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GOVERNANCE & AUDIT COMMITTEE

27 JULY 2022

A meeting of the Governance & Audit Committee will be held at **7.00 pm on Wednesday, 27 July 2022** in the Council Chamber, Council Offices, Cecil Street, Margate, Kent.

Membership:

Councillor Boyd (Chair); Councillors: Dexter (Vice-Chair), Braidwood, Duckworth, Garner, Hopkinson, Kup, Leys, Pat Moore, Shrubbs, Towning and Whitehead

A G E N D A

Item
No

Subject

1. **APOLOGIES FOR ABSENCE**
2. **DECLARATIONS OF INTEREST** (Pages 3 - 4)
To receive any declarations of interest. Members are advised to consider the advice contained within the Declaration of Interest advice attached to this Agenda. If a Member declares an interest, they should complete the [Declaration of Interest Form](#).
3. **MINUTES OF PREVIOUS MEETING** (Pages 5 - 10)
To approve the Minutes of the Governance and Audit Committee meeting held on 9 March 2022, copy attached.
4. **RISK MANAGEMENT STRATEGY** (Pages 11 - 30)
5. **CORPORATE RISK MANAGEMENT - QUARTERLY UPDATE** (Pages 31 - 40)
6. **QUARTERLY INTERNAL AUDIT UPDATE REPORT** (Pages 41 - 76)
7. **INTERNAL AUDIT ANNUAL REPORT 2021-22** (Pages 77 - 98)
8. **ANNUAL TREASURY MANAGEMENT REVIEW 2021-22** (Pages 99 - 124)
9. **UPDATE TO RIPA POLICY AND ANNUAL REPORT** (Pages 125 - 182)
10. **2020/21 STATEMENT OF ACCOUNTS**
Report to follow.

Item
No

Subject



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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.

If you need to declare an interest then please complete the declaration of [interest form](#).

GOVERNANCE & AUDIT COMMITTEE

Minutes of the meeting held on 9 March 2022 at 7.00 pm in Council Chamber, Council Offices, Cecil Street, Margate, Kent.

Present: Councillor Kerry Boyd (Chair); Councillors Dexter, Duckworth, Garner, Hopkinson, Kup, Shrubbs and Towning

In Attendance: Councillors Ashbee, Leys and R Bayford

11. APOLOGIES FOR ABSENCE

Apologies were received from Cllr Pugh.

12. DECLARATIONS OF INTEREST

There were no declarations of interest.

13. MINUTES OF PREVIOUS MEETING

Cllr Kup proposed, Cllr Towning seconded and members AGREED to approve the minutes of the meeting held on 01 December 2021.

14. QUARTERLY INTERNAL AUDIT UPDATE REPORT

Simon Webb from East Kent Audit Partnership introduced the report, making the following key points:

- This had been a busy quarter, with 10 reviews taking place.
- Substantial assurance had been reported in 2 significant areas, council tax and the payment of housing benefits.
- Reasonable assurance was concluded for playgrounds and creditors.
- Limited assurance was given in two areas, equality & diversity and right to buy.
- There was no assurance concluded in the area of street cleansing.
- 3 further reviews were undertaken where an assurance opinion wasn't applicable. These were:
 - GDPR and the impact of home working on it.
 - A position statement on the Council's controls to tackle climate change.
 - Quarterly housing benefit testing 21/22 Q1&2.
 - There were also four follow ups undertaken in this report.
 - Progress against the Internal audit plan shows that it was behind schedule at 31 Dec 2021, but had moved ahead of the target at 28 Feb 2022.
 - The limited areas which are yet to be followed up would be shared with the committee in the coming meetings.

Members raised questions and the following points were made:

- All playgrounds in the district are subject to regular inspections by qualified council staff and also an external inspection annually. In general the reports from these inspections are available, but are not routinely published.
- There was one exception, which was that the report on the Ethelbert crescent Viking ship playground in Cliftonville had been made available on the TDC website.
- Information on expired certificates would be given in writing to the Chair.
- Staff qualified to undertake inspections had been given the training to do so by TDC, while in post.
- Historically some playgrounds have been transferred to parish or town councils, but there were none planned to be at this time.

- It was commented that the street cleansing audit didn't reflect the hard work undertaken across broader areas of service delivery, but focussed primarily on mechanical sweepers.
- Thanks were noted for the Council's work on fly tipping.
- It was noted that the audit looked for key controls in setting standards, delivering, measuring and reporting on performance, rather than operational service delivery. These controls were missing. However, are in the agreed action plan which would be implemented going forward.
- There were also some technological improvements to the service and service monitoring that was already well underway and would be implemented shortly.
- Madeline Homer, Chief executive, added that she felt that the process was reassuring and although issues had been rightly raised around controls, the complexity of the service and resourcing issues needed to be taken into account as well.
- TDC Service Standards, setting the level of cleanliness against the Code of Practice, had not yet been published. Doing so was part of the action plan, with a target date prior to September.
- The support of residents was noted as a requirement for the future.
- Of 68,000 properties there were 10,000 without the usual bin collection set-up. Ensuring that the waste for these properties was dealt with appropriately involved a combination of enforcement and education.
- Work had also been carried out with the housing team to support this and the selective licences remaining in the Cliftonville area also required the landlord to maintain reasonable arrangements for the storage of refuse; another avenue for enforcement action.
- The budget had been considered when deciding whether to charge for bins.
- Figures on fly tipping in the district sat within a different service area but would be available. Improvements to means of enforcement in this area had also been made and had positively impacted Council resources.
- The follow-up on the street cleansing audit would take place later in the year, once actions had been implemented. The Progress Report would be presented to the committee at the appropriate meeting.
- Questions were raised regarding the value for money in the investment in mechanical sweepers and it was noted that the abrasive nature of coastal work had meant that the smaller vehicles were not suitable. The Council were looking into larger vehicles and new technologies to combat this issue, but were also faced with the challenge of getting the support of an older workforce for these changes.
- Working with the community and partners on targeted impact had been very well received and the successes could have been communicated better.
- Equality and diversity training was being looked at with the HR team to encourage uptake and would be delivered as an in-person course.
- TDC would also consider the suitability of e-learning going forward, in light of the flexible working policy.
- Bob Porter, Director of Housing and Planning, would look at the figures in the right to buy table in the report, and confirm their explanation with members.

Cllr Kup proposed, Cllr Dexter seconded and members received the report and AGREED that any changes to the agreed 2021-22 internal audit plan, resulting from changes in perceived risk, detailed at point 5.0 of Annex 1 of the attached report be approved.

15. **DRAFT INTERNAL AUDIT PLAN 2022-23**

Christine Parker from East Kent Audit Partnership introduced this item, noting that:

- Although the strategic plan showed multiple years, the committee was only asked to approve the next 12 months.
- The Charter would usually come to the committee annually, with the plan, but as there weren't any significant changes it would next come in 2023.

- Information was gathered from a variety of sources to inform the plan.
- The top ten risks shown from the Institute of Internal Auditors' audit cover all sectors and are national.
- They are noted to assure the committee that Internal Audit have considered them all and built them into the proposed plan or, if not, given reasons.
- The benchmarking provision is also outlined for members' information.

Members were welcomed to give any comments on the plan and the following points were made:

- Illness with Covid-19 would now be treated according to the usual sickness absence processes.

Cllr Duckworth proposed, Cllr Shrubbs seconded and members APPROVED the Council's Internal Audit Plan for 2022/23.

16. CORPORATE RISK MANAGEMENT - QUARTERLY UPDATE

Mr Blundell, Director of Finance and Section 151 Officer introduced the review of corporate risks and made the following key points:

- The only change from the previous report was a reduced risk for Covid-19 as the law and associated sickness absence treatment within the Council had changed.
- Considering recent events in Ukraine, the corporate management team would be considering cyber insurance and other measures that can be taken to protect the Council against digital threats.
- The risk score hadn't changed, but an update on governance had been given by the Independent Monitoring Officer to the General Purposes committee.
- It was positive to note that the budget had been approved, however, the funding landscape for local government remained uncertain and this was reflected in the risk report.
- Turbulent times in the economy were also commented on as an issue to try to manage.
- The lowest scoring risks had been set out in Annex 1, as requested by the committee previously.
- A new risk management strategy would be coming to the next meeting of the committee for feedback, review and comments.

During discussion it was noted that:

- The Cabinet portfolio holder noted was incorrect and needed updating on the report.
- TDC would be expecting to see change in the next 6 months on areas impacted by the report of the Independent Monitoring Officer, political stewardship (bearing in mind the upcoming election) and Covid-19 risks (assuming no new variants arise).
- Homelessness was likely to remain a considerable risk going forward.
- The highest scoring risks are presented to the committee but the update to the risk management strategy would include more nuance in future.
- Cyber attacks including phishing attempts have taken place at TDC and are noted as a risk to the Council and a worldwide issue.

Cllr Kup proposed, Cllr Hopkinson seconded and members APPROVED the review.

17. STATEMENT OF ACCOUNTS UPDATE

Chris Blundell presented the Statement of Accounts Update. It was noted that:

- The report related to this year, last year, and next years accounts and audit.
- It was hoped that the 20/21 accounts would have been brought to the G&A committee at this meeting, however there were still two critical items that needed

to be determined and resolved. With the agreement of the Chair, officers would be looking to arrange an extraordinary meeting in May to do this.

- The 21/22 accounts have the same deadlines in place as the current year. However, it was noted that only 9% of audits across all authorities were finished by the 30 September deadline last year and only 40% were complete by the end of December.
- This led CIPFA to launch an emergency consultation to accountancy standards, which TDC have responded to as set out in annex 1.
- There were no changes to the accounting policies for next year, which become effective from 1 April.

Cllr Shrubbs proposed, Cllr Duckworth seconded and members APPROVED the 2022/23 accounting policies as set out in Annex 2 of the report. Members also noted the following points:

1. The progress with the audit of the 2020/21 statement of accounts;
2. The statutory audit deadlines for 2021/22;
3. The council's response to the consultation on time limited changes to the code of practice on Local Authority Accounting, as set out in Annex 1.

18. 2021/22 WAIVERS

Chris Blundell presented the 2021/22 Waivers, noting that:

- He hoped this would be the first of many updates on the use of procurement waivers.
- The default processes and circumstances for deviating from them were set out in the report.
- 21/22 waivers were also set out and there had been 48 in the year to date.

Members commented and during discussion it was noted that:

- Officers would compare data with nearby authorities and try to provide meaningful and fair comparison. However, individual circumstances would make this challenging. For example, more direct control over spend with in-house services would provide more opportunity for waivers, so comparison may not be reasonable.
- Consideration would also be given to presenting the information as a percentage of total spending.
- TDC may have more waivers going forward due to delivering the levelling up fund.
- Although generally the council was aiming for fewer waivers there are often good reasons. The most common reason would be to provide value for money for residents.
- Timescales imposed by Central Government are often difficult and waivers are useful.

Members noted the report.

19. LOCAL CODE OF CORPORATE GOVERNANCE

Estelle Culligan, Director of Law and Democracy, introduced this report and made the following key points:

- The code was referred to in the Annual Governance Statement and last updated in 2019.
- It reflects the CITFA and Solace Good Governance Framework for Local Government 2016 document, which sets out seven principles of good governance that councils were required to provide evidence against.

- The report shows a lot of good that TDC is doing to support its governance, as well as the work being undertaken following the statutory requirements from the external auditor.
- This document would be published with the Annual Governance Statement on the Council website so it was more accessible and would promote transparency in these areas.

During discussion it was clarified that:

- Meetings were held with both unions through the 'Employee Council' to share the Council's policy on a particular area. They then consult their members and come back to TDC individually.

Cllr Hopkinson proposed, Cllr Duckworth seconded and members AGREED to adopt the revised Local Code of Corporate Governance for 2022.

20. ANNUAL GOVERNANCE STATEMENT 2021/22 ACTION PLAN UPDATE

Estelle Culligan made the following remarks on this report:

- This is a regular update on the progress of the action plan set out in the Annual Governance Statement.
- Key points were the reference to the Statutory Recommendations from the external auditor, the update to financial procedure rules and the most recent update to the constitution.

Members noted the update.

21. CHAIR'S ANNUAL REPORT TO COUNCIL

No members had any questions for the Chair on her Annual Report to Council.

Members noted the report.

22. EXCLUSION OF PUBLIC AND PRESS

Cllr Boyd proposed, Cllr Duckworth seconded and members AGREED that the public and press be excluded from the meeting for agenda item 13, as it contained exempt information as defined in paragraphs 1, 2, 3 & 7 of part 1 of schedule 12a of the local government act 1972 (as amended).

*****Live streaming ended and any members of the press or public present were asked to leave the meeting*****

23. G&A OVERSIGHT OF FRAUD, LAWS & REGULATIONS

Chris Blundell gave a verbal update.

Meeting concluded: 8.22 pm

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RISK MANAGEMENT STRATEGY REFRESH

Governance and Audit Committee	27 July 2022
Report Author	Chris Blundell, Acting Deputy Chief Executive
Portfolio Holder	Councillor Ashbee, Portfolio Holder for Corporate Performance and Risk
Status	For information
Classification:	Unrestricted
Key Decision	No
Ward:	All

Executive Summary:

This report provides the Governance & Audit Committee with the refreshed Risk Management Strategy for approval

Recommendation(s):

1. To approve the new Risk Management Strategy

Corporate Implications

Financial and Value for Money

The way in which the council manages risks has a financial impact on the cost of insurance and self-insurance. The council maintains reserves including a risk reserve, the size of which is commensurate with the financial impact of current and future risks. There are no specific financial implications arising from this report.

It is the role and responsibility of the Section 151 Office to have active involvement in all material business decisions to ensure immediate and longer term implications, opportunities and risks are fully considered.

Legal

There are no legal implications for the recommendation required by this report.

Corporate

Governance & Audit Committee last approved the Risk Management Strategy on 6 March 2019, this has now been refreshed to provide more robust processes to capture and monitor risk.

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.

This report relates to the following aim of the equality duty: -

- Advance equality of opportunity between people who share a protected characteristic and people who do not share it

There are no equity or equalities issues arising from this report. The risk register identifies a number of activities designed to control risks and these will each need to be assessed for equality impact in their own right.

Corporate Priorities

This report relates to the following corporate priorities:

- Growth
- Environment
- Communities

1. Introduction

1.1. The Council monitors and manages its corporate risks using the processes laid out in the Risk Management Strategy. This report presents the refresh of the strategy.

2. Background

2.1. The Risk Management Strategy 2019-23 was approved by the Governance and Audit Committee at its meeting on 6 March 2019.

2.2. The strategy is reviewed annually to ensure it is fit for purpose. However as the risks the Council faces continue to evolve, so does the strategy put in place to monitor and manage their impact.

2.3. The new strategy strengthens certain elements to ensure that a clear corporate approach to risk management is adopted.

3. Risk Context

3.1. The Council has seen many significant areas of risk emerge since the last update of the Risk Management Strategy whereas some remain.

3.2. Covid-19 has been the key emerging risk over the last year or two, having a significant impact on not just individual services but to the Councils operations in general. We've had to adapt the way we deliver our services, shaping them around

Government guidance, this has seen some services suspended and others delivered in alternative ways. Covid-19 has ultimately accelerated the move to home working across the organisation, which in itself posed some risk, but has ultimately, due to good IT infrastructure, allowed for the smooth operation of some services throughout the pandemic. New processes associated with supporting local businesses had to be introduced as well as managing the millions of pounds provided by the Government to reduce the economic impact. Thankfully the risk of the pandemic has reduced, although on-going consideration to the possibility of new variants which may further disrupt services remains.

- 3.3. Brexit continues to play a risk to service delivery. Things have moved on significantly since the last refresh of the strategy with the overall strategic vision now clear, however new emerging elements either linked solely or in part to Brexit, such as the recent shortage of HGV drivers and subsequently fuel remain.
- 3.4. The Council has for years identified Limited Resources as one of its top risks. This continues to be the case. There have been a number of high profile mistakes and liabilities, some on-going and Thanet remains a local authority with very low reserves and very little scope to do anything, year on year, other than reduce running costs and to fund investment in assets from selling other assets. Some other authorities have been able to create some headroom and risk appetite to invest in new or expanded services and/or buy assets, both of which can earn a long-term return. This can support the revenue budget and so help to mitigate the losses in external government funding. Thanet has lived a hand-to-mouth existence for many years, trapped in a cycle of cost-cutting and a dependency on ever-depleting government funding, without the wherewithal to take the radical steps needed to lift the council out of this cycle.
- 3.5. Homelessness continues to provide a challenge to the local authority, who has a statutory obligation to provide accommodation, but not always with additional finance or other resources. Recently an upward trend in homeless numbers, most likely linked to Brexit and Covid-19 means a significant risk remains in this area.
- 3.6. Governance poses a significant risk to the Council. The progress and conclusion of these matters present both a financial and reputational risk to the authority.

4. Changes to the RM Strategy

- 4.1. Given the ever changing nature of risk and the emergence of some key risks since 2019, including Covid-19, Council officers continue to monitor and revisit existing processes to ensure they are fit for purpose.
- 4.2. As a result new processes have been developed within the Risk Management Strategy to ensure consistency and robustness of monitoring and evaluating risk, these are:
 - **Clear scoring matrix for risks** - allowing those managers with responsibility for risk registers to score risks consistently across the organisation.
 - **Clearer reporting process laid out** - highlighting what risks are reported to G&A via the quarterly risk update report.

- **Splitting risks into three clear categories** - emerging / future / current - this will allow managers to put in place risk mitigations for not only current risks but also for them to recognise and begin to mitigate those new risks occurring now and in the future.
- **New annual meetings with each directorate** - to ensure corporate engagement with process and to review and refresh historic risks.
- **New section on CMT / Cabinet / Council reports** - to highlight that managers who wish to take forward changes or new projects have considered the approach to risk.

5. Recommendation

5.1. To approve the refreshed Risk Management Strategy.

Contact Officer: Matthew Sanham (Financial Services Manager)
Reporting to: *Chris Blundell (Acting Deputy Chief Executive)*

Risk Management Strategy

March 2022



Foreword

In all that we do as a Local Authority a degree of risk is involved in some way shape or form, whether it is setting priorities, purchasing new systems and equipment, tendering for new contracts or taking decisions about the future of our District. It is therefore a vital part of good governance that we manage these risks effectively.

Risk management is not risk avoidance. We need to understand and accept that taking risks is often unavoidable when delivering services and projects. Especially for a sector as important in people's lives, and under the resource pressures that local government is.

However, we also recognise the benefits in having a coherent and consistent approach to risk so that the conversations we have with each other and our residents are clear about the challenges we face and what we are willing to do to address them, and of course what is practical to do as well.

We will use the discipline of risk management to promote understanding in support of the Council's corporate priorities. Our **Risk Management Strategy** sets out in clear guidance the tools and approach designed to achieve clarity and consistency in risk management. It will allow us to identify those current, emerging and future risks we are willing to accept, be clear on those we want to reject, and effectively manage those we choose to take in seeking to encourage investment and sustainable growth.

Introduction

What is risk management?

Risk management is the process that we adopt to identify, evaluate and control and mitigate risks.

A risk is **a potential future event that if it materialises has an effect on the achievement of our objectives**. They relate to uncertainty and we measure the scale of risks in terms of *impact* and *likelihood*.

What are the advantages of risk management?

By having arrangements in place to identify and manage our risks, we increase the chances of achieving corporate and operational objectives and reduce the chance of failure. Effective risk management also increases our ability to cope with developing and uncertain events. The only thing constant is change; risk management helps us to anticipate, plan for and react to those changes.

Risk management is a key component for effective corporate governance, and as a Local Authority we must be, and must be seen to be, very careful custodians of public funds. Risk information therefore enables us to make more informed decisions, and to have a clearer understanding of the consequences of those decisions.

Who is responsible for risk management?

We all have a duty to be aware of and manage the risks that may prevent us from delivering services. The formal consideration of risk should complement the service planning process, and so we would expect the Framework to be used predominantly by managers and heads of service.

What is this guidance all about?

This guide sets out the Council's risk management process. As you work through the guide it will take you through each stage of the process:



Templates are available and examples are given throughout to assist you as you capture and assess your risks. The guide assumes no prior knowledge of risk management and can either be used in full, or in part based on experience, and of course the Insurance and Risk Officer can help other officers with their understanding and completion of this vital document

Step 1: Set Objectives

A risk is an event that can impact on the achievement of your objectives. So; before you can assess what stands in your way, you need to know where you are going.

We set this out in our objectives and goals:

- **What** are you seeking to achieve?
- **When** by? And
- **Who** is responsible?

This includes understanding what the Council wants to achieve and the resources it has available – in both capacity and capability – to deliver.

Risk management should help you achieve your objectives, which in turn support the objectives of the Council. This link between Council objectives, through departmental or service objectives, is referred to as the **golden thread**. When everyone at the Council is pulling in the same direction we have a much greater chance of being able to achieve our shared goals.

Clarifying your objectives will allow a greater understanding of what will stop you achieving those objectives, and what opportunities you need to grasp to meet your goals. Setting your objectives clearly will also reveal links to internal and external stakeholders on whom you rely as well as other external factors that will impact your objectives.

Step 2: Risk Identification

This step has two main elements:

- **Initial risk identification:** For example when creating a new service plan, starting a project,
- **Continuous risk identification:** Identifying new risks and changes to existing risks, including those which emerge over time, or result from an unexpected event.

Risks are about *uncertainty* and so it is important that when you identify your risks, you are really finding the uncertain event that could impact on your objective. So, defining the risk becomes very important, because you need to understand how to manage it.

One of the most common pitfalls is to simply say the opposite of the objective – look instead for those potential events or circumstances. Below is an example:

Objective	Potential Risk Statement	Is this a risk?
To deliver project X	Failing to deliver project X	✗ This is simply stating the opposite of the objective.
	Complaints are received about project X	✗ This is a statement of the potential impact not in itself a risk.
	Lack of project management expertise means the project overruns and is not delivered within budget	✓ This is a risk we can control by, for instance, providing training or employing specialist resources.
	The project budget has reduced	✗ This has already happened and so is not uncertain. Risks look ahead to potential events and so involve at least some uncertainty.
	Software provider goes bust during project implementation	✓ This is a risk over which we have little or no direct control, but we can assess likelihood and, if required, make contingency plans.

Common techniques used across the Council to identify risks are **horizon scanning**, **brainstorming**, **workshops** and **facilitated discussions**. Asking the following questions can help identify risks:

- If in a year from now we haven't achieved this objective, why – what could have stopped us?
- What could realistically go wrong?
- What do we need in order to achieve this objective? Do we depend on others to succeed?
- What opportunities might arise?

Risk Ownership

Once identified, it is important to allocate someone to ***own the risk***, taking principal responsibility for monitoring and co-ordinating the response to the risk. Risk ownership is not the same as actually undertaking or being responsible for carrying out actions in response. Rather, the role is aimed at ensuring necessary actions take place, otherwise there is a chance management actions may not be completed.

The best risk owner will usually be someone closely involved in delivering the area of the business where the risk arises.

Your risks should be recorded on the ***risk register***.

Step 3: Risk Evaluation

The purpose of this step is to understand the scale of the risks that have been identified and whether or not we need to take action to lower or manage the *impact* and/or *likelihood*.

The first part of the evaluation is to gauge the scale of risk as it currently stands. This is the 'business as usual' position, referred to as the ***inherent risk***. This means the risk as it exists with no additional measures taken, bearing in mind our current procedures, policies and processes etc.

We understand the scale of the risks by incorporating two principal elements:

- **Impact:** This is a consideration of how severely the Council would be affected if the risk was to materialise.
- **Likelihood:** This is a consideration of how likely it is that the risk will occur. In other words, the probability that it will materialise.

Likelihood

Rating	Score	Likelihood
Very Likely	4	<ul style="list-style-type: none"> ● More than 85% chance of occurrence ● Regular occurrence ● Circumstances frequently encountered
Likely	3	<ul style="list-style-type: none"> ● More than 65% chance of occurrence ● Likely to occur within next 12 months ● Circumstances have been encountered
Unlikely	2	<ul style="list-style-type: none"> ● 31%-65% chance of occurrence ● Likely to happen within next 2 years ● Circumstances occasionally encountered
Rare	1	<ul style="list-style-type: none"> ● Less than 30% chance of occurrence ● Circumstances rarely encountered or never encountered before

Impact

Headings	Reputation	Strategic	Wellbeing	Service Delivery	Finance	Compliance
4 Severe	Council receives nationally adverse publicity perceived as failing in a significant area of responsibility	Failure to deliver council priorities / services / major corporate project	Significant staff dissatisfaction / long term absence / increased staff turnover including key personnel	Loss of service for a significant period	Financial loss or overspend greater than £500k	Breach of law leading to some sanction Litigation almost certain with some / minimal defence
3 Significant	Significant adverse local publicity	Possible impact on the delivery of council priorities	Declining staff dissatisfaction / loss of staff due to absence or turnover	Reduction in service performance / service disruption for 1 – 2 days	Financial loss or overspend between over £250k	Breach of regulation or responsibility or internal standard Litigation possible
2 Moderate	Minor impact on staff morale/public attitudes	Minor / adverse impact on Council priorities	Possible short-term staff dissatisfaction / likely impact on absence and turnover	Poor service / service disruption up to one day	Financial loss or overspend between £50k - £250k	Breach of internal procedure or policy Complaints likely
1 Minor	Unlikely to cause adverse publicity	No significant impact on the delivery of Council priorities	Loss of staff morale but unlikely to result in absence or turnover of staff	No significant difficulty providing a service or delivery of a project	Financial loss or overspend under £50k	Minor breach of policy or internal procedure Complaints Unlikely

Risk Matrix

Once you have established a risk score, plotting them on a **risk matrix** shows the overall risk profile (example below, with the risk just identified shown as **R1**).

Likelihood	Very Likely (4)	Moderate (4)	High (8)	Extreme (12)	Extreme (16)
	Likely (3)	Low (3)	Moderate (6)	High (9)	Extreme (12)
	Unlikely (2)	Very low (2)	Low (4)	Moderate (6)	High (8)
	Rare (1)	Very low (1)	Very low (2)	Low (3)	Moderate (4)
		Minor (1)	Moderate (2)	Significant (3)	Severe (4)
	Impact				

The risk profile is a simple graphical representation of risk information that provides visibility and can assist management decision making, particularly when comparing the positioning of a range of risks. The position of the risk on the matrix can help us to quickly see those risks that are of higher impact and likelihood.

Agenda Item 4

Annex 1

The following guide can help to assist you in considering how to respond to, and manage each risk:

Risk Rating	
12-16	<p>Risks at this level sit above the tolerance of the Council and are of such magnitude that they form the Council's biggest risks.</p> <p>The Council is not willing to take risks at this level and action should be taken immediately to manage the risk.</p>
8-9	<p>Risks at this level sit above the tolerance of the Council and are of such magnitude that they form the Council's biggest risks.</p> <p>The Council is not willing to take risks at this level and action should be taken immediately to manage the risk.</p>
4-6	<p>These risks sit on the borders of the Council's risk appetite and tolerance and so while they don't pose an immediate threat, they are still risks that should remain under review. If the impact or likelihood increases then risk owners should seek to manage the increase.</p>
3-4	<p>These are low level risks that could impede or hinder achievement of objectives. Due to the relative low level it is unlikely that additional controls will be needed to respond to the risk.</p>
1-2	<p>Minor level risks with little consequence but not to be overlooked completely.</p> <p>They are enough of a risk to have been assessed through the process, but unlikely to prevent the achievement of objectives.</p>

Step 4: Risk Treatment (Mitigations)

Risk treatment involves taking actions to reduce **likelihood** of the risk occurring, or limiting the **impact** if the risks did materialise.

