

Audit & Standards Committee

Date: **30 January 2024**

Time: **4.00pm**

Venue: **Council Chamber, Hove Town Hall**

Members: **Councillors:** West (Chair), Robinson (Opposition Spokesperson), Atkinson, Burden, Czolak, Daniel, Meadows and Miller

Independent Persons: Barbara Beardwell, David Bradly and David Gill

Contact: **John Peel**
Democratic Services Officer
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Date of Publication - Monday, 22 January 2024

AGENDA

Part One

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29 PROCEDURAL BUSINESS

- (a) **Declarations of Substitutes:** Where councillors are unable to attend a meeting, a substitute Member from the same political group may attend, speak and vote in their place for that meeting.
- (b) **Declarations of Interest:**
 - (a) Disclosable pecuniary interests;
 - (b) Any other interests required to be registered under the local code;
 - (c) Any other general interest as a result of which a decision on the matter might reasonably be regarded as affecting you or a partner more than a majority of other people or businesses in the ward/s affected by the decision.

In each case, you need to declare

- (i) the item on the agenda the interest relates to;
- (ii) the nature of the interest; and
- (iii) whether it is a disclosable pecuniary interest or some other interest.

If unsure, Members should seek advice from the committee lawyer or administrator preferably before the meeting.

- (c) **Exclusion of Press and Public:** To consider whether, in view of the nature of the business to be transacted or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

Note: Any item appearing in Part Two of the agenda states in its heading the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the press and public. A list and description of the exempt categories is available for public inspection at Brighton and Hove Town Halls and on-line in the Constitution at part 7.1.

30 MINUTES

7 - 10

To consider the minutes of the previous meeting.

Contact Officer: John Peel

Tel: 01273 291058

31 CHAIR'S COMMUNICATIONS

32 CALL OVER

- (a) Items 35 - 38 will be read out at the meeting and Members invited to reserve the items for consideration.
- (b) Those items not reserved will be taken as having been received and the reports' recommendations agreed.

33 PUBLIC INVOLVEMENT

To consider the following matters raised by members of the public:

- (a) **Petitions:** to receive any petitions presented to the full council or at the meeting itself;
- (b) **Written Questions:** to receive any questions submitted by the due date of 12 noon on the 24 January 2024;
- (c) **Deputations:** to receive any deputations submitted by the due date of 12 noon on the 24 January 2024.

34 MEMBER INVOLVEMENT

11 - 12

To consider the following matters raised by councillors:

- (a) **Petitions:** to receive any petitions submitted to the full Council or at the meeting itself;
- (b) **Written Questions:** to consider any written questions;
- (c) **Letters:** to consider any letters;
- (d) **Notices of Motion:** to consider any Notices of Motion referred from Council or submitted directly to the Committee.

35 FORMAL APPROVAL OF THE RISK MANAGEMENT FRAMEWORK 2023/24

13 - 44

Report of the Executive Director Governance, People and Resources

Contact Officer: Rima Desai

Tel: 01273 291268

Ward Affected: All Wards

36 INTERNAL AUDIT AND COUNTER FRAUD QUARTER 2 PROGRESS REPORT 2023-24

45 - 64

Report of the Executive Director Governance, People and Resources

Contact Officer: Carolyn Sheehan

Ward Affected: All Wards

37 ANNUAL SURVEILLANCE REPORT 2023 65 - 106

Report of the Executive Director Governance, People and Resources

Contact Officer: Jo Player

Tel: 01273 292488

Ward Affected: All Wards

38 STANDARDS UPDATE 107 - 122

Report of the Executive Director Governance, People and Resources

Contact Officer: Victoria Simpson

Tel: 01273 294687

Ward Affected: All Wards

39 ITEMS REFERRED FOR COUNCIL

- (1) To consider items to be submitted to a relevant Committee for information.
- (2) To consider items to be submitted to full Council for information.

In accordance with Procedure Rule 24.3a, the Committee may determine that any item is to be included in its report to Council. In addition, any Group may specify one further item to be included by notifying the Chief Executive no later than 10am on the eighth working day before the Council meeting at which the report is to be made, or if the Committee meeting take place after this deadline, immediately at the conclusion of the Committee meeting

40 ITEMS FOR THE NEXT MEETING

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The closing date for receipt of public questions and deputations for the next meeting is 12 noon on the fourth working day before the meeting.

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Further information

For further details and general enquiries about this meeting contact John Peel, (01273 291058, email john.peel@brighton-hove.gov.uk) or email democratic.services@brighton-hove.gov.uk

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- Do not stop to collect personal belongings;
- Once you are outside, please do not wait immediately next to the building, but move some distance away and await further instructions; and
- Do not re-enter the building until told that it is safe to do so

Brighton & Hove City Council

Audit & Standards Committee

4.00pm 26 September 2023

Council Chamber, Hove Town Hall

Minutes

Present: Councillor West (Chair) Robinson (Opposition Spokesperson), Atkinson, Burden, Cattell, Czolak, Daniel and Meadows

Other Members present: Councillors

Part One

16 PROCEDURAL BUSINESS

16a Declarations of substitutes

16.1 There were none.

16b Declarations of interests

16.2 Councillor Atkinson declared an interest in Item 25 of the agenda as the subject of one of the complaints detailed. Councillor Atkinson stated that he would leave the Chamber during consideration of the report.

16c Exclusion of the press and public

16.3 In accordance with Section 100A of the Local Government Act 1972 ("the Act"), the Committee considered whether the public should be excluded from the meeting during consideration of any item of business on the grounds that it is likely in view of the business to be transacted or the nature of the proceedings, that if members of the public were present during it, there would be disclosure to them of confidential information as defined in Section 100A (3) of the Act.

16.4 **Resolved** - That the press and public not be excluded from the meeting.

17 MINUTES

17.1 **Resolved** – That the minutes of the previous meeting held on 27 June be approved as the correct record.

18 CALL OVER

18.1 All items on the agenda were reserved for discussion.

19 PUBLIC INVOLVEMENT

There were none.

20 MEMBER INVOLVEMENT

There were none.

21 AUDIT FINDINGS REPORT 2022/23

21.1 The Committee considered a report of External Audit that set out the findings of the 2022/23 audit by the council's appointed external auditor. It included the key messages arising from the audit of the financial statements and the results of work undertaken to assess the Authority's arrangements to secure value for money in its use of its resources.

21.2 Councillors Robinson, Atkinson and Czolak asked questions on the report and contributed to the debate.

21.3 Resolved-

1) That the committee note the findings set out in the 2022/23 Audit Findings Report and asks questions of the auditor as necessary and raises any other matters relevant to the audit of the 2022/23 financial statements.

22 AUDITED STATEMENT OF ACCOUNTS 2022/23

22.1 The Committee considered a report of the Executive Director, Governance, Resource & People that provided information about the audit of the council's 2022/23 Statement of Accounts and recommended approval of the 2022/23 audited accounts and the Letter of Representation on behalf of the council.

22.2 Councillor Robinson moved a motion to amend recommendation 2.5 as shown below:

2.5 Delegates authority to the Chief Finance Officer for any final wording or immaterial adjustments to the accounts prior to publication **subject to the external auditor finding no misstatements.**

22.3 Councillor Burden seconded the motion.

22.4 Councillors Atkinson, Czolak and Medows asked questions and contributed to the debate.

22.5 The Chair then put the motion to the vote that passed.

22.6 The Chair then put the recommendations as amended to the vote that were approved.

22.7 Resolved-

That the Audit & Standards Committee:

- 1) Notes the findings of the external auditor Grant Thornton as set out in their audit findings report (a separate item on this agenda).
- 2) Notes the results of the public inspection of the accounts (paragraph 5).
- 3) Approves the Letter of Representation on behalf of the council (Appendix 1).
- 4) Approves the audited Statement of Accounts for 2022/23 (Appendix 3) subject to the auditor finding no material misstatements in the conclusion of the audit
- 5) Delegates authority to the Chief Finance Officer for any final wording or immaterial adjustments to the accounts prior to publication subject to the external auditor finding no misstatements.

23 EXTERNAL AUDITORS ANNUAL REPORT 2022/23

- 22.1 The Committee considered a report of External Audit that set out their Annual Report for the year ending 31 March 2023 reports on the council's value for money arrangements.
- 22.2 Councillors Robinson, Meadows, Atkinson, Czolak and Cattell asked questions and contributed to the debate of the report.

22.3 Resolved-

- 1) That the Audit & Standards Committee notes the Auditor's Annual Report (Value For Money) for the financial year ending 31 March 2023.

**24 INTERNAL AUDIT AND COUNTER FRAUD QUARTER 1 PROGRESS REPORT
2023/24**

- 24.1 The Committee considered a report of the Executive Director, Governance, Resources & People that provided Members with an update on all internal audit and counter fraud activity completed during quarter 1 (2023/24), including a summary of all key audit findings. The report also included an update on the performance of the Internal Audit Service during the period.

- 24.2 Councillors Robinson and Cattell asked questions on the report.

24.3 Resolved-

- 1) That the Committee note the report.

25 STANDARDS UPDATE

- 25.1 The Committee considered a report of the Executive Director, Governance, Resource & People that provided an update on Standards-related matters, including data on complaints alleging that Members have breached the Council's Code of Conduct for Members.

25.2 Councillors Cattell, West and Robinson asked questions and contributed to the debate of the report.

25.3 **Resolved-**

1) That the Audit & Standards Committee note the contents of this report.

26 ITEMS REFERRED FOR COUNCIL

26.1 No items were referred to Full Council for information.

27 ITEMS FOR THE NEXT MEETING

27.1 There were none.

The meeting concluded at 6.45pm

Will Tuckley
Chief Executive Office
Brighton and Hove City Council
Hove Town Hall
Norton Road
Hove, BN3 3BQ

11.01.2024

LETTER TO AUDIT AND STANDARDS COMMITTEE

Dear Will,

I am submitting the following letter under Council Procedure Rule 23.3 to be included on the agenda for the Audit and Standards Committee scheduled for January 30th.

I would like to raise some important concerns about the standards of behaviour shown by some councillors at full council and in committees.

In Brighton & Hove we have a long standing agreement that we discuss matters of policy but refrain from making this acutely personal. This is an important principle, with respect and civil debate ingrained in our own councillor code of conduct and the Nolan Principles of public life.

I have been dismayed then to observe a decline in behaviour that strays far from our code of conduct. At the last full council personal remarks about members were made and the chair did not attempt to stop this - for example a member called another member a disgusting woman. The code of conduct states that members should be respectful.

The council also has a rule about speaking through the chair - not personally abusing another member. If this behaviour continues without being stopped it has grave implications for our democracy. It will put people off becoming councillors.

I am always prepared to engage in robust debate and ensure accountability of elected members but much of this behaviour is delivered in such a way that it is not debate it is bullying and harassment. I recently complained about my own experience in a committee where I was told by another member that I (personally) was "appalling." I was told this complaint did not make the threshold despite other people present (not councillors) and who watched it online, relaying to me that the behaviour was awful and telling me so. I would like this known to the committee: people are watching, and this can affect our reputation as a council. I've also witnessed shouting, finger pointing and barracking while members speak in Council and other committees that I understand some members of the public find quite shocking.

Given we have recently received a report into tackling the toxic bullying culture at one of our own departments – CityClean – I do feel we can do better and set a positive example.

I would like to propose a review of how we are dealing with complaints about member behaviour. I would also like a review of how Chairs - including of full council - are empowered and supported to intervene. I would also propose that we do this work proactively; in collaboration where necessary with the Jo Cox Foundation, the LGA, and others committed to upholding standards in public life. I note that Cornwall Council has recently made national news [[Cornwall Council votes for greater protection from abuse for members - BBC News](#)] for introducing a notice of motion that encourages better behaviour from members and stronger protection for councillors against abuse. The article quotes, *"The debate comes after a survey by the Local Government Association (LGA) last year found the number of local councillors in England and Wales who reported feeling at risk in their role due to rising levels of abuse and intimidation had increased to a ["new high"](#)".*

I would urge the committee to show they are concerned about this topic and back the proposed review, with a report brought back to this committee detailing how we can more deeply embed the principles of the code of conduct into our council and committee meetings.

Yours Sincerely,

Councillor Sue Shanks

Brighton & Hove City Council

Audit & Standards Committee

Agenda Item 35

Subject: Risk Management Framework

Date of meeting: 30th January 2024

Report of: Executive Director, Governance, People and Resources

Contact Officer: Name: Rima Desai, Luke Hamblin
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luke.hamblin@brighton-hove.gov.uk

Ward(s) affected: All

For general release

1. Purpose of the report and policy context

1.1 This report provides committee with an oversight of the Brighton & Hove City Council's current Risk Management Framework with a view to seeking their approval.

2. Recommendations

2.1 That the committee approves the Risk Management Framework as set out in Appendix 1.

2.2 That the committee notes the current corporate Strategic Risks and the Committees those Risks are reported to, as set out in Appendix 2.

3. Context and background information

3.1 Risk management is part of the Performance Management Framework.

Best Value Authorities are under a general Duty of Best Value to "make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness."

3.2 Risk management is integral to corporate governance

Corporate governance is about doing the right things in the right way. It's about demonstrating accountability and transparency in our actions and decisions, and is everyone's responsibility.

- Establishing and following robust systems and processes
- Demonstrating effective leadership and high standards of behaviour
- Creating a culture based on openness and transparency
- Keeping our focus on the needs of service users and the public

Corporate Governance:

- Helps the council avoid costly mistakes and keeps the council safe
- Protects the council's reputation
- Assists effective decision making and prioritises deployment of resources

3.3 The responsibilities of the Audit & Standards Committee in the Council's Constitution include considering the effectiveness of the council's arrangements for the management of risk required by regulation 3(c) of the Accounts and Audit Regulations 2015

4. Analysis and consideration of alternative options

4.1 A CIPFA review conducted in July 2021 confirmed that our risk management was fit for purpose. Suggestions for improvement were included in the review which the council has implemented.

4.2 An audit of risk management was conducted in summer 2022. The purpose of the audit was to provide assurance that controls are in place to meet the following objectives. The outcome of this audit was 'substantial assurance'.

- The Council has in place a robust Risk Management Framework which facilitates the effective identification, assessment and response (where appropriate) to risks.
- Management ensure that risks are subject to appropriate identification, assessment and response (where appropriate) in accordance with the organisation's Risk Management Framework.
- Effective mitigations are in place to minimise the impact and / or likelihood of occurrence of the risks identified.
- Robust reporting arrangements are in place to allow for effective senior officer and Member oversight.

4.3 Zurich conducted a review of the Risk Management Framework in September 2023 which found that although the council have a robust and well written framework that covers key risk management principles there was some disconnect with how this was translated through to the risk register. Suggestions for improvement were included in the review which the council is in the process of implementing.

4.4 An internal audit review has started for 2023/24

5. Community engagement and consultation

5.1 This is an internal matter to comply with legislation and as such no engagement or consultation has been undertaken in this regard.

6. Conclusion

6.1 The council believes it has a robust Risk Management Framework as evidenced by this report to meet the challenges of delivering services in the financial context that local authorities are working in.

7. Financial implications

- 7.1 The Risk Management Framework detailed in Appendix 1 will help the authority to safeguard its public finances. There are no financial implications in the report's recommendations.

Name of finance officer consulted: James Hengeveld Date consulted: 09/01/2024

8. Legal implications

- 8.1 The Council has delegated to the Audit & Standards Committee responsibility for carrying out independent scrutiny of the Council's processes, procedures and practices to the extent that they affect the Councils control environment and exposure to risk. This Committee is the correct body for reviewing the Council's risk management framework and for providing reassurance on the adequacy and effectiveness of that framework.
- 8.2 It should be noted that all corporate Strategic Risks potentially have legal implications. Individual Strategic Risks are reported to the relevant service committee, with reference to key implications.

Name of lawyer consulted: Victoria Simpson Date consulted: 09/01/2024

9. Equalities implications

- 9.1 Risk Owners are requested to ensure that equalities implications are considered in describing strategic risks, their potential consequences and when developing mitigating actions.
- 9.2 SR25 has a key focus on equalities through the Our People Promise strategy, specifically through the Fair and Inclusive Action Plan and the Corporate and Directorate Equalities Delivery Groups.

10. Sustainability implications

- 10.1 Risk owners are requested to consider sustainability implications, and this will continue to be part of regular ELT and DMT risk review sessions.
- 10.2 SR36 and SR38 have a key focus on sustainability through the Carbon Neutral modernisation programme. In addition, any sustainability implications of a direct nature are normally referenced within the risk description of any relevant strategic risks.

Supporting Documentation

1. Appendices

1. Appendix 1: Risk Management Framework
2. Appendix 2: Strategic Risk List

2. **Background documents**
1. None

Risk Management Framework



**Brighton & Hove
City Council**

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Introduction

What is risk management?

