)			
Name of Applicant		Unit/Branch/Division	
Full Address			
Contact Details			
Investigation/Operation Name (if applicable)			
Renewal Number			

DETAILS OF RENEWAL	
1. Renewal numbers and dates of any previous renewals.	
Renewal Number	Date

2. Detail any significant changes to the information as listed in the original authorisation as it applies at the time of the renewal.

--

3. Detail any significant changes to the information as listed in the original authorisation as it applies at the time of the renewal.

--

4. Detail why the directed surveillance is still proportionate to what it seeks to achieve.

--

5. Indicate the content and value to the investigation or operation of the information so far obtained by the directed surveillance.

--

6. Give details of the results of the regular reviews of the investigation or operation.

--

7. Applicant's Details			
Name (Print)		Tel No	
Grade/Rank		Date	
Signature			

8. Authorising Officer's Comments. <u>This box must be completed.</u>

9. Authorising Officer's Statement.

Agenda Item 9

Annex 1

I, [insert name], hereby authorise the renewal of the directed surveillance operation as detailed above. The renewal of this authorisation will last for 3 months unless renewed in writing.

This authorisation will be reviewed frequently to assess the need for the authorisation to continue.

Name (Print) Grade/Rank

Signature Date

Renewal Time: Date:
From:

Date of first review.	
Date of subsequent reviews of this authorisation	

**PART II OF THE REGULATION OF INVESTIGATORY
POWERS ACT (RIPA) 2000**

**CANCELLATION OF A DIRECTED
SURVEILLANCE AUTHORISATION**

Public Authority <i>(including full address)</i>			
Name of Applicant		Unit/Branch/Division	
Full Address			
Contact Details			
Investigation/Operation Name (if applicable)			

DETAILS OF CANCELLATION
1. Explain the reason(s) for the cancellation of the authorisation:

2. Explain the value of surveillance in the operation:

3. Authorising Officer's statement.								
I, [insert name], hereby authorise the cancellation of the directed surveillance investigation/operation as detailed above.								
<table> <tr> <td>Name (Print)</td> <td>.....</td> <td>Grade</td> <td>.....</td> </tr> <tr> <td>Signature</td> <td>.....</td> <td>Date</td> <td>.....</td> </tr> </table>	Name (Print)	Grade	Signature	Date
Name (Print)	Grade					
Signature	Date					

4. Time and Date of when the Authorising Officer instructed the surveillance to cease.			
Date:		Time:	

5. Authorisation cancelled	Date:	Time:

**PART II OF THE REGULATION OF INVESTIGATORY
POWERS ACT (RIPA) 2000**

**REVIEW OF A DIRECTED
SURVEILLANCE AUTHORISATION**

Public Authority <i>(including full address)</i>			
Name of Applicant		Unit/Branch/Division	
Full Address			
Contact Details			
Operation Name		Operation Number* <small>*Filing Ref</small>	
Date of authorisation or last renewal		Expiry date of authorisation or last renewal	
		Review Number	

DETAILS OF REVIEW	
1. Explain the reason(s) for the cancellation of the authorisation:	
Review Number	Date

2. Summary of the investigation/operation to date, including what private information has been obtained and the value of the information so far obtained.

3. Detail the reasons why it is necessary to continue with the directed surveillance.

4. Explain how the proposed activity is still proportionate to what it seeks to achieve.

5. Detail any incidents of collateral intrusion and the likelihood of any further incidents of collateral intrusions occurring

6. Give details of any confidential information acquired or accessed and the likelihood of acquiring confidential information

--

7. Applicant's Details			
Name (Print)		Tel No	
Grade/Rank		Date	
Signature			

8. Review Officer's Comments, including whether or not the directed surveillance should continue.

9. Authorising Officer's Statement.	
<p>I, [insert name], hereby agree that the directed surveillance investigation/operation as detailed above [should/should not] continue [until its next review/renewal][it should be cancelled immediately].</p>	
Name (Print)	Grade/Rank
Signature	Date