There are 4 principal ways in which we can respond to risks, these are known collectively as 'the Four Ts':

TREAT	TOLERATE	TRANSFER	TERMINATE
<p>Taking action.</p> <p>This is the most common way of managing risks.</p>	<p>This means accepting the likelihood and consequences of the risk.</p>	<p>This means shifting the risk, in whole or part, to a third party.</p>	<p>This means deciding to cease the activity which causes the risk.</p>

The actions we take will be influenced by the scale of the risk following the evaluation. Generally speaking, we will want to review any risk scoring 9 (**AMBER**) or higher. The table below provides detail on what action should be taken for each level of risk:

Matrix Position	What does this mean?	What happens next?
<p>RED</p> <p><i>Extreme</i></p> <p>(Score 12-16)</p>	<p>Top risk, requiring immediate action and ongoing reporting</p>	<p>Take immediate action to treat risk and report to CMT/Governance and Audit</p>
<p>AMBER</p> <p><i>High</i></p> <p>(Score 8-9)</p>	<p>High risk, requiring immediate action</p>	<p>Treat the risk by identifying actions to reduce likelihood / impact Highlight to Governance Audit in Annex to report</p>
<p>YELLOW</p> <p><i>Moderate</i></p> <p>(Score 6-7)</p>	<p>Medium risk, review current controls</p>	<p>Consider risk treatment – review risk quarterly</p>
<p>GREEN</p> <p><i>Low</i></p> <p>(Score 3-4)</p>	<p>Low risk needing no immediate action</p>	<p>Keep under review and monitor at next scheduled review</p>
<p>BLUE</p> <p><i>Very Low</i></p> <p>(Score 1-2)</p>	<p>Minimal risk requiring no action</p>	<p>Note to monitor annually</p>

Internal Controls

One of the key ways in which a risk can be treated is by putting in place controls, or by improving current controls. A description of the types of internal controls and examples are included below:

Control Category	Description	Examples
Preventative	Designed to prevent the possibility of an negative outcome (this will be the majority of risk related controls)	<ul style="list-style-type: none"> Financial Procedure Rules Prior authorisation of expenditure Separation of duties Access controls (systems and physical) Data retention and destruction
Detective	Designed to detect problems and thus allowing them to be addressed	<ul style="list-style-type: none"> Reconciliation between control totals Analytical review Exception reporting Sample checking Physical checks
Directive	Designed to direct people or processes towards a desired outcome	<ul style="list-style-type: none"> Policies and procedures Training and awareness Manuals Job Descriptions and Duties

If you have identified actions to treat your risks, the next stage is to re-evaluate the impact and likelihood to reflect how those actions plan to manage the risk to a more acceptable level.

Residual Risk

Using the previous example, we have identified some actions and re-evaluated the impact and likelihood of the risk again:

Risk	Risk Owner	Key Existing Controls	Overall Inherent Rating			Controls Planned	Residual Rating		
			Impact	L'hood	Grade		Impact	L'hood	Grade
Lack of project management expertise means the project overruns and is not delivered within budget	Project Board	Regular Project Board oversight Project Management training delivered	4	4	16	Appoint a qualified Project Manager Implement a formal monthly project update report	2	2	4

Step 5: Monitoring & Reporting

Once you have identified your risks, determined the *inherent* and *residual* risk (if you have identified treatment), record this information on the **risk register** (example Annex 1) and send it to the **Insurance and Risk Officer**.

This register will be updated when risks become known or existing risks are refreshed quarterly please continue to send risk updates to the Insurance and Risk Officer as they become known.

We also want to look at emerging and future risks - this includes helping to identify them, putting mitigations in place - this ideally should be done at any point during the year but of course it will be important that it is recorded on the risk register.

Emerging risks include anything that is just starting to become apparent - there may not be many details, or the risk course may not be determined yet, but again by identifying these risks we can start to determine a course of action.

Future risks could be anything from upcoming projects or forecasting risks that may occur; these can be trickier to identify and may not have many mitigations. But it is important that these are identified where possible and as soon as possible.

Operational risks are identified from the 'bottom up' through your service planning for the year ahead and through continuous review during the year. Corporate level risks are identified through engagement with Senior Management.

The following monitoring and reporting activities are in place to ensure that our risks are kept under control:

- Four times a year risk reports are sent to Corporate Directors and Directors to enable broader consideration of risks across the Council
- CMT review and update of risk actions (as per your risk register) during the year for those risks that are scored as **RED** or **AMBER**
- Four times a year a report is presented to Audit and Governance Committee to provide assurance over the risk management process
- Annual meetings with each directorate to fully review their risk registers.
- Section on CMT/Cabinet/Council reports that will show that the risks of any changes or new projects have been considered prior to approval.

Annex 1 - Example

Service Area

Any Service Area

Date Risk identified	Date Risk Reviewed	Name of risk	Description of risk	Categories of Risk									Risk Owner	Risk Escalation (Corporate/Service/Project Withdrawn)	Current Risk (Inherent) for this month			Mitigation actions	Controlled Risk (Residual) If all actions are completed			
				Political	Economic	Social	Technological	Legislative	Environmental	Competitive	Customer / citizen	Reputation			Partnership	Impact	Likelihood		Score	Impact	Likelihood	Total Risk Score (ExG)
Current Risk Example																						
Date Risk identified	Date Risk Reviewed	COVID19	COVID is a cross cutting issue, impacting on multiple areas, including but not limited to, Staff Resources, Supplier Risk, insolvency of a contractor, reduced supplier base, closure of the accounts, funding the capital Programme, loss of Council funds and investment income and therefore reductions in Council Reserves.											Specific to service area/department	Please choose from above	3	4	12	Make sure that staff are able to work from home if required, actively monitor supplier activity as is currently, manage expectations around Capital Programme, ensuring that estimated receipts are reasonable, monitor cash flow, ensure all available Gov funding is accessed and utilised.	2	2	4
Emerging risk Example																						
Date Risk identified	Date Risk reviewed	Fraud or Financial gain by Contractors	The current economic climate increases the likelihood of an employee or contractor undertaking fraud for financial gain											Specific to service area/deaprtment	Please choose from above	3	3	9	Whistleblowing policy in existence and communicated to staff, Anti-Fraud and corruption policies updated and training provided to budget holders by East Kent Audit Partnership. Conflict of interest managed within Procurement process. Covid 19 Fraud Activity understanding Targeted supply chains i. e PPE and ensuring robustness of due diligence despite urgency to source	3	2	6
Future Risk Example																						
Date Risk identified	Date Risk Reviewed	Change in government policy/ legislation	A change of policy or legislation can lead to widespread changes in the way that services are delivered											Specific to service area/deaprtment	Please choose from above	4	3	12	To keep informed about Government advice around future Policy/Legislational changes. To liaise with other Service areas in order to synergise ideas and process changes to ensure that future risks have mitigations and contingencies	2	2	4

Likelihood	Very Likely (4)	Moderate (4)	High (8)	Extreme (16)	Extreme (16)
	Likely (3)	Low (3)	Moderate (6)	High (9)	Extreme (12)
	Unlikely (2)	Very low (2)	Low (4)	Moderate (6)	High (8)
	Rare (1)	Very low (1)	Very low (2)	Low (3)	Moderate (4)
		Minor (1)	Moderate (2)	Significant (3)	Severe (4)
Impact					

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CORPORATE RISK MANAGEMENT - QUARTERLY UPDATE

Governance and Audit Committee	27 July 2022
Report Author	Chris Blundell, Acting Deputy Chief Executive
Portfolio Holder	Councillor Ashbee, Portfolio Holder for Corporate Performance and Risk
Status	For information
Classification:	Unrestricted
Key Decision	No
Ward:	All

Executive Summary:

This report provides the Governance & Audit Committee with a quarterly review of corporate risks.

Recommendation(s):

To approve the review of corporate risks.

Corporate Implications

Financial and Value for Money

The way in which the council manages risks has a financial impact on the cost of insurance and self-insurance. The council maintains reserves including a risk reserve, the size of which is commensurate with the financial impact of current and future risks. There are no specific financial implications arising from this report.

It is the role and responsibility of the Section 151 Officer to have active involvement in all material business decisions to ensure immediate and longer term implications, opportunities and risks are fully considered.

Legal

Whilst the corporate risk register includes consideration of legal matters in as far as they relate to risks to the council, there are no legal implications for the recommendation required by this report.

Risk Management

In the production of this report the Council's key risks are identified, evaluated and controlled/mitigated with those highest scoring risks after mitigating measures being reported.

Corporate

Governance & Audit Committee approved the revised Risk Management Strategy on 6 March 2019, which includes a requirement to provide regular corporate risk updates to G&A Committee.

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.

This report relates to the following aim of the equality duty :-

- Advance equality of opportunity between people who share a protected characteristic and people who do not share it

There are no equity or equalities issues arising from this report. The risk register identifies a number of activities designed to control risks and these will each need to be assessed for equality impact in their own right.

Corporate Priorities

- Growth
- Environment
- Communities

1. Introduction

- 1.1. The Council monitors and manages its corporate risks through the Corporate Risk Register. The contents of the report highlight the high-priority corporate risks and describe the arrangements in place to ensure these risks are monitored and managed appropriately.

2. Background

- 2.1. The Risk Management Strategy 2019-23 was approved by the Governance and Audit Committee at its meeting on 6 March 2019.
- 2.2. The strategy defines corporate risks as *'those which could impact across the whole council including those relating to partnerships'*. The strategy prescribes that these risks should be

assessed by the Corporate Management Team (CMT) and the Member Risk Management Champion and then reported to the Governance and Audit Committee on a regular basis.

- 2.3. This is the last Risk Management report in this format, subject to the approval of the revised Risk Management Strategy.

3. Risk, Risk Management and Responsibilities

- 3.1. **What is risk** - Risk is defined as the uncertainty of outcome, whether positive opportunity or negative threat, of actions and events.

Risk can be a threat (downside) or an opportunity (upside)

- 3.2. A local authority's purpose is generally concerned with the delivery of service or with the delivery of a beneficial outcome in the public interest. The delivery of these objectives is surrounded by uncertainty which both poses threats to success and offers opportunity for increasing success.

- 3.3. **What risk management** - Risk Management can be defined as:

*'Risk Management is the process by which risks are **identified, evaluated and controlled**. It is a key element of the framework of governance together with community focus, structures and processes, standards of conduct and service delivery arrangements'*

(Audit Commission)

- 3.4. Risks have to be assessed in respect of the combination of the likelihood of something happening, and the impact which arises if it does actually happen. Risk management includes identifying and assessing risks and then responding to them. Risk is unavoidable, and every organisation needs to take action to manage risk in a way which it can justify to a level which is tolerable. The amount of risk which is judged to be tolerable and justifiable is the "risk appetite".

- 3.5. **Roles and responsibilities** - The primary member oversight on risk is provided by the Governance and Audit Committee. Cabinet also has a member Risk Champion (the Portfolio Holder for Corporate Governance and Coastal Development) who promotes risk management and its benefits throughout the council.

- 3.6. At staff level, the high-level corporate risk register is regularly considered by the Corporate Management Team (CMT). G&A Committee considers changes to the corporate risk register, the reasons for the changes and the actions being taken to mitigate the likelihood and impact of those risks. A view is also taken regarding the extent to which the risks should be tolerated.

- 3.7. The Chartered Institute of Public Finance and Accountancy (CIPFA) Position Statement on Audit Committees (2018) sets out the key principles for audit committees operating in local government.

- 3.8. The statement sets out the key responsibilities of the committee to include:

*‘consider the **effectiveness** of the authority’s **risk management arrangements** and the control environment, reviewing the risk profile of the organisation and **assurances that action is being taken** on risk-related issues, including partnerships and collaborations with other organisations’*

3.9. The report seeks to aid the committee to discharge these responsibilities.

4. Corporate risk register

4.1. A summary of the highest scoring corporate risks on the register is set out in the table and the following narrative below, together with the comparative scores noted by the Governance & Audit Committee on 9 March 2022.

4.2. The scores are arrived at by multiplying the “likelihood” score by the “impact” score, where the maximum score for each is four, so the maximum total score is sixteen.

Ref	Description	Mar 22 Score	July 22 Score	Change
CR-03	Political Stewardship	16	16	No change
CR-12	Cyber Attack	16	16	No change
CR-13	Governance	16	16	No change
CR-14	Berth 4/5	16	16	No change
CR-05	Homelessness	16	16	No change
CR-01	Limited Resources	12	12	No change
CR-09	Economic Resources	12	12	No change
CR-15	Environmental Act 2021	12	12	No change
CR-17	Cost Of Living	-	16	New

4.3. Each corporate risk is the responsibility of a member of CMT and they manage risk mitigation plans with the aim of reducing the likelihood and/or impact of each risk to a manageable level. As time moves on, the external environment changes and this can have an impact on the effectiveness of mitigating actions as well as on the likelihood and impact of a risk: hence the need to maintain vigilance in respect of mitigation plans as well as new and changing risks.

4.4. It is more difficult to take action to reduce the impact of a risk occurring, than it is to take action to reduce its likelihood. Hence in some cases, the scores after mitigation will remain relatively high.

5. Highest-scoring risks

- 5.1. **Political Stewardship (Impact 4, Probability 4):** The Council is now under Conservative control, however this came after a period of continued leadership change and so political stewardship remains a risk to the council. The council continues to pursue opportunities to support cross-party working and induction training for new members.
- 5.2. **Cyber Attack (Impact 4, Probability 4):** The Council is becoming more and more aware of cyber attacks across the local government sector. This and recent attempts to send emails to staff from internal email addresses such as the Chief Executive's, further highlights the impending risk to internal systems.

At a time when the majority of staff are working from home due to the pandemic, a much higher reliance on IT systems is needed and therefore the risk of disruption to Council services as a result of a Cyber attack is heightened.

The Council is mitigating the impact of any potential attack by ensuring IT systems are as robust as possible, but as we've seen globally, even the larger international companies are still susceptible to attack.

The Council is also actively considering obtaining Cyber insurance cover to protect the Council against the potential financial impact that could be caused by such an event. The Council are currently completing the relevant paperwork to obtain quotes and assess whether the cover provided offers value for money. Update Jun 2022 - given the Cyber Market is in a hard cycle and our controls that we have in place currently do not satisfy the terms of most Cyber policies ICT and myself have been engaging with our brokers Gallagher Bassett in respect of conducting Phishing exercises and IT Health check exercises - this is ongoing and further updates will follow

- 5.3. **Governance (Impact 4, Probability 4):** Statutory Recommendations were received from the external auditors, Grant Thornton, in relation to governance matters and an extraordinary Council meeting agreed the recommendations. Some of the related disciplinary and grievance matters have now concluded following the agreement of a settlement with the former Deputy Chief Executive. Cabinet approval was granted on 8 June 2021 for a budget for anticipated possible costs of up to £733k to fund current and on-going legal fees associated with these matters; a proportion of this funding has been reallocated to fund this settlement.

The external monitoring officer's report was published and presented to the General Purpose Committee on 27 April 2022, the recommendations of which will be taken forward.

An agreement was reached that recently saw the departure of the Chief Executive, which in itself has created an interim governance issue, so interim arrangements have been put in place to ensure continuation of Council operations.

These interim arrangements will also ensure that some of the statutory recommendations are taken forward with the Council due to appoint an interim Chief Executive on 14th July 2022 to finalise some of the other recommendations including the restructuring of the Corporate Management Team.

Progress and conclusion of these matters continue to present both a financial and reputational risk to the authority.

- 5.4. **Limited Resources (Impact 4, Probability 3):** The high score for Limited Resources reflects the fact that it is one of the few risks that in extremis could result in the council losing control of its own destiny. Financial failure at a number of authorities (e.g. Northampton, Croydon, Slough) in recent years has led to central government intervention and in Northampton County Council ultimately led to being replaced with two unitary authorities.

The 2022/23 budget was approved by Council on 10 February 2022, partly as a result of an unexpected increased government finance settlement. However, this settlement is only for one year and the budget gaps remain forecast in future years. Furthermore, there remains uncertainty about the shape of local government finance envisaged as a result of national reviews of Fair Funding and Business Rates. The outcome of these reviews will have major implications for the council's financial standing across the medium term.

Thanet's reserves remain relatively low even before Covid-19. Monies were set aside in reserves last year with the specific purpose of addressing Covid-19 and additional Government support is anticipated this year. If spend exceeds these allocations difficult decisions will need to be made to identify reserves to bridge any potential gap.

- 5.5. **Homelessness (Impact 4, Probability 4):** Homelessness has grown as a challenge for many local authorities over the last year, Thanet included. There are additional pressures on Housing as the gap between supply and need increases and previously plans have been developed to ensure that this pressure is minimised. The council has reviewed and is delivering its homelessness strategy action plan, is regularly monitoring the levels of homelessness and has commissioned new services to address the increasing need for support. This work will continue. The council has also successfully bid for new government funding to support homelessness services locally.

However the Council is seeing another surge of homelessness across the district as a result of Covid. The district has seen increased pressures on the local private rented sector, driving increases in average rent levels and resulting in a growing gap between rents and local housing allowances. In addition, with the eviction ban coming to an end on 1 June 2021 we are now seeing cases progress through the courts, resulting in additional service and financial pressures. These pressures have made it much more difficult for the council to find suitable, affordable solutions for people facing homelessness in the private rented sector, resulting in an increased number of households living in temporary accommodation.

An overspend in 2021/22 was the end result of these increased numbers and initial monitoring undertaken in 2022/23 has shown a continuation in this trend. A further budgetary overspend is forecast in 2022/23, but it is too early to accurately predict the eventual overspend position.

- 5.6. **Economic resources (Impact 3, Probability 4) -** A combination of Brexit and Covid has seen a significant impact on the Council's supply chain.

The combination of these factors has meant a shortage of HGV drivers and combined with the increased costs of products being imported via shipping containers, has created the perfect storm of increased prices and shortage of supplies.

This is prevalent in the construction industry and could lead to a rationation of some schemes in order to ensure they are delivered within budget or the potential for significant overspends.

As this is not an issue exclusive to one-off projects though additional pressures will be felt across both the general fund and housing revenue account in the delivery of day-to-day services leading potentially to some tough choices on what is deliverable within the available budget.

- 5.7. **Berth 4/5 (Impact 4, Probability 4):** The project has been delayed whilst an environmental impact assessment is developed to inform planning and marine licensing consents. The original berth was taken out of service in November 2020 due to its deteriorated condition.

A Cabinet decision was made in July 2021 to increase budget provision for the project. The project team including engineering and ecology consultants is progressing the EIA as quickly as possible following approval of the required additional funding. Early and regular engagement is taking place with statutory consultees where possible. The revised programme for project delivery indicates a May 2022 construction start subject to consents.

However these delays have resulted in a financial risk to the council due to extended berth outage. This has led to increased costs associated with the berth replacement contract and also potential pass through of extra/over costs from the customer for road haulage of aggregates until the new berth is ready for service.

- 5.8. **Environmental Act (Impact 3, Probability 4)**

The Environment Act became law on 9 November 2021. This includes fundamental changes in responsibility for waste and recycling which will have implications for the way we deliver statutory household waste collections.

As a member of the Kent Resource Partnership, TDC responded to Government consultations this year on consistency of household collections, Extended Producer Responsibility and a Deposit Return Scheme. Changes affecting household waste as a result of the new act are likely to be implemented in 2023. Whilst the act includes provision for funding and support to local authorities for the proposed changes, the implications for our vehicle fleet and resourcing, income associated with green waste and income from recycling and waste diverted from landfill are not yet clear.

6. New Risks

- 6.1. **Cost Of Living (Impact 4, Probability 4)**

The cost of living crisis is a significant issue for both the Council and all Thanet residents with the Consumer Price Index hitting 9.1% in May 2022.

The effect of the cost of living is likely to force more households to be homeless, force more into fuel poverty and have a direct impact on jobs in leisure/retail with households having less disposable income.

The Council will not be protected from the risk associated with high indexation as the majority of its contracts are linked to an inflationary index either RPI or CPI and the rises in fuel and gas/electricity prices continues, with a significant increase forecast in October.

Therefore this risk will lead to significant pressure on Council services, but at the same time the cost of providing those services will significantly increase.

7. Other Corporate Risks

- 7.1. G&A meeting members requested to have oversight of all risks as part of the regular reports. This would however substantially increase the size of the report and so all risks scoring 9 or more after mitigation have been included within **Annex 1**.

Contact Officer: Matthew Sanham (Financial Services Manager)
Reporting to: *Chris Blundell (Acting Deputy Chief Executive)*

Agenda Item 5

Annex 1

Annex 1

Risk Name	Risk Description	Original Score	Mitigating Actions	Score after mitigation
Burial Space	There are currently an estimated 18 months of remaining capacity if the current death / burial (circa 95 per annum) rate continues. In the event of a Pandemic this clearly would cause concern.	12	Re-use of ancient graves, in-fill in vacant spots which cannot be accessed by machinery so must be hand dug. Promote the use of Ramsgate Cemetery where there is opportunity to re-use existing graves and land being cleared providing new burial space.	9
Reduction in Supplier Base	Reduction in supplier base through mergers, business closure/insolvency, which could impact on our services and also make further procurement more difficult through depleted markets and lack of competition	12	Supplier base managed centrally by Procurement who scrutinise rationale for Supplier Adoption and undertake a company credit check via Creditsafe. Process is undertaken electronically with spending officer submitting appropriate form. Apr 2021 Covid 19 - TDC maintaining BAU Procurement activity, working in supplier market env (PPE) sourcing additional supply chains as necessary, working with KRF SCG to secure alternative supply	9
Covid-19	Impact of Covid-19 on business as usual due to the unpredictable nature of Covid and the impact on staff absences and the reintroduction of some form of restrictions in the future remains a risk	12	Ensure appropriate cover for staff absences Ensure IT systems can continue to support WFH Follow any government guidance issued.	9

Agenda Item 5

Annex 1

<p>Coastal safety information signage is inadequate</p>	<p>Risk of serious harm to public. At some bays there is no safety signage, at others where it does exist it is out of date and insufficient Needs to be all year round at all bays whether lifeguarded or not. The RNLI have produced a signage review report with costs, recommendations. However no budget exists for this.</p>	<p>9</p>	<p>Funds need to be found to implement signs. Approx £60k.</p>	<p>9</p>
<p>Use of Former Airport Site</p>	<p>Awaiting Sec of state decision causing uncertainty and impact on Local Plan</p>	<p>9</p>	<p>Council to respond to request for new information, await new decision from SOS</p>	<p>9</p>
<p>Anti-social behaviour</p>	<p>failure to deal with antisocial behaviour cases in a timely and effective manner will lead to risk of legal challenge and place the wider public at risk of harm. Due to Covid-19 an increase in ASB has occurred, staff within the council who tackle ASB also have a wider remit within their JD. Capacity of cases and staff being stretched can impact the wider community and have a negative effect on TDC's reputation. Due to all covid restrictions now lifted and increase in visitors to the area and increase in ASB is expected, primarily on the foreshores, leading to injury or more serious incidents.</p>	<p>12</p>	<p>community trigger process, risk assessments, policies, procedures, multi agency meetings, renewal of PSPO, partnership working. Robust summer plan to be actioned.</p>	<p>9</p>

Quarterly Internal Audit Update Report

Governance & Audit Committee	27-07-2022
Report Author	Head of Internal Audit
Portfolio Holder	Cllr David Saunders, Cabinet Member for Finance.
Status	For Information
Classification:	Unrestricted
Key Decision	No

Executive Summary:

This report provides Members with a summary of the internal audit work completed by the East Kent Audit Partnership since the last Governance and Audit Committee meeting, together with details of the performance of the EKAP to the 31st May 2022.

Recommendation(s):

That the report be received by Members.

That any changes to the agreed 2022-23 internal audit plan, resulting from changes in perceived risk, detailed at point 5.0 of Annex 1 of the attached report be approved.

Corporate Implications

Financial and Value for Money

There are no financial implications arising directly from this report. The costs of the audit work are being met from the Financial Services 2021-22 budgets.

Legal

The Council is required by statute (under the Accounts and Audit Regulations and section 151 of the Local Government Act 1972) to have an adequate and effective internal audit function.

Corporate

Under the Local Code of Corporate Governance the Council is committed to comply with requirements for the independent review of the financial and operational reporting processes, through the external audit and inspection processes, and satisfactory arrangements for internal audit.

Equality 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, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.

There are no equity or equalities issues arising from this report.

Corporate Priorities

This report relates to the following corporate priorities: -

- Growth
- Environment
- Communities

1.0 Introduction and Background

- 1.1 This report includes the summary of the work completed by the East Kent Audit Partnership since the last Governance and Audit Committee meeting, together with details of the performance of the EKAP to the 31st December 2020.
- 1.2 For each audit review, management has agreed a report, and where appropriate, an Action Plan detailing proposed actions and implementation dates relating to each recommendation. Reports continue to be issued in full to the relevant member of the Senior Management Team, as well as the manager for the service reviewed.
- 1.3 Follow-up reviews are performed at an appropriate time, according to the priority of the recommendations, timescales for implementation of any agreed actions, and the risk to the Council.
- 1.4 An Assurance Statement is given to each area reviewed. The assurance statements are linked to the potential level of risk, as currently portrayed in the Council's risk assessment process. The assurance rating given may be Substantial, Reasonable, Limited or No assurance.
- 1.5 Those services with either Limited or No Assurance are monitored, and brought back to Committee until a subsequent review shows sufficient improvement has been made to raise the level of Assurance to either Reasonable or Substantial. A list of those services currently with such levels of assurance is attached as Appendix 2 to the EKAP report.
- 1.6 The purpose of the Council's Governance and Audit Committee is to provide independent assurance of the adequacy of the risk management framework and the associated control environment, independent review of the Authority's financial and

non-financial performance to the extent that it affects the Authority's exposure to risk and weakens the control environment, and to oversee the financial reporting process.

- 1.7 To assist the Committee meet its terms of reference with regard to the internal control environment an update report is regularly produced on the work of internal audit. The purpose of this report is to detail the summary findings of completed audit reports and follow-up reviews since the report was submitted to the last meeting of this Committee.

2.0 Summary of Work

- 2.1 There have been nine internal audit assignments completed during the period and seven follow -ups.

3.0 Recommendations

- 3.1 That the report be received by Members.

That any changes to the agreed 2022-23 internal audit plan, resulting from changes in perceived risk, detailed at point 5.0 of Annex 1 of the attached report be approved.

- 3.3 That Members consider (where appropriate) requesting an update from the relevant Director/s to the next meeting of the Committee in respect of any areas identified as still having either limited or no assurance after follow-up.

- 3.4 That Members consider registering their concerns with Cabinet in respect of any areas of the Council's corporate governance, control framework or risk management arrangements in respect of which they have on-going concerns after the completion of internal audit follow-up reviews and update presentations from the relevant Director.

Contact Officer: Christine Parker, Head of the Audit Partnership, Ext. 42160
Simon Webb, Deputy Head of Audit, Ext 7189

Reporting to: Chris Blundell; Acting Deputy Chief Executive

Annex List

Annex 1: East Kent Audit Partnership Update Report – 09-03-2022

Background Papers

Internal Audit Annual Plan 2022-23 - Previously presented to and approved in March 2022 at Governance and Audit Committee meeting

Internal Audit working papers - Held by the East Kent Audit Partnership

Corporate Consultation

Agenda Item 6

Finance: Chris Blundell; Acting Deputy Chief Executive

Legal: Estelle Culligan, Director of Law and Democracy

QUARTERLY INTERNAL AUDIT UPDATE REPORT FROM THE HEAD OF THE EAST KENT AUDIT PARTNERSHIP

1.0 INTRODUCTION AND BACKGROUND

1.1 This report provides Members with an update of the work completed by the East Kent Audit Partnership since the last Governance and Audit Committee meeting, together with details of the performance of the EKAP to the 31st May 2022.

2.0 SUMMARY OF REPORTS

Service / Topic		Assurance level	No. of Recs.	
2.1	Budgetary Control	Substantial	C H M L	0 0 0 0
2.2	EKS; ICT Procurement & Disposal	Substantial	C H M L	0 0 2 2
2.3	Food Safety	Substantial/No	C H M L	1 0 1 0
2.4	Ramsgate Marina	Reasonable	C H M L	0 5 5 3
2.5	Electoral Registration & Election Management	Reasonable	C H M L	0 1 3 6
2.6	Risk Management	Reasonable	C H M L	0 0 2 0
2.7	Tenancy & Estate Management	Reasonable/Limited	C H M L	0 4 3 2
2.8	Housing Repairs and Maintenance	Limited	C H M L	0 4 5 5
2.9	CCTV	No	C	4

			H	5
			M	2
			L	0

2.1 Budgetary Control – Substantial Assurance

2.1.1 Audit Scope

To provide assurance on the adequacy and effectiveness of the procedures and controls established to ensure that budgetary control is exercised across the Council on a corporate wide basis.

2.1.2 Summary of Findings

A sound budget is essential to ensure effective financial control in any organisation and the preparation of the annual budget is a key activity at every council. Every council must have a balanced and robust budget for the forthcoming financial year and also a 'medium term financial strategy (MTFS)' which is also known as a Medium Term Financial Plan (MTFP).

The primary findings giving rise to the Substantial Assurance opinion in this area are as follows:

- Revenue Account (RA) and Revenue Outturn are produced in accordance with the Service Reporting Code of Practice (SeRCOP).
- There is a clearly defined reporting hierarchy and budget rules and controls are applied consistently; this is set out in the Council's chart of accounts and applied through controls within the eFin system
- The Budget and Policy Framework is sufficiently documented and applied.
- The financial governance arrangements in place, in terms of approval of the budget, are appropriate.
- Controls relating to the financial integrity of the figures loaded into e-financials at the start of the year is sufficient to minimise the risk of fraud and error.
- Budget monitoring is effective and the process for identifying budget reductions and savings should be identified and managed effectively.
- The Financial Systems in place provide an effective management tool, to enable senior management to be kept fully informed of whether the Council will meet its required spending levels.
- The budget monitoring systems in place provides reliable, accurate, timely and relevant information to management and is in a format which can be easily understood.
- The budget preparation process is well established and well documented with clear roles and responsibilities identified throughout.
- The virement process is well documented and consistently applied.
- Out-turn is accurately and consistently reported to management and to the Cabinet.