Risk Management is the co-ordination of activities designed and operated to manage risk and apply internal control within the council.

A risk is the effect of uncertainty on the achievement of our objectives and is usually expressed in terms of causes, potential events, and their consequences:

- A cause is an element which alone or in combination has the potential to give lead to a risk event
- An event is an occurrence or change of a set of circumstances and can be something that is expected which does not happen or something that is not expected which does happen. Events can have multiple causes and consequences and can affect multiple objectives
- the consequences should the event happen – consequences are the outcome of an event affecting objectives, which can be certain or uncertain, can have positive or negative direct or indirect effects on objectives, can be expressed qualitatively or quantitatively, and can escalate through cascading and cumulative effects

The amount of risk the council is exposed to, within a specific scenario or set of circumstances, is described as risk exposure. This is measured in terms of the likelihood and impact (the risk score) should the risk event occur.

Risk management is part of the Performance Management Framework

Best Value Authorities are under a general Duty of Best Value to “make arrangements to secure **continuous improvement** in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.”



The eight elements of the Performance Management Framework allow us to understand the performance of the council as a whole which will give us better context in which we are operating. The elements are inter-related; most services contribute to every element in the framework.

The Performance Management Framework sets out to ensure:

- strong leadership at all levels which is consistent and fair and challenges blame culture
- commitment to the accountability that has been assigned to individuals
- the right information reaching the right people at the right time so that decisions are made and actions are taken
- ongoing evaluation, review and learning to help improve future performance
- the ability to identify and commitment to rectify poor performance at an early stage

Risk management is integral to corporate governance

Brighton & Hove City Council is required to conduct a review of its system of internal control and prepare an Annual Governance Statement (AGS) to report publicly on the extent to which it complies with its own code of governance, which in turn is consistent with the good governance principles, set out below. The process of preparing the governance statement should itself add value to the effectiveness of the governance and internal control framework.

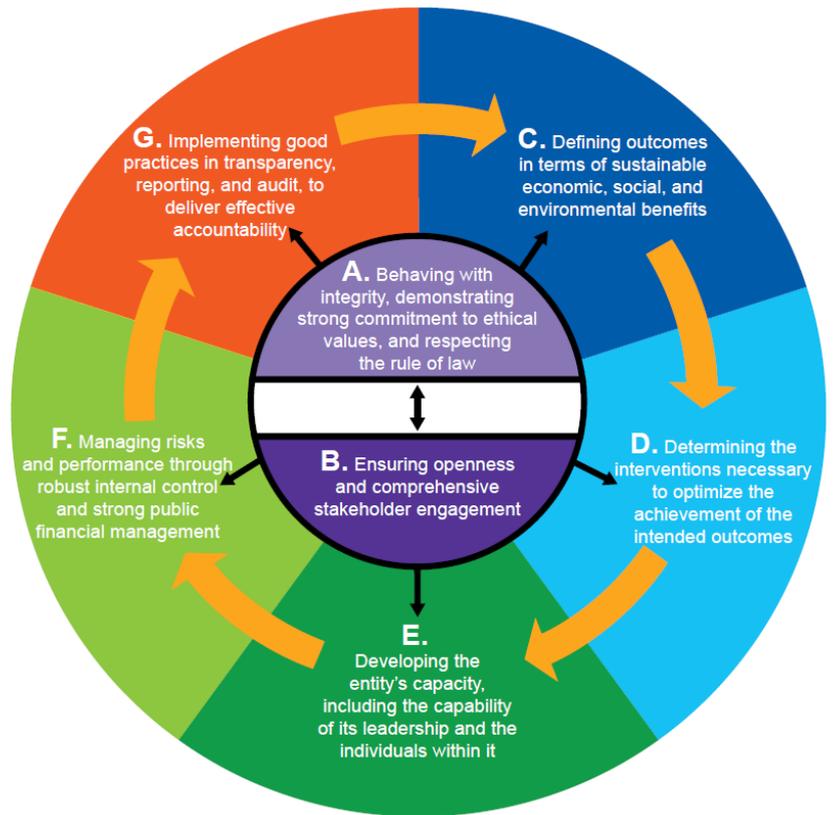
The AGS should provide a meaningful but brief communication regarding the review of governance that has taken place, including the role of the governance structures involved (such as the authority, the audit and other committees). The AGS reviews the progress of actions from the previous year and sets new actions to strengthen governance or address significant governance issues.

What is corporate governance?

- The arrangements put in place to ensure that the intended outcomes for stakeholders are defined and achieved
- How the council makes sure it does the right things in the right way for the right people
- Establishing and following robust systems and processes
- Demonstrating effective leadership, including accountability and transparency in actions and decisions
- Creating a culture based on openness, inclusivity and honesty
- Keeping our focus on the needs of service users and the public, ensuring public money is safeguarded, accounted for and used efficiently and effectively
- Ongoing continuous improvement to further strengthen the way the council operates

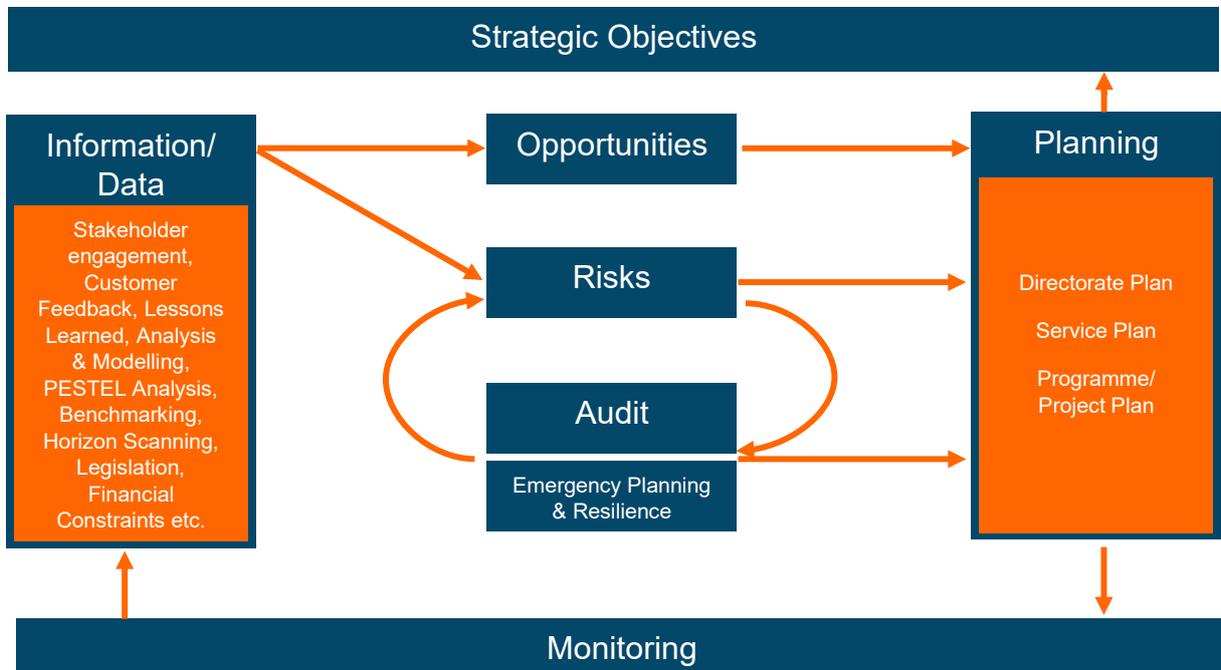
The seven principles of Good Governance, from 'Delivering Good Governance in Local Government Framework 2014' published by CIPFA/IFAC, are:

- A. Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law
- B. Ensuring openness and comprehensive stakeholder engagement
- C. Defining outcomes in terms of sustainable economic, social, and environmental benefits
- D. Determining the interventions necessary to optimise the achievement of the intended outcome
- E. Developing the entity's capacity including the capacity of its leadership and with individuals within it
- F. Managing risks and performance through robust internal control and strong financial management
- G. Implementing good practice in transparency, reporting and audit to deliver effective accountability



Risk management is necessary for achieving our strategic objectives

This diagram shows how risks should be considered to inform our planning and audits to ensure we meet our strategic objectives with good governance.



Risk Management is part of our Behaviour Framework

Our behaviour framework provides us with a common language for how we go about our daily work alongside our PDP objectives that describe what we do; helping us to manage and improve our performance to build a better, more effective organisation with better outcomes for our customers and stakeholders. The following sections are particularly relevant to risk management:

Efficiency

- I scrutinise evidence, data and risks before I make a decision or a recommendation.
- I speak to the right person if there are any problems I can't solve myself.
- I am willing to take considered risks to deliver better results.

Leadership & management

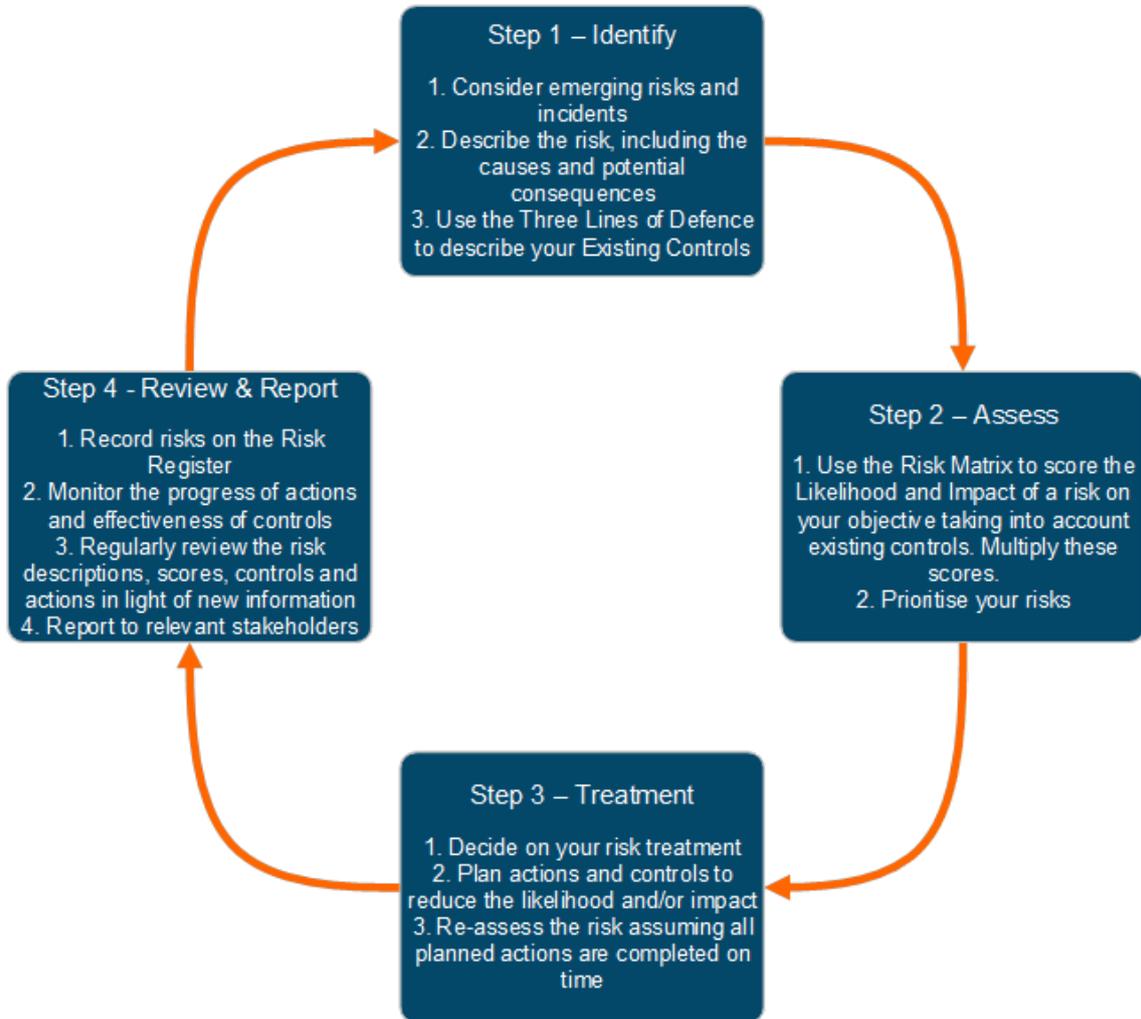
- I take advantage of social, cultural, environmental and technological change to establish the most effective and efficient delivery of our service.
- I look ahead to anticipate change and take time to plan for the future.
- I take accountability to ensure sound governance of our organisation.
- I consider potential risks and opportunities before I make any decisions.



Risk Management Approach

Risk Management Process

The risk management process is used to manage risks.



Risk Levels

When identifying and assessing the risk, it needs to be prioritised and managed at the right level within the council. This could be at a strategic (corporate), directorate, service/team or programme/project level.

The level of a risk is usually defined by the scope and scale the potential consequences may have on the council. Risks can be escalated or de-escalated between levels through reviews or by exception where necessary.

Level & Risk Owner	What makes this type of risk?	Oversight
<u>Strategic Risk (SR)</u>	Affects multiple directorates/ organisations	Audit & Standards Committee
A member of Executive Leadership Team (ELT)	Impacts on achievement of the Corporate Plan	Relevant Committees External & Internal Audit

	Requires cross-directorate response	Executive Leadership Team
<u>Directorate Risk (DR)</u> A member of a Directorate Management Team (DMT)	Affects multiple services/ departments Impacts on achievement of the Directorate Plan Requires directorate level response	Relevant Committees Internal Audit Executive Leadership Team Directorate Management Team
<u>Service/Team Risks</u> Head of Service or Team Leader	Limited to individual team/ service Impacts on achievement of the service's plan and objectives Response can be managed within service	Directorate Management Team Heads of Service
<u>Programme/Project Risks</u> A member of Programme/Project Board	Impacts on achievement of the Programme/Project's objectives Response can be managed within Programme/Project	Corporate Modernisation Delivery Board or ELT Directorate Modernisation Board or DMT Programme/Project Board

Our Corporate Risk Assurance Framework uses the 'three lines of defence model' to assess the effectiveness of how we manage organisational risks. Audit & Standards Committee have oversight of the risk management framework.

Strategic risks are owned by an Executive Leadership Team (ELT) lead. ELT leads are responsible for discussing strategic risks with the relevant committee chairs with a view to mitigating these as appropriate. Any member can approach an ELT lead with risks that they foresee for them to take account of it in their risk review sessions. Strategic risks are reviewed regularly by the ELT.



Directorate and strategic risks are reviewed regularly by Directorate Management Teams (DMTs); risk registers are live documents. Newly identified risks, suggested amendments

to strategic risks and the Directorate Risk Registers are reported to ELT as part of their risk review.

All officers are expected to escalate risks to the relevant DMT lead. Risk management training is available to all officers.

Risk Appetite

Risk Appetite describes the amount of risk the council is willing to be exposed to, in order to achieve its objectives.

Each strategic risk has a risk appetite statement that defines the level of risk exposure the council is prepared to accept for that particular scenario at any given point in time and in the context of our strategic objectives, current priorities, and our power to directly influence any given situation.

The risk appetite statements inform how we approach decisions within each risk area and to ensure the council remains within its preferred level of risk exposure.

Risk appetite enables the council to be more considered when making decisions with potential impacts on objectives, by creating improved awareness of the tolerance for risk exposure.

Risk Owners, in consultation with Risk Action Leads, must consider all contextual information when determining the council’s level of risk appetite for each scenario and reflect this when setting the target score for each risk.

Strategic risks are presented to the relevant service committee at least annually. Service committees take account of the risk appetite when considering whether the target score is appropriate and provide support and challenge to the risk owner. For example, where a service committee believes that the risk appetite should be lower than what the risk owner has proposed they will recommend further mitigating actions to reduce the risk exposure, by reducing the likelihood or impact.

Similarly, where a service committee believes that the risk appetite should be higher than what the risk owner has proposed they can recommend removing some of the mitigating actions.

The below table provides a general description of each appetite level.