10. Date of next review.	
--------------------------	--

FLOW-CHART – AUTHORISATION PROCEDURES - GENERAL

APPENDIX 5a

Requesting Officer ('the Applicant') must:

- Read the Surveillance Policy and be aware of any other relevant guidance.
- Determine that directed surveillance and/or a CHIS authorisation is required.
- Assess whether authorisation is necessary under RIPA and whether the surveillance could be done overtly.
- Consider whether surveillance is necessary and proportionate (if in doubt consult RIPA Gate-keeper)

If a less intrusive option is available and practicable **use that option!**

If authorisation is necessary and proportionate, prepare and submit an application. Send to Gate-keeper for review & URN. Send for approval to the Authorising Officer

Authorising Officer must:

- Consider in detail whether all options have been duly considered, including taking into account the Surveillance Policy and any other relevant guidance
- Consider whether the proposed surveillance is necessary and proportionate.
- Authorise only if an overt or less intrusive option is not practicable.
- Sign approval
- Set an appropriate review date (normally one month after authorisation date)

Authorising Officer must: when proposing to approve an application for the use of directed surveillance or for the use of a Covert Human Intelligence Source immediately inform the **Monitoring Officer who must** then make arrangements for an application to be made by the Council's lawyers to the **Magistrates Court** for an order to approve the authorisation to be made.

If the Magistrates Court approve the authorisation/renewal:

The Applicant must:
REVIEW REGULARLY
(complete Review Form) and submit to Authorised Officer on date set.

The Applicant must:
If operation is no longer necessary or proportionate, complete **CANCELLATION FORM** and submit to Authorised Officer

ESSENTIAL

Originals of all forms (and any signed order of the Justice of the Peace) must be sent to the Monitoring Officer for inclusion in the Central Record.

Authorising Officers to retain a copy of each form

Authorising Officer must:
Cancel authorisation when it is no longer necessary or proportionate to need the same.

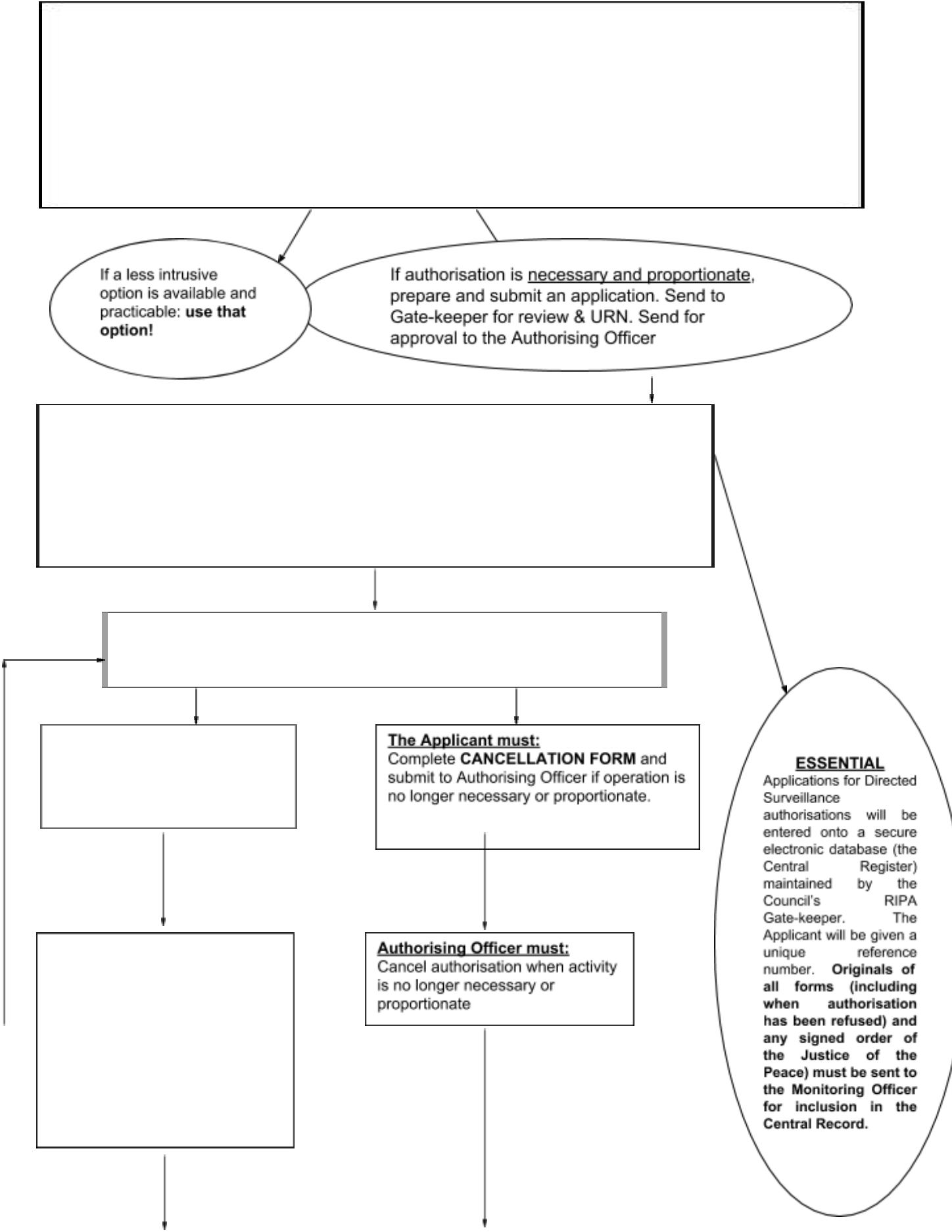
Authorising Officer must:
If surveillance is still necessary and proportionate:

- Review authorisation
- Set an appropriate further review date

NB: If in doubt, seek advice from the Council's RIPA Gate-keeper, Legal Services or Monitoring Officer **BEFORE** any directed surveillance and or CHIS is authorised, renewed, cancelled, or rejected.

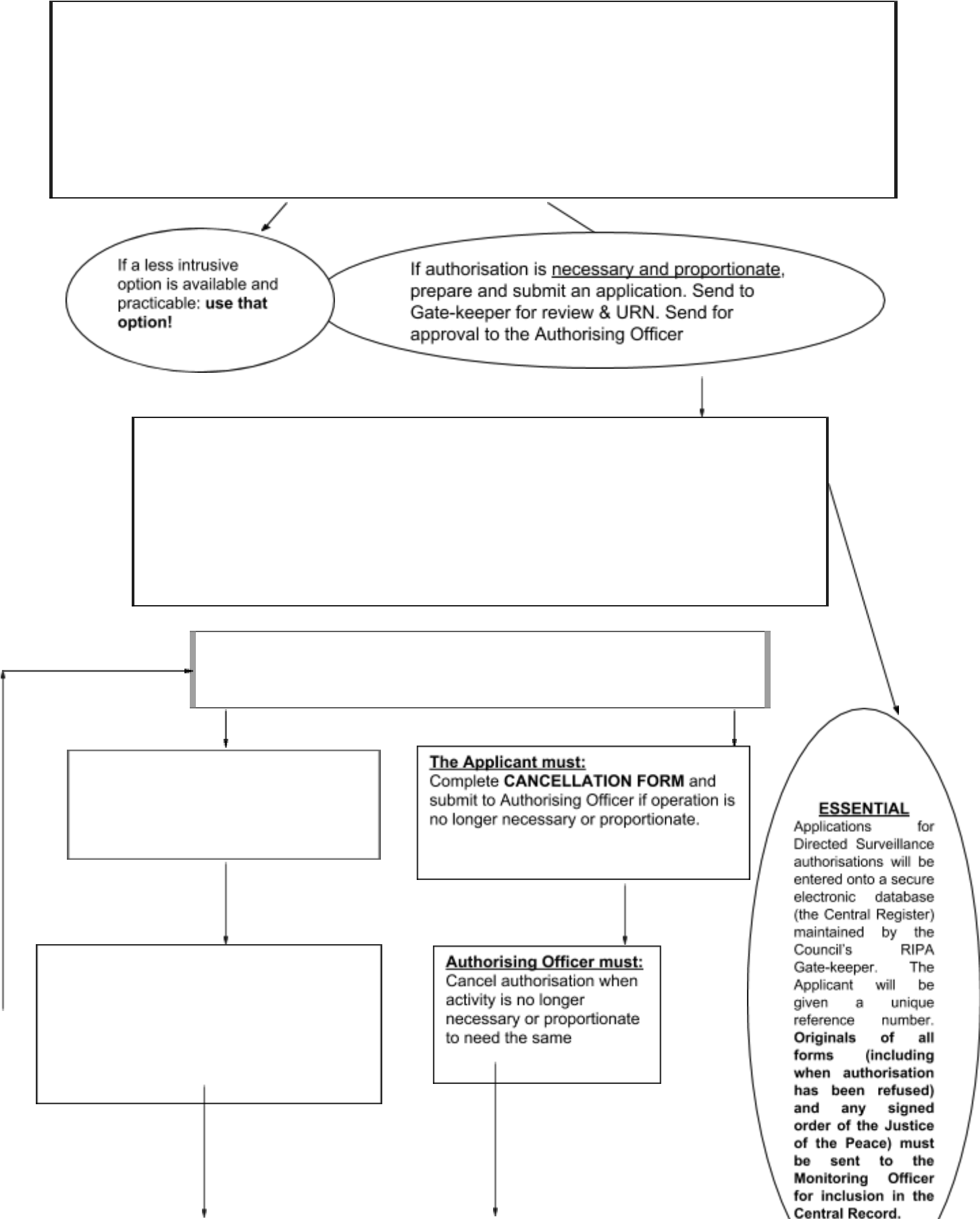
FLOW-CHART – DIRECTED SURVEILLANCE AUTHORISATION PROCEDURES

APPENDIX 5b



FLOW-CHART – CHIS AUTHORISATION PROCEDURES

APPENDIX 5C



APPENDIX 6

Application for judicial approval

Application for judicial approval for authorisation to obtain or disclose communications data, to use a covert human intelligence source or to conduct directed surveillance. Regulation of Investigatory Powers Act 2000 sections 23A, 23B, 32A, 32B.

Local authority:.....

Local authority department:.....

Offence under investigation:.....

Address of premises or identity of suspect:.....

.....

.....

Covert technique requested: (tick one and specify details)

Communications Data	<input type="checkbox"/>
Covert Human Intelligence Source	<input type="checkbox"/>
Directed Surveillance	<input type="checkbox"/>

Summary of details

.....

.....

.....

.....

.....

.....

Note: this application should be read in conjunction with the attached RIPA authorisation/RIPA application or notice.

Investigating Officer:.....

Authorising Officer/Designated Person:.....

Officer(s) appearing before JP:.....

Address of applicant department:.....

.....