2.2 EKS; ICT Procurement & Disposal – Substantial Assurance

2.2.1 Audit Scope

To ensure that the procedures and internal controls established by EK Services are sufficient to provide an effective, efficient, secure and economical ICT service to the three partner authorities of Canterbury CC, Dover DC and Thanet DC. An important aspect of this being to ensure that the controls over the administration of the procurement and the disposal of ICT equipment are robust.

2.2.2 Summary of Findings

The procurement of ICT equipment is vital to each council to ensure that it is able to deliver its services. The equipment purchased should be of the highest specification (where possible) but also obtained at the best market price. In addition the disposal of surplus equipment should be carried out in accordance with service standards and best practice guidance that will remove the risk of any possible data breaches.

The primary findings giving rise to the Substantial Assurance opinion in this area are as follows:

- Established processes are in place across ICT for both the procurement and the disposal of ICT equipment.
- Disposals are being carried out in accordance with best practice and legislation and there is a supporting Equipment Disposal Policy in place that could be further enhanced to confirm who has responsibility for each stage of the disposal process (i.e. produce disposal schedules and arrange collection) and what they do with the relevant records / information.
- The procurement of ICT equipment has to follow set processes on Topdesk that ensure a complete audit trail is in place. In addition Client Services also hold supporting evidence for every purchase that is made.

Scope for improvement was however identified in the following areas:

- The Dover District Council Digital team have confirmed that they are now procuring laptops directly, consequently the agreement with EKS and the ICT catalogue should be revised and updated to reflect this.
- The authorised signatories for ICT need to be reviewed to ensure that they are up to date at each authority (i.e Head of ICT has the correct authorisation at each authority).
- Discussions should be held between ICT and the Canterbury City Council Insurance section to agree what information could be provided in respect of an asset register and then this should be provided on an annual basis to the Insurance Section.

2.3 Food Safety – Substantial/Limited Assurance

2.3.1 Audit Scope

To provide assurance on the adequacy and effectiveness of the procedures and controls established to reduce the incidence of food poisoning within the district through effective registration and inspection of all food businesses, investigation of food complaints, enforcement of the Food Safety and Hygiene Regulations (England) 2013 and associated legislation, provision of food hygiene training, and offering advice and guidance.

2.3.2 Summary of Findings

As at April 2021 there were 1567 Food Premises in the District. Differing inspection frequencies for different establishments mean that around 650 planned inspections need to be completed per annum by the Public Protection Officers.

The assurance for this review has been split. It is pleasing to report that management can place Substantial Assurance on the system of internal controls around the operation of the Food Safety function. The primary findings giving rise to the Substantial Assurance opinion in this area are as follows:

- Up to date policies and procedure notes are in place detailing how the Council will fulfil its statutory responsibility for food safety in the District.
- A detailed Food Service Plan and Enforcement Policy is in place which is subject to regular review detailing how the Council intends to provide an effective food safety service that meets the requirements of the Food Standards Agency (FSA) Framework Agreement.
- All officers undertaking Food Safety inspections and related enforcement action have been granted suitable delegated authority to fulfil that function.
- All officers are suitably qualified and undertake at least 20 hours continuing Professional development training in accordance with the requirements of the FSA.
- All registered premises are inspected at the point of initial registration to establish the level of risk associated with the establishment.
- All premises are inspected in line with the inspection timescales laid down in the Food Service Plan.
- Checklists and aides-memoire are used to ensure consistency for each inspection.
- Inspection routines are subject to an ongoing audit process to ensure both accuracy and consistency of establishment inspections.
- Complaints about food establishments are investigated on a timely basis.

However, management can place No Assurance on the internal controls to ensure adherence with GDPR Regulations for the retention and disposal of information relating to establishments and inspection of those establishments in the M3 system. The primary findings giving rise to the No Assurance opinion for data retention are as follows:

Agenda Item 6

Annex 1

- Audit testing identified weaknesses in procedures for ensuring compliance with GDPR regulations for the disposal of data in the M3 system. At present, whilst obsolete records in the M3 system are being held in compliance with the requirements of the Food Standards Agency, they are not being disposed of in line with the Privacy Notice for Public Protection. Management should seek advice from the Data Protection Officer and M3 System Administrator so that retention timescales for records can be reviewed and agreed, and all obsolete data should then be disposed of in line with the new Retention Schedule and GDPR.

2.4 Ramsgate Marina – Reasonable Assurance

2.4.1 Audit Scope

To provide assurance on the adequacy and effectiveness of the procedures and controls established to ensure that all income arising from the Council's operations at Ramsgate Marina are completely and correctly accounted for.

2.4.2 Summary of findings

Income for operations at the Marina is managed via two systems, the Financial System (eFin) and the Ports and Harbour system (Harbour Assist). These two systems do not currently interface and therefore reconciliation processes become key to ensuring the income received is being accurately recorded.

The expected income for all operations within the Ramsgate Marina for 2021/22 is £2,412,720.

The primary findings giving rise to the Reasonable assurance opinion in this area are as follows:

- The fees and charges schedule is approved, up to date and being correctly administered;
- Terms and Conditions of use are available and up to date;
- The debt recovery process is working well.
- User access being granted to third parties has been detailed within the privacy statement to show compliance with GDPR

Scope for improvement was however identified in the following areas:

- The Port of Ramsgate Website is not secure and also needs to be updated with all fees and charges.
- Checks on compliance with Harbour Terms and Conditions are not currently fully undertaken. These need to be documented, managed and monitored.
- Insurance documentation checks are not up to date and highlight the non-compliance with terms and conditions. (At the time of testing there were 136 out of date insurance records, if second and subsequent reminder letters had been sent, attracting a £29 admin fee, this would generate an income of upwards of £3,944).

Agenda Item 6

Annex 1

- More detailed information on the reasons and authorisation process is required to be held on file to document to support the credit and refunds process and to explain any reduction in fees that are applied.
- A review is required to ensure all authorised signatories are in place for all personnel who are involved with the income routines.
- Whilst clear documented procedures are partially in place, the reconciliation process undertaken between the financial (Efin) and harbour systems (Harbour Assist) needs to be documented along with the daily administration routines.

2.5 Electoral Registration & Election Management – Reasonable Assurance

2.5.1 Audit Scope

To provide assurance on the adequacy and effectiveness of the procedures and controls established by the Council's Electoral Registration Officer (ERO) and Returning Officer (RO) to ensure that the electoral registration functions together with its management of all elections is administered in an efficient and effective manner in accordance with all prevailing legislation.

2.5.2 Summary of Findings

In 2014 the arrangements for electoral registration changed when the introduction of the Electoral Registration and Administration Act 2013 brought in Individual Electoral Registration (IER). District and Borough Councils in England have adapted for these changes and as at December 2021 Thanet had 100,291 electors held within its electoral register.

The Representation of the People Act 1983 Section 35 places a duty on a Returning Officer to oversee local elections. The 1983 Act allows for all expenses reasonably incurred by the Returning Officer (which can be capped by locally agreed limits) shall be paid to that Returning Officer by the principal local authority and that they, in turn, can then require local councils to repay such costs.

In the 2021-22 there were a total of six elections. In May 2021 Thanet District Council administered the election of the Kent Police Crime Commissioner, Kent County Councillors, Town and Parish Councillors and held a Neighbourhood Planning Referendum. In July 2021 it administered a district by-election for the Cliftonville-East ward and in November 2021 a district by-election for the Thanet villages ward.

The primary findings giving rise to the Reasonable Assurance opinion in this area are as follows:

- Electoral registration is being managed in accordance with requirements;
- The annual canvass was well managed and submitted on time;
- Payments made to staff during the May 2021 elections were calculated correctly;
- Postal vote arrangements are well managed;
- The storage of election equipment is secure and sufficient; and
- Election costs, recharges and general finances are well managed.

Scope for improvement was however identified in the following areas:

- The Council has not complied with Contract Standing Orders for the printing of Poll Cards, Ballot Papers and Canvass Forms;
- Whilst no serious errors were detected over the payments to election staff, the control over the authorisation of staff payments needs to be improved; and
- Improvements over the election risk management processes have been identified.

2.6 Risk Management – Reasonable Assurance

2.6.1 Audit Scope

To provide assurance on the adequacy and effectiveness of the procedures and controls established to ensure that the organisation adopts best practices in the identification, evaluation and cost effective control of risks to ensure that they are reduced to an acceptable level or eliminated, and also maximise opportunities to achieve the organisation's visions and priorities.

2.6.2 Summary of Findings

Risk management is defined as the process of identifying, monitoring and managing potential risks in order to minimise the negative impact they may have on an organisation. Examples of potential risks include security breaches, data loss, cyberattacks, system failures and natural disasters.

The Accounts and Audit Regulations 2015, Part 2 – paragraphs 3 and 4, requires the Council to be responsible for ensuring that its financial management is adequate and that it has a sound system of internal control which facilitates the effective exercise of its functions including arrangements for the management of risk.

The primary findings giving rise to the Reasonable Assurance opinion in this area are as follows:

- The Risk Management Strategy and Risk Management Process adopted by the Council are comprehensive documents;
- Risk identification is working effectively;
- Corporate risk scoring is documented in some directorates;
- The second line of defence is managing operational risks effectively; and
- Corporate Management Team regularly discusses corporate risks and these are regularly reported to the Governance and Audit Committee.

Scope for improvement was however identified in the following areas:

- Risk Management documentation (including risk identification, risk scoring and risk actions) needs to be improved at a corporate level to evidence that the Risk Management Strategy and Process are being consistently applied;
- Whilst there is evidence to show that risk identification was well employed the documentation to allow an independent assessment of risk management processes was weak.

Agenda Item 6

Annex 1

- Information presented to the Governance and Audit Committee could be more comprehensive;
- Risk management e-learning should be introduced; and
- Roles and responsibilities could be strengthened to further evidence that risk management is embedded within the Council.

2.7 Tenancy & Estate Management – Reasonable/Limited Assurance

2.7.1 Audit Scope

To provide assurance on the Council's arrangements for tenancy and estate management including looking after housing estates such as managing grass cutting, gardening contracts, cleaning and maintenance of communal areas etc.

2.7.2 Summary of findings

Thanet District Council rents out 3,065 properties to its social housing tenants within the district in addition to the management of 414 leasehold properties. Below is a breakdown of tenancies as at November 2021: -

Tenancy Type	Number of Tenancies
Introductory Tenancies	159
Flexible Tenancies (2 years)	1
Flexible Tenancies (5 years)	638
Non-secure Tenancies	6
Use and Occupation	1
Secure tenancies	2,238
Voids (empty)	22
Total	3065

Since the service was brought back in-house in October 2020 a total of 107 complaints have been received that specifically relate to social housing related services. Only eleven of these relate to poor customer care.

The assurance for the Tenancy & Estates Management review has been split. Management can place Reasonable Assurance on some aspects of the system of internal controls in operation, however the risk of not meeting the Homes Standard gives rise to a Limited Assurance for areas such as Grounds Maintenance and block inspections, as follows;.

The primary findings giving rise to the Reasonable Assurance opinion in this area are as follows:

Agenda Item 6

Annex 1

- Communal cleaning arrangements are working effectively;
- Communal repairs are being processed correctly;
- Tenancy management processes are generally working effectively; and
- Policies and processes that promote good customer care are working effectively.

Scope for improvement was however identified in the following areas:

- There are no service standards in place for Grounds Maintenance routines which means the Council is not able to demonstrate that it meets 1.2b of the Homes Standard set by the Homes and Communities Agency;
- Records of grounds maintenance work undertaken on housing areas or land could not be provided by management;
- There are improvements that need to be made to block inspections documented processes to enable the Council to demonstrate that it can meet 1.2b of the Homes Standard set by the Homes and Communities Agency;
- There are some policies, procedures, documents and information in existence that still make reference to East Kent Housing and outdated legislation such as the Data Protection Act 1998; and
- There are some administrative improvements that need to be made to strengthen fraud prevention measures and assist assurance providers.

2.8 Housing Repairs & Maintenance – Limited Assurance

2.8.1 Audit Scope

To provide assurance on the adequacy and effectiveness of the procedures and controls established to ensure that that the Council's housing stock is well maintained, proving a good level of service to Council tenants (which demonstrates value for money and tenant participation), in partnership with the Council's contractors and in accordance with Council policy and procedures.

2.8.2 Summary of Findings

The Council is responsible for managing the housing repairs and maintenance service to 3,081 social housing properties and 416 leasehold properties within the district. Repairs and maintenance is managed through the Housing Revenue Account Capital Programme which is a budgeted four year programme and is funded through the Major Repairs Reserve.

There are four main standards set by Homes England that every Council in England must comply with. These are the *Home Standard*, *Tenancy Standard*, *Neighbourhood and Community Standard* and *Tenant Involvement* and the *Empowerment Standard*.

The primary findings giving rise to the Limited Assurance opinion in this area are as follows:

- There is not currently a Housing Repairs or Estate Management Policy in place that is aligned to the Home Standard set by the Homes and Communities Agency and 2006 decent homes guidance;

Agenda Item 6

Annex 1

- There is no Voids Management Policy / Voids Standard in place that is aligned to the contract in place with Mears and other contractors;
- There is no Resident Involvement Strategy or Customer Profiling Strategy in place that is aligned to the requirements of the Tenant involvement and Empowerment Standard;
- The Council is not chasing its residents for their proportion of rechargeable works (approximately 10% of all void works identified) and this is sending the wrong message to vacating tenants and represents poor value for money for existing tenants;
- Contractor performance on voids needs to be improved; and
- KPI information sent through by the contractors Gas Call and Mears is sometimes incomplete.

Effective control was however evidenced in the following areas:

- The evidence and audit trail of repairs and maintenance undertaken is good;
- The Mears schedule of rates is correctly used for repairs work & calculations;
- The record of housing assets (properties) is accurate;
- The Major Repairs Reserve is adequately monitored and managed;
- There is a good management improvement plan in place, although deadlines and responsibilities need to be adequately recorded to improve governance & transparency; and
- Void controls are good although there are some inconsistencies in the audit trail and the use of folders to capture evidence of work.

2.9 CCTV – No Assurance

2.9.1 Audit Scope

To provide assurance on the adequacy and effectiveness of the procedures and controls established to ensure that the CCTV operation is undertaken in accordance with the Code of Practice and all prevailing legislation such as the GDPR and the Human Rights Act.

2.9.2 Summary of Findings

The Council currently operates 170 CCTV cameras across the District from its CCTV Control Room based in the Cecil Square offices. All material recorded by the system is owned by the Council and is subject to statutory conditions of the General Data Protection Regulations, Human Rights Act and Regulation of Investigatory Powers Act 2000. The intended purpose of the system is to help provide a safe public environment for the benefit of those people who live, work, trade, visit, service and enjoy the facilities of the town centres, foreshores, beaches and surrounding villages.

Management can place No Assurance on the system of internal controls in operation around the operation of the CCTV system. The primary findings giving rise to the No Assurance opinion in this area are as follows:

- Despite being reviewed and updated in June 2021, the Council's published Code of Practice for CCTV is not up to date and not fully reflective of current working

Agenda Item 6

Annex 1

practices. This means that incorrect information is being given to members of the public regarding the way in which the CCTV system is operated.

- The Privacy Statement for CCTV and Body Worn cameras is incorrect as it lists an incorrect retention period for normal CCTV data and does not reflect that some data is held for extended periods. Also, it has not been subject to regular review resulting in it not being reflective of who data may be shared with. This means that the Council is failing to comply with its statutory obligations under the General Data Protection Regulations.
- The Council has not undertaken a Data Protection Impact Assessment for the use of the CCTV system meaning that the Council is not operating the system in accordance with Section 64 DPA 2018 and article 35 of the GDPR regulations.
- Inadequate signage is in place to inform members of the public that they are entering an area covered by CCTV cameras meaning that the Council is not operating the CCTV in adherence with DPA 2018.
- The Council has not undertaken an annual review of its CCTV signage in accordance with its published CCTV Code of Practice.
- Privacy zones are not applied to all CCTV cameras meaning that cameras in certain locations are capable of capturing images of sensitive private areas such as upstairs rooms and gardens in private dwellings.
- No details are available to evidence when the Council last undertook a review of its CCTV system to ensure that it remains justified.
- CCTV Operators are neither trained nor hold the accreditations expected of them in the CCTV Code of Practice.
- None of the CCTV Operators have completed a confidentiality agreement.
- At present, none of the CCTV Operators have an Enhanced Disclosure and Barring check in place, despite it being listed as a requirement in the CCTV Code of Practice.
- Checks are not undertaken to ensure that the CCTV system is not subject to misuse

Effective procedures were identified and found to be in place around:

- Subject Access requests are dealt with in line with Corporate Subject Access Procedures.
- Security access to the CCTV Control Room is suitably restricted.
- Liaison with Kent Police and Thanet Safe to make the best use of the resources available.
- Proactive monitoring of the Street Scene by CCTV Operators.
- Management and maintenance of the CCTV system to ensure that system downtime is minimised.
- Access to CCTV images for evidential purposes is restricted and kept under review.

3.0. **FOLLOW UP OF AUDIT REPORT ACTION PLANS:**

- 3.1 As part of the period's work, seven follow up reviews have been completed of those areas previously reported upon to ensure that the recommendations made have been implemented, and the internal control weaknesses leading to those recommendations have been mitigated. The review completed during the period under review is shown in the following table.

Service/ Topic		Original Assurance level	Revised Assurance level	Original Number of Recs		No of Recs. Outstanding after follow-up	
a)	DBS Checks	Limited	Limited	C	1	C	1
				H	11	H	2
				M	6	M	1
				L	1	L	0
b)	Coastal Management	Substantial	Substantial	C	0	C	0
				H	0	H	0
				M	3	M	0
				L	4	L	1
c)	Commercial Let Properties and Concessions	Limited	Limited	C	0	C	0
				H	11	H	11
				M	5	M	5
				L	0	L	0
d)	EKS Payroll	Substantial	Substantial	C	0	C	0
				H	0	H	0
				M	0	M	0
				L	2	L	0
e)	EKS ICT Disaster Recovery	Reasonable	Reasonable	C	0	C	0
				H	3	H	0
				M	5	M	0
				L	1	L	0
f)	EKS Housing Benefit Payments	Substantial	Substantial	C	0	C	0
				H	2	H	0
				M	2	M	0
				L	0	L	0
g)	Right to Buy	Limited	Reasonable	C	0	C	0
				H	18	H	1
				M	2	M	0
				L	0	L	0

3.2 Details of any individual Critical and High priority recommendations still to be implemented at the time of follow-up are included at Appendix 3 and on the grounds that these recommendations have not been implemented by the dates originally agreed with management, they are now being escalated for the attention of the s.151 Officer and Members of the Governance and Audit Committee.

The purpose of escalating high-priority recommendations which have not been implemented is to try to gain support for any additional resources (if required) to resolve the risk, or to ensure that risk acceptance or tolerance is approved at an appropriate level.

Agenda Item 6

Annex 1

- a) DBS Checks - The Council has improved its control over DBS checks and its compliance has improved since the initial audit in September 2020. However the DBS List of Posts has not been formally approved as part of the DBS Policy, the DBS List of Posts is not being consistently updated when jobs titles or job roles change and there the DBS List of Posts and reconciliation report does not exactly match which means the compliance reports are likely to be inaccurate.
- b) Commercial Let Properties and Concessions - There has been no improvement to the processes relating to Let Commercial Properties and Concessions since the audit review was concluded in October 2021. This may be in part due to resource issues surrounding the Director of Properties post, however this should not have deterred the progress very much required in order to strengthen the processes. It has now become urgent that matters surrounding EPC ratings are dealt with expediently. This was an area flagged up within the last audit review undertaken in 2015/16 but remained outstanding at follow-up.

Rent reviews and lease renewals also remain outstanding which has a potential impact on the levels of income for the Council.

4.0 WORK-IN-PROGRESS:

- 4.1 During the period under review, work has also been undertaken on the following topics, which will be reported to this Committee at future meetings: Recruitment, Income & Cash Collection, HMO Licensing, Complaints Monitoring, and Operational Services Vehicle Fleet Management.

5.0 CHANGES TO THE AGREED AUDIT PLAN:

- 5.1 The 2022-23 internal audit plan was agreed by Members at the meeting of this Committee on 9th March 2022.
- 5.2 The Head of the Audit Partnership meets on a quarterly basis with the Section 151 Officer or their nominated representative to discuss any amendments to the plan. Members of the Committee will be advised of any significant changes through these regular update reports. Minor amendments are made to the plan during the course of the year as some high profile projects or high-risk areas may be requested to be prioritised at the expense of putting back or deferring to a future year some lower risk planned reviews. The detailed position regarding when resources have been applied and or changed are shown as Appendix 1.

6.0 FRAUD AND CORRUPTION:

There are no known instances of fraud or corruption being investigated by the EKAP to bring to Members' attention at the present time.

7.0 UNPLANNED WORK:

Agenda Item 6

Annex 1

All responsive assurance / unplanned work is summarised in the table contained at Appendix 1.

8.0 INTERNAL AUDIT PERFORMANCE

- 8.1 For the two months to 31st May 2022, 61.15 chargeable days were delivered against the target of 330 days which equates to 18.53% plan completion.
- 8.2 The financial performance of the EKAP is on target at the present time.
- 8.3 As part of its commitment to continuous improvement and following discussions with the s.151 Officer Client Group, the EKAP has established a range of performance indicators which it records and measures.
- 8.4 The EKAP audit maintains an electronic client satisfaction questionnaire which is used across the partnership. The satisfaction questionnaires are sent out at the conclusion of each audit to receive feedback on the quality of the service.

Attachments

- Appendix 1 Progress to 31st May 2022 against the agreed 2022-23 Audit Plan.
- Appendix 2 Definition of Audit Assurance Statements & Recommendation Priorities
- Appendix 3 Summary of Critical and High priority recommendations not implemented at the time of follow-up.
- Appendix 4 Summary of services with Limited / No Assurances yet to be followed up.

Agenda Item 6

Annex 1

PROGRESS TO DATE AGAINST THE AGREED THANET DISTRICT COUNCIL 2022-23 AUDIT PLAN – APPENDIX 1

Area	Original Planned Days	Revised Budgeted Days	Actual days to 31-05-2022	Status and Assurance Level
FINANCIAL GOVERNANCE:				
Car Parking & Enforcement	10	10	0	Quarter 3
VAT	10	10	0	Quarter 3
HOUSING SYSTEMS:				
Housing Allocations	10	10	0	Quarter 4
HMO Licensing	10	10	0.24	Quarter 2
Tenant Health & Safety	10	10	0	Quarter 4
Leasehold Services	12	12	0	Quarter 2
Capital Programme/ Planned Maintenance	12	12	0	Quarter 4
Contract Letting Procurement Process	10	10	0	Quarter 3
GOVERNANCE RELATED:				
Digital/Cloud Computing	10	10	0.41	Work-in-Progress
Officers' Code of Conduct	10	10	0	Quarter 2
Complaints Monitoring	10	10	0.21	Work-in-Progress
Project Management	10	10	0	Quarter 4
Corporate Advice/CMT	2	2	0.75	Work-in-Progress
s.151 Officer Meetings and Support	9	9	2.28	Work-in-Progress
Governance & Audit Committee Meetings and Report Preparation	12	12	2.52	Work-in-Progress
2023-24 Audit Plan and Preparation Meetings	9	9	0	Quarter 4
HR RELATED:				
Absence Management - Sickness, Annual and Flexi Leave	12	12	0.22	Work-in-Progress
COUNTER FRAUD:				
Counter Fraud & Corruption	10	10	0	Quarter 3
SERVICE LEVEL:				

Agenda Item 6 Annex 1

Safeguarding	10	10	0	Quarter 3
Community Safety	10	10	0	Quarter 3
CCTV	10	10	10.42	Finalised - No
Dog Warden & Environmental Crime	10	10	0	Quarter 3
Food Safety	10	10	9.53	Finalised - Substantial/No
Pollution/Contaminated Land	10	10	0.22	Work-in-Progress
Business Continuity/Emergency Planning	10	10	0	Quarter 4
Licensing	10	10	0.18	Quarter 2
Museums	10	10	0	Work-in-Progress
Ramsgate Harbour Accounts	5	5	0	Quarter 2
East Kent Opportunities	10	10	0	Quarter 3
Waste Vehicle Fleet Mngmt	13	13	0.72	Work-in-Progress
Climate Change	5	5	0	Quarter 3
Employee Health and Safety	10	10	0	Quarter 4
OTHER:				
Liaison With External Auditors	1	1	0.22	Work-in-Progress
Follow-up Reviews	15	15	3.63	Work-in-Progress
FINALISATION OF 2020-21 AUDITS:				
Repairs & Maintenance	5	5	0.84	Finalised - Limited
Income, Bank Rec. & Cash Collection			8.77	Work-in-Progress
Maritime			1.29	Finalised - Reasonable
Recruitment			6.83	Work-in-Progress
Risk Management			1.9	Finalised - Reasonable
Thanet Lottery			8.82	Work-in-Progress
RESPONSIVE ASSURANCE:				
Corporate Leak Investigation	0	0	1.15	Work-in-Progress
TOTAL	330	330	61.15	18.53%

PROGRESS TO DATE AGAINST THE AGREED EKS & CIVICA AUDIT PLAN 2022-23

Review	Original Planned Days	Revised Planned Days	Actual days to 31/05/2022	Status and Assurance Level
EKS REVIEWS:				
Business Rates	15	15	0	Quarter 2
Housing Benefit DHPs	15	15	0	Quarter 3
Housing Benefit Testing	15	15	8.79	Work in progress
Debtors	15	15	0	Quarter 4
ICT – Data Management	15	15	0	Quarter 4
ICT – Network Security	15	15	0	Quarter 3
KPIs	5	5	2.81	Work in progress
Payroll	18	18	0	Quarter 2
OTHER:				
Corporate/Committee	8	8	1.72	Ongoing
Follow Up	6	6	0	Ongoing
FINALISATION OF 2020-21 AUDITS:				
ICT Procurement & Disposal	1	1	1.22	Finalised - Substantial
Total	128	128	14.54	11.36%

Definition of Audit Assurance Statements & Recommendation Priorities

Cipfa Recommended Assurance Statement Definitions:

Substantial assurance - A sound system of governance, risk management and control exists, with internal controls operating effectively and being consistently applied to support the achievement of objectives in the area audited.

Reasonable assurance - There is a generally sound system of governance, risk management and control in place. Some issues, non-compliance or scope for improvement were identified which may put at risk the achievement of objectives in the area audited.

Limited assurance - Significant gaps, weaknesses or non-compliance were identified. Improvement is required to the system of governance, risk management and control to effectively manage risks to the achievement of objectives in the area audited.

No assurance - Immediate action is required to address fundamental gaps, weaknesses or non-compliance identified. The system of governance, risk management and control is inadequate to effectively manage risks to the achievement of objectives in the area audited.

EKAP Priority of Recommendations Definitions:

Critical – A finding which significantly impacts upon a corporate risk or seriously impairs the organisation's ability to achieve a corporate priority. Critical recommendations also relate to non-compliance with significant pieces of legislation which the organisation is required to adhere to and which could result in a financial penalty or prosecution. Such recommendations are likely to require immediate remedial action and are actions the Council must take without delay.

High – A finding which significantly impacts upon the operational service objective of the area under review. This would also normally be the priority assigned to recommendations relating to the (actual or potential) breach of a less prominent legal responsibility or significant internal policies; unless the consequences of non-compliance are severe. High priority recommendations are likely to require remedial action at the next available opportunity or as soon as is practical and are recommendations that the Council must take.

Medium – A finding where the Council is in (actual or potential) breach of - or where there is a weakness within - its own policies, procedures or internal control measures, but which does not directly impact upon a strategic risk, key priority, or the operational service objective of the area under review. Medium priority recommendations are likely to require remedial action within three to six months and are actions which the Council should take.

Low – A finding where there is little if any risk to the Council or the recommendation is of a business efficiency nature and is therefore advisory in nature. Low priority recommendations are suggested for implementation within six to nine months and generally describe actions the Council could take.