Appetite Level	General description (for guidance only)
Averse	We are unwilling to take risks in this area Will always select the lowest risk option Avoidance of risk is key to organisation objective Close to zero tolerance for uncertainty
Minimal	We will take the lowest possible risks in this area Preference for ultra-safe, low risk actions Only when essential, with strong governance in place and limited possibility or impact of failure
Cautious	We will consider taking risks within this area Limited risk taking Willing to consider acting where benefits outweigh the risks

	Prefer to avoid
Open	Willing to take risks in the right conditions Expect a level of uncertainty Will take risks but manage impact
Eager	Will take reasonable risks Accept uncertainty Will choose action with highest return, and innovation, accepting some possibility of failure

Roles & Responsibilities

Role	Responsibilities
Audit & Standards Committee	Provide oversight of the risk management framework and recommend improvements to strengthen risk management across the council
Committee Chairs	Oversight of relevant strategic risks
Executive Leadership Team (ELT)	Accountable for the Strategic Risk Register Review the strategic risk register, ensuring it contains appropriate risks and they are managed effectively Agree recommendations in changes to strategic risks Promote culture of risk management Each Executive Director is responsible for their Directorate Risk Register
Directorate Management Team (DMT)	Management of the directorate risk register, ensuring it contains appropriate risks and they are managed effectively Escalation/de-escalation of risks between service, directorate and strategic levels
Risk Owner	Accountable for the management of assigned risks, ensuring causes, consequences, assessments and risk scores are accurate, and suitable treatment is in place to mitigate the risk. Provide updates on the risk, including any emerging information which may impact the risk
Risk Action Lead	Responsible for delivering the action assigned Provide progress updates Support the risk owner to describe, assess and mitigate the risk
Corporate Performance and Risk Management Lead	Maintain the Strategic Risk Register through regular reviews with DMTs and ELT Support DMTs to review their Directorate Risk Registers Implement and review the risk management framework

Risk Management Process

Step 1 – Identify

Risk identification

Risks should be identified whether or not their causes are under the council's direct control. Even seemingly insignificant risks on their own have the potential, as they interact with other events and conditions, to cause great damage or create significant opportunity.

Identifying risks is the first stage of the risk management process. Risks can be identified by anyone, but they need to be carefully described so that the organisation is fully aware of the causes and potential consequences so that the right controls and actions can be put in place to mitigate the risk.

Risk Description

The **risk title** is a short summary that clearly explains the risk event. The risk title often begins with terms such as:

- Loss of ...
- Uncertainty of ...
- Ineffective Partnership with ...
- Slow Development of ...
- Unable to take up Opportunity to ...
- Threat of ...
- Failure to ...
- Lack of...

Causes are the reasons why the risk event could occur and **consequences** are the potential outcomes if the risk event does occur. It is important to consider equality and sustainability implications, as well as legal and reputational.

Describing risks is best done in groups of stakeholders who are responsible for delivering or impacted by the objectives that the risk may impact. It is important to identify risks when:

- Setting strategic aims
- Setting business objectives
- Writing directorate or service plans
- Project planning
- Appraising options
- Making changes to business set up or service provision
- Reviewing audits
- Learning from incidents

The risk categories below can be useful to help prompt areas where risks could be identified.

Risk Categories Checklist

Professional, Managerial, Partnership	Recruitment/Retention of qualified staff; Capacity; Industrial relations issues; Succession Planning; Ability to implement change; Skill set mix of employees and community or commercial groups where a statutory or civil responsibility may attach to the council; Effective management of partnership working; changes in partnership leadership
Economic, Financial	Financial uncertainty in future resource levels; Impact of national economic position; Failure of major project(s); Missed business and service opportunities; Failure to prioritise, allocate appropriate budgets and monitor; Inefficient/ineffective processing of documents
Data Privacy	Currency of data protection impact assessments; How commissioned services record data processing activities; Need for data information agreements
Social	Meeting the needs of disadvantaged communities; Tracking the changes in population base; Employment opportunities; Health & Well-Being implications on community; Regeneration; Partnership working; Life-long learning; recognising contribution to council's key social and community initiatives
Technological	Impact of individual service systems on corporate ability to prepare for IT disaster recovery and business continuity; Power supply failure; Theft or destruction of equipment; Tampering with hardware or software; Managing recyclable or discarded equipment or media; Data security issues
Customer, Citizen	Ability to manage demand led service pressures; Appropriate consultation; Quality of customer care; Access to services; Views of Service Users and/or viewpoint of patients; Political support, e.g. Members of city council.
Legislative	Meeting statutory duties/ deadlines; Breach of confidentiality/ Data Protection Acts requirements; European Directives on Procurement of Services; Implementation of legislative change
Physical	Managing security of events within buildings; Terrorism; Human Resources issues; Loss of intangible assets (e.g. intellectual property); Health and Safety; Loss of physical assets (e.g. damage to property as a result of fire or theft).
Contractual, Competitive	Over reliance on key suppliers/ contractors; Ineffective contract management; Contractor failure; Lack of existing markets; Targets for performance related funding
Equalities	Workforce Composition – across all of the council and its partnership work; Appropriate recognition of the diversity of Service Users/Customers; Ensuring consistent minimum standards to meet legislative duties (incl. training, sharing policies & best practice); Altering working practices as necessary to meet diverse needs and ensure no discrimination; Ability to demonstrate equalities in action
Political	Impact of Strategic Priorities on business activities; Clarity & cohesion in decision making; Impact of Central Government policy on local policy/local initiative; Uncertain democratic support for change (incl. partnership working & integration)

Environmental, Sustainability	Energy use (efficiency), energy costs, energy supply; Climate Change Adaptation of Services (including extreme or sustained weather events); Waste Management – correct disposal, hazardous waste; Waste reduction and recycling issues; Noise and street scene implications; Pollution control, air pollution, spillages; Water conservation; Transport implications.
Fraud & Corruption	Appropriate segregation of duties; Security of data and other assets; Hospitality/Gifts Policy, Record Keeping and Monitoring; Trends of working/sickness absences (potentially fraudulent); Level of awareness of fraud risk exposure at service level; Whistleblowing; Verification/Validation checks e.g. before staff/contractor appointments/cash transactions.
Practice & Clinical Issues, including Clinical Governance	Practice issues; Patient Safety; Clinical Governance; Clinical Procedures; On-going professional development; Loss of key clinical staff.

Existing Controls

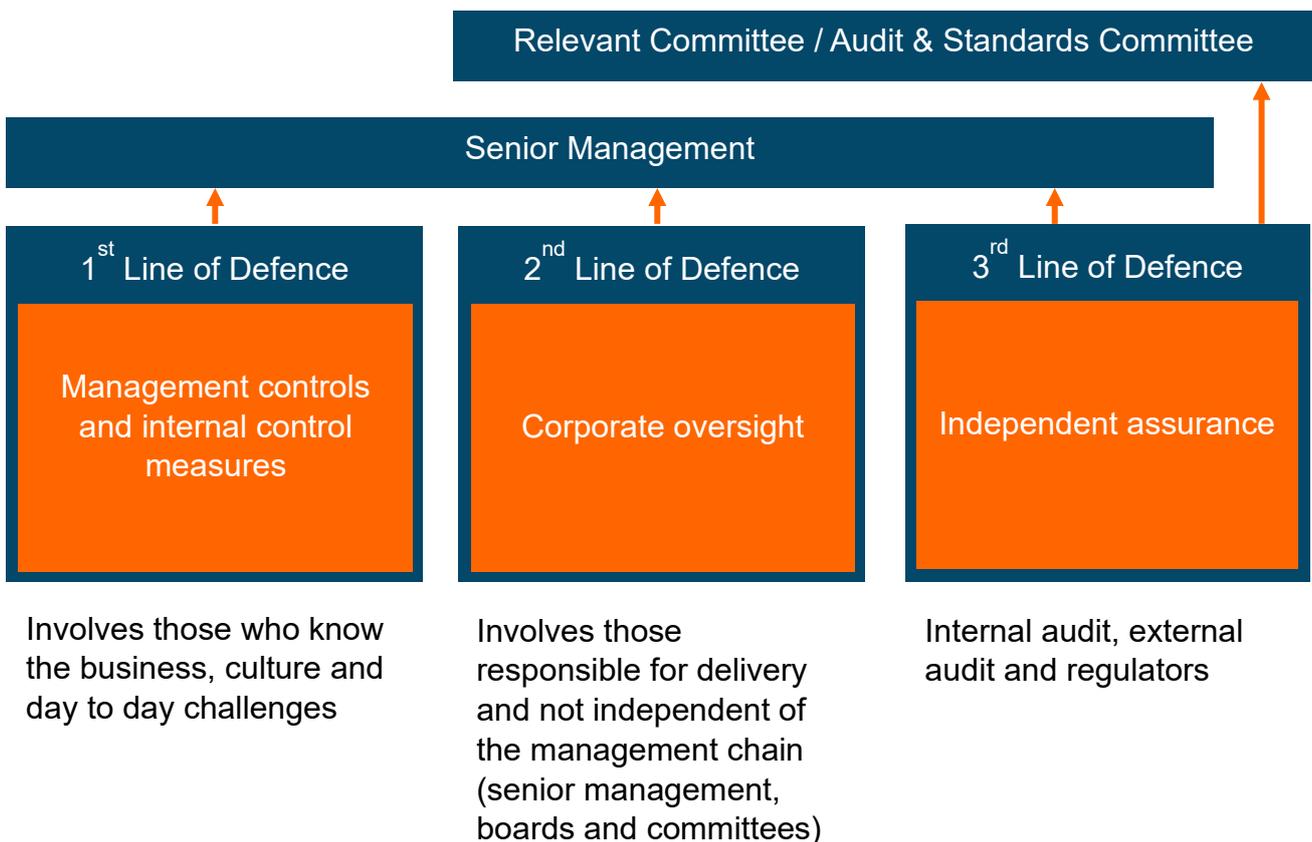
Controls are measures that are embedded to either prevent the risk event from occurring or reduce the impact of the risk if it does occur.

The Three Lines of Defence model has been practiced for a number of years, particularly within financial services, central government and the NHS and our Corporate Risk Assurance Framework (CRAF) uses the 'three lines of defence model' to assess the effectiveness of how we manage organisational risks.

The Three Lines of Defence model outlines three levels of assurance. Using the Three Lines of Defence for Existing Controls for each risk provides an 'assurance map' so that we can clearly see the sources of assurance and existing processes specific to that risk.

The use of the Three Lines of Defence model demonstrates:

- your plan to ensure that proper controls are in place
- that checks are in place for all areas of control
- that you are making best use of the assurance process, i.e. all areas are checked by someone and duplication is avoided.



Step 2 – Risk Assessment

Why do we score risks?

It is necessary to have a consistent form of measurement to understand the significance of a risk in the broader context to support council wide prioritisation of action and decision-making.

The risk assessment process uses this criterion to enable consistency in defining the level of risk exposure, based on the assessment of the likelihood of the risk occurring and the consequences should the event happen.

Risks are assessed by rating the likelihood (L) of the risk occurring, and the potential impact (I) if it should occur on a scale of 1 to 5. These L and I ratings are multiplied to provide the risk score; the higher the risk score I, the greater the level of risk exposure. For example, L4xI4 which denotes a Likelihood score of 4 (Likely) x Impact score of 4 (Major), which gives a total risk score of 16.

A colour coded system is used to distinguish the level of risk exposure. Red risks are the highest (15-25), amber risks are significant (8-14), yellow risks are moderate (4-7), and then green risks are lowest (1-3).

By scoring risks using a consistent method the council can ensure resources are allocated to the risks most likely to affect the achievement of its objectives. Risk heat maps are a useful tool to illustrate multiple risk scores and identify priorities.

Likelihood	Almost certain (5)	5	10	15	20	25
	Likely (4)	4	8	12	16	20
	Possible (3)	3	6	9	12	15
	Unlikely (2)	2	4	6	8	10
	Almost impossible (1)	1	2	3	4	5
		Insignificant (1)	Minor (2)	Moderate (3)	Major (4)	Catastrophic (5)
		Impact				

The Strategic Risk Register mostly includes high (red) and significant (amber) risks.

Directorate Risk Registers are likely to include high, significant, moderate (yellow) and low (green) risks.

Current Risk Score

In order to understand the level of risk exposure, an assessment, taking into account the effectiveness of existing controls, time-related factors and the reliability of data and information available, is made to provide a current risk score.

Scoring should be a realistic assessment without optimism bias. The below tables, which provide examples of what the impact may be in relation to specific areas, can support you to assess the risk in a consistent way. When assigning an impact rating to a risk, the rating for the highest, most credible worst-case scenario should be used. If the risk has the potential to impact multiple areas, this should be taken into consideration when determining the overall impact rating for the risk, as the overall impact to the organisation may be higher as a result. For example, if the risk has a moderate impact in 3 separate areas, you may wish to rate the overall impact as major.

It should be noted that the below tables, and definitions, are to provide a framework to support you when scoring risks, they are not intended to provide definitive instruction. All risks should be considered on an individual basis using the best available information.

Likelihood Rating

Risk Score	Likelihood Descriptor	Guidance
1	Almost Impossible	Difficult to see how this could occur. Has happened very rarely before or never Is a highly unlikely climate scenario, even at the extremes of climate projections
2	Unlikely	Do not expect occurrence but it is possible. Less than 10% chance of occurrence May have happened in the past; unlikely to happen in the next three years
3	Possible	May occur occasionally. Only likely to happen once in 3 or more years Has happened in the past; reasonable possibility it will happen as part of climate change scenarios
4	Likely	Will occur persistently but is not an everyday occurrence. Likely to happen at some point within the next 1-2 years Circumstances occasionally encountered within likely climate change scenarios
5	Almost Certain	High probability of situation occurring Regular occurrence, Circumstances frequently encountered, daily/weekly/monthly

Impact Rating

Impact Area	1 Insignificant	2 Minor	3 Moderate	4 Major	5 Catastrophic
Health	minor injury, basic first aid required, 1 person affected, no days absence, no delay	non-permanent harm, short-term injury, resulting in absence of up to 3 days. 1 – 2 persons affected	causing semi-permanent disability, injury, disease, or harm which could interrupt attendance at work for 3-28 days AND/OR affects 3 - 50 people	causing death, permanent disability, serious injury or harm, e.g. loss of function or body part(s), serious disability, single death of any person. 51-200 people affected. Long term absence from work (28-84 days), extended medical attention required, e.g. up to a month in hospital	multiple deaths involving any persons, greater than 200 people affected, more than 84 days absence, more than 30 days extended hospital stay
Impact on city life	insignificant disruption to community services, including transport services and infrastructure	minor localised disruption to community services or infrastructure less than 24 hours	damage that is confined to a specific location, or to a number of locations, but requires additional resources. Localised disruption to infrastructure and community services	significant damage that impacts on and possible breakdown of some local community services. Requires support for local responders with external resources	extensive damage to properties and built environment in affected areas. General & widespread displacement of more than 500 people for prolonged duration. Community unable to function without significant support

Service Delivery	no service disruption, unlikely to cause complaint or instigate litigation	minor service disruption, complaint possible, litigation unlikely	moderate service disruption. High potential for complaints, litigation possible, but not certain	service closure for 1-7 days, complaints expected, litigation expected	service closure for more than 7 days or closure of multiple services, complaints certain, litigation certain
Economic	none/minimal financial burden (less than £100, can be resolved at local service / department level), minor interruption to income generation, no permanent loss	minimal financial burden or disruption to income generation (less than £1,000 but greater than £100). Can be resolved at line manager/ service manager level through usual budgetary measures	moderate financial burden (less than £10,000 but greater than £1,000). Interruption to income generation lasting less than 14 days, majority of income recoverable but at additional cost	major financial burden (less than £100,000 but greater than £10,000). Can include significant extra clean up and recovery costs.	catastrophic financial burden (greater than £100,000). Extensive clean up and recovery costs
Environment	insignificant impact on environment	minor impact on environment with no lasting effects	limited impact on environment with short-term or long-term effects	significant impact on environment with medium to long term effects	serious long-term impact on environment and/or permanent change.
Reputation	organisation(s) reputation remains intact	minimal impact on organisation(s) reputation	moderate impact on organisation(s) reputation	major impact on organisation (s) reputation / National adverse publicity	catastrophic impact on organisation(s) reputation. International adverse publicity

Personal Privacy Infringement	No personal details compromised/ revealed	Isolated individual personal detail compromised/ revealed	All personal details compromised/ revealed	Many individual personal details compromised/ revealed	Personal Data revealed which leads to serious incident and lack of credibility in organisation's ability to manage data, fine
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Project Delivery	1 Insignificant	2 Minor	3 Moderate	4 Major	5 Catastrophic
<i>Project Status</i>	Project on schedule to deliver the planned works on time and to budget	Project on schedule to deliver the planned works on time and to budget	The project has encountered some issues which could affect the delivery of the planned works within agreed time, costs, and resources	The project has encountered some issues which could affect the delivery of the planned works within agreed time, costs, and resources	Delivery of the planned works within agreed time, costs and resources is presently threatened
<i>Timescales</i>	No delays anticipated	The project is delayed by 1 week or under	The project is delayed by 1 week – 2 weeks	The project is delayed by 2 weeks or over	The project is delayed for an indefinite period
<i>Resources</i>	The project is fully resourced	The project is fully resourced	A lack of human resources which could impact overall delivery and require Programme Board attention	Lack of human resource is impacting successful delivery and needs to be addressed immediately	Lack of human resource is impacting successful delivery and needs to be addressed immediately
<i>Issues</i>	All issues under control and no outstanding issues requiring Programme Board attention	All issues under control and no outstanding issues requiring Programme Board attention	Outstanding issues which could impact overall delivery and require Programme Board attention	Outstanding issues which could impact overall delivery and require Programme Board attention	Outstanding issues which will impact the overall delivery require URGENT Programme Board attention
<i>Risks</i>	All risks under control and no outstanding issues requiring	All risks under control and no outstanding issues requiring	Risks that have a medium probability of occurring and will have a medium impact on the programme and require Programme Board attention if	Risks that have high or medium probability and impact if they occur and	Risks that have high or medium probability and impact if they occur require the

	Programme Board attention	Programme Board attention	there is no change or is increasing	require the Programme Board attention	Programme Board attention
<i>Budget</i>	Predicted costs are on track and within the cash limit budget	Predicted costs are on track and within the cash limit budget	Predicted costs are under 10% of budget	Predicted costs are up to 10% over budget	Predicted costs are higher than 10% over budget

Step 3 – Treatment

Risk Treatment

When determining the risk treatment, you should decide if the outcome of the risk assessment, with existing controls, is acceptable and aligned with the risk appetite.