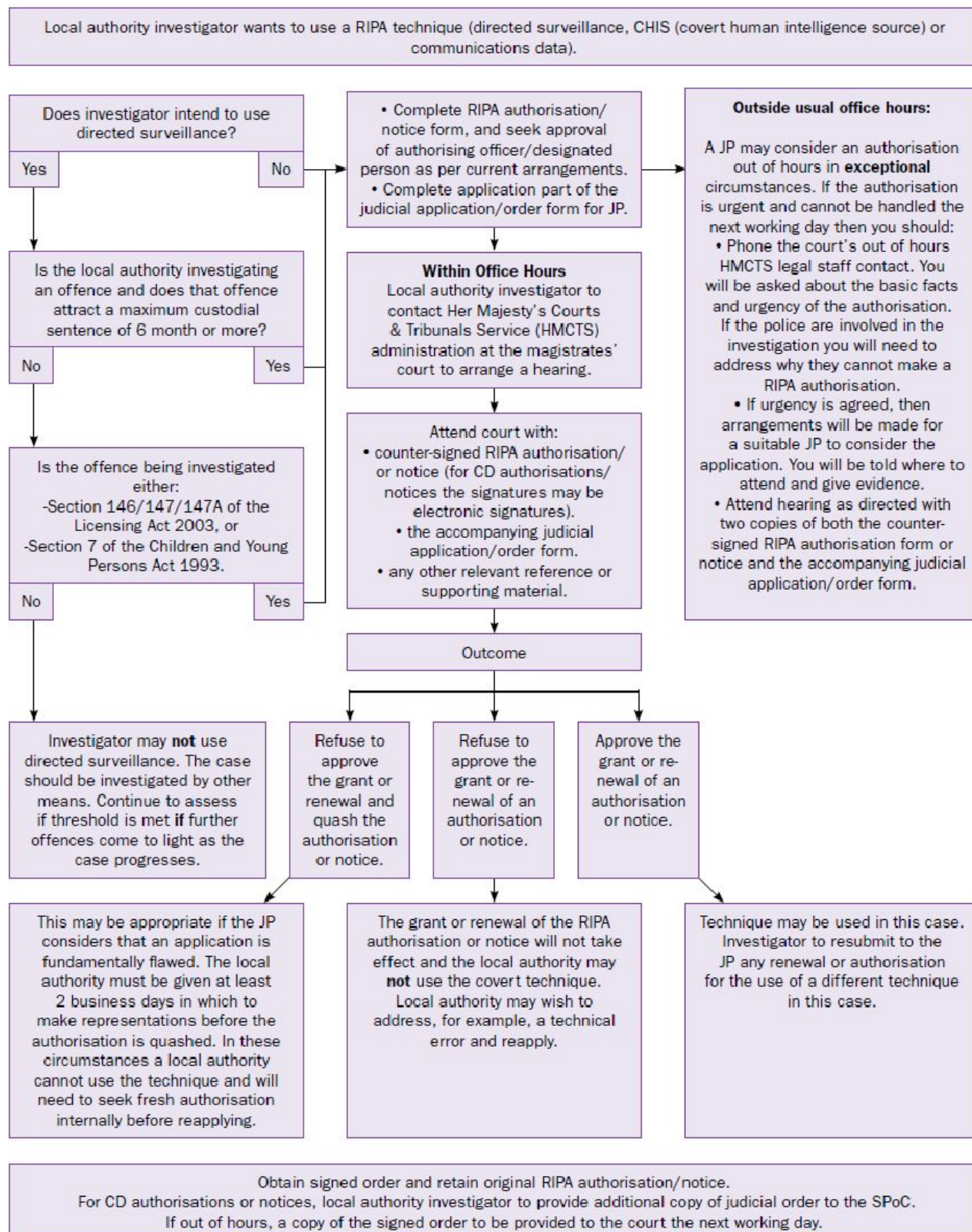
Contact telephone number:.....

Contact email address (optional):.....

Local authority reference:.....

Number of pages:.....

LOCAL AUTHORITY PROCEDURE: APPLICATION TO A JUSTICE OF THE PEACE SEEKING AN ORDER TO APPROVE THE GRANT OF A RIPA AUTHORISATION OR NOTICE



This flow chart is an extract from the October 2012 Home Office publication "Protection of Freedoms Act 2012 – changes to provisions under the Regulation of Investigatory Powers Act 2000 (RIPA) – Home Office guidance to local authorities in England and Wales on the judicial approval process for RIPA and the crime threshold for directed surveillance".

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THANET DISTRICT COUNCIL DECLARATION OF INTEREST FORM

Do I have a Disclosable Pecuniary Interest and if so what action should I take?