SUMMARY OF CRITICAL & HIGH PRIORITY RECOMMENDATIONS NOT IMPLEMENTED AT THE TIME OF FOLLOW-UP – APPENDIX 3		
Original Recommendation	Agreed Management Action , Responsibility and Target Date	Manager’s Comment on Progress Towards Implementation.
<i>Commercial Let Properties and Concessions - April 2022</i>		
Provide one Policy documentation to cover all aspects of Asset Management.	<p>New policies will be prepared and approval sought by Cabinet for;</p> <ul style="list-style-type: none"> • Property Lease & Rent Policy & Procedures; • Voluntary & Community Sector Accommodation Policy & Procedures; • Property Risks & Compliance Policy & Procedures; and • Building Maintenance Policy <p>Proposed Completion Date: 31 March 2022</p> <p>Responsibility: Director of Property</p>	<p>As at 05/04/22 no actions have been taken to implement the recommendation.</p> <p>The Director of Property advises that ‘Help will be required here as no or almost no progress has been made on these items.</p> <p>Significant resources will be required to action which are not available.’</p> <p>Auditor notes: a web based search proved unfruitful; a search for cabinet decisions found no policies have been brought forward; therefore it has been concluded that this recommendation is yet to be fully implemented.</p> <p>Outstanding</p>
Ensure procurement procedures are being followed in every case and if necessary seek and put in place CSO waivers.	<p>Refresher training for Property management team re; procurement processes to be undertaken.</p> <p>Proposed Completion Date: tbc</p>	<p>As at 05/04/22 no actions have been taken to implement the recommendation.</p> <p>The Director of Property advises that ‘Help will be required here as no or almost no</p>

Annex 1
Agenda Item 6

	<p>Responsibility: Procurement Manager (Operations)</p>	<p>progress has been made on these items.</p> <p>Significant resources will be required to action which are not available.'</p> <p>Auditor notes: there are extensive notes on the procurement process that Managers can familiarise themselves with prior to any training being sought and given by the Procurement Team.</p> <p>Outstanding</p>
<p>Produce a set of procedures for staff which detail the day to day management of Commercial properties and Concessions and detail the systems (paper based or computerised) in use</p>	<p>To be incorporated in to new policies & procedures outlined in item 2 above.</p> <p>Proposed Completion Date: 31 March 2022</p> <p>Responsibility: Director of Property</p>	<p>See comments within point 2 above.</p> <p>Outstanding</p>
<p>Review the delegations to ensure job titles and processes are up to date.</p>	<p>The Director of Law and Democracy is currently reviewing the delegations.</p> <p>Proposed Completion Date: tbc</p> <p>Responsibility: Director of Law and Democracy</p>	<p>Managers Comments: As at 05/04/22 no actions have been taken to implement the recommendation.</p> <p>The Director of Property advises that 'Hel will be required here as no or almost no progress has been made on these items.</p> <p>Significant resources will be required to action which are not available.'</p>

		<p>Auditor notes - email sent to the Director of Law and Democracy for an updated position on 11/04/22. Awaiting a response.</p> <p>Outstanding</p>
<p>Add to the existing asset register all EPC data</p>	<p>Data will be added to the asset register.</p> <p>Proposed Completion Date: 31 December 2021</p> <p>Responsibility: Director of Property</p>	<p>Managers comments:As at 05/04/22 no actions have been taken to implement the recommendation.</p> <p>The Director of Property advises that ‘Help will be required here as no or almost no progress has been made on these items.</p> <p>Significant resources will be required to action which are not available.’</p> <p>Auditor Comments: from reviewing the shared documents it would appear that the EPC data is yet to be added.</p> <p>11/04/22 Emailed management Surveyor (SB) & Technical Officer (CB) to request if this has been completed. Awaiting a response</p> <p>Outstanding</p>
<p>Provide a report to CMT and Cabinet on :</p> <ul style="list-style-type: none"> the current position of the EPC ratings; 	<p>A report will be prepared and issued for consideration.</p> <p>Proposed Completion Date: 31 March 2022</p>	<p>Managers comments:As at 05/04/22 no actions have been taken to implement the recommendation.</p>

<ul style="list-style-type: none"> • how this is going to be managed to provide a rating for all Council properties; • Highlight those properties that require attention (and any expected to fail the rating); • Provide a copy of the risk assessments for those F&G rated properties which identifies works required to bring the property up to standard so a decision can be made on works required; • Set up a scoring matrix to identify those properties most at risk i.e. currently failing legislation; and • make a recommendation moving forward on the treatment of each given its economical viability. 	<p>Responsibility: Director of Property</p>	<p>The Director of Property advises that ‘Help will be required here as no or almost no progress has been made on these items.</p> <p>Significant resources will be required to action which are not available.’</p> <p>Auditor Notes: a search on Cabinet Reports and decisions provided no hits therefore can only conclude this is yet to be undertaken. Since April 2018- subject to certain exemptions - it has been a legal requirement under the Minimum Energy Efficiency Standard regulations that a commercial building must have a rating of at least E before a new or renewal lease can be granted. Following a consultation in 2019 the Government confirmed it was planning to go further so that by 2030 all rented commercial properties achieve a minimum of a B EPC rating.</p> <p>Outstanding</p>
<p>Review, update and/or initiate a reporting regime for the Performance Indicators</p>	<p>A suite of appropriate KPIs will be established and monitored.</p> <p>Proposed Completion Date: 31 March 2022</p> <p>Responsibility: Director of Property</p>	<p>Managers comments:As at 05/04/22 no actions have been taken to implement the recommendation.</p> <p>The Director of Property advises that ‘Help will be required here as no or almost no progress has been made on these items.</p>

		<p>Significant resources will be required to action which are not available.'</p> <p>Auditor Notes: From reviewing the performance reports it would appear that no KPI's have been put in place. these have been identified and set at Page 17 of the SAMP, those listed were as follows:</p> <ul style="list-style-type: none"> ● Capital Receipts Received; ● Revenue Income From Lettings; ● Revenue Income (other); ● Cost of Void Periods; ● Water Usage; ● Energy Usage; and ● Maintenance Expenditure. <p>Outstanding</p>
Produce a policy or include in an overarching policy (rec 2) on the type of lettings to be operated and the format and content of leases	<p>Proposed Completion Date: 31 March 2022</p> <p>Responsibility: Director of Property</p>	Outstanding
Identify those properties affected by shared spaces and amenities where a service charge could become payable. Check with Legal Services that the wording currently set within section 3 is sufficient and fit for purpose should this scenario arise.	<p>We will ensure the Asset Register identifies all the relevant properties, where repair and other operational costs are able to be recovered from tenants.</p> <p>The new Property Lease & Rent Policy & Procedures will include a requirement to properly document all service charges and</p>	<p>Auditor Notes: - awaiting a copy of the Register to ensure relevant properties have been identified.</p> <p>Outstanding</p>

	<p>aim to ensure that costs are fully recoverable from occupiers.</p> <p>Proposed Completion Date: 31 March 2022</p> <p>Responsibility: Director of Property</p>	
<p>Rent reviews must be dealt with as soon as possible to avoid accumulating back-dated charges to tenants. Consider sending an interim letter to tenants to warn them that a review has been undertaken and the likely increase in rent – TBC etc</p>	<p>Letters to be sent to tenants with outstanding rent reviews.</p> <p>Proposed Completion Date: 30 November 2022</p> <p>Responsibility: Principal Property Surveyor</p>	<p>Managers comments:As at 05/04/22 no actions have been taken to implement the recommendation.</p> <p>The Director of Property advises that 'Help will be required here as no or almost no progress has been made on these items.</p> <p>Significant resources will be required to take action which are not available.'</p> <p>Auditor Notes: implementation date still valid, however from the comments received by management there is a concern that this deadline might pass before any actions are undertaken.</p> <p>Not yet due, and not started.</p>
<p>Produce a policy or include in an overarching policy (rec 2) detailing the lettings process for both commercial properties and concessions; this should include issuing of a temporary licence and details on the surrender process</p>	<p>Refer 2 above</p> <p>Proposed Completion Date: 31 March 2022</p> <p>Responsibility: Director of Property</p>	<p>Please refer to point 2 above.</p> <p>Outstanding</p>

DBS Checks - May 2022

Each Council's Senior Management Team should review and update their DBS List of Posts taking into account the audit findings and pass this amended list to EKHR as soon as possible. The new list should: -

- Contain all posts where there is a safeguarding requirement based on personal contact with children or vulnerable adults or access to personal or sensitive data relating to children or vulnerable adults including CCTV images;
- Contain all management posts required to manage anyone requiring a DBS check from safeguarding reasons mentioned above;
- Contain all posts where there is a professional requirement (accountants and solicitors / legal executive upon entry to profession);
- Contain all posts responsible for traffic management and civil enforcement;
- Contain all the correct names of the latest posts within the current organisational structure;
- Contain the level of check required (Standard, Enhanced or Child Barred).

TDC - DBS list is currently being reviewed due to the addition of EKH roles and all new roles and existing role changes will be updated at this review.
Managers and HOS will be updated and requested to inform the DBS lead when a job role changes.

Policy
A Safeguarding Policy was introduced last year and a new draft DBS Policy has been obtained from HR. It has been suggested that this policy will be going to the Management Team for approval in February 2022. The new draft DBS Policy is a HR policy targeted at the way in which DBS is administered for staff. It sets out how the DBS process will be managed and controlled. The new policy states that DBS reconciliations will be carried out annually however they are currently being carried out quarterly and it is suggested that quarterly reconciliations continue particularly during the implementation of the change programme.

The new draft DBS policy does not contain the actual DBS List of Posts for approval but instead delegates the responsibility to the Safeguarding Lead. This is perfectly acceptable except the DBS List of Posts is still inaccurate when comparing job titles with those within East Kent People. It is suggested that the DBS List of Posts is reviewed again and appended to the draft

Annex 1
Agenda Item 6

- Contain the date of approval;
- Contain the names of the officer / manager authorising the latest list;
- Contains the date it was last sent to EKHR.

DBS policy so that elected members and senior management can have full confidence that the list of posts is accurate from the DBS Policy approval date.

List of Posts

The DBS List of Posts does now contain all of the positions as set out within the original recommendation however the list does still contain some errors and it has not yet been approved by CMT. This was scheduled to happen in December 2021 but CMT had some further queries in relation to senior officers requiring DBS checks.

The Council has made good progress working towards the unapproved DBS List of Posts but until this list is authorised and approved by CMT, progress made cannot be reliably measured.

Recommendation Outstanding

A new focused recommendation has been suggested within the audit follow-up which is aimed at strengthening the DBS List of Posts as a key control.

New recommendation 1 (high)

The Council should approve its Draft DBS Policy which should include as an appendix the approved DBS List of Posts to ensure

Annex 1
Agenda Item 6

		full transparency and scrutiny is applied by senior officers.
<p>Senior Management Teams (CMT or SMT) should assume responsibility for receiving the results of an EKHR DBS Reconciliation every three years in order to identify and oversee any areas requiring further action to be taken on overdue or missing DBS Checks.</p>	<p>TDC - Safeguarding lead will update senior management lead as well as the Safeguarding Forum with any changes. Any concerns raised will be escalated and dealt with in collaboration with senior managers, DBS lead and Safeguarding forum.</p>	<p><u>Auditor Comment</u> HR carry out quarterly reconciliations and this is then shared with the Safeguarding Lead but this information is not formally considered by MT. The reconciliations help identify DBS checks that have not taken place or that are overdue. The last reconciliation undertaken at the beginning of November 2021 suggests that 77% of staff requiring up to date DBS checks have done so. Management have confirmed that many of the 23% outstanding have had their checks undertaken and are awaiting the certificates to come through before updating East Kent People with the details.</p> <p>It was noticed during an examination of the DBS List of Posts and the reconciliation reports produced by HR that there are some anomalies between the two lists. For example there are four job posts that are contained within the compliance report that do not feature on the DBS List of Posts.</p> <p>There are also 25 posts that are contained within the DBS List of Posts that do not feature on the compliance report. It is not clear whether some of these posts are vacant posts or whether they have just been omitted from the compliance report. If the</p>

		<p>latter applies then these posts will need to be checked within East Kent People so that the compliance reporting process picks these up for reporting purposes. These are: -</p> <p>Recommendation Outstanding</p>
<p>Once the DBS List of Posts has been reviewed and updated by Thanet District Council Senior Management Team it should rectify the 17% of DBS checks that have never been carried out and the 17% of DBS checks that are out of date.</p>	<p>TDC - DBS job list is currently being reviewed.</p> <p>Managers will take responsibility for coordinating their staff to engage in the DBS process. Updates will be fed back to senior management by the DBS Lead, should there be no compliance in the DBS process.</p>	<p><u>Auditor Comment</u></p> <p>Compliance is now reported to be in excess of 77% but there are anomalies in the compliance report and the DBS List of Posts is still due to be approved by CMT. Once this has been approved senior management will need to lead from the top down and cascade the requirement for staff to complete DBS checks as a requirement of their positions. As mentioned previously the DBS list and the reconciliation reports need to be revisited before they are approved to ensure they are accurate.</p> <p>Recommendation Outstanding</p> <p>Recommendation 3 (high)</p> <p>The Safeguarding Lead should go through the DBS List of Posts and check whether the following posts which are contained within the compliance report should be listed on the DBS List of Posts: -</p> <ul style="list-style-type: none"> - Senior ICT Customer Liaison Officer - SAMM Engagement Officer - Compliance Administrator - Senior Rent Officer.

Recommendation 4 (high)

HR should go through the quarterly compliance report and check whether the following posts which are contained within the DBS List of Posts should be listed on the compliance report / East Kent People: -

- Homeless Prevention Officer
- Senior Housing Officer
- Senior Income Recovery Officer
- Housing Licensing Support Officer
- Thanet Coast Project Officer
- Community Officer (listed twice)
- Community Development Officer
- Environmental Health Practitioner
- Beach and Coastal Supervisor
- Coastal Enforcement Officer
- Thanet Coast Volunteer
- Adaptations Supervisor
- Compliance Officer
- Customer Insight Officer
- Compliance Inspector
- Income Recovery Officer
- Step-up Project Coordinator
- Level One Sports Coach
- Level Two Sports Coach
- Community Tree Planting Co-ordinator
- Capital Treasury Accountant
- Multi-Agency Task Force Lead
- Director of Property

Right to Buy - June 2022		
<p>Undertake a cost analysis on the valuation process to ensure value for money is obtained i.e. look at testing the market and putting in place a contract for this service.</p>	<p>Procurement required for valuations service.</p> <p>Proposed Completion Date: Apr 2022</p> <p>Responsibility: Housing Services Manager</p>	<p>Procurement has not been carried out. We have a large backlog of procurement for much larger contracts. We have checked to ensure we are not outside CSO by retaining this service in this way.</p> <p>Our intention is to procure once we have pushed through some of our larger campaigns.</p> <p>Outstanding</p>

SERVICES GIVEN LIMITED / NO ASSURANCE LEVELS STILL TO BE REVIEWED – APPENDIX 4			
Service	Reported to Committee	Level of Assurance	Follow-up Action Due
Equality & Diversity	March 2022	Limited	Spring/Summer 2022
Tenancy & Estate Mngmt	July 2022	Reasonable/Limited	Summer 2022
Repairs & Maintenance	July 2022	Limited	Summer 2022

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Internal Audit Annual Report 2021-22

Governance & Audit Committee	27 July 2022
Report Author	Head of Internal Audit
Portfolio Holder	Cllr David Saunders, Cabinet Member for Finance.
Status	For Information
Classification:	Unrestricted
Key Decision	No

Executive Summary:

This report provides a summary of the work undertaken by the East Kent Audit Partnership to support the annual opinion. The report includes the Head of Audit Partnership's opinion on the overall adequacy and effectiveness of the system of governance, risk management and internal control in operation and informs the Annual Governance Statement for 2021-22, together with details of the performance of the EKAP against its targets for the year ending 31st March 2022.

Recommendation(s):

That Members note the Opinion of the Head of Audit Partnership.

That Members receive the Annual Report detailing the work of the EKAP and its performance to underpin the 2021-22 opinion.

Corporate Implications

Financial and Value for Money

There are no financial implications arising directly from this report. The costs of the audit work are being met from the Financial Services 2021-22 budgets.

Legal

The Council is required by statute (under the Accounts and Audit Regulations and section 151 of the Local Government Act 1972) to have an adequate and effective internal audit function.

Corporate

Under the Local Code of Corporate Governance the Council is committed to comply with requirements for the independent review of the financial and operational reporting processes, through the external audit and inspection processes, and satisfactory arrangements for internal audit.

Equality 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, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.

There are no equity or equalities issues arising from this report.

Corporate Priorities

This report relates to the following corporate priorities: -

- Growth
- Environment
- Communities

1.0 Introduction and Background

1.1 The primary objective of Internal Audit is to provide independent assurance to Members, the Chief Executive, Directors and the Section 151 Officer on the adequacy and effectiveness of those systems on which the Authority relies for its internal control. The purpose of bringing forward an annual report to members is to:

- Provide an opinion on the overall adequacy and effectiveness of the Council's internal control environment.
- Present a summary of the internal audit work undertaken to formulate the opinion, including reliance placed on work by other assurance bodies,
- Draw attention to any issues the Head of the Audit Partnership judges particularly relevant to the preparation of the Annual Governance Statement.
- Compare actual audit activity with that planned, and summarise the performance of Internal Audit against its performance criteria.
- Comment on compliance with the Public Sector Internal Audit Standards (PSIAS), and report the results of the Internal Audit quality assurance programme.
- Confirm annually that EKAP is organisationally independent, whether there have been any resource limitations or instances of restricted access.

1.2 The report attached as Annex 1 therefore summarises the performance of the East Kent Audit Partnership (EKAP) and the work it has performed over the financial year 2021-22 for Thanet District Council, and provides an overall opinion on the system for governance, risk management and internal control based on the audit work undertaken throughout the year, in accordance with best practice. In providing this opinion, this report supports the Annual Governance Statement.

- 1.3 The EKAP delivered 91% of the agreed audit plan days to TDC. The performance figures for the East Kent Audit Partnership as a whole for the year show good performance against the targets. It is the opinion of the Head of Audit that sufficient work has been undertaken to be able to support an opinion for 2021-22.
- 1.4 No system of control can provide absolute assurance, nor can Internal Audit give that assurance. This opinion is intended to provide assurance that there is an ongoing process for identifying, evaluating and managing the key risks.

2.0 Summary of Work

- 2.1 That Members consider and note the Head of Audit opinion in the internal audit annual report.
- 2.2 That Members consider registering their comments with Cabinet in respect of any areas of the Council's corporate governance, risk management arrangements or internal control framework in respect of which they have on-going comments after considering the work or coverage of internal audit for the year 2021-22.

Contact Officer: Christine Parker, Head of the Audit Partnership, Ext. 42160
Simon Webb, Deputy Head of Audit, Ext 7189

Reporting to: Chris Blundell; Acting Deputy Chief Executive

Annex List

Annex 1: East Kent Audit Partnership Annual Report 2021-22

Background Papers

Internal Audit Annual Plan 2021-22 - Previously presented to and approved in March 2021 at Governance and Audit Committee meeting

Internal Audit working papers - Held by the East Kent Audit Partnership

Corporate Consultation

Finance: Chris Blundell; Acting Deputy Chief Executive

Legal: Estelle Culligan, Director of Law and Democracy

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Annex 1

Internal Audit Annual Report for Thanet District Council 2021-22

1. Introduction

The Public Sector Internal Audit Standard (PSIAS) defines internal audit as:

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

A more detailed explanation, of the role and responsibilities of internal audit, is set out in the approved Audit Charter. The East Kent Audit Partnership (EKAP) aims to comply with the PSIAS, and to this end has produced evidence to the s.151 and Monitoring Officers to assist the Council’s review of the system of internal control in operation throughout the year.

This report is a summary of the year, a snapshot of the areas at the time they were reviewed and the results of follow up reviews to reflect the actions taken by management to address the control issues identified. The process that the EKAP adopts regarding following up the agreed recommendations will bring any outstanding high-risk areas to the attention of members via the quarterly reports, and through this annual report if there are any issues outstanding at the year-end.

2. Objectives

The majority of reviews undertaken by Internal Audit are designed to provide assurance on the operation of the Council’s internal control environment. At the end of an audit, we provide recommendations and agree actions with management that will, if implemented, further enhance the environment of the controls in practice. Other work undertaken, includes the provision of specific advice and support to management to enhance the economy, efficiency and effectiveness of the services for which they are responsible. The annual audit plan is informed by special investigations and anti-fraud work carried out as well as the governance processes and risk management framework of the Council.

A key aim of the EKAP is to deliver a professional, cost effective, efficient, internal audit function to the partner organisations. The EKAP aims to have an enabling role in raising the standards of services across the partners though its unique position in assessing the relative standards of services across the partners. The EKAP is also a key element of each councils’ anti-fraud and corruption system by acting as a deterrent to would be internal perpetrators.

The four partners are all committed to the principles and benefits of a shared internal audit service and have agreed a formal legal document setting out detailed arrangements. The statutory officers from each partner site (the s.151 Officer) together form the Client Officer Group and govern the partnership through annual meetings. The shared arrangement for EKAP also secures organisational independence, which in turn assists EKAP in making conclusions about any resource limitations or ensuring there are no instances of restricted access.

3. Internal Audit Performance Against Targets

3.1 EKAP Resources

The EKAP has provided the service to the partners based on a FTE of 6.74. Additional audit days have been provided via audit contractors in order to meet the planned workloads.

3.2 Performance against Targets

The EKAP is committed to continuous improvement and has various measures to ensure the service can strive to improve. The performance measures and indicators for the year are shown in the balanced scorecard of performance measures at Appendix 5. The measures themselves were reviewed by the Client Officer Group at their annual meeting and no changes were made.

3.3 Internal Quality Assurance and Performance Management.

All internal audit reports are subject to review, either by the relevant EKAP Deputy Head of Audit or the Head of the Audit Partnership; all of whom are Chartered Internal Auditors. In each case this includes a detailed examination of the working papers, action and review points, at each stage of report. The review process is recorded and evidenced within the working paper index and in a table at the end of each audit report. Detailed work instructions are documented within the Audit Manual. The Head of Audit Partnership collates performance data monthly and, together with the monitoring of the delivery of the agreed audit plan carried out by the relevant Deputy Head of Audit, regular meetings are held with the s.151 Officer. The minutes to these meetings provide additional evidence to the strategic management of the EKAP performance.

3.4 External Quality Assurance

The external auditors, Grant Thornton, conducted a review in February 2021 of the Internal Audit arrangements. They have concluded that, where possible, they can place reliance on the work of the EKAP. See also 3.6.1 below.

3.5 Liaison between Internal Audit and External Audit

Liaison with the audit managers from Grant Thornton for the partner authorities and the EKAP is undertaken largely via email to ensure adequate audit coverage, to agree any complementary work and to avoid any duplication of effort. The EKAP has not met with any other review body during the year in its role as the Internal Auditor to Thanet District Council. Consequently, the assurance, which follows is based on EKAP reviews of Thanet District Council's services.

3.6 Compliance with Professional Standards

- 3.6.1 The EKAP self-assessment of the level of compliance against the Public Sector Internal Audit Standards shows that some actions are required to achieve full compliance which EKAP will continue to work towards. There is, however, currently no appetite with the Client Officer Group to undertake an External Quality Assessment of the EKAP's level of compliance, relying on a review by the s.151 officers of the self-assessment. Consequently, the EKAP can say that it partially conforms with PSIAS and this risk is noted in the AGS.
- 3.6.2 The internal audit activity adds value to the organisation (and its stakeholders) when it provides objective and relevant assurance, and contributes to the effectiveness and efficiency of governance, risk management and control processes.
- 3.6.3 The EKAP as required by the standards has demonstrated that it achieved the Core Principles in three key ways. Firstly, by fulfilling the definition of Internal Auditing which is the statement of fundamental purpose, nature and scope of internal auditing. The definition is authoritative guidance for the internal audit profession (and is shown at paragraph 1 above). Secondly by demonstrating that it has been effective in achieving its mission showing that it; -

- Demonstrates integrity.
- Demonstrates competence and due professional care.
- Is objective and free from undue influence (independent).
- Aligns with the strategies, objectives, and risks of the organisation.
- Is appropriately positioned and adequately resourced.
- Demonstrates quality and continuous improvement.
- Communicates effectively.
- Provides risk-based assurance.
- Is insightful, proactive, and future-focused.
- Promotes organisational improvement.

And thirdly by complying with The Code of Ethics, which is a statement of principles and expectations governing behaviour of individuals and organisations in the conduct of internal auditing. The Rules of Conduct describe behaviour norms expected of internal auditors. These rules are an aid to interpreting the Core Principles into practical applications and are intended to guide the ethical conduct of internal auditors. Throughout 2021-22 the EKAP has been able to operate with strong independence, free from any undue influence of either officers or Members.

3.6 Financial Performance

Expenditure and recharges for year the 2021-22 are all in line with the Internal Audit cost centre hosted by Dover District Council. The EKAP was formed to provide a resilient, professional service and therefore achieving financial savings was not the main driver, despite this, efficiencies have been gained through forming the partnership.

4. Overview of Work Done

The original audit plan for 2021-22 included a total of 24 projects. EKAP has communicated closely with the s.151 Officer, CMT and this Committee to ensure the projects undertaken continued to represent the best use of resources. As a result of this liaison some changes to the plan were agreed during the year, including a minor change due to EKHR being brought back in house. A few projects (6) have therefore been pushed back in the overall strategic plan, to permit some higher risk projects (1) to come forward in the plan and to finalise (7) projects from the 2020-21 plan. The total number of projects completed was 21, with 5 being WIP at the year-end to be finalised in April.

Review of the Internal Control Environment

4.1 Risks

During 2021-22, 102 recommendations were made in the agreed final audit reports to Thanet District Council. These are analysed as being Critical, High, Medium, or Low risk in the following table:

Risk Criticality	No. of Recommendations	Percentage
Critical	8	8%
High	47	47%
Medium	28	27%
Low	19	19%
TOTAL	102	100%

Agenda Item 7

Annex 1

Naturally, more emphasis is placed on recommendations for improvement regarding critical and high risks. Any high priority recommendations where management has not made progress in implementing the agreed system improvement are brought to management and members' attention through Internal Audit's quarterly update reports. During 2021-22 the EKAP has raised and escalated eighteen recommendations to the quarterly Governance Committee meetings. Across the year a total of 102 recommendations were agreed, and 55% were in the Critical or High-Risk categories.

4.2 Assurances

Internal Audit applies one of four 'assurance opinions' to each review, please see Appendix 1 for the definitions. This provides a level of reliance that management can place on the system of internal control to deliver the goals and objectives covered in that particular review. The conclusions drawn are described as being "a snapshot in time" and the purpose of allocating an assurance level is so that risk is managed effectively, and control improvements can be planned. Consequently, where the assurance level is either 'no' or 'limited', or where critical and high priority recommendations have been identified, a follow up progress review is undertaken and, where appropriate, the assurance level is revised.

The summary of Assurance Levels issued on the fourteen pieces of completed work for Thanet District Council, together with the finalisation of the seven 2020-21 audits is as follows:

NB: the percentages shown are calculated on finalised reports with an assurance level

Assurance	No.	Percentage of Completed Reviews
Substantial	4	23%
Reasonable	6	35%
Limited	6	35%
No	1	6%
Not Applicable	4	-
Work in Progress at Year-End	5	-

NB: 'Not Applicable' is shown against special investigations or work commissioned by management that did not result in an assurance level.

Taken together 58% of the reviews account for substantial or reasonable assurance.

There were ten reviews completed on behalf of EK Services and the assurances for these audits were - 4 Substantial, 1 Reasonable, 1 Limited, 4 Not Applicable, no reviews were work in progress at the year-end and 3 were Deferred. Information is provided in Appendix 3.

For each recommendation, an implementation date is agreed with the Manager responsible for implementing it. Understandably, the follow up review is then timed to allow the service manager sufficient time to make progress in implementing the agreed actions against the agreed timescales. The results of any follow up reviews yet to be undertaken will be reported to the Committee at the appropriate time.

4.3 Progress Reports

In agreeing the final Internal Audit Report, management accepts responsibility to take action to resolve all the risks highlighted in that final report. The EKAP carries out a follow up/progress

Agenda Item 7

Annex 1

review at an appropriate time after finalising an agreed report to test whether agreed action has in fact taken place and (for high risk) to test whether it has been effective in reducing risk.

As part of the follow up action, the recommendations under review are either:

- “closed” as they have been successfully implemented, or
- “closed” as the recommendation is yet to be implemented but is on target, or
- (for medium or low risks only) “closed” as management has decided to tolerate the risk, or the circumstances have since changed, or
- (for critical or high risks only) escalated to the audit committee.

At the conclusion of the follow up review the overall assurance level is re-assessed.

The results for the follow up activity for 2021-22 are set out below. The shift to the right in the table from the original opinion to the revised opinion also measures the positive impact that the EKAP has made on the system of governance, risk and internal control in operation throughout 2021-22.

Total Follow Ups undertaken 15	N/A	No Assurance	Limited Assurance	Reasonable Assurance	Substantial Assurance
Original Opinion	1	0	4	6	4
Revised Opinion	1	0	3	5	6

There were four reviews with an original limited assurance three of which remained Limited after follow up (see following table). Together with eighteen critical or high-risk recommendations that were outstanding at the time of follow up, these were escalated to the Governance & Audit Committee during the year.