Risk treatment may involve one or more of the following:

Treat the risk by taking further action to change the likelihood, where possible, and/or consequences, including planning contingency activities

Tolerate the risk by informed decision. If the risk level is within the risk appetite and that no extra resources will be applied due to a cost-benefit analysis or elements being outside of our control.

Terminate the risk by deciding not to start or continue with the activity that leads to the risk

Transfer the risk to another party or organisation to deal with mitigations to reduce the council's liability and exposure, for example, through insurance. We would still own the risk. Often this is not possible due to costs or legal duty.

Risk Score	Recommended action
15-25	Immediate action and escalation required. Mitigating actions must be taken
8-14	Review and ensure effective controls. Mitigating actions should be taken
4-7	Monitor in case the risk levels increase
1-3	Monitor periodically

Mitigating Actions

If you have decided that the risk should be treated, then you must identify mitigating actions to reduce the likelihood and/or impact of the risk. When developing mitigating actions, Risk Owners are strongly encouraged to work with all key stakeholders, including external partners to ensure the right actions are identified and get stakeholder buy in into the delivery of these actions. The actions should be SMART (Specific, Measurable, Achievable, Realistic and Timebound) and agreed by the Risk Action Lead, who is the named responsible person for delivering the action. Mitigating actions should have a start and end date and progress should be regularly tracked.

It is important to ensure that mitigating risk actions link to directorate or service plan actions, so that the actions are planned and resourced adequately to be completed within the timeframe indicated.

Target Risk Score

The risk is assessed again to determine a target risk score. The assessment is made using the same criterion as you used for the current risk score but is now based on the assumption that the mitigating risk actions are completed at the stated time and with the desired effect. When determining the target score you should refer to the risk appetite statement for that risk area to ensure the actions are sufficient to bring the council back within its desired level of risk exposure. If the target score remains outside of the council's tolerable level of risk exposure, further action should be considered.

Step 4 – Review and Report

Risk Register

Risk Registers are a tool to help manage risk. The Strategic Risk Register is recorded on the Camms Risk system and the Directorate, Service, Programme and Project Risk Registers use the Excel Risk Register template.

The below table provides an overview of the information captured in risk registers:

Risk Ref	It is easier to monitor, report and manage multiple risks if they have reference numbers. There is no corporate standard so please use a system that works for your area
What is the risk?	Provide a description of the event or issue that may occur which could prevent achievement of your objective
Risk causes	What are the likely causes, or events, that could make the risk happen
Risk Consequence or Impact	What are the potential consequences or impact if the risk were to happen
Existing Controls already in place (BAU)	What existing controls do we already have in place, and functioning, to mitigate this risk?
Initial Likelihood (L)	Considering the causes and existing controls in place, what is the likelihood of the risk happening now?
Initial Impact (I)	Considering the consequences, what would be the impact if the risk were to happen now?
Initial Risk Score (L x I)	This is the current risk score indicating the likelihood and impact before any mitigating actions are taken
Risk Treatment	Select how you are going to treat (manage) the risk. See below descriptions:
Risk Treatment description	Treat: take action to reduce the likelihood, impact or both Transfer: identify actions to transfer the risk Tolerate: Is the risk exposure within a tolerable range? Do you need to review the risk at a future date? Terminate: Identify actions to terminate the risk
Mitigating Actions	If you have decided to treat the risk please provide details of all the actions being taken to reduce likelihood or impact. If you are transferring, tolerating or terminating the risk please provide details. Risk actions should include details of who is responsible for delivering the action.
Action due date	When is the action expected to be completed?

Risk Owner	Who has overall responsibility for managing the risk
Revised Likelihood (L)	Considering the causes & controls, what would be the impact if the risk were to happen after we have delivered all mitigating risk actions.
Revised Impact (I)	Considering the consequences, what would be the impact if the risk were to happen after we have delivered all mitigating risk actions.
Revised Risk Score (L x I)	This is the expected risk score following completion of all mitigating actions or risk treatment
Date Added	When was the risk added to the register
Last reviewed date	When was the risk last reviewed
Status	Select the current risk status. You should not delete risks from register but mark them as closed, terminated or transferred Newly identified Active (ongoing) Closed (no longer a risk) Transferred Terminated

Brighton & Hove City Council

Risk Register Name: _____ 2

Directorate: _____

Risk Register Owner: _____

Last reviewed: _____

A risk is the potential of an uncertain situation or event to impact on the achievement of objectives. Risk management is the process of identifying, assessing and controlling threats to an organisation's or project's objectives. Risks have potential to adversely affect achievement of our objectives. Identifying risks supports an organisation in planning effectively to achieve its objectives.

Guidance for each field is provided in a guidance box
You can insert additional lines and remove columns as required but you will need to unprotect the sheet first.
The sheet is protected for ease of use but you can unprotect it by going to the Review tab and selecting Unprotect Sheet

[Go to guidance](#)



Risk Ref	Risk Theme	What is the risk?	Risk causes	Risk Consequence or impact	Existing Controls already in place (BAU)	With existing controls in place			Proximity (P) Score How soon could it happen?	Recurrence	Risk Indicator
						Initial Likelihood (L)	Initial Impact (I)	Initial Risk Score (L x I)			
								0			
								0			
								0			
								0			
								0			

Risk Reviews

It is important to regularly review risks, especially if there is new information or changing circumstances that may relate to certain risks.

Strategic risks are reviewed regularly by the Executive Leadership Team (ELT). Directorate and strategic risks are reviewed regularly by Directorate Management Teams (DMTs), but it is important to note that risk registers are live documents. Newly identified risks suggested amendments to strategic risks and the Directorate Risk Registers are reported to ELT as part of their risk review. All officers are expected to escalate risks to the relevant DMT lead. Risk management training is available to all officers and resources can be found on the intranet.

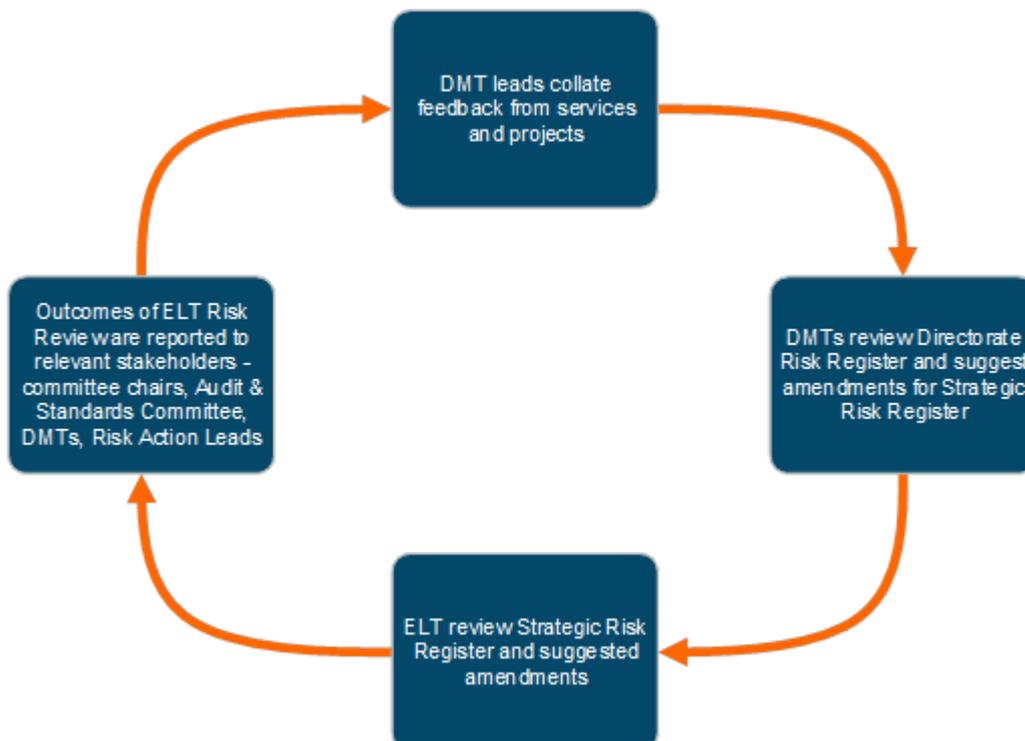
Standing agenda for DMT Risk Review

- Strategic Risk Register – review and recommend amendments to ELT
- Upcoming dates in the Risk Reporting Timetable
- Reminders of the risk management approach
- Directorate Risk Register – review risks and mitigating actions

Standing agenda for ELT Risk Review

- Strategic Risk Register – review and agree recommendations from Risk Owners & DMTs
- Strategic Risk Register – emerging risks and requests from members
- Upcoming dates in the Risk Reporting Timetable
- Focus area of the risk management approach
- Directorate Risk Registers – to note

The diagram below shows the risk review cycle. Risk reviews occur quarterly at DMTs and ELT as a minimum, but it is also recommended for risk owners and services to take deep dives into risks where risk scores are not reducing or where circumstances impacting the risk significantly change.



Risk Reporting

The Risk Reporting Timetable sets out the quarterly reporting dates. Risk reviews are the best time to ensure risks are considered, although risks should be escalated at any time. The timetable informs Risk Action Leads and Risk Owners, the dates by which they should update on the progress of their risk actions or review the description of the risk, as well as the dates of Risk Reviews

The Audit & Standards Committee have oversight of the risk management process. They review the Risk Management Framework annually. Relevant policy committees review related risks annually either as a risk focused report or part of any other relevant report.

The Annual Governance Statement (AGS) is published each year alongside the council's accounts and is largely based on our risk management approach, strategic risks and internal audit.

With all reports, it is important to ensure they are written considering the audience and purpose of the report.

Appendix 2 Strategic Risk List

Risk ref	Strategic Risk	Risk Owner	Committee	Target risk score
SR25	Insufficient organisational capacity or resources to deliver all services and respond to changing needs and changing circumstances	Chief Executive	Strategy, Finance & City Regeneration Committee	20 5 x 4 ↑
SR2	The Council is not financially sustainable in the medium term	Chief Finance Officer	Strategy, Finance & City Regeneration Committee	16 4 x 4 ↔
SR36	Not taking effective action to help our city transition to carbon neutrality by 2030	Executive Director, Economy, Environment & Culture	Transport & Sustainability Committee	16 4 x 4 ↔
SR38	Not taking effective action to improve our city's resilience to the impacts of climate change and biodiversity loss	Executive Director, Economy, Environment & Culture	Transport & Sustainability Committee	15 5 x 3
SR10	Corporate information assets are inadequately controlled and vulnerable to cyber-attack	Chief Executive	Strategy, Finance & City Regeneration Committee	12 4 x 3 ↔
SR13	Not keeping adults safe from harm and abuse	Executive Director, Health & Adult Social Care	Adult Social Care & Public Health Sub-Committee	12 3 x 4 ↔
SR15	Not keeping children safe from harm and abuse	Executive Director Families, Children & Learning	Children, Families & Schools Committee	12 3 x 4 ↔
SR18	The organisation is unable to deliver its functions in a modern, efficient way due to the lack of appropriate technology	Executive Director, Governance, People & Resources	Strategy, Finance & City Regeneration Committee	12 3 x 4 ↔

SR21	Unable to manage housing pressures and deliver new housing supply	Executive Director, Housing, Neighbourhoods & Communities	Housing & New Homes Committee	12 3 x 4 ↔
SR32	Challenges to ensure health & safety measures lead to personal injury, prosecution, financial losses and reputational damage	Director, Human Resources & Organisational Development	Strategy, Finance & City Regeneration Committee	12 3 x 4 ↔
SR24	The council is unable to provide an effective welfare support response to households facing financial hardship.	Chief Finance Officer	Strategy, Finance & City Regeneration Committee	9 3 x 3 ↔
SR30	Not fulfilling the expectations of residents, businesses, government and the wider community that Brighton & Hove City Council will lead the city well and be stronger in an uncertain environment	Chief Executive	Strategy, Finance & City Regeneration Committee	8 2 x 4 ↔

Brighton & Hove City Council

Audit and Standards Committee

Agenda Item 36

Subject: Internal Audit and Counter Fraud Quarter 2 Progress Report 2023/24

Date of meeting: 30th January 2024

Report of: Executive Director Governance, People and Resources

Contact Officer: Carolyn Sheehan (Audit Manager)
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Email: carolyn.sheehan@brighton-hove.gov.uk

Russell Banks (Chief Internal Auditor)
Tel: 07824 362739
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Ward(s) affected: All

For general release

1. Purpose of the report and policy context

1.1 The purpose of this report is to provide Members with an update on all internal audit and counter fraud activity completed during quarter 2 (2023/24), including a summary of all key audit findings. The report also includes an update on the performance of the Internal Audit Service during the period.

2. Recommendations

2.1 That the Committee note the report.

3. Context and background information

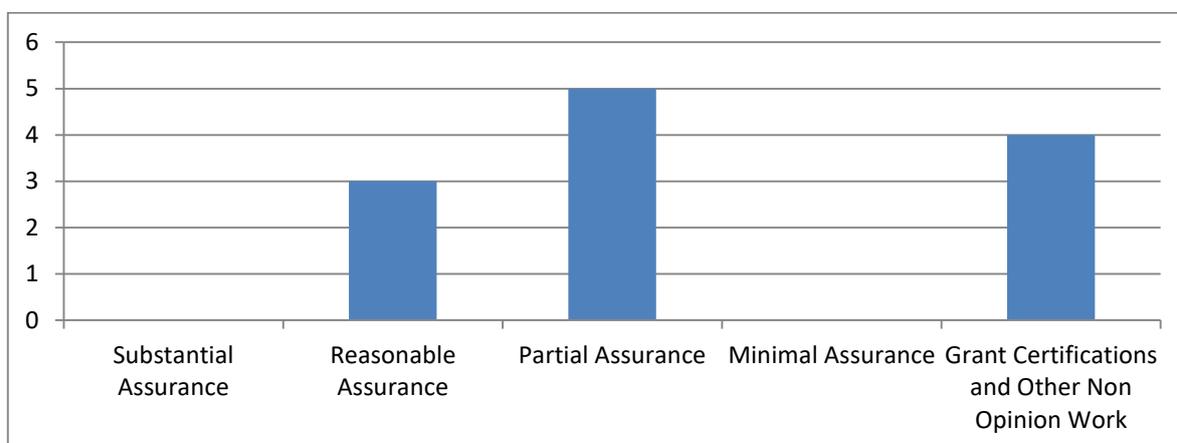
3.1 The current annual plan for internal audit is contained within the Internal Audit Strategy and Annual Plan 2023/24 which was approved by the Audit and Standards Committee on 18th April 2023.

4. Analysis and consideration of alternative options

4.1 Full details of both the audit and counter fraud work delivered during quarter 2 are detailed in Appendix 1, together with our progress against our performance targets.

4.2 Members will note from the report that there is an increased number of partial assurance opinions arising from our work during the quarter. In addition, at the time of drafting this report, a number of other reviews were at draft report stage which are also likely to result in less favourable opinions – all of which will be reported on within our next progress report to committee.