Your Disclosable Pecuniary Interests (DPI) are those interests that are, or should be, listed on your Register of Interest Form.

If you are at a meeting and the subject relating to one of your DPIs is to be discussed, in so far as you are aware of the DPI, you **must** declare the existence **and** explain the nature of the DPI during the declarations of interest agenda item, at the commencement of the item under discussion, or when the interest has become apparent

Once you have declared that you have a DPI (unless you have been granted a dispensation by the Standards Committee or the Monitoring Officer, for which you will have applied to the Monitoring Officer prior to the meeting) you **must:-**

1. Not speak or vote on the matter;
2. Withdraw from the meeting room during the consideration of the matter;
3. Not seek to improperly influence the decision on the matter.

Do I have a significant interest and if so what action should I take?

A significant interest is an interest (other than a DPI or an interest in an Authority Function) which:

1. Affects the financial position of yourself and/or an associated person; or
Relates to the determination of your application for any approval, consent, licence, permission or registration made by, or on your behalf of, you and/or an associated person;
2. And which, in either case, a member of the public with knowledge of the relevant facts would reasonably regard as being so significant that it is likely to prejudice your judgment of the public interest.

An associated person is defined as:

- A family member or any other person with whom you have a close association, including your spouse, civil partner, or somebody with whom you are living as a husband or wife, or as if you are civil partners; or
- Any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors; or
- Any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000;
- Any body of which you are in a position of general control or management and to which you are appointed or nominated by the Authority; or
- any body in respect of which you are in a position of general control or management and which:
 - exercises functions of a public nature; or
 - is directed to charitable purposes; or
 - has as its principal purpose or one of its principal purposes the influence of public opinion or policy (including any political party or trade union)

An Authority Function is defined as: -

- Housing - where you are a tenant of the Council provided that those functions do not relate particularly to your tenancy or lease; or
- Any allowance, payment or indemnity given to members of the Council;
- Any ceremonial honour given to members of the Council
- Setting the Council Tax or a precept under the Local Government Finance Act 1992

If you are at a meeting and you think that you have a significant interest then you **must** declare the existence **and** nature of the significant interest at the commencement of the

matter, or when the interest has become apparent, or the declarations of interest agenda item.

Once you have declared that you have a significant interest (unless you have been granted a dispensation by the Standards Committee or the Monitoring Officer, for which you will have applied to the Monitoring Officer prior to the meeting) you **must**:-

1. Not speak or vote (unless the public have speaking rights, or you are present to make representations, answer questions or to give evidence relating to the business being discussed in which case you can speak only)
2. Withdraw from the meeting during consideration of the matter or immediately after speaking.
3. Not seek to improperly influence the decision.

Gifts, Benefits and Hospitality

Councillors must declare at meetings any gift, benefit or hospitality with an estimated value (or cumulative value if a series of gifts etc.) of £25 or more. You **must**, at the commencement of the meeting or when the interest becomes apparent, disclose the existence and nature of the gift, benefit or hospitality, the identity of the donor and how the business under consideration relates to that person or body. However you can stay in the meeting unless it constitutes a significant interest, in which case it should be declared as outlined above.

What if I am unsure?

If you are in any doubt, Members are strongly advised to seek advice from the Monitoring Officer or the Committee Services Manager well in advance of the meeting.

DECLARATION OF DISCLOSABLE PECUNIARY INTERESTS, SIGNIFICANT INTERESTS AND GIFTS, BENEFITS AND HOSPITALITY

MEETING.....

DATE..... AGENDA ITEM

DISCRETIONARY PECUNIARY INTEREST ☐

SIGNIFICANT INTEREST ☐

GIFTS, BENEFITS AND HOSPITALITY ☐

THE NATURE OF THE INTEREST, GIFT, BENEFITS OR HOSPITALITY:

.....
.....
.....

NAME (PRINT):

SIGNATURE:

Please detach and hand this form to the Democratic Services Officer when you are asked to declare any interests.