Area Under Review	Original Assurance	Follow Up Result
Street Cleansing 2019	Limited	Limited
Grounds Maintenance	Limited	Reasonable / Limited
Building Control	Limited	Limited

EK Services received four follow ups; the revised assurances were Substantial for two reviews, Reasonable for two reviews, none with a Limited assurance after follow up.

Consequently, the areas with fundamental issues of note arising from the audits and follow up undertaken in 2021-22 have been resolved, or escalated to the Governance and Audit Committee, during the year.

Reviews previously assessed as providing a Limited Assurance that are yet to be followed up are shown in the table below. The progress reports for these will be reported to the Committee at the meeting following completion of the follow up, although the Committee should note that the Street Cleansing Progress Report is overdue.

Area Under Review	Original Assurance (Date to Committee)	Progress Report Due
DBS Checks	Limited – November 2020	Work In Progress *

Agenda Item 7

Annex 1

Street Cleansing 2021	No Assurance - March 2022	Summer 2022
Equality & Diversity	Limited – March 2022	Summer 2022
Right to Buy	Limited – March 2022	Summer 2022 *

*See July 2022 Quarterly Update report for results of Follow up

4.4 Special Investigations and Fraud Related Work

The prevention and detection of fraud and corruption is ultimately the responsibility of management however, the EKAP is aware of its own responsibility in this area and is alert to the risk of fraud and corruption. Consequently, the EKAP structures its work in such a way as to maximise the probability of detecting any instances of fraud. The EKAP will immediately report to the relevant officer any detected fraud or corruption identified during the course of its work; or any areas where such risks exist.

The EKAP is, from time to time, required to carry out special investigations, including suspected fraud and irregularity investigations and other special projects. Whilst some responsive assurance work was carried out during the year at the request of management, there were no fraud investigations conducted by the EKAP on behalf of Thanet District Council in 2021-22.

The EKAP is named in the Council’s whistleblowing policy as a route to safely raise concerns regarding irregularities, for which EKAP manages the Hotline (24-hour answer machine service) 01304 872198.

The internal audit team will build on its data analytical skills and will continue to develop exploring the opportunity to discover fraud and error by comparing different data sets and matching data via the use of specialist auditing software.

4.5 Completion of Audit Plan

Appendix 2 shows the planned time for reviews undertaken, against actual time taken, follow up reviews, responsive work and reviews resulting from any special investigations or management requests. 300.31 audit days were completed for Thanet District Council during 2021-22 which represents 91% plan completion.

The EKAP was formed in October 2007; it completes a rolling programme of work to cover a defined number of days each year. As at the 31st March each year there is undoubtedly some “work in progress” at each of the partner sites; some naturally being slightly ahead and some being slightly behind in any given year.

Thanet District Council contributed 60 days from its original plan as its share in this three-way arrangement to form the EKS Audit Plan. During 2021-22 EKHR was brought back in house, as a consequence, 10 audit days were transferred back to the TDC Audit Plan for HR Reviews. The shared payroll service has been formed and as such the shared payroll related audits remain on the EKS Plan, with 6 days per partner creating a provision of 18 days per year in the EKS plan for these high value reviews. As EKS is hosted by TDC, the EKS Annual Report in its full format is presented to the TDC - Governance & Audit Committee and is attached as Appendix 3.

5. Overall Opinion 2021-22

It is a requirement of s.151 of the Local Government Act 1974 for the Council to maintain an 'effective' internal audit function, when forming my opinion on the Council's overall system of control, I need to have regard to the amount of work which we have undertaken upon which I am basing my opinion. Having completed 91% of the planned days, there is sufficient underpinning evidence to provide my opinion for 2021-22, as follows;

5.1 Corporate Governance

Corporate Governance is defined as being the structure of rules, practices and processes that direct and control the Council. To support the Head of Audit Opinion the EKAP will undertake specific reviews (on a rotational basis) aligned to these processes as a part of the Audit Plan. The Council has been working hard to resolve matters of Governance raised in 2019, as at 31st March 2022 these were ongoing. Additionally, the Governance Review agreed to be undertaken by the External Auditors was undertaken during the year resulting in Statutory Recommendations, which in turn lead to an Independent Monitoring Officer being appointed to further review the Governance Arrangements. In recognition of all of this work, the audit plan included two reviews against which the evidence-based opinion would be formed for 2021-22. The review of Equality and Diversity resulted in a Limited Assurance, and the planned review of Performance Management was deferred, due to new arrangements being introduced (meaning that it would have been poorly timed to complete this review).

My opinion to 31st March, is that there are significant unresolved matters affecting confidence in the Governance Arrangements for the Council. This view is set against the backdrop of the wider Governance Work being undertaken and following the departure of the s.151 Officer in October 2021. The recommendations from the Independent Monitoring Officer's Report will be essential to ensure improvements in those aspects of Corporate Governance that need to improve. These recommendations provide a helpful improvement plan for the Council. These matters must be implemented and become embedded before I am able to conclude anything other than confidence remains very low in this area.

(In the period April to June 2022 significant changes impacted the Council, some arising from the Independent Monitoring Officer's recommendations and some from having concluded other action. This has resulted with the departure of the Monitoring Officer and the Chief Executive from the Council. The Council is taking steps to put interim arrangements in place).

5.2 Internal Control

The Head of Audit Partnership is satisfied the Council can place assurance on the aspects of the systems of control tested and in operation during 2021-22. The results show 58% of the Assurances given during the year provide Substantial and Reasonable Assurance. There have been some very positive results in areas where improvement has been achieved, such as Tenant's Health and Safety Compliance. There are however, a number of operational areas where limited assurances have been raised, and one (an area identified as a Corporate Priority) received No Assurance (see definitions on appendix 1).

There have been occasions during the year where our work has been hampered due to difficulties in gaining responses from management. There are occasions when audit recommendations are not accepted for operational reasons such as a manager's opinion that costs outweigh the risk, or other compensatory controls are to be relied upon. But in these instances, it is a lack of response that has impacted progress.

For some of these areas, reports over successive EKAP Audit Cycles have concluded low assurances. Revealing little or no sustained progress, despite agreed action plans being set out.

Agenda Item 7

Annex 1

These matters are escalated through our reports to the Governance and Audit Committee; however, the issues remain outstanding and are not improving. Previous Internal Audit Annual Reports have highlighted the risk of a turnover of staff affecting the continuity of the agreement and implementation of control improvements. Some areas, which are Corporate Objectives for the Council, are again affected by turnover, and often utilise the engagement of interim managers. The outcome though is a trend that EKAP is identifying at an operational level, staff are doing a very good job in delivering services, but controls over setting service standards, keeping policies up to date, managing performance against targets are all areas either missing or falling behind to the detriment of the overall governance arrangements. This trend is declining, the process of escalating internal control issues affecting Corporate Objectives are not being addressed over successive years, leading to further decline in governance in some areas.

In accordance with good governance, it is expected that my opinion is reflected in the Annual Governance Statement and that this Committee should be confident to be able to escalate any outstanding issues and concerns regarding Governance, Risk Management, or Internal Control they may have, and to ensure improvements in the overall system of internal controls are made. This challenge needs to become more robust and effective to turnaround the findings evidenced by the work of EKAP.

5.3 Risk Management

The Council maintains a corporate risk register. The Governance & Audit Committee are responsible for overseeing the risk management framework. Each quarter the Committee reviews the Corporate Risks and considers the report of the Acting Deputy Chief Executive. The independent EKAP review of the Risk Management review concluded a Reasonable Assurance, and the Council is in the process of updating the Risk Management Strategy and improving the risk register presented to this Committee. The Head of Audit Partnership is satisfied the Council's risk management arrangements are effective.

Definition of Audit Assurance Statements & Recommendation Priorities

Cipfa Recommended Assurance Statement Definitions:

Substantial assurance - A sound system of governance, risk management and control exists, with internal controls operating effectively and being consistently applied to support the achievement of objectives in the area audited.

Reasonable assurance - There is a generally sound system of governance, risk management and control in place. Some issues, non-compliance or scope for improvement were identified which may put at risk the achievement of objectives in the area audited.

Limited assurance - Significant gaps, weaknesses or non-compliance were identified. Improvement is required to the system of governance, risk management and control to effectively manage risks to the achievement of objectives in the area audited.

No assurance - Immediate action is required to address fundamental gaps, weaknesses or non-compliance identified. The system of governance, risk management and control is inadequate to effectively manage risks to the achievement of objectives in the area audited.

EKAP Priority of Recommendations Definitions:

Critical – A finding which significantly impacts upon a corporate risk or seriously impairs the organisation's ability to achieve a corporate priority. Critical recommendations also relate to non-compliance with significant pieces of legislation which the organisation is required to adhere to and which could result in a financial penalty or prosecution. Such recommendations are likely to require immediate remedial action and are actions the Council must take without delay.

High – A finding which significantly impacts upon the operational service objective of the area under review. This would also normally be the priority assigned to recommendations relating to the (actual or potential) breach of a less prominent legal responsibility or significant internal policies; unless the consequences of non-compliance are severe. High priority recommendations are likely to require remedial action at the next available opportunity or as soon as is practical and are recommendations that the Council must take.

Medium – A finding where the Council is in (actual or potential) breach of - or where there is a weakness within - its own policies, procedures or internal control measures, but which does not directly impact upon a strategic risk, key priority, or the operational service objective of the area under review. Medium priority recommendations are likely to require remedial action within three to six months and are actions which the Council should take.

Low – A finding where there is little if any risk to the Council or the recommendation is of a business efficiency nature and is therefore advisory in nature. Low priority recommendations are suggested for implementation within six to nine months and generally describe actions the Council could take.

**Performance against the Agreed 2021-22
Thanet District Council Audit Plan**

Area	Original Planned Days	Revised Budgeted Days	Actual days to 31/03/22	Status and Assurance Level
FINANCIAL GOVERNANCE:				
Creditors & CIS	10	12	14.61	Finalised - Reasonable
Income & Cash Collection	10	10	2.08	Work-in-Progress
Budgetary Control	10	10	11.06	Finalised - Substantial
HOUSING SYSTEMS:				
Temporary Accommodation	12	0	0	Deferred
Right to Buy	10	10	10.74	Finalised - Limited
Responsive Repairs & Maintenance	15	15	16.66	Finalised - Limited
Tenant Health & Safety	10	0	0	See Housing Regulator Review
Rechargeable Works	10	0	0	Deferred
Resident Involvement	10	0	0	Deferred
Tenancy & Estate Management	10	15	17.69	Finalised – Reasonable/Limited
TECHNOLOGY/CYBER RISKS:				
Cloud Computing/Digital	10	10	1.43	Work-in-Progress
GOVERNANCE RELATED:				
Corporate Advice/CMT	2	2	5.22	Finalised for 2021-22
Risk Management	10	10	9.12	Finalised - Reasonable
Performance Management	10	10	0	Deferred
Equality & Diversity	10	10	15.63	Finalised - Limited
s.151 Officer Meetings and Support	9	9	11.97	Finalised for 2021-22
Governance & Audit Committee Meetings and Report Preparation	12	12	14.74	Finalised for 2021-22
2021-22 Audit Plan and Preparation Meetings	9	9	12.23	Finalised for 2021-22
HR RELATED:				
Recruitment	0	10	0.76	Work-in-Progress
SERVICE LEVEL:				

Agenda Item 7 Annex 1

Thanet Lottery	15	15	0.53	Work-in-Progress
Service Contract Management	12	12	0	Deferred
Commercial Let Properties and Concessions	10	10	16.96	Finalised - Limited
Electoral Registration & Election Management	10	10	12.62	Finalised - Reasonable
Land Charges	10	10	3.26	Finalised - Substantial
Ramsgate Marina	12	12	14.06	Finalised - Reasonable
Ramsgate Harbour Accounts	5	5	4.94	Finalised - N/A
Events Management, Sports & Community Development	10	0	0	Deferred
Garden Waste	12	12	0.36	Work-in-Progress
Street Cleansing	14	14	11.98	Finalised - No Assurance
OTHER:				
Liaison With External Auditors	1	1	0.54	Finalised for 2021-22
Follow-up Reviews	15	15	22.98	Finalised for 2021-22
FINALISATION OF 2020-21 AUDITS:				
Procurement	5	65	9.06	Finalised - Substantial
Coastal Management			4.32	Finalised - Substantial
GDPR & Homeworking Implications			11.16	Finalised - N/A
Playgrounds			11.16	Finalised - Reasonable
Local Code of Corporate Governance			1.83	Finalised - Limited
Climate Change			8.06	Finalised- N/A
Housing Regulator Review			19.96	Finalised - Reasonable
RESPONSIVE ASSURANCE:				
HRA Properties Data Match	0	0	2.59	Finalised- N/A
TOTAL	320	330	300.31	91%

*10 days added to the revised planned days from the former East Kent Human Resources audit plan from 1st October 2020.

Internal Audit Annual Report for EK SERVICES 2021-22

1. Introduction/Summary

The main points to note from this report are that the agreed programme of audits has been completed with some projects being finalised as work in progress at 31st March 2022. The majority of reviews have given a substantial or reasonable assurance and there are no major areas of concern that would give rise to a qualified opinion.

Overview of Work Done

The original audit plan for 2021-22 included a total of 8 projects and some changes to the plan were agreed during the year, including 32 days being passed back to Councils due to EKHR being brought back in house. A few projects (3) have therefore been pushed back in the overall strategic plan, to permit some higher risk projects (2) to come forward in the plan and to finalise (3) projects from the 2020-21 plan. The total number of projects completed was 10.

2. Review of the Internal Control Environment

2.1 Risks and Assurances

During 2021-22, thirty-five recommendations were made in the agreed final audit reports for EK Services. These are analysed as being Critical, High, Medium, or Low risk in the following table:

Risk Criticality	No. of Recommendations	Percentage
Critical	2	6%
High	14	40%
Medium	15	43%
Low	4	11%
TOTAL	35	100%

Naturally, more emphasis is placed on recommendations for improvement regarding critical and high risks. Any high priority recommendations where management has not made progress in implementing the agreed system improvement are brought to management and Councillors' attention through Internal Audit's quarterly update reports. During 2021-22 none of the above recommendations were escalated to the quarterly Audit Committee meetings. Across the year a total of 35 recommendations were agreed, and whilst 46% were in the Critical or High-Risk categories, none require further escalation at this time.

Internal Audit applies one of four 'assurance opinions' to each review, this provides a level of reliance that management can place on the system of internal control to deliver the goals and objectives covered in that particular review. The conclusions drawn are described as being "a snapshot in time" and the purpose of allocating an assurance level is so that risk is managed effectively, and control improvements can be planned. Consequently, where the assurance level is either 'no' or 'limited', or where high priority recommendations have been identified, a follow up progress review is undertaken and, where appropriate, the assurance level is revised.

Agenda Item 7

Annex 1

The summary of Assurance Levels issued on the 10 pieces of work finalised for EK Services over the course of the year is as follows:

NB: the percentages shown are calculated on finalised reports with an assurance level

Assurance	No.	Percentage of Completed Reviews
Substantial	4	66%
Reasonable	1	17%
Limited	1	17%
No	0	-
Not Applicable	4	-
Work in Progress at Year-End	0	-

NB: 'Not Applicable' is shown against quarterly benefit checks and the two responsive reviews.

Taken together 83% of the reviews account for substantial or reasonable assurance. There was one review assessed as having a partial Limited assurance, and this was revised to Reasonable at the time of follow up.

For each recommendation, an implementation date is agreed with the Manager responsible for implementing it. Understandably, the follow up review is then timed to allow the service manager sufficient time to make progress in implementing the agreed actions against the agreed timescales. The results of any follow up reviews yet to be undertaken will therefore be reported to the quarterly committee at the appropriate time.

2.2 Progress Reports

In agreeing the final Internal Audit Report, management accepts responsibility to take action to resolve all the risks highlighted in that final report. The EKAP carries out a follow up progress review at an appropriate time after finalising an agreed report to test whether agreed action has in fact taken place and whether it has been effective in reducing risk.

As part of the follow up action, the recommendations under review are either:

- “closed” as they are successfully implemented, or
- “closed” as the recommendation is yet to be implemented but is on target, or
- (for medium or low risks only) “closed” as management has decided to tolerate the risk, or the circumstances have since changed.

At the conclusion of the follow up review the overall assurance level is re-assessed. As Internal Audit are tasked to perform one progress report per original audit and bring those findings back, it is at this juncture that any outstanding high risks are escalated to the Governance and Audit Committee via the quarterly update report.

Four follow up reports were carried out for EK Services during the year. The results for the follow up activity for 2021-22 will continue to be reported at the appropriate time. The results in the following table show the original opinion and the revised opinion after

Agenda Item 7

Annex 1

follow up to measure the impact that the EKAP review process has made on the system of internal control.

Total Follow Ups undertaken 4	N/A	No Assurance	Limited Assurance	Reasonable Assurance	Substantial Assurance
Original Opinion	0	0	1	1	2
Revised Opinion	0	0	0	2	2

There are no fundamental issues of note arising from the audits undertaken in the year. The review previously assessed as providing a partial Limited assurance (software licensing) was revised to Reasonable assurance, and this was reported to the Audit Committees during the year.

2.3 Special Investigations and Fraud Related Work

The prevention and detection of fraud and corruption is ultimately the responsibility of management however, the EKAP is aware of its own responsibility in this area and is alert to the risk of fraud and corruption. Consequently, the EKAP structures its work in such a way as to maximise the probability of detecting any instances of fraud. The EKAP will immediately report to the relevant officer any detected fraud or corruption identified during the course of its work; or any areas where such risks exist.

The EKAP is, from time to time, required to carry out special investigations, including suspected fraud and irregularity investigations and other special projects. During the year 2021-22 there have been no fraud investigations conducted by the EKAP on behalf of EK Services. However, some time was incurred by EKAP in a liaison role between CIVICA and the National Anti-Fraud Network and Action Fraud in respect of some attempted fraudulent Covid grant applications, that were made during the pandemic.

2.4 Completion of Strategic Audit Plan

The EKAP completes a rolling programme of work to cover a defined number of days each year. As at the 31st March each year there is undoubtedly some “work in progress” at each of the partner sites; some naturally being slightly ahead and some being slightly behind in any given year.

The EKAP delivered 95.45% of the agreed audit plan days across the Partnership. The performance figures for the East Kent Audit Partnership as a whole for the year show good performance against targets. It is the opinion of the Head of Audit that sufficient work has been undertaken to be able to support an opinion for 2021-22.

The analysis in Annex A shows the individual reviews that were completed during the year. As at 31st March 2022 the EKAP had delivered 118.70 days against the revised target of 128 (92.97%). Thirty-Two days were transferred to the Partner’s plans when the HR service was taken back in house.

3.0 Significant issues arising in 2021-22

From the work undertaken during 2021-22, there were no instances of unsatisfactory responses to key control issues raised in internal audit reports by the end of the year. There are occasions when audit recommendations are not accepted for operational

Agenda Item 7

Annex 1

reasons such as a manager's opinion that costs outweigh the risk, but none of these are significant and require reporting or escalation at this time.

The EKAP has been commissioned to perform only one follow up, there are no reviews previously assessed as providing a Limited Assurance that are yet to be followed up.

4.0 Overall Conclusion

The work of Internal Audit and this report contribute to the overall internal control environment operating within EK Services, and also assists in providing an audit trail to the statements that must be published annually with the financial accounts for each partner council. It is a requirement of s.151 of the Local Government Act 1974 for the Council to maintain an 'effective' internal audit function, when forming my opinion on the Council's overall system of control, I need to have regard to the amount of work which we have undertaken upon which I am basing my opinion.

Based on the work of the EKAP on behalf of EK Services during 2021-22, the overall opinion is that there are no major areas of concern, which would give rise to a qualified audit statement regarding the systems of internal control. No system of control can provide absolute assurance, nor can Internal Audit give that assurance. This statement is intended to provide assurance that there is an ongoing process for identifying, evaluating and managing the key risks.

Performance against the Agreed 2021-22 East Kent Services Audit Plan

Review	Original Planned Days	Revised Planned Days	Actual days to 31/03/22	Status and Assurance Level
EKS REVIEWS:				
Council Tax	15	15	15.48	Finalised - Substantial
Housing Benefit Testing	15	15	12.91	Finalised – N/A
Housing Benefit Payments	15	15	18.00	Finalised - Substantial
Customer Services	15	0	0	Deferred
ICT – Change Controls	15	15	0.20	Deferred
ICT – Procurement & Disposal	15	15	19.04	Finalised - Substantial
KPIs	5	5	0.74	Deferred
Payroll	18	18	16.42	Finalised - Substantial
EKHR	32	0	0.20	Transferred to Partners
OTHER:				
Corporate/Committee	8	8	8.04	Finalised for 2021-22
Follow Up	3	3	4.22	Finalised for 2021-22
RESPONSIVE ASSURANCE:				
Housing Benefit Verification Framework	0	1	0.95	Finalised – N/A
Restart Grants	0	6	7.06	Finalised - N/A

Agenda Item 7 Annex 1

FINALISATION OF 2020-21 AUDITS:				
ICT Disaster Recovery	5	1	0.35	Finalised - Reasonable
Housing Benefit Testing		5	5.45	Finalised – N/A
ICT Software Licensing		9	9.63	Finalised - Reasonable/Ltd
Total	160	128*	118.70	92.73%

*32 days transferred to the partners' revised plans from the former East Kent Human Resources audit plan from 1 October 2020.

EKAP Balanced Scorecard – 2021-22

INTERNAL PROCESSES PERSPECTIVE:	2021-22 Actual	Target	FINANCIAL PERSPECTIVE:	2021-22 Actual	Original Budget
	Quarter 4		Reported Annually		
Chargeable as % of available days	89%	80%	• Cost per Audit Day	£319.67	£356.35
Chargeable days as % of planned days			• Direct Costs	£446,288	£459,443
CCC	94.78%	100%	• + Indirect Costs (Recharges from Host)	£10,530	£10,945
DDC	99.20%	100%	• - 'Unplanned Income'	-£7,587.50	Zero
TDC	91.00%	100%			
FHDC	97.83%	100%			
EKS	92.73%	100%			
Overall	95.45%	100%	• = Net EKAP cost (all Partners)	£449,230.50	£470,388
Follow up/ Progress Reviews;			Minus Prior Year Saving Refunded	-£27,261.54	
• Issued	62	-	EKAP Charge for 2021-22	£421,968.96	Zero
• Not yet due	21	-			
• Now due for Follow Up	20	-			
Compliance with the Public Sector Internal Audit Standards (PSIAS)	Partial	Full			

Annex 1

Agenda Item 7

<u>CUSTOMER PERSPECTIVE:</u>	<u>2021-22 Actual</u>	<u>Target</u>	<u>INNOVATION & LEARNING PERSPECTIVE:</u>	<u>2021-22 Actual</u>	<u>Target</u>
	Quarter 4		Quarter 4		
Number of Satisfaction Questionnaires Issued;	62		Percentage of staff qualified to relevant technician level	74%	74%
Number of completed questionnaires received back;	25		Percentage of staff holding a relevant higher level qualification	38%	38%
	= 40%		Percentage of staff studying for a relevant professional qualification	15%	N/A
Percentage of Customers who felt that;			Number of days technical training per FTE	6.66	3.5
<ul style="list-style-type: none"> • Interviews were conducted in a professional manner • The audit report was 'Good' or better • That the audit was worthwhile. 	99%	100%	Percentage of staff meeting formal CPD requirements (post qualification)	38%	38%
	100%	90%			
	98%	100%			

Annual Treasury Management Review 2021-22

Governance & Audit Committee 27 July 2022

Report Author	Chris Blundell, Acting Deputy Chief Executive and Section 151 Officer
Portfolio Holder	Councillor David Saunders, Cabinet Member for Finance
Status	For Decision
Classification	Unrestricted
Previously Considered by	N/A
Ward	Thanet Wide

Executive Summary:

This report summarises treasury management activity and prudential/ treasury indicators for 2021-22. However, the council's 2020-21 and 2021-22 accounts have not yet been audited and hence the figures in this report are subject to change. The Chartered Institute of Public Finance and Accountancy (CIPFA) defines treasury management as:

“The management of the local authority’s borrowing, investments and cash flows, its banking, money market and capital market transactions;

the effective control of the risks associated with those activities; and

the pursuit of optimum performance consistent with those risks.”

The regulatory environment places responsibility on members for the review and scrutiny of treasury management policy and activities. This report is, therefore, important in that respect, as it provides details of the 2021-22 year-end position for treasury activities.

Key reporting items to consider include:

- 2021-22 capital expenditure on long term assets was £12.7m (2020-21: £23.5m), against a budget of £31.0m.
- The council's gross debt, also called the borrowing position, at 31 March 2022 was £20.2m (31 March 2021: £24.4m).
- The council's underlying need to borrow to finance its capital expenditure, also called the Capital Financing Requirement (CFR), was £51.7m at 31 March 2022 (31 March 2021: £56.7m).
- Therefore it can be reported the council has complied with the requirement to hold less gross debt than its CFR.
- The maximum debt held by the council during 2021-22 was £24.4m, which was well within the statutory authorised limit of £96.0m

- At 31 March 2022 the council's investment balance was £51.3m (31 March 2021: £31.3m).
- A marked reduction in GF capital receipts which has implications for funding the future capital programme.

Recommendation(s):

That the Governance & Audit Committee:

1. Notes the actual 2021-22 prudential and treasury indicators in this report;
2. Makes comments as appropriate on this Annual Treasury Management Report for 2021-22;
3. Recommends this report to council for approval.

Corporate Implications

Financial and Value for Money

The financial implications are highlighted in this report.

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, this is the Acting Deputy Chief Executive, and this report is helping to carry out that function.

Risk Management

Risk management is as per the provisions of the annual Treasury Management Strategy Statement, Minimum Revenue Provision Policy Statement and Annual Investment Strategy.

Corporate

Failure to undertake this process will impact on the council's compliance with the Treasury Management Code of Practice.

Equalities Act 2010 & Public Sector Equality Duty

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

This report relates to the following corporate priorities: -

- Growth

- Environment
- Communities.

1. Introduction and Background

- 1.1. The Chartered Institute of Public Finance and Accountancy (CIPFA) defines treasury management as:
- “The management of the local authority’s borrowing, investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks.”*
- 1.2. The council is required to operate a balanced budget, which broadly means that cash raised during the year will meet cash expenditure. Part of the treasury management operation is to ensure that this cash flow is adequately planned, with cash being available when it is needed. Surplus monies are invested in low risk counterparties or instruments commensurate with the council’s low risk appetite, providing adequate liquidity initially before considering investment return.
- 1.3. The second main function of the treasury management service is the funding of the council’s capital plans. These capital plans provide a guide to the borrowing need of the council, essentially the longer-term cash flow planning, to ensure that the council can meet its capital spending obligations. This management of longer-term cash may involve arranging long or short-term loans, or using longer-term cash flow surpluses. On occasion, when it is prudent and economic, any existing debt may also be restructured to meet council risk or cost objectives.

2. Reporting Requirements

- 2.1. This council is required by regulations issued under the Local Government Act 2003 to produce an annual treasury management review of activities and the actual prudential and treasury indicators for 2021-22. This report meets the requirements of both the Chartered Institute of Public Finance & Accountancy (CIPFA) Code of Practice on Treasury Management (the Code) and the CIPFA Prudential Code for Capital Finance in Local Authorities (the Prudential Code).
- 2.2. During 2021-22 the minimum reporting requirements were that the full council should receive the following reports:
- an annual treasury strategy in advance of the year (council 11-02-2021):
<https://democracy.thanet.gov.uk/documents/s71302/Treasury%20Mgmt%20Strategy%202021-22%20Council.pdf>
 - a mid-year treasury update report (council 12-01-2022):
<https://democracy.thanet.gov.uk/documents/s74953/Mid%20Year%20Report%20Council%202021-22%201.pdf>
 - an annual review following the end of the year describing the activity compared to the strategy (this report).

- 2.3. The regulatory environment places responsibility on members for the review and scrutiny of treasury management policy and activities. This report is, therefore, important in that respect, as it provides details of the 2021-22 year-end position for treasury activities and highlights compliance with the council's policies previously approved by members.
- 2.4. This council confirms that it has complied with the requirement under the Code to give prior scrutiny to all of the above treasury management reports by the Governance and Audit Committee before they were reported to the full council. Member training on treasury management issues was last undertaken on 24 March 2022 in order to support members' scrutiny role, and further training will be arranged as required. The council's external treasury management advisor is Link Group, Treasury Solutions (Link).
- 2.5. The council's 2020-21 and 2021-22 accounts have not yet been audited and hence the figures in this report are subject to change

3. The Council's Capital Expenditure and Financing

- 3.1. The council undertakes capital expenditure on long-term assets. These activities may either be:
- Financed immediately through the application of capital or revenue resources (capital receipts, capital grants, revenue contributions etc.), which has no resultant impact on the council's borrowing need; or
 - If insufficient financing is available, or a decision is taken not to apply resources, the capital expenditure will give rise to a borrowing need.