- 4.3 Whilst these partial audit opinions are being reported on during this year, it is clear from our ongoing work that the issues identified, often driven by increased demand and capacity pressures on services, have been developing for some time and are only now beginning to be reflected in our audit opinions. Often this is a consequence of the timing of audit work given we are not able to audit services and activities on a more frequent basis.
- 4.4 In reaching this point in year, we have taken the opportunity to discuss these current and emerging audit opinions with senior management who have clearly recognised the risks of a deterioration in the control environment and have committed to taking all necessary action to address the issues arising. We will therefore continue to work closely with management to help support the necessary improvement and ensure prompt follow up reviews are carried out to provide assurance that this has taken place.
- 4.5 The audit opinions finalised in quarter 2 are summarised in the chart below, with three reasonable assurance reports and five partial assurance reports issued during the quarter. In addition, there were two grant certifications, which have been included under the category “Grant Certifications and Non-Opinion work”.
- 4.6 Internal Audit resources have also been utilised in providing ongoing advice and support to the replacement of the back-office systems and the housing repairs works management system programmes.



5. Community engagement and consultation

- 5.1 The annual report has been informed by internal audit and counter fraud work carried out during the year which has included extensive engagement with officers and members.

6. Conclusion

- 6.1 The Committee is asked to note the report.

7. Financial implications

- 7.1 It is expected that the Internal Audit Annual Plan 2023/24 will be delivered within existing budgetary resources. Progress against the plan and action taken in line with actions support the robustness and resilience of the council's practices and procedures in support of the council's overall financial position.

Name of finance officer consulted: James Hengeveld

Date consulted :15/01/24

8. Legal implications

- 8.1 The Accounts and Audit Regulations 2015 require the Council to undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account Public Sector Internal Audit Standards. Reviewing the work planned and completed by the Council's internal audit function is a key part of the Audit and Standards Committee's delegated functions.

Name of lawyer consulted: Victoria Simpson Date consulted 3.01.23

9. Equalities implications

- 9.1 There are no direct equalities implications.

10. Sustainability implications

- 10.1 There are no sustainability implications.

11. Other Implications

- 11.1 There are no other implications.

Supporting Documentation

1. Appendices

1. Internal Audit and Counter Fraud Quarter 2 Progress Report 2023-24

Internal Audit and Counter Fraud Quarter 2 Progress Report 2023/24

CONTENTS

1. Summary of Completed Audits
2. Counter Fraud and Investigation Activities
3. Action Tracking
4. Amendments to the Audit Plan
5. Internal Audit Performance

1. Summary of Completed Audits

Organisational Capacity – Workforce Strategy and Management

1.1 Organisational Capacity is the level of the council's capability to deliver services that not only satisfy regulatory and customer requirements but also anticipate future requirements. This is captured on the council's strategic risk register (SR25), which states the risk as insufficient organisational capacity or resources to deliver all services as before and respond to changing needs and circumstances.

1.2 This review focused on workforce strategy and management, which is an important component of building organisational capacity along with technology and finance.

1.3 This review was carried forward from the 2022/23 Audit Plan.

1.4 The purpose of our audit was to provide assurance that controls are in place to meet the following objectives:

- A workforce strategy and reporting arrangements are in place that responds to the changing needs of the council and is communicated to staff and members;
- Existing skill requirements and skill gaps are understood at a directorate level, and services are able to address and effectively utilise the workforce to safeguard the delivery of services; and
- Work has taken place to review the offer to staff and recruitment process to ensure the council retains and attracts a diverse workforce with the skills required to deliver and improve services.

1.5 We noted that there were some delays coming out of the pandemic relating to the drafting and formal approval of the workforce strategy and further from the 2023/24 budget setting process and May 2023 election. However, we were satisfied that sufficient progress has been made and we were able to provide an opinion of **Reasonable Assurance** over the controls operating in this area.

1.6 Some further opportunities to strengthen the control environment were however identified. These included the need to:

- Develop, monitor, and communicate key performance indicators for Our People Strategy;
- Further improve the identification of skills gaps and workforce capacity issues; and
- Review access to, and attendance of, recruitment training for managers to ensure their knowledge and skills are up to date and support the aim to recruit a diverse workforce with skills required to deliver and improve services.

1.7 A formal action plan to address the findings of this review has been agreed with management.

Homes for Ukraine

1.8 The Homes for Ukraine Scheme was launched in March 2022. The council has several obligations under the scheme including; conducting appropriate checks in respect of the sponsor and accommodation, making 'one-off' subsistence payments to each Ukrainian guest, making 'thank you' payments to the host, and assisting guests to access relevant services. To fulfil these obligations the council received grant funding from the Department for Levelling Up, Housing and Communities (DLUHC).

1.9 This review forms part of the 2023/24 Audit Plan.

1.10 This audit aimed to provide assurance over the governance and key controls in the Homes for Ukraine process in relation to:

- Appropriate safeguarding checks are being undertaken, with all guest and host information correctly recorded;
- Robust procedures are in place to ensure payments are appropriately made, monitored and reconciled;
- Accurate quarterly returns are submitted to DLUHC; and
- Appropriate procedures are in place to support Ukrainian guests in moving to private accommodation.

1.11 In providing an opinion of **Reasonable Assurance**, we found a number of areas of good practice, including:

- the establishment of, and regular reporting to, the Programme Board on the Homes for Ukraine work and compliance with the grant conditions;
- an escalation process is in place to ensure time sensitive decisions required by the Programme Board can be made outside of scheduled meetings;
- sound policies and procedures are in place to administer the Scheme, and
- appropriate safeguarding checks are completed and documented.

1.12 We did, however, identify some areas where improvement was required in order to strengthen the controls already in place, including the need to:

- Improve the reconciliation process for host and guest payments and move-on payments;
- Develop guidance for completing the quarterly returns to DLUHC; and
- Document the process for the BHCC Refugee Grant Scheme and the procedure for recovering overpayments.

1.13 A formal action plan to address the findings of this review has been agreed with management.

Budget Management – Effectiveness of Savings Targets

1.14 In February 2023, the council agreed a gross budget of £891.1m for 2023/24, which included a significant savings target of £14.2m, with further shortfalls of £44m identified over the following three years. This follows on from cumulative savings of £209m since 2009/10.

1.15 The council holds reserves and provisions principally for earmarked purposes or to meet identified liabilities. This does include an unallocated risk reserve, or working balance, of £6m (reduced from £9m) to meet potential unplanned financial impacts or overspending.

1.16 In conducting this review, we acknowledge the challenges in planning and delivering savings at a time when no political party had overall control, which has made decision-making more difficult. We also acknowledge that 2023/24 was an election-year budget, which followed over a decade of addressing significant annual budget gaps (savings), which created its own tensions and some disruption to the budget setting process. Similarly, we acknowledge that the government funding announcement for 2023/24 was received later than any previous year, leaving officers and members to develop a budget with imperfect information.

1.17 Following the July 2023 budget monitoring report, which had forecasted an £11m overspend, spending controls have been in place across the council. In October 2023 there was a forecast overspend of £8.9m at year end, an improvement since the July budget monitoring report.

1.18 This review was carried forward from the 2022/23 Audit Plan and was requested by the Chief Finance Officer, in response to the worsening financial position and concern over budget pressures. Many of the issues raised in this report were raised by management and discussed with the auditor during the course of the review.

1.19 The purpose of our audit was to provide assurance that controls are in place to meet the following objectives:

- Arrangements for the effective evaluation of savings targets, including the understanding of demand pressures, help to ensure that targets are realistic and achievable, are aligned to the council's priorities and that departments' savings do not have unexpected, adverse effects on other departments' ability to deliver their own savings or services;
- Planned savings targets are met;
- The impact of planned savings on the council's internal control environment is sufficiently understood to enable balanced decision-making that minimises the risk of key service failure and/or financial loss through error or fraud; and

- The impact of planned savings is sufficiently understood to allow balanced decision making that manages risks to the council's strategic objectives effectively, including the delivery of its statutory services.

1.20 Our review identified a number of weaknesses which we believe have made the required savings target more difficult to achieve and, as a result, we were only able to provide a **Partial Assurance** audit opinion.

1.21 Whilst our review focused on the revenue budget, we recognise that there may be opportunities for further savings in the capital programme.

1.22 In response to this audit, an action plan was agreed with management that included measures to:

- Ensure that savings targets are more clearly aligned to the strategic priorities and statutory responsibilities of the council, rather than apportioning in proportion to the sum of income and expenditure budgets;
- Improve the forecasting of unit costs in demand led services to avoid reverse engineering of savings targets, or savings that immediately become at risk or create a service pressure;
- Develop a consistent approach with the Administration on RAG ratings for proposed savings;
- Review opportunities to make savings in areas that may be unpopular but may provide the council with a more sustainable budget;
- Review the protocol of Budget Amendments made by members, to ensure there is sufficient time for officers to evaluate the impact of proposals;
- Ensure there is sufficient documentation to evidence decision making, including rationale for any changes to the savings plan;
- Work with directorate management teams to ensure sufficiently detailed plans are in place for savings over £250k; and
- Assess the short and long term financial impact for the whole council of increasing fees, charges and rents.

1.23 A follow up audit will take place in 2024/25 to provide assurance that the agreed actions have been implemented.

Contract Management

1.24 The council has in place a Contract Management Framework, developed by Orbis Procurement, which provides an approach for the management of contracts, to ensure delivery

of value and quality of goods and services purchased from suppliers. Although Orbis Procurement is responsible for maintaining the Framework, it is the responsibility of individual contract managers to familiarise themselves with this and apply it to their contracts as appropriate.

1.25 At the start of 2022/23 the council's contract register contained 430 current contracts, with a total value of over £978 million, from which we selected a sample of higher-value contracts for review in terms of alignment with the Framework, via a survey and review of documentation.

1.26 The purpose of this audit was to provide assurance that contract managers are managing their contracts in accordance with the Contract Management Framework, and, thereby, maximising the value they are getting from those contracts. In doing so, we note that use of the Framework is not mandatory at the council.

1.27 This review was carried forward from the 2022/23 Audit Plan and aimed to provide assurance that controls are in place to meet the following objectives:

- Governance arrangements, including corporate oversight, monitoring and reporting are effective in delivering the required outcomes;
- Financial controls are in place to ensure that the contract is delivered to budget and payments are only made for goods, works or services actually provided;
- Arrangements ensure that any problems are resolved, with appropriate remedies invoked, in accordance with contractual requirements;
- Risk management and business continuity arrangements ensure continuing service provision; and
- Only necessary and appropriately authorised variations are made.

1.28 We were only able to provide an opinion of **Partial Assurance** over the controls operating in this area as, whilst we found that the Framework and supporting documentation developed by Orbis Procurement to be comprehensive, contract managers were, in general, not familiar with these or making full use of them.

1.29 Actions to address the findings from this review were agreed with management, including:

- Increasing communication with contract managers, highlighting the availability and importance of resources to assist them managing their contract effectively;
- Exploration of how details of contract managers could be accurately recorded and maintained, as part of the implementation of the council's new back office systems; and
- Review of documentation to clarify the expectations of contract managers in relation to financial health checks.

1.30 A follow up audit will take place in 2024/25 to provide assurance that the agreed actions have been implemented.

Housing Benefits and Council Tax Reduction

1.31 Housing Benefit and Council Tax Reduction are administered by the Welfare Revenues & Business Support Team. In 2017, Housing Benefit was replaced by Universal Credit for all new claimants and as such most people who are of working age now claim through Universal Credit instead of Housing Benefit. The Team also processes claims relating to Council Tax Reduction which may be available for those on low incomes.

1.32 This review was carried forward from the 2022/23 Audit Plan and sought to provide assurance that appropriate controls are in place to meet the following objectives:

- Housing Benefit payments and Council Tax Reduction are legitimate and appropriate;
- Assessment of Housing Benefits and Council Tax Reduction is accurate and timely;
- Overpayments and write-offs are managed, monitored and reported; and
- Regular reconciliations are undertaken between the Benefits System, Housing Rents and the General Ledger.

1.33 In completing this work, we were only able to provide an opinion of **Partial Assurance**. This opinion was largely due to the finding of significant backlogs in work and delays in processing that undermine the control environment, rather than any systemic internal control weaknesses. We found that management were aware of the issues and already escalating their concerns at the time of the audit.

1.34 We found that new claims were accurately assessed and that the rate at which new housing benefit claims were processed was either similar or better than the national and South-East averages. However, the speed of processing changes of circumstances for housing benefit was taking an average of 16 days, which is double the average for Great Britain. There is also a significant backlog for Universal Credit council tax reduction updates. It is hoped that moves to an automated system in February 2024 could reduce backlogs, although this will require additional resources during the transition.

1.35 We acknowledge that delivery of this service was significantly disrupted during the pandemic, which will have added to the backlog. The team are also impacted by the delay in the migration of the majority of legacy benefit households that has meant that the reduction in housing benefit work has been more gradual than expected. Full transfer to Universal Credit is not now estimated to be until 2028.

1.36 In response to these findings, actions have been agreed with management, which included the need to:

- Prepare a business case identifying additional resources required to clear backlogs;
 - Develop automation, where possible, to improve processing performance; and
 - Review workflows and improve the way work is allocated to ensure there is more of an equal distribution across the Team.
- 1.37 A follow up audit will take place in 2024/25 to provide assurance that the agreed actions have been implemented.

Payment Card Industry – Data Security Standard Governance Arrangements

1.38 The Payment Card Industry – Data Security Standard (PCI-DSS) is a set of security standards designed to ensure that all organisations that accept, process, store or transmit payment card information maintain a secure environment. The Standard provides specific, actionable guidance on protecting payment card data.

1.39 This review was carried forward from the 2022/23 Audit Plan and sought to evaluate the governance arrangements that support compliance with the PCI-DSS requirements. We did not look to reperform any of the activities that form part of the PCI-DSS assessment.

1.40 Based upon the work we have undertaken, we have only been able to provide an opinion of **Partial Assurance**.

1.41 Whilst it is not appropriate to share the specific details of our findings within this report, as this information could be used to aid fraudulent activity, some of the actions agreed relate to defining and communicating roles and responsibilities in order to strengthen governance in this area.

1.42 Actions have been agreed with management to improve the control environment and a follow up audit will be undertaken in 2024/25.

Adult Social Care Service Agreements (Residential and Non-residential)

1.43 Where adults require care and are eligible for this to be funded or part-funded by the council, they will undertake an assessment with officers to determine a package of care that meets their needs and calculates the associated cost. Once the package of care has been determined and agreed, a service agreement between the client, provider of the supported care and the council will need to be put in place.

1.44 This review was carried forward from 2022/23 and was an approved addition to the Audit Plan, at management's request, due to a change in the risk profile within this area.

1.45 The purpose of this audit was to provide assurance that controls are in place to meet the following objectives:

- Robust and comprehensive processes are in place to ensure that the information contained in service agreements is accurate and reflects the agreed care package, and that it is received and commenced in a timely manner;
- Robust processes are in place to ensure payments made to providers of care are accurate and timely; and
- Adequate arrangements are in place to ensure service agreements that are no longer required are appropriately closed in a timely manner.

1.46 It should be noted that this audit only reviewed service agreements in relation to nursing, residential and non-residential placements. The scope therefore excluded direct payment service agreements, which have previously been covered in the direct payments audit.

1.47 In completing this work, we were only able to provide an opinion of **Partial Assurance** over the controls in place, with a range of improvements identified in relation to:

- Agreeing and documenting responsibilities across different teams involved in the service agreement process to streamline and avoid delays including cessation, amendments, and setting-up new service agreements;
- Minimising delays in setting up or amending service agreements through maintaining detailed and consistent information in referral forms, and reviewing the scheme of delegation to ensure authorisation of changes to service provision are clearly defined;
- Documenting and sharing the escalation process;
- Ensuring guidance and procedure documents are in place over the end-to-end process which contain relevant version control; and
- Introducing exception reports to highlight any potential data entry errors.

1.48 In all cases, these actions have been agreed with management as part of a formal action plan and a follow up audit will take place in 2024/25 to provide assurance that they have been implemented in a timely manner.

Schools

1.49 We have a standard audit programme in place for all school audits, with the scope of our work designed to provide assurance over key controls operating within schools. The objectives of our work are to ensure that:

- Governance structures are in place and operate to ensure there was independent oversight and challenge by the Governing Body;
- Decision making is transparent, well documented, and free from bias;
- The school is able to operate within its budget through effective financial planning;
- Unauthorised or inappropriate people do not have access to pupils, systems, or the site;

- Staff are paid in accordance with the schools pay policy;
- Expenditure is controlled and funds used for an educational purpose;
- The school ensures value for money on contracts and larger purchases;
- All voluntary funds are held securely and used in accordance with the agreed purpose.

1.50 One school audit was finalised in quarter 2. The table below shows details of the school we audited, together with the final level of assurance reported to them.

Name of School	Audit Opinion
Hertford Junior School	Reasonable Assurance

1.51 We aim to undertake follow-up audits at all schools with Minimal Assurance opinions. For Partial Assurance opinions we will write to the Chair of Governors to obtain confirmation that recommendations have been implemented.