The actual capital expenditure forms one of the required prudential indicators. The table below shows the actual capital expenditure for the General Fund (GF) and the Housing Revenue Account (HRA) and how this was financed.

	2020-21 Provisional Actual £'000	2021-22 Budget £'000	2021-22 Provisional Actual £'000
Capital expenditure - GF	12,376	23,210	7,425
Capital expenditure - HRA	11,118	7,838	5,301
Capital expenditure - Total	23,494	31,048	12,726
Financed by:			
Capital receipts	3,259	6,140	933
Capital grants	4,169	11,715	5,660
Revenue and reserves	10,180	9,064	4,978
Borrowing	5,886	4,129	1,155
Total	23,494	31,048	12,726

- 3.2. Full details of capital expenditure and explanations of variances from budget will be reported within the Financial and Performance Monitoring Year-End Report to Cabinet in September. The council is committed to tackling the

significant level of slippage in the capital programme as per the following extract from section 5 of the council's Capital Strategy document:

“Slippage will not be an 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).”

4. The Council's Overall Borrowing Need

- 4.1. The council's underlying need to borrow to fund its capital expenditure is termed the Capital Financing Requirement (CFR). The CFR can be thought of as the outstanding debt that still needs to be repaid in relation to the capital assets (buildings, vehicles etc) that the council has purchased or invested in. It can also be helpful to compare it to the outstanding balance that is still payable on a loan or a mortgage, in this case we are considering how much of the council's debt still needs to be paid for.
- 4.2. Part of the council's treasury activities is to address the funding requirements for this borrowing need. Depending on the capital expenditure programme, the treasury service organises the council's cash position to ensure that sufficient cash is available to meet the capital plans and cash flow requirements. This may be sourced through borrowing from external bodies (such as the Government, through the Public Works Loan Board [PWLB], or the money markets) or utilising temporary cash resources within the council.
- 4.3. **Reducing the CFR** – the council's (non HRA) underlying borrowing need (CFR) is not allowed to rise indefinitely. Statutory controls are in place to ensure that capital assets are broadly charged to revenue over the life of the asset. The council is required to make an annual revenue charge, called the Minimum Revenue Provision – MRP, to reduce the CFR. This is effectively a repayment of the non-Housing Revenue Account (HRA) borrowing need (there is no statutory requirement to reduce the HRA CFR). This differs from the treasury management arrangements which ensure that cash is available to meet capital commitments. External debt can also be borrowed or repaid at any time, but this does not change the CFR.
- 4.4. The total CFR can also be reduced by:
 - the application of additional capital financing resources (such as unapplied capital receipts); or
 - charging more than the statutory revenue charge (MRP) each year through a Voluntary Revenue Provision (VRP).
- 4.5. The Council's 2021-22 MRP Policy (as required by DLUHC Guidance) was approved as part of the Treasury Management Strategy Report for 2021-22 on 10 February 2022
- 4.6. The Council's CFR for the year is shown below, and represents a key prudential indicator. It includes any PFI and leasing schemes on the balance sheet, which increase the Council's borrowing need. No borrowing is actually required against any such schemes as a borrowing facility is included in the contract.

CFR - GF	31 March 2021 Provisional Actual £'000	31 March 2022 Budget £'000	31 March 2022 Provisional Actual £'000
Opening balance	30,422	28,449	28,449
Add unfinanced capital expenditure (as above)	1,609	3,468	627
Less MRP/VRP*	(3,582)	(5,878)	(5,911)
Less PFI & finance lease repayments	0	0	0
Closing balance	28,449	26,039	23,165

CFR - HRA	31 March 2021 Provisional Actual £'000	31 March 2022 Budget £'000	31 March 2022 Provisional Actual £'000
Opening balance	24,200	28,236	28,236
Add unfinanced capital expenditure (as above)	4,277	525	528
Less MRP/VRP*	(241)	(250)	(250)
Less PFI & finance lease repayments	0	0	0
Closing balance	28,236	28,511	28,514

** Includes voluntary application of capital receipts*

Borrowing activity is constrained by prudential indicators for gross borrowing and the CFR, and by the authorised limit.

- 4.7 **Gross borrowing and the CFR** - in order to ensure that borrowing levels are prudent over the medium term and only for a capital purpose, the council should ensure that its gross external borrowing (borrowing undertaken with financial institutions or external organisations) does not, except in the short term, exceed the total of the CFR in the preceding year (2021-22) plus the estimates of any additional capital financing requirement for the current (2022-23) and next two financial years.
- 4.8 This essentially means that the council is only borrowing to fund capital expenditure and is not borrowing to support revenue expenditure. Under statutory requirements councils are not allowed to borrow to fund their revenue budget activities.

Agenda Item 8

- 4.9 By assessing this indicator over four years it allows the council some flexibility to borrow in advance of its immediate capital needs in 2021-22. The table below highlights the Council's gross borrowing position against the CFR and shows that the council has complied with this prudential indicator, as the council's gross debt of **£20.2m** is less than the **£51.679m** CFR at 31 March 2022.

	31 March 2021 Provisional Actual £'000	31 March 2022 Budget £'000	31 March 2022 Provisional Actual £'000
CFR GF	28,449	26,039	23,165
CFR HRA	28,236	28,511	28,514
Total CFR	56,685	54,550	51,679
Gross borrowing position	(24,394)	(34,455)	(20,216)
Underfunding of CFR	32,291	20,095	31,463

- 4.10 **The authorised limit** - the authorised limit is the “affordable borrowing limit” required by s3 of the Local Government Act 2003. Once this has been set, the council does not have the power to borrow above this level.
- 4.11 **The operational boundary** – the operational boundary is the expected borrowing position of the council during the year. Periods where the actual position is either below or over the boundary are acceptable subject to the authorised limit not being breached.
- 4.12 **Actual financing costs as a proportion of net revenue stream** - this indicator identifies the trend in the cost of capital, (borrowing and other long term obligation costs net of investment income), against the net revenue stream.
- 4.13 The table below shows that during 2021-22 the Council's maximum gross debt position was **£24.4m** and therefore it has maintained gross borrowing within its authorised limit and operational boundary.

	2021-22 £000
Authorised limit	96,000
Maximum gross borrowing position during the year	24,394
Operational boundary	86,000
Average gross borrowing position	22,119

	2021-22 %
Financing costs as a proportion of net revenue stream - GF	7.8
Financing costs as a proportion of net revenue stream -HRA	4.6

5. Treasury Position as at 31 March 2022

- 5.1. The council's treasury management debt and investment position is organised by the treasury management service in order to ensure adequate liquidity for revenue and capital activities, security for investments and to manage risks within all treasury management activities. Procedures and controls to achieve these objectives are well established both through member reporting detailed in the summary, and through officer activity detailed in the council's Treasury Management Practices. At the end of 2021-22 the council's treasury position (excluding any borrowing for PFI and finance leases) was as follows:

	31 March 2021 Principal £'000	Rate/ Return %	Average Life Years	31 March 2022 Principal £'000	Rate/ Return %	Average Life Years
Gross Debt Position						
GF debt	8,495	3.36%	14.9	7,629	3.44%	15.7
HRA debt	15,899	4.14%	7.6	12,587	4.24%	8.8
Total debt (all fixed rate)	24,394	3.86%	10.1	20,216	3.95%	11.4
CFR compared to Gross Debt						
GF CFR	28,449			23,165		
HRA CFR	28,236			28,514		
Total CFR	56,685			51,679		
Under- borrowing	32,291			31,463		
Net Debt / Investment						
Total debt	24,394	3.86%	10.1	20,216	3.95%	11.4
Total investments	(31,325)	0.23%		(51,308)	0.10%	
Net debt / (investment)	(6,931)			(31,092)		

- 5.2. This table shows that, as previously stated, gross debt was £20.216m and the CFR was £51.679m at the end of 2021-22. This means the Council is in an under borrowed position of £31.463m, as external gross debt is less than the CFR.
- 5.3. This table also shows that the council's investments totalled £51.308m at the 2021-22 year end and therefore was in a net investment position, as investments held exceeded gross debt by £31.092m.

Agenda Item 8

5.4. All of the debt is from the Public Works Loan Board (PWLB), which is a facility operated by the UK Debt Management Office on behalf of HM Treasury and provides loans to local authorities, apart from the following two GF loans (as at 31 March 2022):

- Market: £4.5m principal at 4.19% with an average life of 0.5 years.
- Salix: £4k principal at 0.00% with an average life of 0.0 years.

5.5. The maturity structure of the debt portfolio, or the timeline of when the council's debt is repayable, was as follows:

	31 March 2021 actual £000	2021-22 upper limits £000	31 March 2022 actual £000
Under 1 year	8,679	10,108	4,834
1 year to under 2 years	334	10,108	259
2 years to under 5 years	2,833	10,108	2,662
5 years to under 10 years	2,356	10,108	2,356
10 years to under 20 years	7,272	10,108	7,185
20 years to under 30 years	1,920	10,108	1,920
30 years to under 40 years	0	10,108	0
40 years to under 50 years	1,000	10,108	1,000
50 years and above	0	10,108	0
Total debt	24,394		20,216

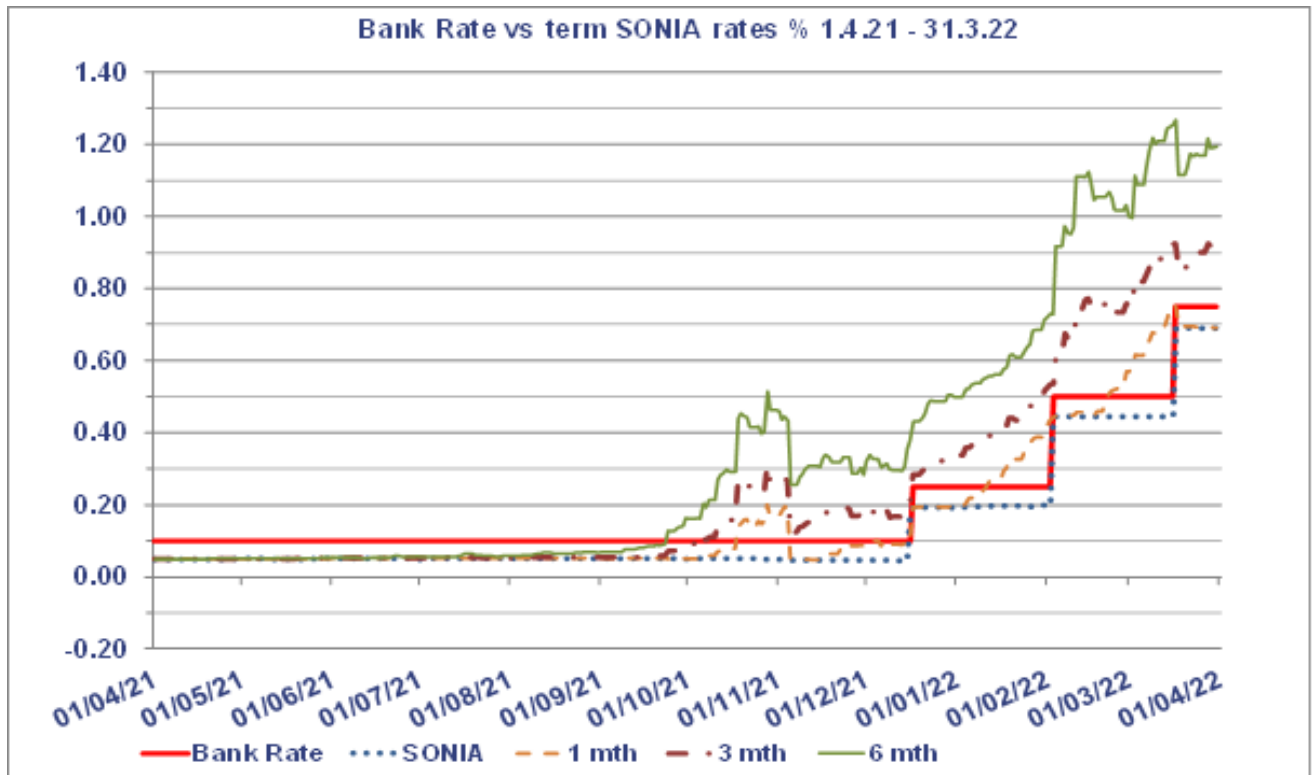
5.6. The following table shows the value of the type of investments the council was holding at year-end. All investments at the 2020-21 and 2021-22 year-end were for under one year. During 2021-22 £1.000m was deposited in a bond fund, which had a value of £0.999m as at 31 March 2022.

	31 March 2021 actual £000	31 March 2021 actual %	31 March 2022 actual £000	31 March 2022 actual %
Banks - Instant Access	29	0.09	30	0.06
Banks - Notice Accounts	8,154	26.03	4,055	7.90
Banks - Fixed Term Deposits	3,200	10.22	100	0.19
Money Market Funds	19,942	63.66	46,124	89.90
Bond Funds	0	0.00	999	1.95
Total Treasury Investments	31,325	100.00	51,308	100.00

6. The Strategy for 2021-22

6.1. Investment strategy and control of interest rate risk

6.1.1. The following chart tracks the Bank of England base rate of interest and the Sterling Overnight Index Average (SONIA) during 2021-22.



6.1.2 Investment returns remained close to zero for much of 2021-22. Most local authority lending managed to avoid negative rates and one feature of the year was the continued growth of inter local authority lending. The expectation for interest rates within the treasury management strategy for 2021-22 was that Bank Rate would remain at 0.1% until it was clear to the Bank of England that the emergency level of rates introduced at the start of the Covid-19 pandemic were no longer necessitated.

6.1.3 The Bank of England and the Government also maintained various monetary and fiscal measures, supplying the banking system and the economy with massive amounts of cheap credit so that banks could help cash-starved businesses to survive the various lockdowns/negative impact on their cashflow. The Government also supplied huge amounts of finance to local authorities to pass on to businesses. This meant that for most of the year there was much more liquidity in financial markets than there was demand to borrow, with the consequent effect that investment earnings rates remained low until towards the turn of the year when inflation concerns indicated central banks, not just the Bank of England, would need to lift interest rates to combat

the second-round effects of growing levels of inflation (CPI was 6.2% in February).

- 6.1.4 While the council has taken a cautious approach to investing, it is also fully appreciative of changes to regulatory requirements for financial institutions in terms of additional capital and liquidity that came about in the aftermath of the financial crisis. These requirements have provided a far stronger basis for financial institutions, with annual stress tests by regulators evidencing how institutions are now far more able to cope with extreme stressed market and economic conditions.
- 6.1.5 Investment balances have been kept to a minimum through the agreed strategy of using reserves and balances to support internal borrowing, rather than borrowing externally from the financial markets. External borrowing would have incurred an additional cost, due to the differential between borrowing and investment rates as illustrated in the charts shown above and below. Such an approach has also provided benefits in terms of reducing counterparty risk exposure, by having fewer investments placed in the financial markets.

6.2. **Borrowing strategy and control of interest rate risk**

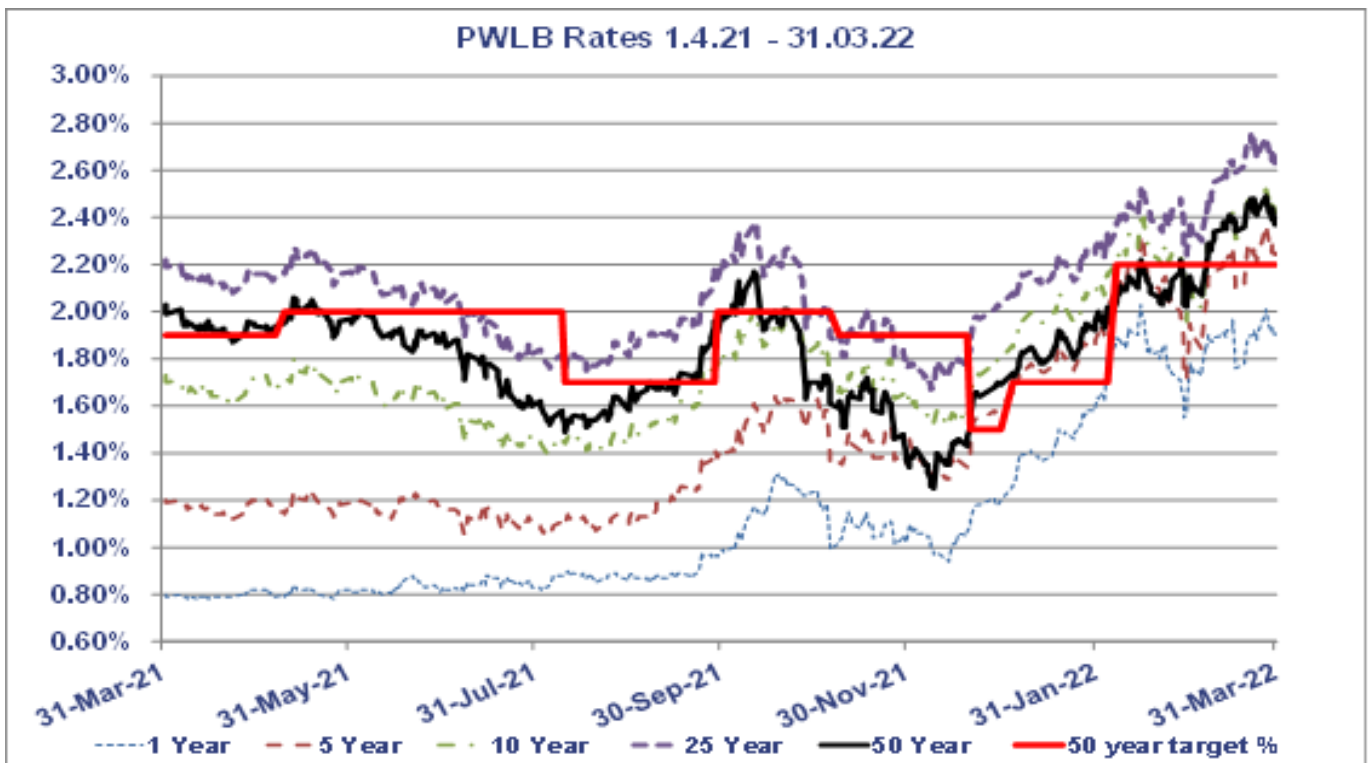
- 6.2.1. During 2021-22, the council maintained an under-borrowed position. This meant that the capital borrowing need (the Capital Financing Requirement) was not fully funded with loan debt, as cash supporting the council's reserves, balances and cash flow was used as an interim measure. This strategy was prudent as investment returns were low and minimising counterparty risk on placing investments also needed to be considered.
- 6.2.2. A cost of carry remained during the year on any new long-term borrowing that was not immediately used to finance capital expenditure, as it would have caused a temporary increase in cash balances; this would have incurred a revenue cost – the difference between (higher) borrowing costs and (lower) investment returns.
- 6.2.3. The policy of avoiding new borrowing by running down spare cash balances, has served well over the last few years. However, this was kept under review to avoid incurring higher borrowing costs in the future when this authority may not be able to avoid new borrowing to finance capital expenditure and/or the refinancing of maturing debt.
- 6.2.4. Against this background and the risks within the economic forecast, caution was adopted with the treasury operations. The Section 151 Officer therefore monitored interest rates in financial markets and adopted a pragmatic strategy based upon the following principles to manage interest rate risks:
- if it had been felt that there was a significant risk of a sharp FALL in long and short term rates, (e.g. due to a marked increase of risks around relapse into recession or of risks of deflation), then long term borrowings would have been postponed, and potential rescheduling from fixed rate funding into short term borrowing would have been considered.
 - if it had been felt that there was a significant risk of a much sharper RISE in long and short term rates than initially expected (e.g. perhaps arising from an acceleration in the start date and in the rate of increase in central

Agenda Item 8

rates in the USA and UK, an increase in world economic activity or a sudden increase in inflation risks), then the portfolio position would have been re-appraised. Most likely, fixed rate funding would have been drawn whilst interest rates were lower than they were projected to be in the next few years.

- 6.2.5. Interest rate forecasts expected only gradual rises in medium and longer term fixed borrowing rates during 2021-22 and the two subsequent financial years until the turn of the year, when inflation concerns increased significantly. Internal, variable, or short-term rates, were expected to be the cheaper form of borrowing until well into the second half of 2021-22.

Link Group Interest Rate View 7.2.22													
	Mar-22	Jun-22	Sep-22	Dec-22	Mar-23	Jun-23	Sep-23	Dec-23	Mar-24	Jun-24	Sep-24	Dec-24	Mar-25
BANK RATE	0.75	1.00	1.00	1.25	1.25	1.25	1.25	1.25	1.25	1.25	1.25	1.25	1.25
3 month av. earnings	0.80	1.00	1.00	1.20	1.20	1.20	1.20	1.20	1.20	1.20	1.20	1.20	1.20
6 month av. earnings	1.00	1.10	1.20	1.30	1.30	1.30	1.30	1.30	1.30	1.30	1.30	1.30	1.30
12 month av. earnings	1.40	1.50	1.60	1.70	1.70	1.60	1.60	1.50	1.40	1.40	1.40	1.40	1.40
5 yr PWLB	2.20	2.30	2.30	2.30	2.30	2.30	2.30	2.30	2.30	2.30	2.30	2.30	2.30
10 yr PWLB	2.30	2.40	2.40	2.40	2.40	2.40	2.40	2.40	2.40	2.40	2.40	2.40	2.40
25 yr PWLB	2.40	2.50	2.50	2.60	2.60	2.60	2.60	2.60	2.60	2.60	2.60	2.60	2.60
50 yr PWLB	2.20	2.30	2.30	2.40	2.40	2.40	2.40	2.40	2.40	2.40	2.40	2.40	2.40



- 6.2.6. PWLB rates are based on gilt (UK Government bonds) yields through H.M.Treasury determining a specified margin to add to gilt yields. The main influences on gilt yields are Bank Rate, inflation expectations and movements in US treasury yields. Inflation targeting by the major central banks has been successful over the last 30 years in lowering inflation and the real equilibrium rate for central rates has fallen considerably due to the high level of borrowing by consumers: this means that central banks do not need to raise rates as much now to have a major impact on consumer spending, inflation, etc. This has pulled down the overall level of interest rates and bond yields in financial markets over the last 30 years. We have seen, over the last two years, many bond yields up to 10 years in the Eurozone turn negative on expectations that the EU would struggle to get growth rates and inflation up from low levels. In addition, there has, at times, been an inversion of bond yields in the US whereby 10 year yields have fallen below shorter term yields. In the past, this has been a precursor of a recession. Recently, yields have risen since the turn of the year on the back of global inflation concerns.
- 6.2.7. Gilt yields fell sharply from the spring of 2021 through to September and then spiked back up before falling again through December. However, by January sentiment had well and truly changed, as markets became focussed on the embedded nature of inflation, spurred on by a broader opening of economies post the pandemic, and rising commodity and food prices resulting from the Russian invasion of Ukraine.
- 6.2.8. At the close of the day on 31 March 2022, all gilt yields from 1 to 5 years were between 1.11% – 1.45% while the 10-year and 25-year yields were at 1.63% and 1.84%.
- 6.2.9. Regarding PWLB borrowing rates, the various margins attributed to their pricing are as follows: -
- **PWLB Standard Rate** is gilt plus 100 basis points (G+100bps)
 - **PWLB Certainty Rate** is gilt plus 80 basis points (G+80bps)
 - **PWLB HRA Standard Rate** is gilt plus 100 basis points (G+100bps)
 - **PWLB HRA Certainty Rate** is gilt plus 80bps (G+80bps)
 - **Local Infrastructure Rate** is gilt plus 60bps (G+60bps)
- 6.2.10. There is likely to be a further rise in short dated gilt yields and PWLB rates over the next three years as Bank Rate is forecast to rise from 0.75% in March 2022 to 1.25% later this year, with upside risk likely if the economy proves resilient in the light of the cost-of-living squeeze. Medium to long dated yields are driven primarily by inflation concerns but the Bank of England is also embarking on a process of Quantitative Tightening when Bank Rate hits 1%, whereby the Bank's £895bn stock of gilt and corporate bonds will be sold back into the market over several years. The impact this policy will have on the market pricing of gilts, while issuance is markedly increasing, is an unknown at the time of writing.
- 6.3. **Change in strategy during the year** – the strategy adopted in the original Treasury Management Strategy Report for 2021-22 (approved by the council on 11 February 2021) was revised during 2021-22 in the mid-year treasury update report (approved by the council on 12 January 2022).

7. Borrowing Outturn for 2021-22

- 7.1. **Borrowing** – Due to investment concerns, both counterparty risk and low investment returns, no borrowing was undertaken during the year.
- 7.2. **Borrowing in advance of need** - The council has not borrowed more than, or in advance of, its needs purely in order to profit from the investment of the extra sums borrowed.
- 7.3. **Rescheduling** – No rescheduling was done during the year as the average 1% differential between PWLB new borrowing rates and premature repayment rates made rescheduling unviable.
- 7.4. **Repayments** – The council repaid £4.178m of maturing debt using investment balances, as below:

Lender	Principal £'000	Interest Rate	Repayment Date
Salix	4	0.00%	01-04-21
PWLB	43	3.08%	23-04-21
PWLB	50	2.48%	27-05-21
PWLB	72	1.28%	21-06-21
PWLB	3,840	3.31%	15-09-21
Salix	4	0.00%	01-10-21
PWLB	43	3.08%	25-10-21
PWLB	50	2.48%	29-11-21
PWLB	72	1.28%	20-12-21
Total	4,178		

- 7.5. **Summary of debt transactions** – The average interest rate on the debt portfolio increased from 3.86% to 3.95% during the year. This was due to the repayment of maturing debt as shown above.

8. Investment Outturn for 2021-22

- 8.1. **Investment Policy** – the council's investment policy is governed by DLUHC investment guidance, which has been implemented in the annual investment strategy approved by the council on 11 February 2021. This policy sets out the approach for choosing investment counterparties, and is based on credit ratings provided by the three main credit rating agencies, supplemented by additional market data (such as rating outlooks, credit default swaps, bank share prices etc.).

- 8.2. The investment activity during the year conformed to the approved strategy, and the council had no liquidity difficulties.
- 8.3. **Resources** - the council's cash balances comprise revenue and capital resources and cash flow monies. The council's core cash resources comprised as follows:

Balance Sheet Resources	31 March 2021 Provisional £000	31 March 2022 Provisional £000
GF Balance	2,011	2,011
Earmarked Reserves	24,751	16,262
HRA Balance	7,749	6,365
Capital Receipts Reserve	6,316	7,396
Major Repairs Reserve	15,425	15,014
Capital Grants Unapplied	43	43
Total Usable Reserves	56,295	47,091

- 8.4. **Investments held by the council**
- The council maintained an average balance of £54.586m of internally managed funds.
 - The internally managed funds earned an average rate of return of 0.10%.
 - The comparable performance indicator to the end of 2021 was the average 7-day London Interbank Bid Rate (LIBID) rate, which was minus 0.07%. From 2022 it was the average 7 day SONIA compounded rate which was 0.37%. The average blended rate for these two indicators was 0.04%.
 - This compares with an original budget assumption of £23m investment balances earning an average rate of 0.10%.
 - Total investment income was £55k compared to a budget of £23k.
- 8.5. **Investments held by fund managers** – the council does not use external fund managers on a discretionary basis for any part of its investment portfolio.

9. Investment risk benchmarking

- 9.1. The following investment benchmarks were set in the council's 2021-22 annual treasury strategy:
- 9.1.1. **Security** - The council's maximum security risk benchmark for the current portfolio, when compared to historic default tables, is:

- 0.05% historic risk of default when compared to the whole portfolio (excluding unrated investments).

9.1.2. **Liquidity** – in respect of this area the council seeks to maintain:

- Liquid short term deposits of at least £10m available with a week’s notice.
- Weighted average life benchmark is expected to be in the range of 0 to 1 years, with a maximum of 5 years.

9.1.3. **Yield** - local measures of yield benchmarks are:

- Investments – internal returns above the 7 day LIBID rate (7 day SONIA compounded rate from 2022).

9.1.4. The council kept to the above benchmarks during 2021-22.

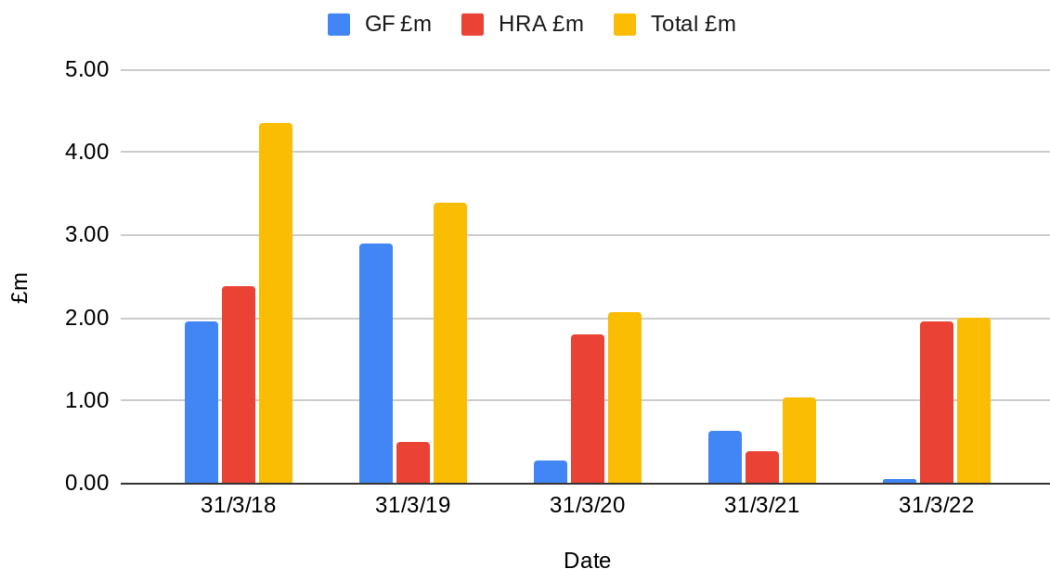
10. International Financial Reporting Standard 16 (IFRS 16)

10.1. The implementation of IFRS16 (bringing almost all lease liabilities onto the balance sheet together with the corresponding ‘right of use’ assets) has been delayed once more to 2024-25.

11. Capital Receipts

11.1 The chart below shows a 5 year summary of net capital receipts. It excludes the 2020-21 and 2021-22 capital receipts from the Dreamland disposal, as these have been used to reduce the council’s capital financing requirement (CFR) rather than finance the future capital programme.

Net Capital Receipts - GF/HRA (5 Year Summary)



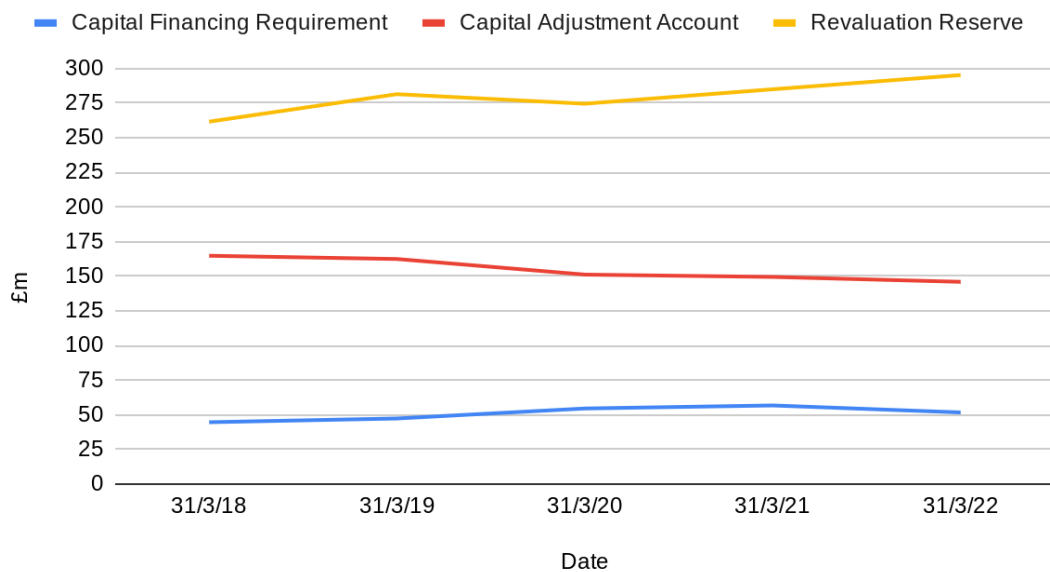
11.2 As can be seen from this chart, there has been a marked reduction in GF capital receipts which has implications for funding the future capital programme.

12. Capital Financing

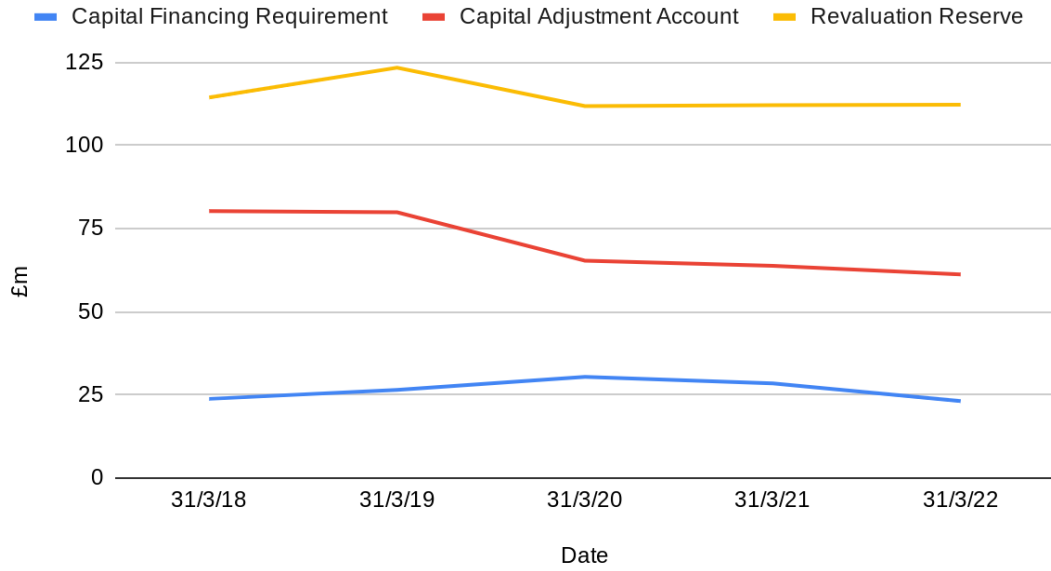
12.1 The charts below show how much of the council's capital / long-term assets had yet to be funded (CFR), how much had effectively been paid off or funded (Capital Adjustment Account), and the aggregate increase in value of these assets since acquisition by the council (Revaluation Reserve).

12.2 Capital Asset Financing - 5 Year Summary

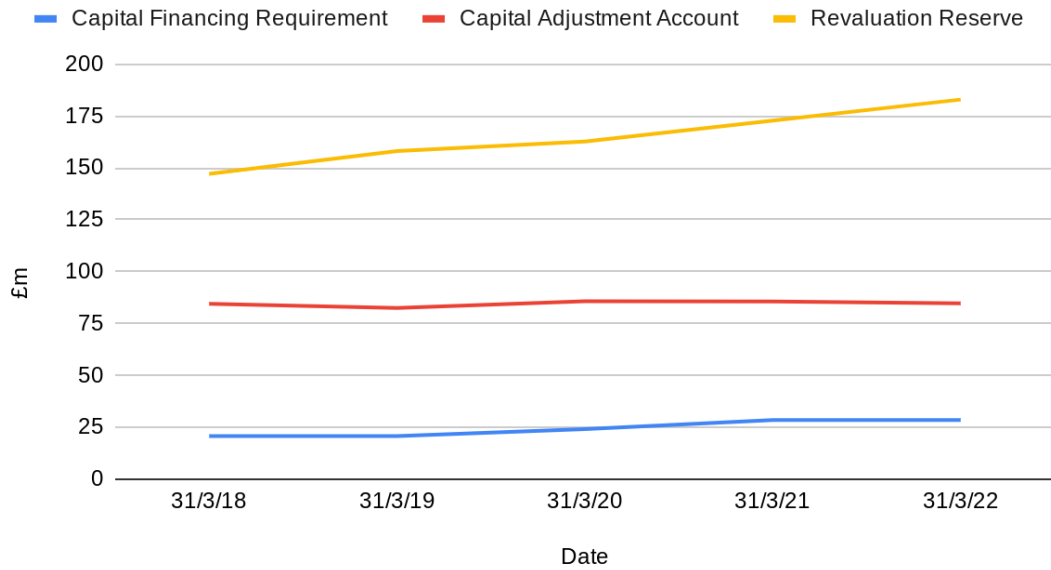
Capital Asset Financing - Total (5 Year Summary)



Capital Asset Financing - GF (5 Year Summary)

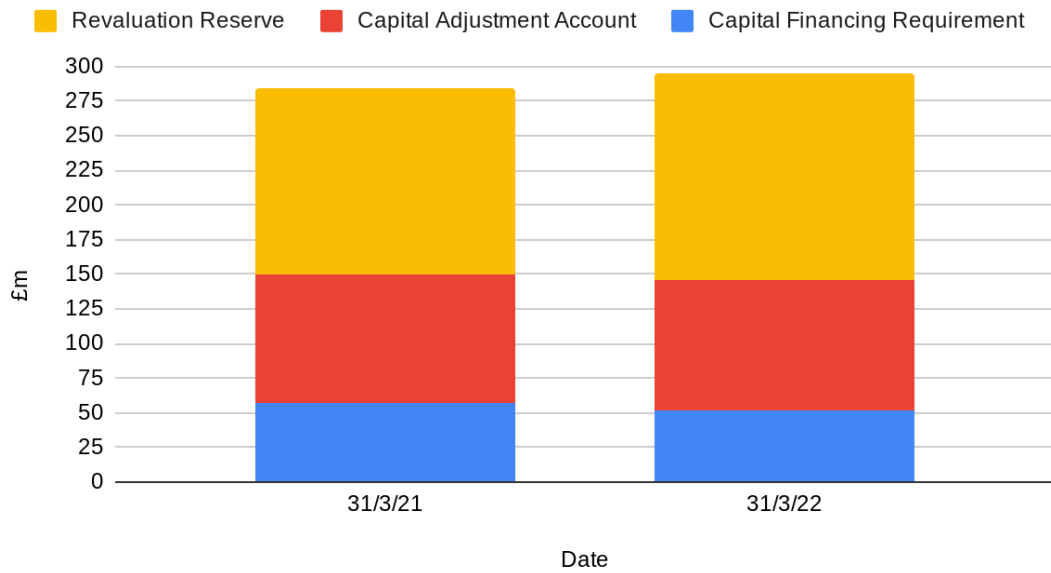


Capital Asset Financing - HRA (5 Year Summary)

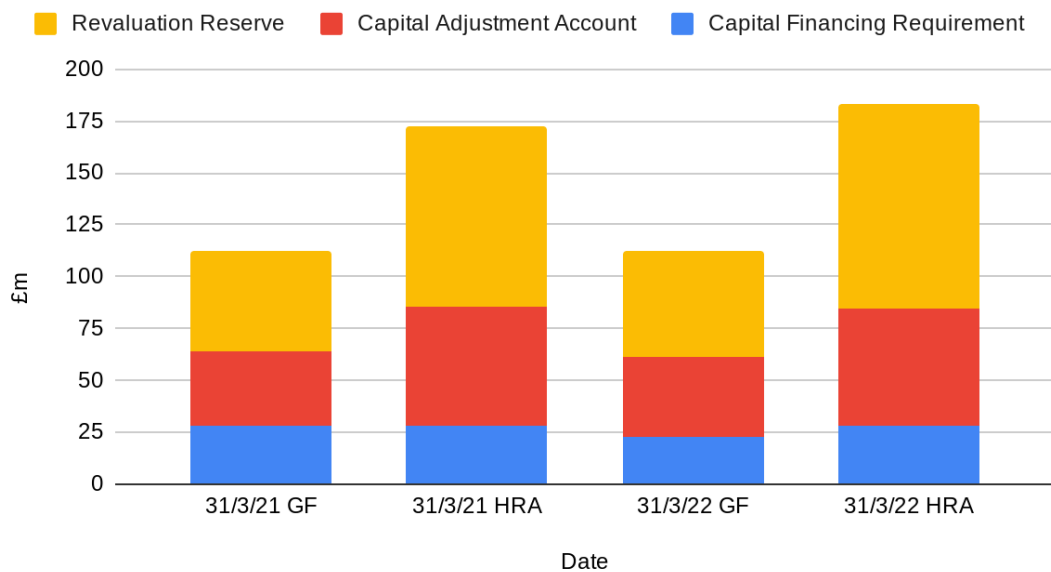


12.3 Capital Asset Financing - Current and Prior Year

Capital Asset Financing - Total (Current and Prior Year)



Capital Asset Financing - GF/HRA (Current and Prior Year)



13. Options

13.1 The recommended option (to ensure regulatory compliance as set out in section 1 of this report) is that the Governance & Audit Committee:

- Notes the actual 2021-22 prudential and treasury indicators in this report.
- Makes comments as appropriate on this Annual Treasury Management Report for 2021-22.
- Recommends this report to council for approval.

- 13.2 Alternatively, the Governance & Audit Committee may decide not to do this and provide reason(s) why.

14. Disclaimer

- 14.1 This report is a technical document focussing on public sector investments and borrowings and, as such, readers should not use the information contained within the report to inform personal investment or borrowing decisions. Neither Thanet District Council nor any of its officers or employees makes any representation or warranty, express or implied, as to the accuracy or completeness of the information contained herein (such information being subject to change without notice) and shall not be in any way responsible or liable for the contents hereof and no reliance should be placed on the accuracy, fairness or completeness of the information contained in this document. Any opinions, forecasts or estimates herein constitute a judgement and there can be no assurance that they will be consistent with future results or events. No person accepts any liability whatsoever for any loss howsoever arising from any use of this document or its contents or otherwise in connection therewith.

Contact Officer: Chris Blundell, Acting Deputy Chief Executive and Section 151 Officer

Reporting to: n/a

Annex List

Annex 1: Report Guidance

Annex 2: Abbreviations and Definitions

Corporate Consultation Undertaken

Finance: n/a

Legal: Estelle Culligan, Director of Law and Democracy

ANNUAL TREASURY MANAGEMENT REVIEW 2021-22

Annex 1: Report Guidance

Capital Expenditure and Financing

This section includes the council's debt and Capital Financing Requirement (CFR) split between its General Fund (GF) and Housing Revenue Account (HRA). The HRA is a 'ring-fenced' account for local authority housing.

The CFR represents the council's aggregate borrowing need (the element of the capital programme that has not been funded). The council's debt should not normally be higher than its CFR as explained in the report.

Borrowing Need

PWLB is the Public Works Loan Board which is a statutory body operating within the UK Debt Management Office, an Executive Agency of HM Treasury. PWLB's function is to lend money from the National Loans Fund to local authorities, and to collect the repayments.

The council has the following types of fixed rate loan with the PWLB:

- Annuity: fixed half-yearly payments to include principal and interest.
- Equal Instalments of Principal: equal half-yearly payments of principal together with interest on the outstanding balance.
- Maturity: half-yearly payments of interest only with a single payment of principal at the end of the term.

Financing Costs as a Proportion of Net Revenue Stream

This shows (separately for HRA and GF) the percentage of the council's revenue stream that is used to finance the CFR (net interest payable and Minimum Revenue Provision (MRP)).

MRP is the annual resource contribution from revenue which must be set against the CFR so that it does not increase indefinitely.

Borrowing and Investments

Borrowing limits – there are various general controls on the council's borrowing activity (operational boundary, authorised limit and maturity profiles).

General controls on the council's investment activity, to safeguard the security and liquidity of its investments, include:

- Creditworthiness of investment counterparties.
- Counterparty money limits.
- Counterparty time limits.
- Counterparty country limits.

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ANNUAL TREASURY MANAGEMENT REVIEW 2021-22

Annex 2: Abbreviations and Definitions

- ALMO** An Arm's Length Management Organisation is a not-for-profit company that provides housing services on behalf of a local authority. Usually an ALMO is set up by the authority to manage and improve all or part of its housing stock.
- LG** Link Group, Treasury solutions – the council's treasury management advisers.
- CE** Capital Economics - is the economics consultancy that provides Link Group, Treasury solutions, with independent economic forecasts, briefings and research.
- CFR** Capital Financing Requirement - the council's annual underlying borrowing need to finance capital expenditure and a measure of the council's total outstanding indebtedness.
- CIPFA** Chartered Institute of Public Finance and Accountancy – the professional accounting body that oversees and sets standards in local authority finance and treasury management.
- CPI** Consumer Price Inflation – the official measure of inflation adopted as a common standard by countries in the EU. It is a measure that examines the weighted average of prices of a basket of consumer goods and services, such as transportation, food and medical care. It is calculated by taking price changes for each item in the predetermined basket of goods and averaging them.
- ECB** European Central Bank - the central bank for the Eurozone.
- EU** European Union.
- EZ** Eurozone - those countries in the EU which use the euro as their currency.
- Fed** The Federal Reserve, often referred to simply as "the Fed," is the central bank of the United States. It was created by Congress to provide the nation with a stable monetary and financial system.
- FOMC** The Federal Open Market Committee – this is the branch of the Federal Reserve Board which determines monetary policy in the USA by setting interest rates and determining quantitative easing policy. It is composed of 12 members -- the seven members of the Board of Governors and five of the 12 Reserve Bank presidents.
- GDP** Gross Domestic Product – a measure of the growth and total size of the economy.
- G7** The group of seven countries that form an informal bloc of industrialised democracies--the United States, Canada, France, Germany, Italy, Japan, and the United Kingdom--that meets annually to discuss issues such as global economic governance, international security, and energy policy.
- Gilts** Gilts are bonds issued by the UK Government to borrow money on the financial markets. Interest paid by the Government on gilts is called a coupon and is at a rate that is fixed for the duration until maturity of the gilt (unless a gilt is index linked to inflation). While the coupon rate is fixed, the yields will change inversely to the price of gilts, i.e. a rise in the price of a gilt will mean that its yield will fall.
- HRA** Housing Revenue Account.

Agenda Item 8

Annex 2

- IMF** International Monetary Fund - the lender of last resort for national governments which get into financial difficulties.
- LIBID** The London Interbank Bid Rate is the rate bid by banks on deposits, i.e. the rate at which a bank is willing to borrow from other banks. It is the "other end" of the LIBOR (an offered, hence "ask" rate, the rate at which a bank will lend). These benchmarks ceased on 31st December 2021 and have, generally, been replaced by SONIA, the Sterling Overnight Index Average.
- MHCLG** The Ministry of Housing, Communities and Local Government - the Government department that directs local authorities in England.
- MPC** The Monetary Policy Committee is a committee of the Bank of England, which meets for one and a half days, eight times a year, to determine monetary policy by setting the official interest rate in the United Kingdom (the Bank of England Base Rate, commonly called Bank Rate), and by making decisions on quantitative easing.
- MRP** Minimum Revenue Provision - a statutory annual minimum revenue charge to reduce the total outstanding CFR (the total indebtedness of a local authority).
- PFI** Private Finance Initiative – capital expenditure financed by the private sector i.e. not by direct borrowing by a local authority.
- PWLB** Public Works Loan Board – this is the part of H.M. Treasury which provides loans to local authorities to finance capital expenditure.
- QE** Quantitative Easing – is an unconventional form of monetary policy where a central bank creates new money electronically to buy financial assets, like government bonds (but may also include corporate bonds). This process aims to stimulate economic growth through increased private sector spending in the economy and also aims to return inflation to target. These purchases increase the supply of liquidity to the economy; this policy is employed when lowering interest rates has failed to stimulate economic growth to an acceptable level and to lift inflation to target. Once QE has achieved its objectives of stimulating growth and inflation, QE will be reversed by selling the bonds the central bank had previously purchased, or by not replacing debt that it held which matures. The aim of this reversal is to ensure that inflation does not exceed its target once the economy recovers from a sustained period of depressed growth and inflation. Economic growth, and increases in inflation, may threaten to gather too much momentum if action is not taken to 'cool' the economy.
- RPI** The Retail Price Index is a measure of inflation that measures the change in the cost of a representative sample of retail goods and services. It was the UK standard for measurement of inflation until the UK changed to using the EU standard measure of inflation – CPI. The main differences between RPI and CPI is in the way that housing costs are treated and that the former is an arithmetical mean whereas the latter is a geometric mean. RPI is often higher than CPI for these reasons.
- SONIA** The Sterling Overnight Index Average. Generally, a replacement set of indices (for LIBID) for those benchmarking their investments. The benchmarking options include using a forward-looking (term) set of reference rates and/or a backward-looking set of reference rates that reflect the investment yield curve at the time an investment decision was taken.
- TMSS** The annual Treasury Management Strategy Statement report that all local authorities are required to submit for approval by the full council before the start of each financial year.
- VRP** A Voluntary Revenue Provision to repay debt, in the annual budget, which is additional to the annual MRP charge (see above definition).

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Update to RIPA Policy and Annual Report

Meeting	Governance and Audit Committee
Date	27 July 2022
Report Author	Estelle Culligan, Director of Law and Democracy
Portfolio Holder	Cllr Ash Ashbee
Status	For Decision
Classification:	Unrestricted
Ward:	All

Executive Summary:

A report to update the Committee about amendments to the Policy on the Regulation of Investigatory powers Act (RIPA) and to report on activity this year.

Recommendation(s):

The Committee is recommended to:

- 1 Adopt the amended Policy at Appendix 1
- 2 Note the letter from IPCO, the recommendations and actions
- 3 Note the report of activity during the year

Corporate Implications

Financial and Value for Money

There are no financial implications to the report. The report is about an update to Policy and to inform members about the recent inspection visit from IPCO.

Legal

The Council has powers under the Regulation of Investigatory powers Act 2000 (RIPA) to undertake covert surveillance within enforcement if necessary. Powers under the Act are overseen by the Investigatory Powers Commissioners Office (IPCO).

Risk Management

The Council is subject to regular inspections by IPCO and must maintain an up to date policy and procedures for managing RIPA, even if the Council's use of the available powers is minimal.

Corporate

The Council must have in place an up to date policy and procedures in order to comply with the regulations, good governance and its duties under the Act. The Policy is one of a number of policies and procedures that the council has in place which demonstrates its compliance with the legislation.

Equality Act 2010 & Public Sector Equality Duty

There are no equalities implications

Corporate Priorities

This report relates to the following corporate priorities: -

- *Communities*

1.0 Introduction and Background

1.1 The Council has powers under the Regulation of Investigatory Powers Act 2000 (RIPA) to undertake certain types of directed surveillance for the purposes of enforcement.

1.2 Directed surveillance is defined in section 26(2) RIPA as follows:

“surveillance is directed for the purposes of this Part if it is covert but not intrusive and is undertaken—

- (a) for the purposes of a specific investigation or a specific operation;
- (b) in such a manner as is likely to result in the obtaining of private information about a person (whether or not one specifically identified for the purposes of the investigation or operation); and
- (c) otherwise than by way of an immediate response to events or circumstances the nature of which is such that it would not be reasonably practicable for an authorisation under this Part to be sought for the carrying out of the surveillance.”

1.3 Local authorities can only undertake directed surveillance under RIPA that is not intrusive (eg involves entry onto property etc)

1.4 Local authorities can also use a “Covert Human Intelligence Source” (“CHIS”) under RIPA. These are defined in section 26(8) RIPA as follows:

“For the purposes of this Part a person is a covert human intelligence source if—

- (a) he establishes or maintains a personal or other relationship with a person for the covert purpose of facilitating the doing of anything falling within paragraph (b) or (c);

- (b) he covertly uses such a relationship to obtain information or to provide access to any information to another person; or
- (c) he covertly discloses information obtained by the use of such a relationship, or as a consequence of the existence of such a relationship.”

1.5 Members should note that it is the Council’s Policy not to exercise the available powers under RIPA unless absolutely necessary. Most of the Council’s surveillance is overt (open) as opposed to covert (hidden). However, there have been occasions in the last few years where authorisations have been given for directed surveillance. The use of a CHIS is even more rare and would only be applicable in the case, for example, for carrying out test purchases.

1.6 Members should also note that authorisations are subject to application and approval by the magistrates’ court and are strictly time limited. Extensions to approvals are also subject to the magistrates’ approval.

2.0 The Current Situation

2.1 The Policy was last updated in 2018. The regulatory body - the Investigatory Powers Commissioner (IPCO) - visited the Council in April 2022. This was a first in person inspection since before the pandemic. The Commissioner reviewed the Council’s draft updated Policy and procedures and made various recommendations. The draft Policy is at Annex 1.

2.2 The recommendations in the follow up letter and actions that the Council has taken/will take are as follows:

Recommendation	Action taken/proposes	Date
To adopt the draft Policy	Report and draft policy presented to G&A Committee for adoption	27/7/22
To identify the Senior Responsible Officer, authorising officers and the RIPA Gatekeeper following the departure of a number of key staff	It is recommended that the Interim Monitoring Officer becomes the Senior Responsible Officer (SRO) and that the Chief Executive and all Directors are authorising officers (AOs). Mr Eden Geddes, Enforcement and Multi Task Force Agency Manager, has	July 2022

	<p>been acting as RIPA Gatekeeper for some time and has agreed to continue in this role. The Gatekeeper role manages and oversees the RIPA processes and liaises with the Senior Responsible Officer and Authorising Officers</p>	
<p>That all key personnel, including the SRO and AOs, require refresher training to ensure that they are up to date with the processes contained within the amended policy and the content of the latest Codes of Practice. I also recommend focusing on the key element of how Council staff make use of the internet and social media during investigations.</p>	<p>Relevant Training to be identified and organised by the SRO in conjunction with the RIPA Gatekeeper and HR</p>	<p>By Autumn 2022</p>
<p>To re-establish the Central Record of authorisations, which will now be retained within the Legal Services Team under the control of the SRO. All RIPA material, that is the Central Record of authorisations, applications, authorisations, reviews and cancellations, and</p>	<p>Central Record of authorisations has already been established within legal Services and will be maintained in accordance with the Council's document retention policy.</p> <p>The retention policy will be reviewed to make sure it complies with the requirement in the commissioner's letter.</p>	<p>June 2022 and ongoing. The central record will be the responsibility of the SRO, assisted by the Legal Services Administrator and in conjunction with the RIPA Gatekeeper</p> <p>All centrally held records and the retention policy to be reviewed by Autumn 2022</p>

<p>any material obtained as a result of surveillance or CHIS activity, is subject to the Data Safeguards chapters contained within both the Surveillance and CHIS Codes of Practice. These safeguards apply to the handling, retention, review and deletion (RRD) of RIPA material and require that you take active steps to ensure all material is held in accordance with your document retention policy.</p>		
<p>To ensure that documentation is completed correctly - for example, on the authorisation forms to provide as full information as possible and not simply to repeat template wording, including. The commissioner's suggestions recommended including photographs etc and to full evidence of proper consideration to the impact of each deployment and the rights of the people it was aimed at detecting, or those affected</p>	<p>Training to be provided to those people completing the authorisation forms and guidance will also be given by the Gatekeeper who will review all requests for authorisations.</p> <p>The review by the SRO and the legal team - who will be responsible for applying to the magistrates' court for authorisation, will also be a secondary check on the quality of the documentation</p>	<p>July 2022 and ongoing</p>

through collateral intrusion.		
Surveillance must always cease when it is no longer justifiable, which requires ongoing assessment rather than the arbitrary observation of a deadline.	Training and guidance will be provided to staff completing the forms by the RIPA Gatekeeper and the SRO/legal team	July 2022 and ongoing

2.3 A copy of the Commissioner’s letter is included at Annex 2 for members’ information.

2.4 Members are also asked to note that in the year 2021 - 22, the Council has not undertaken any investigations which have been subject to RIPA approvals.

3.0 Options

3.1 The committee is asked to approve the adoption of the draft updated Policy, to note the report of RIPA activity in the last year and finally to note the recommendations and actions arising out of the Commissioner’s visit.

3.2 There is no alternative option, unless members wish to recommend additional actions and/or changes to the Policy.

4.0 Next Steps

4.1 If the Policy is approved, it will be updated and published on the intranet, together with the revised details of the SRO, authorising officers and RIPA Gatekeeper. Training will be organised as soon as possible for all relevant staff. The SRO will take forward all outstanding actions.