1.52 The core financial role of the LA is to set and monitor a local framework, including provision of budgetary information, provision of a financial oversight and ultimately intervening where schools are causing financial concerns. Schools (the governing body and the Headteacher) are required to manage their delegated budget effectively ensuring the school meets all its statutory obligations, and through the Headteacher comply with the LA’s Financial Regulations and Standing Orders.

Grant Certifications and Non-Opinion Work

Blueprint for a Circular Economy (Claim 7)

1.53 This is a European Union (EU) Interreg project that requires grant certification. The total value of the project is EUR 402,322, with 69% funded by the EU. The funding has been used to grow and embed circular principles into the wider community by supporting the growth of circular business models and practices across existing and new emerging social enterprises based in the city.

1.54 Claim 7 was the final claim for this grant funding and no significant issues were identified in the grant certification.

Bus Subsidy Revenue Grant

1.55 This is a ringfenced grant available to local authorities from the Department of Transport to support the improvement of local bus services. The amount of £172,990 was provided to the council for 2022-23. The grant expenditure requires certification by Internal Audit

1.56 No significant issues were identified in the grant certification.

Enterprise Resource Planning (ERP) Programme

1.57 In July 2022, Policy and Resources Committee agreed to commence procurement of a corporate Enterprise Resource Planning (ERP) system to replace the current Finance and HR/Payroll systems which have been used by the council for 16 and 12 years respectively.

1.58 Internal Audit have been attending Programme Board meetings to provide independent and objective advice, support and challenge.

1.59 A package of deliverable internal audit work has been agreed with the Board, designed to provide the Board with assurance when making critical decisions, including the provision of assurance over the design of the control environment within the new system.

1.60 We will continue to update the Committee on our work as the programme progresses.

Housing Repairs Works Management System Replacement Programme

1.61 It was agreed by the Housing & New Homes Committee and the Policy, Resources & Growth Committee in 2018 to bring the responsive repairs and empty property refurbishments service in house on 1st April 2020. This service includes emergency repairs, and the procurement of suppliers to provide specialist works, where the in-house team do not have the skills to complete them.

1.62 We have agreed to attend programme board meetings and provide ad-hoc advice, support and challenge as appropriate to support the procurement of a Works Management System that works alongside and interfaces with the NEC Housing Management System.

1.63 Whilst no specific internal audit work has yet been required of the new system to date, internal audit work will be provided to support the programme as and when appropriate, in agreement with the Board.

2. Proactive Counter Fraud Work

Counter Fraud Activity

2.1 Internal Audit have been liaising with the relevant services to provide advice and support in processing the matches received as part of the National Fraud Initiative.

2.2 The team are currently working with the relevant services to upload the data for the next National Fraud Initiative Single Person Discount exercise, which is due to take place in early 2024.

2.3 The team continue to monitor intel alerts and share information with relevant services when appropriate.

Summary of Completed Investigations

Prosecution of a Private Landlord under the Protection from Eviction Act 1977

2.4 An investigation was conducted by Internal Audit following a referral alleging that the director of a Brighton & Hove letting agency was acting to interfere with the peace and comfort of tenants in their home and attempting to illegally evict them from their properties. Following the investigation, the agent was successfully prosecuted by Brighton & Hove City Council under the Protection from Eviction Act 1977. The defendant was fined £41,000 (after a 20% reduction for a guilty plea) and ordered to pay £10,100 compensation to three victims, as well as a £181 victim surcharge. In addition, the defendant has paid the council's legal fees of £9000.

Disclosure of Confidential Information

2.5 Internal Audit received an allegation that a member of staff had disclosed confidential information during a procurement process which enabled a supplier to submit the lowest bid to successfully win a contract. Following an investigation, the allegations against the individual were not substantiated. However, a report was issued to the service identifying several improvements to strengthen controls around procurement. The service is now working with the Procurement Team to improve the control environment.

Housing Tenancy and Council Tax Fraud

2.6 The Tenancy Fraud Team continue to investigate allegations of potential sublet. They work closely with Housing Managers and Officers for a joined-up approach to allegations of abandonment with an increasing emphasis on visits and communication with tenants to increase awareness and reiterate a tenant's responsibly under their tenancy agreements.

2.7 The Tenancy Fraud Team are currently working with the Housing and Legal Team with court papers drafted for submission to the courts for a property to be recovered.

2.8 The Tenancy Fraud Team also continue to investigate allegations of false claims for Single Person Discount (SPD) and Council Tax Reduction (CTR). An improved process is in place whereby errors and discrepancies with Council Tax are adjusted in a timely manner to make savings, but also to ensure accounts are correct to minimise any ongoing loss.

2.9 The results for the 2023/24 financial year, for quarter 2, are summarised in the table below:

Fraud Area	Number Q2	Value of Potential Savings (£) Q2	Cumulative Savings (£) 2023/24
Social Housing Recovered	0	0	£93,000
Succession Prevented	0	0	£93,000
Housing Application withdrawn	0	0	
Homeless Application withdrawn	0	0	
RTB Withdrawn	0	0	
SPD Removed	5	£3,057.15	£7,197.15
CTRS	0	0	£440.00
Business Rates	0	0	
Total		£3,057.15	£193,637.15

3. Action Tracking

3.1 All high priority actions agreed with management as part of individual audit reviews are subject to action tracking. When high priority actions become due, we seek confirmation from service management that actions have been implemented. At the end of quarter 2, we can report that 100% of high priority actions due, have been confirmed as implemented by management.

3.4 A number of high priority actions have had their implementation deadlines extended, in agreement with management. Where the revised deadlines are not met, these will be reported to the next meeting of the Audit & Standards Committee.

4. Amendments to the Audit Plan

4.1 In accordance with proper professional practice, the Internal Audit plan for the year has been kept under regular review to ensure that the service continues to focus its resources in the highest priority areas based on an assessment of risk. Through discussions with management the following audits have been added to the audit plan this quarter:

Planned Audit	Rationale for Addition
Parking Income	Parking has been an important area of income generation for the council. The Executive Director for Economy, Environment and Culture requested an audit to provide assurance in this area.
Supported Families Grant	Changes to the certification requirements for this grant mean that an audit review and

	certification is now requested by management
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4.2 In order to allow these additional audits to take place, the following audits have been removed or deferred from the audit plan and, where appropriate, will be considered for inclusion in future audit plans as part of the overall risk assessment completed during the annual audit planning process. These changes have been made on the basis of risk prioritisation and/or as a result of developments within the service areas concerned requiring a rescheduling of audits:

Planned Audit	Rationale for Removal
Warmer Homes Programme	Cancelled due to delay and review of the programme.
Home Upgrade Grant	Audit certification is not required for this grant as the scheme is administered through Portsmouth City Council.
Business Rates (Revaluation)	An additional audit was scheduled anticipating that further review would be required in this area. However, we have been able to adequately cover the controls and mitigation of risk in the main Business Rates audit, reported in the Q1 progress report with Reasonable Assurance.
Housing Major and Planned Works	Supply chain issues and delays in procurement have delayed this programme. At the request of the service, we have agreed to defer the audit review to 2024/25.
Transition from Children to Adults	Work is ongoing to make improvements in this area and some responsibilities have been transferred between directorates. At the request of the service, we have agreed to defer the audit review to 2024/25

5. Internal Audit Performance

5.1 In addition to the annual assessment of internal audit effectiveness against Public Sector Internal Audit Standards (PSIAS), the performance of the service is monitored on an ongoing basis against a set of agreed key performance indicators as set out in the following table:

Aspect of Service	Orbis IA Performance Indicator	Target	RAG Score	Actual Performance
Quality	Annual Audit Plan agreed by Audit Committee	By end April	G	2023/24 Internal Audit Strategy and Annual Audit Plan formally approved by Audit and Standards Committee 18th April 2023.
	Annual Audit Report and Opinion	By end July	G	2022/23 Annual Report and Opinion presented to Audit and Standards Committee 27th June 2023.
	Customer Satisfaction Levels	90% satisfied.	G	100%
Productivity and Process Efficiency	Audit Plan – completion to draft report stage	45%	G	49.2%
Compliance with Professional Standards	Public Sector Internal Audit Standards	Conforms	G	<p>Dec 2022 - External Quality Assurance completed by the Institute of Internal Auditors (IIA). Orbis Internal Audit assessed as achieving the highest level of conformance available against professional standards with no areas of non-compliance identified, and therefore no formal recommendations for improvement arising. In summary the service was assessed as:</p> <ul style="list-style-type: none"> • Excellent in: Reflection of the Standards Focus on performance, risk and adding value. • Good in: Operating with efficiency Quality Assurance and Improvement Programme • Satisfactory in: Coordinating and maximising assurance

Aspect of Service	Orbis IA Performance Indicator	Target	RAG Score	Actual Performance
	Relevant legislation such as the Police and Criminal Evidence Act, Criminal Procedures and Investigations Act	Conforms	G	No evidence of non-compliance identified
Outcome and degree of influence	Implementation of management actions agreed in response to audit findings	95% for high priority agreed actions	G	100% for high priority agreed actions (see above)
Our staff	Professionally Qualified/Accredited (Includes part-qualified staff and those undertaking professional training)	80%	G	97%

Audit Opinions and Definitions

Opinion	Definition
Substantial Assurance	Controls are in place and are operating as expected to manage key risks to the achievement of system or service objectives.
Reasonable Assurance	Most controls are in place and are operating as expected to manage key risks to the achievement of system or service objectives.
Partial Assurance	There are weaknesses in the system of control and/or the level of non-compliance is such as to put the achievement of the system or service objectives at risk.
Minimal Assurance	Controls are generally weak or non-existent, leaving the system open to the risk of significant error or fraud. There is a high risk to the ability of the system/service to meet its objectives.

Brighton & Hove City Council

Audit & Standards Committee

Agenda Item 37

Subject: Annual Surveillance Report 2023

Date of meeting: 30th January 2024

Report of: Executive Director Finance Governance and Resources

Contact Officer: Name: Jo Player
Tel: 01273 292488
Email: jo.player@brighton-hove.gov.uk

Ward(s) affected: All

For general release

1. Purpose of the report and policy context

- 1.1 The purpose of this report is to appraise Committee of the activities that have been undertaken utilising the powers under the Regulation of Investigatory Powers Act 2000 (RIPA) since the last report to Committee in March 2023
- 1.2 The report also introduces an updated Policy and Guidance document

2. Recommendations

- 2.1 That Committee approves the continued use of covert surveillance as an enforcement tool to prevent and detect crime and disorder investigated by its officers, providing the activity is in line with the Council's Policy and Guidance and the necessity and proportionality rules are stringently applied.
- 2.2 That Committee notes the surveillance activity undertaken by the authority since the report to Committee in March 2023 as set out in paragraph 3.3
- 2.3 That committee approves the continued use of the Policy and Guidance document as set out in Appendix 1 in its updated form.

3. Context and background information

- 3.1 The Regulation of Investigatory Powers Act 2000 (RIPA) is the law governing the use of covert surveillance techniques by Public authorities, including local authorities. RIPA was enacted as part of a suite of legislation flowing from the Human Rights Act 1997. RIPA requires that when public authorities need to use covert techniques to obtain information about someone, they do it in a way that is necessary and compatible with human rights.
- 3.2 RIPA regulates the interception of communications, directed and intrusive surveillance and the use of covert human intelligence sources (informants).

Local authorities may only carry out directed surveillance, access certain communications data and use informants.

3.3 The Council has carried out no surveillance operation since the last report to Committee in March 2023.

3.4 The Protection of Freedoms Act was enacted in November 2012. Since then, approval must be sought from a Magistrate when local authorities wish to conduct surveillance activity, access communications data and use informants. This is in addition to the authorisation by an Authorising Officer who meets the criteria regarding their position within the authority.

3.5 In addition to seeking the approval of a Magistrate, all applications must meet the Serious Offence test. This stipulates that any directed surveillance is restricted to the investigation of offences that carry a custodial sentence of six months or more. The only offence where this will not apply is in regard to the investigation of underage sales of tobacco or alcohol.

4. Analysis and consideration of alternative options

4.1 The only alternative is for the Council to completely curtail the use of RIPA but this is not considered an appropriate step

5. Community engagement and consultation

5.1 There has been no consultation in the compilation of this report as it is a requirement of the Code of Practice pursuant to section 71 of RIPA that elected members review the authority's use of RIPA and set the policy once a year

6. Conclusion.

6.1 It is essential that officers are able to use the RIPA powers where necessary and within the threshold set out in the Protection of Freedoms Act 2012, but only after excluding all other methods of enforcement. An authorisation will only be given by the relevant 'Authorising Officer' following vetting by the 'Gatekeeper' therefore it is unlikely that the powers will be abused. There is now the additional safeguard of judicial sign off.

6.2 The implementation of the Annual review has made the whole process transparent and demonstrates to the public that the correct procedures are followed.

7. Financial implications

7.1 There are no financial implications arising from this report. Any covert surveillance undertaken needs to be met from within current budget resources.

Name of finance officer consulted: Mike Bentley Date consulted (07/12/23):

8. Legal implications

- 8.1 The legal framework that governs the Council's use of its powers under RIPA and related legislation is described in the body of the Report. The annual review by this Committee of the Council's policy on these legal powers and of the use it makes of them (which in the last financial year was nil) is mandated by statutory guidance. This Report provides reassurance that the Council's powers are exercised lawfully and proportionately, and only where relevant criteria have been met.

Name of lawyer consulted: Victoria Simpson Date consulted 12.12.23

9. Equalities implications

- 9.1 The proper and consistent application of the RIPA powers should ensure that a person's basic human rights are not interfered with, without justification. Each application will be assessed by the gatekeeper for necessity and proportionality prior to the authorisation by a restricted number of authorising officers. The application will also be signed off by a Magistrate. This process should identify any inconsistencies or disproportionate targeting of minority groups and enable action to be taken to remedy any perceived inequality.

10. Sustainability implications

- 10.1 There are no sustainability implications in this report

11. Other Implications

Crime & disorder implications:

- 11.1 These are contained within the body of the report

Supporting Documentation

1. Appendices

1. Policy and Guidance Document version January 2024



**Brighton & Hove
City Council**

Corporate Policy & Procedures Document on the Regulation of Investigatory Powers Act 2000 (RIPA)

- Use of Directed Surveillance
- Use of Covert Human Intelligence Sources
- Accessing Communications Data

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Version: January 2024

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The Regulation of Regulatory Powers Act 2000 refers to 'Designated Officers'. For ease of understanding and application this document refers to 'Authorising Officers'.

Introduction

This document is based on the requirements of the Regulation of Investigatory Powers Act 2000 (RIPA) and the Home Office's Code of Practices for Directed Surveillance and Covert Human Intelligence Sources (CHIS) and Accessing Communications data. It takes into account the oversight provisions contained in the revised Code of Practice for Covert Surveillance and the revised Code of Practice that deals with Access to communications data that came into force on 6th April 2010. Officers should also bear in mind Procedures and Guidance issued by the Office of the Surveillance Commissioner in December 2014, and guidance issued in the revised code of practice in August 2018, when applying for, and authorising applications. This policy and procedures document sets out the means of compliance with, and use of, the Act by The Council. It is based upon the requirements of the Act and the Home Office's Codes of Practice on Covert Surveillance and Covert Human Intelligence Sources, together with the Revised Draft Code of Practice on Accessing Communications Data

The authoritative position on RIPA is the Act itself and any Officer who is unsure about any aspect of this document should contact the Head of Safer Communities or the Head of Law, for advice and assistance.

This document has been approved by elected members and is available from the Head of Safer Communities.

The Head of Safer Communities will maintain the Central Register of all authorisations, reviews, renewals, cancellations and rejections. It is the responsibility of the relevant Authorising Officer to ensure that relevant form is submitted, for inclusion on the register, within 1 week of its completion.

This document will be subject to an annual review by the Head of Safer Communities and will be approved by elected members.

In terms of monitoring e-mails and internet usage, it is important to recognise the interplay and overlap with the Council's Information Technology policies and guidance, the Telecommunications (Lawful Business Practice)(Interception of Communications) Regulations 2000, the Data Protection Act 1998 and its Code Of Practice and the General Data Protection Regulations. RIPA forms should only be used where **relevant** and they will only be **relevant** where the **criteria** listed are fully met.

Policy Statement

The Council takes its statutory responsibilities seriously and will at all times act in accordance with the law and takes necessary and proportionate action in these types of matters. In that regard the Head of Safer Communities is duly authorised to keep this document up to date and amend, delete, add or substitute relevant provisions, as necessary. For administrative and operational effectiveness, the Head of safer Communities is authorised to add or substitute Authorising Officers with the agreement of the Senior Responsible Officer.

It is this Council's Policy that

- All covert surveillance exercises conducted by the Council should comply with the requirements of RIPA
- An Authorisation will only be valid if initialled by a gatekeeper and signed by an authorising officer.
- Authorising 'Access to Communications data' will be restricted to the Head of Safer Communities. The National Anti Fraud Network will become the Single Point of Contact for purposes of Access to Communications Data.

Senior Responsible Officer

The revised Code of Practice recommends that each public authority appoints a Senior Responsible Officer. This officer will be responsible for the integrity of the process in place within the public authority to authorise directed surveillance; compliance with the relevant Acts and Codes of Practice; engagement with the Commissioners and Inspectors when they conduct their inspections and where necessary overseeing the implementation of any post inspection action plans recommended or approved by a Commissioner.

The Senior Responsible Officer should be a member of the corporate management team and for the purposes of this policy the Executive Director Finance Governance and Resources has been so delegated. It is the responsibility of the Senior Responsible Officer to ensure that all authorising officers are of an appropriate standard in light of any recommendations in the inspection reports prepared by the Office of the Surveillance Commissioners. Where an inspection report highlights concerns about the standards of authorising officers, it is the responsibility of the Senior Responsible Officer to ensure these concerns are addressed.

Authorising Officers Responsibilities

The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 and the Regulation of Investigatory Powers (Communications Data) Order 2010, specify the seniority of officers who are able to authorise surveillance activity and access to communications data. These are Directors, Head of Service, Service Manager or equivalent.

It is essential that Senior Managers and Authorising Officers take personal responsibility for the effective and efficient operation of this document.

It is the responsibility of the Senior Responsible Officer in conjunction with the Head of Safer Communities to ensure that sufficient numbers of Authorising Officers receive suitable training on RIPA and this document, and that they are competent.

It will be the responsibility of those Authorising Officers to ensure that relevant members of staff are also suitably trained as 'Applicants'.

An authorisation must not be approved until the Authorising Officer is satisfied that the activity proposed is necessary and proportionate.

However it will be the responsibility of the gatekeeper to review any applications prior to submission to the Authorising Officer. They should ensure that the correct form has been used. These are the latest Home Office forms and are available on the HO website and that the applicant has obtained a Unique Reference Number (URN) from the Partnership Support Officer Safer Communities Services. The gatekeeper should also ensure that the form has been correctly completed and contains sufficient detail and information to enable the authorising officer to make an informed decision whether to authorise the application. The gatekeeper should also scrutinise the form to ensure that it complies with the necessity and proportionality requirements before the authorising officer receives the form. A gatekeeper should be a person with sufficient knowledge and understanding of the enforcement activities of the relevant public body, who should vet the applications as outlined above. Once the gatekeeper is satisfied with the application they should initial the form and submit any comments on the application in writing to the Authorising Officer and provide necessary feedback to the applicant. In order that there is consistency with the quality of applications the Head of Safer Communities and Principal Trading Standards Officer will act as gatekeepers for the Council. It should be noted that the Head of Safer Communities will not act as gatekeeper and Authorising Officer on the same application.

- **Necessary** in this context includes consideration as to whether the information sought could be obtained by other less invasive means, and that those methods have been explored and been unsuccessful or could have compromised the investigation. The Authorising Officer must be satisfied that there is necessity to use covert surveillance in the proposed operation. In order to be satisfied there must be an identifiable offence to prevent or detect before an authorisation can be granted on the grounds falling within sec 28(3)(b) and 29(3)(b) of RIPA and ss6(3) and 7(3) of RIP(S)A. The application should identify the **specific offence** being investigated (**including the Act and section**) and the **specific point(s) to prove** that the surveillance is intended to gather evidence about. The applicant must show that the operation is **capable of gathering that evidence** and that such **evidence is likely to prove** that part of the offence.
- Deciding whether the activity is **proportionate** includes balancing the right to privacy against the seriousness of the offence being investigated. Consideration must be given as to whether the activity could be seen as excessive. An authorisation should demonstrate how the

Authorising Officer has reached the conclusion that the activity is proportionate to what it seeks to achieve; including an explanation of the reasons why the method, tactic or technique proposed is not disproportionate to what it seeks to achieve. A potential model answer would make it clear that the 4 elements of proportionality had been fully considered.

1. Balancing the size and scope of the operation against the gravity and extent of the perceived mischief,
2. Explaining how and why the methods to be adopted will cause the least possible intrusion on the target and others,
3. That the activity is an appropriate use of the legislation and the only reasonable way, having considered all others, of obtaining the necessary result and,
4. Evidencing what other methods had been considered and why they were not implemented.

Authorising Officers must pay particular attention to Health & Safety issues that may be raised by any proposed surveillance activity. Approval must not be given until such time as any health and safety issue has been addressed and/or the risks identified are minimised.

Authorising Officers must ensure that staff who report to them follow this document and do not undertake any form of surveillance, or access communications data, without first obtaining the relevant authorisation in compliance with this document.

Authorising Officers must ensure when sending copies of any forms to the Head of Safer Communities for inclusion in the Central Register, that they are sent in **sealed** envelopes and marked **Strictly Private & Confidential**.

General Information on RIPA

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

The European Convention did not make this an absolute right, but a qualified right. Therefore, in certain circumstances, the City Council may interfere in an individual's right as mentioned above, if that interference is:-

- a. **In accordance with the law;**
- b. **Necessary;** and
- c. **Proportionate.**

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

Directly employed Council staff and external agencies working for the City Council are covered by the Act for the time they are working for the City Council. All external agencies must, therefore, comply with RIPA and the work carried out by agencies on the Council's behalf must be properly authorised by an Authorising Officer after scrutiny by a gatekeeper.

A list of officers who may authorise Directed Surveillance is kept by the Head of Safer Communities and the current list is attached at **Appendix 1**. This list will be updated annually. The designated gatekeepers for the Council are the Principal Trading Standards Officer and the Head of Safer Communities. For the purposes of Accessing Communications Data the Designated Persons (Authorised Officers) is the Head of Safer Communities.

If the correct procedures are not followed, evidence may be dis-allowed by the courts, a complaint of mal-administration could be made to the Ombudsman, and/or the Council could be ordered to pay compensation. Such action would not, of course, promote the good reputation of the City Council and will, undoubtedly, be the subject of adverse press and media interest.

A flowchart of the procedures to be followed appears at **Appendix 2**. A list of useful websites is available at **Appendix 3**.

What RIPA Does and Does Not Do

RIPA does:

- Requires prior authorisation of directed surveillance
- Prohibits the Council from carrying out intrusive surveillance
- Requires authorisation of the conduct and use of a CHIS
- Require safeguards for the conduct and use of a CHIS
- Requires proper authorisation to obtain communication data
- Prohibits the Council from accessing 'traffic data'

RIPA does not:

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

If the Authorising Officer or any Applicant is in any doubt, they should ask the Head of Safer Communities or the Head of Law before any directed surveillance, CHIS, or Access to Communications is authorised, renewed, cancelled or rejected.

Types of Surveillance

'Surveillance' includes

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

Surveillance can be overt or covert.

Overt Surveillance

Most surveillance activity will be done overtly, that is, there will be nothing secretive, clandestine or hidden about it. In many cases, officers will be behaving in the same way as a normal member of the public (e.g. in the case of most test purchases), and/or will be going about Council business openly (e.g. a Neighbourhood Warden walking through the estate).

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.

The following are NOT normally Directed Surveillance:

- Activity that is observed as part of normal duties, e.g. by an officer in the course of day-to-day work.
- CCTV cameras (unless they have been directed at the request of investigators) – these are overt or incidental surveillance, and are regulated by the Data Protection Act.

Covert Surveillance

Covert Surveillance is carried out in a manner calculated to ensure that the person subject to the surveillance is unaware of it taking place. (Section 26(9)(a) RIPA) It is about the intention of the surveillance, not about whether they are actually aware of it; it is possible to be covert in Council uniform where, for example, the person is intended to mistake the reason for the officer being there.

RIPA regulates two types of covert surveillance, (Directed Surveillance and Intrusive Surveillance) and the use of Covert Human Intelligence Sources (CHIS).

Directed Surveillance

Directed Surveillance is surveillance which: -

- Is covert; and
- Is not intrusive surveillance;
- Is not carried out in an immediate response to events which would otherwise make seeking authorisation under the Act unreasonable, e.g. spotting something suspicious and continuing to observe it; and
- It is undertaken for the purpose of a **specific investigation** or **operation** in a manner **likely to obtain private information** about an individual (whether or not that person is specifically targeted for purposes of an investigation).

Private information in relation to a person includes any information relating to his private and family life, his home and his correspondence. The fact that covert surveillance occurs in a public place or on business premises does not mean that it cannot result in the obtaining of private information about a person. Prolonged surveillance targeted on a single person will undoubtedly result in the obtaining of private information about him/her and others that s/he comes into contact, or associates, with.

Examples of Expectations of Privacy:

Two people are holding a conversation on the street and, even though they are talking together in public, they do not expect their conversation to be overheard and recorded by anyone. They have a 'reasonable expectation of privacy' about the contents of that conversation, even though they are talking in the street.

The contents of such a conversation should be considered as private information. A directed surveillance authorisation would therefore be appropriate for a public authority to record or listen to the conversation as part of a specific investigation or operation and otherwise than by way of an immediate response to events.

A Surveillance officer intends to record a specific person providing their name and telephone number to a shop assistant, in order to confirm their identity, as part of a criminal investigation.

Although the person has disclosed these details in a public place, there is nevertheless a reasonable expectation that the details are not being recorded separately for another purpose. A directed surveillance authorisation should therefore be sought.

For the avoidance of doubt, only those officers designated as 'Authorising Officers' for the purpose of RIPA can authorise 'Directed Surveillance' IF, AND ONLY IF, the RIPA authorisation procedures detailed in this document, are followed.

Reconnaissance- Examples

Officers wish to drive past a café for the purposes of obtaining a photograph of the exterior. Reconnaissance of this nature is not likely to require a directed surveillance authorisation as no private information about any person is likely to be obtained or recorded. If the officers chanced to see illegal activities taking place, these could be recorded and acted upon as 'an immediate response to events'. If, however, the officers intended to carry out the exercise at a specific time of day, when they expected to see unlawful activity, this would not be reconnaissance but directed surveillance, and an authorisation should be considered. Similarly, if the officers wished to conduct a similar exercise several times, for example to establish a pattern of occupancy of the premises

by any person, the accumulation of information is likely to result in the obtaining of private information about that person or persons and a directed surveillance authorisation should be considered.

Intrusive Surveillance

This is when it: -

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

Only police and other law enforcement agencies can carry out this form of surveillance.

Council Officers must not carry out intrusive surveillance.

Notes about 'Intrusive'

Surveillance is generally 'Intrusive' only if the person is on the same premises or in the same vehicle as the subject(s) of the surveillance. Carrying out surveillance using private residential premises (with the consent of the occupier) as a 'Static Observation Point' does not make that surveillance 'Intrusive'. A device used to enhance your external view of property is almost never an *intrusive* device. A device would only become *intrusive* where it provided a high quality of information from inside the *private residential premises*. A device used to enhance your external view of property is almost never an *intrusive* device. A device would only become intrusive where it provided a high quality of information from inside the *private residential premises*. If premises under surveillance are known to be used for legally privileged communications, that surveillance must also be treated as *intrusive*.

Examples:

Officers intend to use an empty office to carry out surveillance on a person who lives opposite. As the office is on the 4th floor, they wish to use a long lens and binoculars so that they can correctly identify and then photograph their intended subject covertly. This is NOT intrusive surveillance, as the devices do not provide high quality evidence from inside the subject's premises. Officers intend using a surveillance van parked across the street from the subject's house. They could see and identify the subject without binoculars but have realised that, if they use a 500mm lens, as the subject has no net curtains or blinds, they should be able to see documents he is reading. This IS intrusive surveillance, as the evidence gathered is of a high quality, from inside the premises, and is as good as could be provided by an officer or a device being on the premises.

Examples of different types of Surveillance

Type of Surveillance	Examples
<u>Overt</u>	<ul style="list-style-type: none"> • Police Officer or Parks Warden on patrol • Sign-posted Town Centre CCTV cameras (in normal use) • Recording noise coming from outside the premises after the occupier has been warned that this will occur if the noise persists. • Most test purchases (where the officer behaves no differently from a normal member of the public).
<u>Covert</u> but not requiring prior authorisation	<ul style="list-style-type: none"> • CCTV cameras providing general traffic, crime or public safety information.
<u>Directed</u> (must be RIPA authorised)	<ul style="list-style-type: none"> • Officers follow an individual or individuals over a period, to establish whether s/he is working when claiming benefit or off long term sick from employment. • Test purchases where the officer has a hidden camera or other recording device to record information that might include information about the private life of a shop-owner, e.g. where s/he is suspected of running his business in an unlawful manner.
<u>Intrusive</u>	<ul style="list-style-type: none"> • Planting a listening or other device (bug) in a person's home or in their private vehicle. <p style="text-align: center;">THE COUNCIL CANNOT CARRY OUT THIS ACTIVITY AND FORBIDS ITS OFFICERS FROM CARRYING IT OUT</p>

Conduct and Use of a Covert Human Intelligence Source (CHIS)

Who is a CHIS?

A Covert Human Intelligence Source (CHIS) is someone who establishes or maintains a personal or other relationship for the covert purpose or facilitating anything falling under the following bullet points;

- Covertly uses such a relationship to obtain information or to provide access to any information to another person or,
- Covertly discloses information obtained by the use of such a relationship, or as a consequence of the existence of such a relationship.

RIPA may or may not apply in circumstances where members of the public volunteer information to the Council or to contact numbers set up to receive such information (such as benefit fraud hotlines). It will often depend on how the information was obtained. If an individual has obtained the information in the course of or as a result of a personal or other relationship it may be that they are acting as a CHIS. The contrast is between such a person and one who has merely observed the relevant activity from 'behind his (actual or figurative) net curtains.

A relationship is covert if it is conducted in a manner that is calculated to ensure that one of the parties to the relationship is unaware of its purpose.

If a person who volunteers information is then asked to obtain further information, it is likely that they would either become a CHIS or that a directed surveillance authorisation should be considered.

Examples of a CHIS may include:

- Licensing officers, working with the Police, covertly building a business relationship with a cab company which is believed to be using unlicensed drivers.
- Food safety officers posing as customers to get information on what is being sold at premises and developing a relationship with the shopkeeper beyond that of supplier and customer

What must be authorised?

Officers must not create or use a CHIS without prior authorisation. If there is any doubt as to whether an individual is acting as a CHIS advice should be sought from the Head of Safer Communities.

- Creating (or "Conduct of") a CHIS means procuring a person to establish or maintain a relationship with a person so as to secretly obtain and pass on information. The relationship could be a personal or 'other' relationship (such as a business relationship) and obtaining the information may be either the only reason for the relationship or be incidental to it. Note that it can also include asking a person to continue a relationship which they set up of their own accord.

- Use of a CHIS includes actions inducing, asking or assisting a person to act as a CHIS and the decision to use a CHIS in the first place.

Online Covert Activity

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. 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. See above.

Example 1: *A police officer undertakes a simple internet search on a name, address or telephone number to find out whether a subject of interest has an online presence. This is unlikely to need an authorisation. However, if having found an individual's social media profile or identity, it is decided to monitor it or extract information from it for retention in a record because it is relevant to an investigation or operation, authorisation should then be considered.*

Example 2: *A customs officer makes an initial examination of an individual's online profile to establish whether they are of relevance to an investigation. This is unlikely to need an authorisation. However, if during that visit it is intended to extract and record information to establish a profile including information such as identity, pattern of life, habits, intentions or associations, it may be advisable to have in place an authorisation even for that single visit. (As set out in the following paragraph, the purpose of the visit may be relevant as to whether an authorisation should be sought.)*

Example 3: *A public authority undertakes general monitoring of the internet in circumstances where it is not part of a specific, ongoing investigation or operation to identify themes, trends, possible indicators of criminality or other factors that may influence operational strategies or deployment. This activity does not require RIPA authorisation. However, when this activity leads to the discovery of previously unknown subjects of interest, once it is decided to monitor those individuals as part of an on-going operation or investigation, authorisation should be considered.*

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

- Whether the investigation or research is directed towards an individual or organisation;
- Whether it is likely to result in obtaining private information about a person or group of people (taking account of the guidance at paragraph 3.6 above);
- Whether it is likely to involve visiting internet sites to build up an intelligence picture or profile;
- Whether the information obtained will be recorded and retained;
- Whether the information is likely to provide an observer with a pattern of lifestyle;
- Whether the information is being combined with other sources of information or intelligence, which amounts to information relating to a person's private life;
- Whether the investigation or research is part of an ongoing piece of work involving repeated viewing of the subject(s);
- Whether it is likely to involve identifying and recording information about third parties, such as friends and family members of the subject of interest, or information posted by third parties, that may include private information and therefore constitute collateral intrusion into the privacy of these third parties.