Contact Officer: Estelle Culligan, Director of law and Democracy
Reporting to: Chris Blundell, Acting Deputy Chief Executive

Annex List

- Annex 1: Revised RIPA Policy July 2022
- Annex 2: Letter from the Commissioner (IPCO) dated 8 April 2022

Corporate Consultation

Finance: Matt Sanham, Head of Finance
Legal: N/A



Regulation of Investigatory Powers Act (RIPA) Policy

Draft

July 2022

Contents

Section		Page
1A.	Introduction to RIPA 2000	3 – 4
1B.	Policy Summary	5
2.	Definitions	6 - 10
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

- 1.1 The Regulation of Investigatory Powers Act 2000 (RIPA) provides a 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 The policy should be read in conjunction with the Home Office Codes of Practice on covert surveillance and covert human intelligence sources; acquisition and disclosure of communications data, and any guidance issued by the Investigatory Powers Commissioner's Office (IPCO)
- 1.3 As a local authority, Thanet District Council ("The council") is only authorised to carry out Directed Surveillance and use Covert Human Intelligence Sources (CHIS), in accordance with section 28 and section 29 of RIPA. This Policy covers the use of Directed Surveillance and the deployment of Covert Human Intelligence Sources by the Council.
- 1.4 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.
- 1.5 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.
- 1.6 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.
- 1.7 The Council will not normally authorise the use of a CHIS. However, in the rarest of circumstances, an investigation may require the use of a CHIS and in this case, officers should seek the proper authorisation in accordance with this policy.
- 1.8 It should be noted that any use of activities under RIPA will be as a last resort and council policy is not to undertake such activities unless absolutely necessary.
- 1.9 The provisions of RIPA do not cover authorisation for the use of overt CCTV surveillance systems. The Council operates 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.

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 is defined in Section 26 RIPA as follows:

“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 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.

2.11 Authorising Officer

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

2.12 The Investigatory Powers Commission (IPCO)

IPCO is responsible for reviewing our activities carried out under RIPA 2000. All authorities are subject to review and inspection. Inspection will cover policy and procedures as well as individual investigations.

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

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 Gate-keeper 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 The authorisation process for use of a CHIS must be approved by a Justice of the Peace, which necessitates making an application to the Magistrates Court. (See paragraph 3.6 for further detail).

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;
- (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;

Agenda Item 9

Annex 1

- (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 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 Local authorities must obtain an order from a Justice of the Peace to approve the grant or renewal of an authorisation. 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 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

Agenda Item 9

Annex 1

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 In practical terms, if you 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.
- 4.1.2 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 is an additional step after assessing necessity and proportionality, completing the RIPA application forms and seeking authorisation from an Authorising Officer.
- 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).
 - 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

Agenda Item 9

Annex 1

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

4.1.15 Directed surveillance undertaken by the Council requires the written approval of a post holder identified in 4.1.17 of this document.

4.1.16 Authorising Officers should not be responsible for authorising their own activities, i.e. those directly involved in undertaking surveillance.

4.1.17 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.	CEX, Corporate Director, Service Director as Authorising Officers

Agenda Item 9

Annex 1

2	Written authorisation to conduct investigations using Directed Surveillance likely to obtain confidential information.	CEX only or in their absence, the Monitoring Officer or Chief Financial Officer
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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”.

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. 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.
- b) A Justice of the Peace will only give approval to the granting of an authorisation for Directed Surveillance if they are satisfied that:
 - o 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
 - o 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 be aware that each authorisation (or renewal of an authorisation) will be subject to judicial approval.

4.1.21 There is no need for a Justice of the Peace to consider either cancellations or internal reviews.

4.1.22 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 to 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 of three months beginning with the day on which it took effect, unless otherwise directed by the court at the time of authorising 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, as listed in section 4.1.5 above together with;
 - (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 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

Agenda Item 9

Annex 1

- 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 RIPA, 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.,

Authorisation forms are also open to inspection by 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.

A review will be carried out regularly to ensure all forms have been sent for inclusion in this Central Register.

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 Gate-keeper/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 he/she may notify the Chief Surveillance Commissioner immediately (see following)

5 Social Networking Sites (SNS)

5.1 The Home Office Revised Code of Practice on Covert Surveillance and Property Interference, published in 2018, provides the following guidance in relation to online covert activity:

5.2 *'The growth of the internet, and the extent of the information that is now available online, presents new opportunities for public authorities to view or gather information which may assist them in preventing or detecting crime or carrying out other statutory functions, as well as in understanding and engaging with the public they serve. It is important that public authorities are able to make full and lawful use of this information for their statutory purposes. Much of it can be accessed without the need for RIPA authorisation; use of the internet prior to an investigation should not normally engage privacy considerations. But if the study of an individual's online presence becomes persistent, or where material obtained from any check is to be extracted and recorded and may engage privacy considerations, RIPA authorisations may need to be considered. The following guidance is intended to assist public authorities in identifying when such authorisations may be appropriate.*

The internet may be used for intelligence gathering and/or as a surveillance tool. Where online monitoring or investigation is conducted covertly for the purpose of a specific investigation or operation and is likely to result in the obtaining of private information about a person or group, an authorisation for directed surveillance should be considered, as set out elsewhere in this code. Where a person acting on behalf of a public authority is intending to engage with others online without disclosing his or her identity, a CHIS authorisation may be needed (paragraphs 4.10 to 4.16 of the Covert Human Intelligence Sources code of practice provide detail on where a CHIS authorisation may be available for online activity).

In deciding whether online surveillance should be regarded as covert, consideration should be given to the likelihood of the subject(s) knowing that the surveillance is or may be taking place. Use of the internet itself may be considered as adopting a surveillance technique calculated to ensure that the subject is unaware of it, even if no further steps are taken to conceal the activity. Conversely, where a public authority has taken reasonable steps to inform the public or particular individuals that the surveillance is or may be taking place, the activity may be regarded as overt and a directed surveillance authorisation will not normally be available.

Agenda Item 9

Annex 1

As set out below, depending on the nature of the online platform, there may be a reduced expectation of privacy where information relating to a person or group of people is made openly available within the public domain, however in some circumstances privacy implications still apply. This is because the intention when making such information available was not for it to be used for a covert purpose such as investigative activity. This is regardless of whether a user of a website or social media platform has sought to protect such information by restricting its access by activating privacy settings.

Where information about an individual is placed on a publicly accessible database, for example the telephone directory or Companies House, which is commonly used and known to be accessible to all, they are unlikely to have any reasonable expectation of privacy over the monitoring by public authorities of that information. Individuals who post information on social media networks and other websites whose purpose is to communicate messages to a wide audience are also less likely to hold a reasonable expectation of privacy in relation to that information.

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

- 5.3 It is recognised that the use of SNS can provide useful information for council staff carrying out investigations. These investigations may relate to the various enforcement functions within the council, for example fraud, planning enforcement, licensing or environmental health/crime.
- 5.4 SNS can take many forms. This makes defining SNS difficult, however there are some facets which will be common to all forms of SNS. They will always be a web-based service that allows individuals and/or businesses to construct a public or semi-public profile. Beyond this, SNS can be very diverse, but will often have some, or all, of the following characteristics:
- The ability to show a list of other users with whom they share a connection; often termed “friends” or “followers”;
 - The ability to view and browse their list of connections and those made by others within the system;
 - Hosting capabilities allowing users to post audio, photographs and/or video content that is viewable by others; and
 - Take the form of community-based web sites, online discussion forums, chatrooms and other social spaces online.
- 5.5 Current examples of the most popular forms of SNS, and therefore the most likely to be of use when conducting investigations into alleged offences, include: Facebook; Twitter; YouTube; Instagram; LinkedIn; and Google.

- 5.6 The Council may utilise SNS when conducting investigations into alleged offences. Whilst the use of SNS to investigate an alleged offence is not automatically considered covert surveillance, its misuse when conducting investigations can mean that it crosses over into the realms of covert and/or targeted surveillance, even when that misuse is inadvertent. It is therefore crucial that the Home Office guidance and provisions within the RIPA, as they relate to covert and directed surveillance, are always followed when using SNS information in investigations.
- 5.7 It is the aim of this Policy to ensure that investigations involving the use of SNS are done so lawfully and correctly so as not to interfere with an accused's human rights and to protect officers carrying out the investigation, and ensure where RIPA authorisation if required, is obtained in advance of the evidence being gathered.
- 5.8 When it is discovered that an individual under investigation has set their SNS account to private, Council officers should not attempt to circumvent those settings under any circumstances. Such attempts would include, but are not limited to:
- sending "friend" or "follow" requests to an individual for the purpose of gathering information;
 - setting up or using bogus Social Media profiles to gain access to the individual's private profile,
 - contacting the individual through any form of instant messaging or chat function requesting access or information,
 - asking family, friends, colleagues or any other third party to gain access on their behalf, or otherwise using the SNS accounts of such people to gain access;
 - or any other method which relies on the use of subterfuge or deception.
- 5.9 A distinction is made between one-off and repeated visits to an individual's SNS profile. Under Part II of RIPA, authorisation must be sought in order to carry out directed surveillance against an individual. Whilst one-off visits are unlikely to be considered "directed surveillance" for the purposes of RIPA, repeated or frequent visits may cross over into becoming "directed surveillance" requiring RIPA authorisation. A person's SNS profile should not, for example, be routinely monitored on a daily or weekly basis in search of updates, as this will require RIPA authorisation. Similarly, if an officer intends to engage with others online without disclosing their identity a CHIS (Covert Human Intelligence Source) authorisation may be needed. For further guidance on these points, officers should contact the Council's SRO.
- 5.10 Regardless of whether the Social Media profile belonging to a suspected offender is set to public or private, it should only ever be used for the purposes of evidence gathering. Interaction or conversation of any kind should be avoided at all costs, and at no stage should a Council officer seek to make contact with the individual through the medium of social media. Any contact that is made may lead to accusations of harassment or, where a level of deception is employed by the officer, entrapment, either of which would be detrimental, or potentially fatal, to any future prosecution that may be considered.

6. Complaints

6.1 Procedure

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

Contravention of the RIPA Act may be reported to IPCO.

<https://www.ipco.org.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	Department	
Full Address		
Contact Details		
Investigation/Operation Name (if applicable)		
Investigating Officer (if a person other than the applicant)		
DETAILS OF APPLICATION		
1. Give position of Authorising Officer		

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.
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 why this directed surveillance is necessary for the purpose of preventing or detecting crime or of preventing disorder (Section 28(3)(b) RIPA). *(This is the only statutory ground available to local authorities upon which applications for directed surveillance may be authorised – SI 2010/521).*
(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		Tel No	
Position		Date	
Signature			

12. Authorising Officer's Statement.

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		Position	
Signature		Date and time	
Expiry date and time (eg authorisation granted on 1 April 2022 – expires on 30 June 2022, 23:59)			

Agenda Item 9
Annex 1

**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 <i>(including full address)</i>			
Name of Applicant		Department	
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		Tel No	
Position		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 Position

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		Department	
Full Address			
Contact Details			
Investigation/Operati on 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 style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;">Name (Print)</td> <td style="width: 50%; border: none;">Position</td> </tr> <tr> <td style="border: none;">Signature</td> <td style="border: none;">Date</td> </tr> </table>	Name (Print)	Position	Signature	Date
Name (Print)	Position			
Signature	Date			

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

5. Authorisation cancelled	Date:	Time:
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**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		Department	
Full Address			
Contact Details			
Operation Name			
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		Tel No	
Position		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	Position
Signature	Date

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

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)



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

Authorisation cancelled if it is not proportionate.

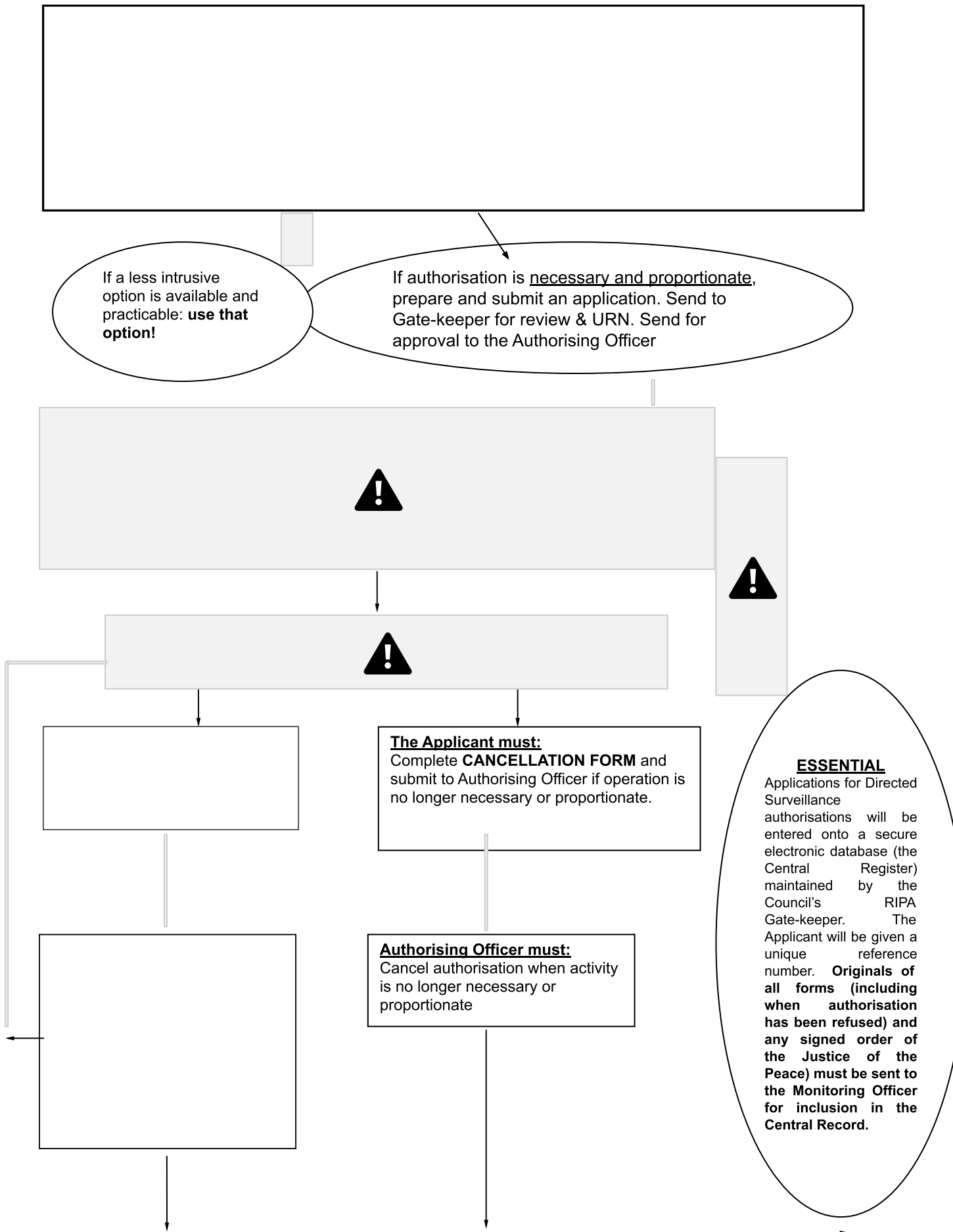
Authorising Officer must:
If surveillance is still necessary and proportionate:

- 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.

Agenda Item 9

Annex 1



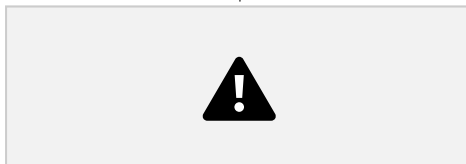
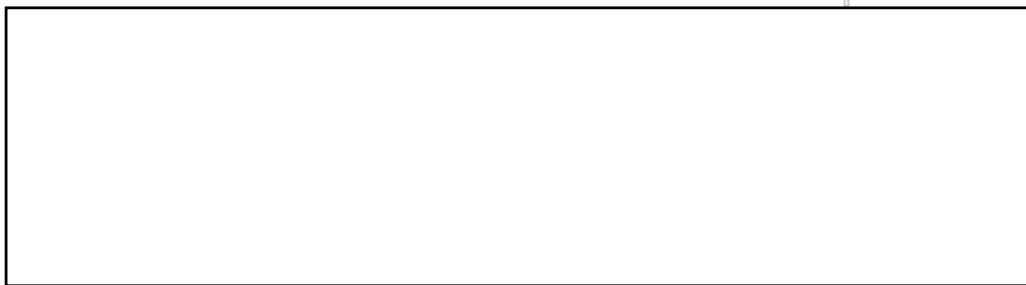
FLOW-CHART – CHIS AUTHORISATION PROCEDURES

APPENDIX 5C

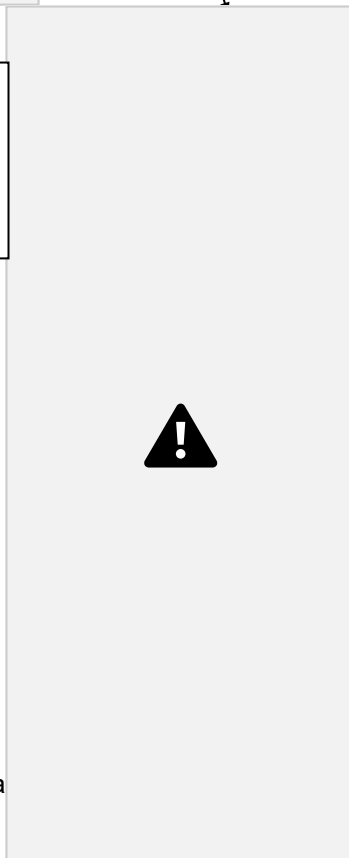
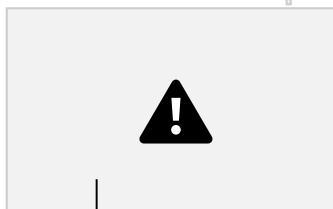
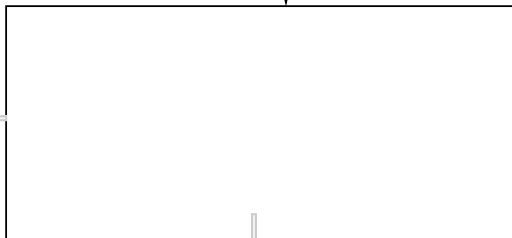


If a less intrusive option is available and practicable: **use that option!**

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



The Applicant must:
Complete **CANCELLATION FORM** and submit to Authorising Officer if operation is no longer necessary or proportionate.



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:.....

.....

Agenda Item 9
Annex 1

Contact telephone number:.....

Contact email address :.....

Local authority reference:.....

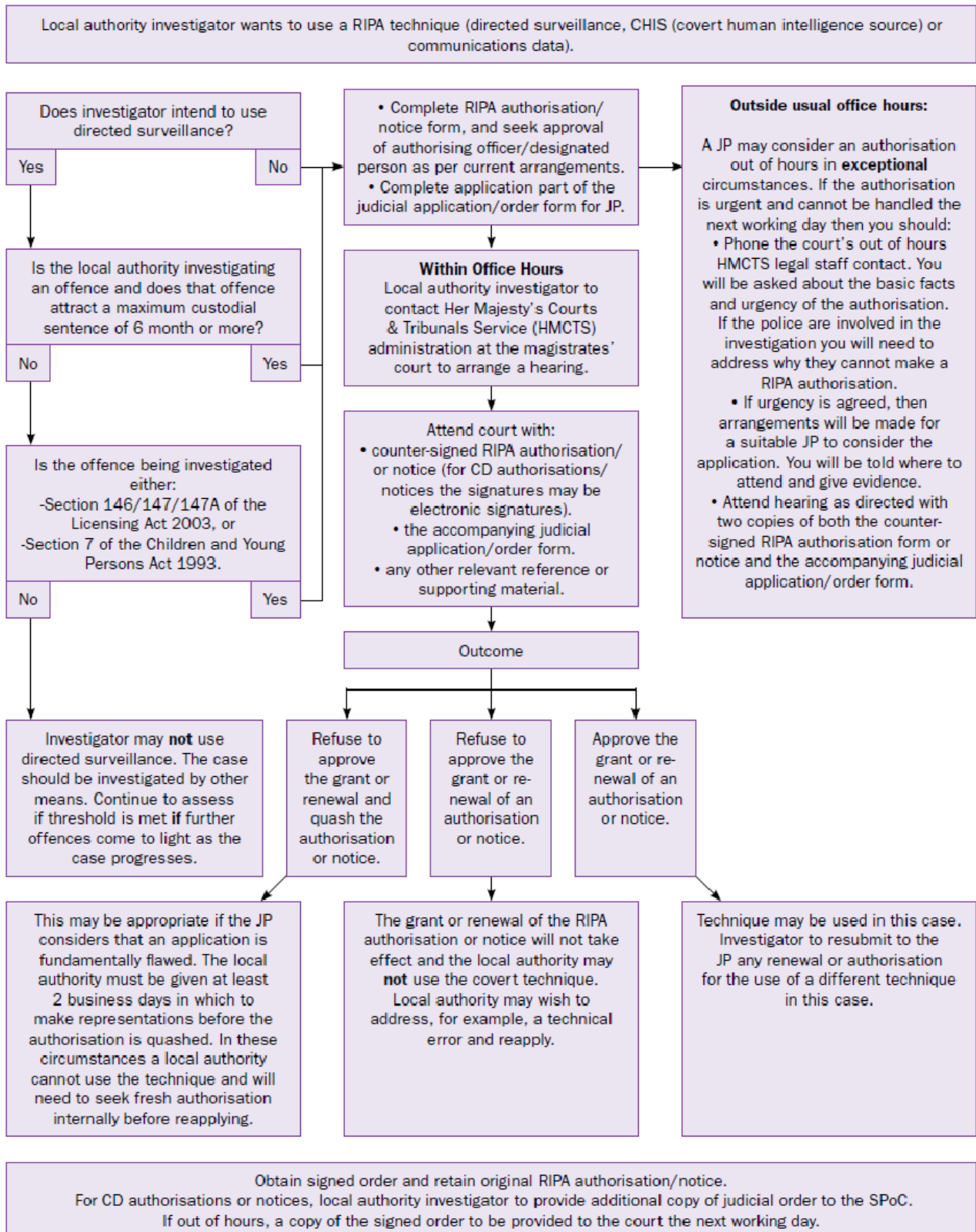
Number of pages:.....

APPENDIX 7

Agenda Item 9

Annex 1

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".



PO Box 29105, London

Ms Madeline Homer
 Chief Executive
 Thanet District Council
 By email

8 April 2022

Dear Ms Homer,

**IPCO Surveillance and CHIS Inspection of Thanet District Council
 Regulation of Investigatory Powers Act 2000 (RIPA)**

Please be aware that IPCO is not a “public authority” for the purpose of the Freedom of Information Act (FOIA) and therefore falls outside the reach of the FOIA. It is appreciated that local authorities are subject to the FOIA and that they may receive requests for disclosure of our reports. In the first instance the SRO should bring the matter to the attention of the IPCO Data Protection Officer (at: info@ipco.org.uk), before making any disclosure. This is also the case if you wish to make the content of this letter publicly available.

Your Council was originally due to be the subject of a remote inspection, however owing to your significant previous use of RIPA powers, including a rejected application and associated non-RIPA authorisation for internal surveillance, the decision was made to conduct a physical visit. This inspection has been delayed by the Covid pandemic but finally took place on Monday 28th March 2022 and was facilitated by the Senior Responsible Officer for RIPA matters, Estelle Culligan – Director of Law and Democracy, and Eden Geddes - Head of the Thanet Multi-Agency Task Force.

The last inspection, a desktop examination of your processes, was conducted in late 2017 and resulted in no recommendations. Between 2017 and 2019, RIPA powers to authorise directed surveillance were used on nine occasions, and a non-RIPA process once. All relevant material was sent to [REDACTED] by email in advance of the inspection. The visit to your Council provided an opportunity to debrief the content of these, with the following a summary of the feedback:

- i. Operation Urban was an investigation into the conduct of civil enforcement officers concerning their activities while on duty. A directed surveillance application was initially authorised on the 11th October 2017, but was rejected at the court approval stage on the 23rd of the same month because the operation did not relate to a ‘core function’ of the Council, in accordance with paragraph 3.35 of the Covert Surveillance and Property Interference Code of Practice (the Code).
- ii. The application lacked background information, such as how the allegations had arisen, what investigative activity had been conducted so far, and a justification as to why the personnel concerned had been selected. The necessity and proportionality were equally as brief and failed to conform to the standard required by the Code.

Agenda Item 9

Annex 2

- iii. Similar shortcomings were identified within the 'non-RIPA' application, authorised in relation to the same investigation a short time later. This document requested that statistical analysis be performed of data collected in conjunction with the same civil enforcement officer's duties, in a manner that amounted to surveillance, with the objective of assessing how, and if, they were performing their duties. Although the tactic appeared a reasonable and less invasive way of managing the operation, there was again very little supporting information explaining why the personnel were under investigation (other than a brief description of the allegations), while the necessity and proportionality cases were insufficiently expressed to justify why the proposed tactics were the most suitable option in the circumstances of the case. It was also noted that the scope of the investigation had been expanded to include more personnel, but no explanation was provided for this. The activity was authorised on the 27th October 2017, however no cancellation document was provided so it was not possible to ascertain when the activity ceased and what was the outcome.
- iv. As you will be aware, the intention of a non-RIPA process is to mirror the directed surveillance authorisation procedure, insofar as possible justifying the infringement of respect for privacy rights. It is therefore important that every part of the normal authorisation process is observed, including the need to express fully why the proposed surveillance was necessary and proportionate.
- v. Of the remaining directed surveillance authorisations examined, all related to the use of static observation posts to monitor fly tipping hotspots. In each case, surveillance was requested and erroneously authorised for eight weeks (directed surveillance may only be authorised for three months and renewed, if necessary, for the same period thereafter).
- vi. The summary section of the surveillance application forms consistently provided very little case specific information other than a brief, templated, summary of the location concerned and an indication of when fly tipping events had occurred. Photographs were included in the package of material provided at court, evidencing that further information such as the size and composition of previous incidents were available, however none of this information was included within the documents.
- vii. The repeated use of a templated application form was made obvious by the failure to change the URN on some documents, and similar (and sometimes identical) necessity and proportionality cases. While it is accepted that the nature of the crime under investigation was common to each case, the failure properly to articulate the core statutory considerations, and substantially alter the authorisation documents, gives the impression that no *meaningful* consideration had been given to the impact of each deployment and the rights of the people it was aimed at detecting, or those affected through collateral intrusion.
- viii. In all but one case, the surveillance was cancelled shortly prior to the (incorrect) expiry date, regardless of the success or failure of the tactic, and in the case of Operation _____, the cancellation was missing altogether. Reviews always permitted the continuance of the activity without true consideration for the status of the observations. Surveillance must always cease when it is no longer justifiable, which requires ongoing assessment rather than the arbitrary observation of a deadline.

_____ feedback as to the poor quality of documentation, and the failure to manage correctly the authorisation process, was graciously accepted on the day of the inspection. It was explained to her that the roles of Senior Responsible Officer and Taskforce Lead are now under new leadership, and that any future use of surveillance or CHIS powers would be subject to substantially more robust oversight.

Agenda Item 9

Annex 2

A draft RIPA policy document, setting out how covert investigatory powers may be applied for and authorised, has been in draft format since the last inspection in 2017. I understand that this document is now under formal review, with a view to it being finalised and published. The final draft will be presented to Members via the Governance and Audit Committee during the next meeting in July. It is suggested that for transparency, a copy of this letter also be submitted for their awareness¹.

In her capacity as Acting Senior Responsible Officer, Ms Culligan's intention is to identify the most appropriate senior personnel to be designated as Authorising Officers, replacing staff who have left the Council. Mr Geddes has also indicated his contentment to act as Gatekeeper, having had some knowledge of RIPA processes from a former role in another council. All key personnel, including the SRO and AOs, require refresher training to ensure that they are up to date with the processes contained within the amended policy and the content of the latest Codes of Practice. I also recommend focusing on the key element of how Council staff make use of the internet and social media during investigations.

Efforts have been made to re-establish the Central Record of authorisations, which will now be retained within the Legal Services Team under the control of the SRO. All RIPA material, that is the Central Record of authorisations, applications, authorisations, reviews and cancellations, and any material obtained as a result of surveillance or CHIS activity, is subject to the Data Safeguards chapters contained within both the Surveillance and CHIS Codes of Practice. These safeguards apply to the handling, retention, review and deletion (RRD) of RIPA material and require that you take active steps to ensure all material is held in accordance with your document retention policy.

In order to provide reassurance that RIPA material is retained in a compliant manner, and that you have the necessary policies and procedures for RRD in place, I will require confirmation in your response to this letter that such a review has been completed.

I am very appreciative of the way [REDACTED] was welcomed on the day of the inspection. She was left with the impression that there is a willingness to re-establish processes to ensure that the Council returns to a compliant state.

I would be grateful if you could respond to this letter within two months, and provide me with an Action Plan which sets out how you plan to address the areas requiring improvement, and the related timescales set for this, as well as updating me on any matters that have, by then, been dealt with.

If you have any feedback about the inspection process, I am always pleased to receive it.

Yours sincerely,



The Rt. Hon. Sir Brian Leveson
The Investigatory Powers Commissioner

¹ Please note that if this letter is to be made publicly available, you should seek a redacted version from my Office.

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