Internet searches carried out by a third party on behalf of a public authority, or with the use of a search tool, may still require a directed surveillance authorisation (see paragraph 4.32).

Example: *Researchers within a public authority using automated monitoring tools to search for common terminology used online for illegal purposes will not normally require a directed*

surveillance authorisation. Similarly, general analysis of data by public authorities either directly or through a third party for predictive purposes (e.g. identifying crime hotspots or analysing trends) is not usually directed surveillance.

It is not unlawful for a member of a public authority to set up a false identity but it is inadvisable for a member of a public authority to do so for a covert purpose without authorisation. Using photographs of other persons without their permission to support the false identity infringes other laws.

Juvenile Sources and Vulnerable Individuals

Juvenile Sources

Special safeguards apply to the use or conduct of juvenile sources (i.e. under 18 year olds). **On no occasion can a child under 16 years of age be authorised to give information against his or her parents.**

Authorisations for juvenile CHIS must not be granted unless: -

- A risk assessment has been undertaken as part of the application, covering the physical dangers and the psychological aspects of the use of the child
- The risk assessment has been considered by the Authorising Officer and he is satisfied that any risks identified in it have been properly explained; and
- The Authorising Officer has given particular consideration as to whether the child is to be asked to get information from a relative, guardian or any other person who has for the time being taken responsibility for the welfare of the child.

Only the Chief Executive may authorise the use of Juvenile Sources.

Vulnerable Individuals

A Vulnerable Individual is a person who is or may be in need of community care services by reason of mental or other disability, age or illness and who is or may be unable to take care of himself or herself, or unable to protect himself or herself against significant harm or exploitation.

A Vulnerable Individual will only be authorised to act as a source in the most exceptional of circumstances.

Only the Chief Executive may authorise the use of Vulnerable Individuals.

Test Purchases

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

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

Please also see below under 'Serious Crime'

Anti-social behaviour activities (e.g. noise, violence, racial harassment etc)

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

Recording sound (with a DAT recorder) on private premises could constitute intrusive surveillance, unless it is done overtly. For example, it will be possible to record if the noisemaker is warned that this will occur if the level of noise continues.

Placing a covert stationary or mobile video camera outside a building to record anti social behaviour on residential estates will require prior authorisation.

Accessing Communications Data

Local authority employees will no longer be able to use their powers under relevant legislation and the exemption under the Data Protection Act 1998. The disclosure of communications data by Communication service providers will now only be permitted if a Notice to obtain and disclose (or in certain circumstances an Authorisation for an Officer to obtain it themselves) has been issued by the 'Designated person'.

Authorities are required to nominate Single Point of Contacts (SPOC) and that person(s) must have undertaken accredited training.

'Designated Persons' within the Council is now limited to the Head of Safer Communities.

Local authorities may only access to Customer Data or Service Data. **They cannot access 'traffic data'.**

Customer data (Subscriber)

Customer data is the most basic information about users of communication services.

It includes:-

- The name of the customer
- Addresses for billing, etc.
- Contact telephone numbers
- Abstract personal records provided by the customer (e.g. demographic information or sign up data)
- Account information (bill payment arrangements, bank or credit/debit card details)
- Services subscribed to.

Service Data (Service user)

This relates to the use of the Service Provider services by the customer, and includes:-

- Periods during which the customer used the service
- Information about the provision and use of forwarding and re-direction services
- Itemised records of telephone calls, internet connections, etc
- Connection, disconnect and re-connection
- Provision of conference calls, messaging services, etc
- Records of postal items, etc
- Top-up details for pre-pay mobile phones.

Traffic Data

This is data about the communication. It relates to data generated or acquired by the Service Provider in delivering or fulfilling the service. **Local authorities do not have access to this data.**

Authorisation Procedures

Directed surveillance and the use of a CHIS can only be lawfully carried out if properly authorised, and in strict accordance with the terms of the authorisation. **Appendix 2** provides a flow chart of the process to be followed.

Authorising Officers

Directed surveillance and or the use of CHIS can only be authorised by the officers listed in this document attached at appendix 1. Authorising officers should ensure that they undertake at least one refresher training course on RIPA during each calendar year. The list will be kept up to date by the Head of Safer Communities and amended as necessary. The SRO can add, delete or substitute posts to this list as required.

Authorisations under RIPA are separate from delegated authority to act under the Council's Scheme of Delegation and internal departmental Schemes of Management. RIPA authorisations are for specific investigations only, and must be renewed or cancelled once the specific surveillance is complete or about to expire.

Only the Chief Executive can authorise the use of a CHIS who is a juvenile or a vulnerable person or in cases where it is likely that confidential information will be obtained through the use of surveillance.

Authorising Officers–Access to Communications data

The Head of Safer Communities are the 'Designated persons' permitted to authorise the obtaining and disclosing of communications data. The National Anti Fraud Network will be the Single Point of Contact.

Training Records

A certificate of attendance will be given to anyone undertaking training in relation to the use of RIPA. Training will be recorded on their individual learning and development plan.

Single Points of Contact under Part 1 of the Act are required to undertake accredited training. A record will be kept of this training and any updating. This record is kept by NAFN. Designated persons are also required to be suitably trained.

Application Forms

Only the currently approved forms, available on the Home Office website, may be used. Any other forms will be rejected by the gatekeeper/authorising officer. Applications for communications data should be made via the NAFN website. Please contact NAFN for further information on this process – contact details on the Wave.

A gatekeeper role will be undertaken by either the Head of Safer Communities or the Principal Trading Standards Officer who will check that the applications have been completed on the correct forms, have a URN and that they contain sufficient grounds for authorisation. They will provide feedback to the applicant and will initial the forms before being submitted to the authorising officer.

The Head of Safer Communities can fulfil both the role as gatekeeper and authorising officer but will not fulfil both roles for an individual application.

Grounds for Authorisation

Directed Surveillance or the Conduct and Use of the CHIS and Access to Communications Data can be authorised by an Authorising Officer where he believes that the authorisation is necessary in the circumstances of the particular case. For local authorities the only ground that authorisation can be granted is;

- For the prevention or detection of crime

Serious Crime and Non RIPA Surveillance

Serious Crime

From 1st November 2012, the Protection of Freedoms Act introduced an additional requirement for officers seeking to use directed surveillance or CHIS. From this date, with the exception of Trading Standards' work regarding test purchases for alcohol and tobacco, all applications must meet the 'serious crime' threshold. This has been identified as any offence for which the offender could be imprisoned for 6 months or more. An analysis of relevant offences indicates that covert surveillance may therefore be used by, Trading Standards (various offences including doorstep crime and counterfeiting), Waste Enforcement (fly tipping), Fraud against the Council and Child Protection and Adult Safeguarding issues. Where an offence meets the serious crime threshold, the applicant will apply to the Authorising Officer in the normal way via a gatekeeper, but will then need to attend Magistrate's Court to obtain judicial sign off.

Non RIPA Surveillance

This new process will automatically restrict the use of surveillance activity under the RIPA framework by a number of our services as the offences they deal with do not meet the serious crime threshold.

RIPA does not grant any powers to carry out surveillance, it simply provides a framework that allows authorities to authorise surveillance in a manner that ensures compliance with the European Convention on Human Rights. Equally, RIPA does not prohibit surveillance from being carried out or require that surveillance may only be carried out following a successful RIPA application.

Whilst it is the intention of this Authority to use RIPA in all circumstances where it is available, for a Local Authority, this is limited to preventing or detecting crime and from 1st November 2012 to serious crime. The Authority recognises that there are times when it will be necessary to carry out covert directed surveillance when RIPA is not available to use. Under such circumstances, a RIPA application must be completed and clearly endorsed in red 'NON-RIPA SURVEILLANCE' along the top of the first page. The application must be submitted to a RIPA Authorising Officer in the normal fashion, who must consider it for Necessity and Proportionality in the same fashion as they would a RIPA application. The normal procedure of timescales, reviews and cancellations must be followed. Copies of all authorisations or refusals, the outcome of reviews or renewal applications and eventual cancellation must be notified to the Head of Safer Communities who will keep a

separate record of Non-RIPA activities, and monitor their use in the same manner as RIPA authorised activities.

Assessing the Application Form

Before an Authorising Officer authorises an application, **they must**

Be mindful of this Corporate Policy & Procedures Document

Satisfy themselves that the RIPA authorisation is

- **in accordance with the law,**
- **Necessary** in the circumstances of the particular case on the ground specified above; and
- **Proportionate** to what it seeks to achieve

This means that they must consider

- whether other less invasive methods to obtain the information have been considered. The least intrusive method will normally be considered the most proportionate unless for example it is impractical or would undermine the investigation.
- balance the right of privacy against the seriousness of the offence under investigation. When considering necessity and proportionality, an authorising officer should spell out in terms of the 5 W's, (who, what, why, where, when and how) what specific activity is being sanctioned.
- Take account of the risk of intrusion into the privacy of persons other than the specified subject of the surveillance (**Collateral Intrusion**).
- Ensure that measures are taken wherever practicable to avoid or minimise collateral intrusion.
- Set a date for review of the authorisation and review on only that date where appropriate.
- Ensure that the form carries a unique reference number
- Ensure that the applicant has sent a copy to the Head of Safer Communities for inclusion in the Central Register within 1 week of the authorisation.
- Ensure that the application is cancelled when required.

NB the application **MUST** make it clear how the proposed intrusion is necessary and how an absence of this evidence would prejudice the outcome of the investigation. If it does not then the application **SHOULD** be refused. Some guidance on how to complete the form for both authorising officers and applicants is available at **Appendix 4** and **Appendix 5**

Retention and Destruction of the Product

Where the product of surveillance could be relevant to pending or future legal proceedings, it should be retained in accordance with established disclosure requirements for a suitable further period. This should be in line with any subsequent review. Attention should be drawn to the requirements of the Code of Practice issued under the Criminal Procedures and Investigations Act 1996. This states that material obtained in the course of a criminal investigation and which may be relevant to the investigation must be recorded and retained.

There is nothing in RIPA 2000 which prevents material obtained from properly authorised surveillance being used in other investigations. However we must be mindful to handle store and destroy material obtained through the use of covert surveillance appropriately. It will be the responsibility of the Authorising Officer to ensure compliance with the appropriate data protection

requirements and to ensure that any material is not retained for any longer than is necessary. It will also be the responsibility of the Authorising Officer to ensure that the material is disposed of appropriately.

Confidential Material

Particular care should be taken where the subject of the investigation or operation might reasonably expect a high degree of privacy, or where confidential information is involved.

Confidential Information consists of matters subject to legal privilege, confidential personal information or confidential journalistic information. So for example extra care should be taken where through the use of surveillance, it would be possible to obtain knowledge of discussions between a minister of religion and an individual relating to the latter's spiritual welfare, or where matters of medical or journalistic confidentiality, or legal privilege may be involved.

Where it is likely, through the use of surveillance, that confidential information will be obtained, authorisation can only be granted by Heads of Service or in their absence the Chief Executive.

Descriptions of what may constitute legally privileged information are set out in section 98 of Police Act 1997 and further guidance is set out in Paragraphs 3.4-3.9 of the Home Office Code of Practice on Covert Surveillance.

Confidential Personal Information and Confidential Journalistic Information

Similar considerations to those involving legally privileged information must also be given to authorisations that involve the above. Confidential personal information is information held in confidence relating to the physical or mental health or spiritual counselling concerning an individual (whether living or dead) who can be identified from it. This information can be either written or oral and might include consultations between a doctor and patient or information from a patient's medical records. Spiritual counselling means conversations between an individual and a Minister of Religion acting in an official capacity, where the individual being counselled is seeking or the Minister is imparting forgiveness, absolution or the resolution of conscience with the authority of the Divine Being(s) of their faith.

Confidential journalistic material includes material acquired or created for the purpose of journalism and held subject to an undertaking to hold it in confidence, as well as communications resulting in information being acquired for the purposes of journalism and held subject to such an undertaking.

Further information or guidance regarding Confidential Information can be obtained from the Head of Law or the Head of Safer Communities.

Additional Safeguards when Authorising a CHIS

When authorising the conduct or use of a CHIS, the Authorising Officer **must also**

- Be satisfied that the **conduct** and/or **use** of the CHIS is proportionate to what is sought to be achieved;

- Be satisfied that **appropriate arrangements** are in place for the management and oversight of the CHIS and this must address health and safety issues through a risk assessment; At all times there will be a person designated to deal with the CHIS on behalf of the authority and for the source's security and welfare. This person should be in at least the position of Head of Service.
- Consider the likely degree of intrusion of all those potentially affected;
- Consider any adverse impact on community confidence that may result from the use or conduct of the information obtained; and
- Ensure **records** contain particulars and are not available except on a need to know basis

Records must be kept that contain the information set out in Statutory Instrument 2000/2725 – The Regulation of Investigatory Powers (Source Records) Regulations 2000. Further guidance on the requirements can be obtained from the Head of Safer Communities.

Duration

The application form **must be reviewed in the time stated and cancelled** once it is no longer needed. The 'authorisation' to conduct the surveillance lasts for a maximum of 3 months for Directed Surveillance and 12 months for a Covert Human Intelligence Source. In respect of a notice or authorisation to obtain communications data the period is one month.

Authorisations can be renewed in writing when the maximum period has expired. The Authorising Officer must consider the matter afresh, including taking into account the benefits of the surveillance to date, and any collateral intrusion that has occurred.

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

Urgent authorisations, if not ratified by written authorisation, will cease to have effect after 72 hours, beginning from the time when the authorisation was granted.

Working with Other Agencies

If an officer wishes to utilise the CCTV system operated by the Police

Directed Surveillance Authorisation must be obtained before an approach is made to the Control Room. If immediate action is required an Authorisation must be obtained within 72 hours of the request being made.

When some other agency has been instructed on behalf of the City Council to undertake any action under RIPA, this Document and the Forms in it must be used (as per normal procedure) and the agency advised or kept informed, as necessary, of the various requirements. They must be made aware explicitly what they are authorised to do.

When another Enforcement Agency (e.g. Police, HMRC etc): -

Wish to use the City Council's resources (e.g. CCTV surveillance systems), that agency must use its own RIPA procedures. Before any Officer agrees to allow the City Council's resources to be used for the other agency's purposes, they must obtain a copy of that agency's RIPA form, or written confirmation that a Directed Surveillance Authorisation is in place.

Wish to use the City Council's premises for their own RIPA action, the Officer should, normally, co-operate with the same, unless there is security or other good operational or managerial reasons as to why the City Council's premises should not be used for the agency's activities. Suitable insurance or other appropriate indemnities may be sought, if necessary, from the other agency for the City Council's co-operation in the agent's RIPA operation. In such cases, however, the City Council's own RIPA forms should not be used as the City Council is only 'assisting' not being 'involved' in the RIPA activity of the external agency.

Record Management

A Central Register of all Authorisation Forms will be maintained and monitored by the Head of safer Communities.

Records maintained in the Department

- A copy of the Forms together with any supplementary documentation and notification of the approval given by the Authorising Officer;
- A record of the period over which the surveillance has taken place;
- The frequency of reviews prescribed by the Authorising Officer;
- A record of the result of each review of the authorisation;
- A copy of any renewal of an authorisation, together with supporting
- Documentation submitted when the renewal was requested;
- The date and time when any instruction was given by the Authorising Officer;
- The Unique Reference Number for the authorisation (URN).

Central Register maintained by Safer Communities

Authorising Officers must forward details of each form to The partnership support officer Safer Communities for the Central Register, **within 1 week of the authorisation, review, renewal, cancellation or rejection.**

Records will be retained for six years from the ending of the authorisation. The Office of the Surveillance Commissioners (OSC) and the Interception Commissioner can audit/review the City Council's policies and procedures, and individual authorisations.

Consequences of Non Compliance

Where covert surveillance work is being proposed, this Policy and Guidance must be strictly adhered to in order to protect both the Council and individual officers from the following:

- **Inadmissible Evidence and Loss of a Court Case / Employment Tribunal / Internal Disciplinary Hearing** – there is a risk that, if Covert Surveillance and Covert Human Intelligence Sources are not handled properly, the evidence obtained may be held to be inadmissible. Section 78 of the Police and Criminal Evidence Act 1984 allows for evidence that was gathered in a way that affects the fairness of the criminal proceedings to be excluded. The Common Law Rule of Admissibility means that the court may exclude evidence because its prejudicial effect on the person facing the evidence outweighs any probative value the evidence has (probative v prejudicial).
- **Legal Challenge** – as a potential breach of Article 8 of the European Convention on Human Rights, which establishes a “right to respect for private and family life, home and correspondence”, incorporated into English Law by the Human Rights Act (HRA) 1998. This could not only cause embarrassment to the Council but any person aggrieved by the way a local authority carries out Covert Surveillance, as defined by RIPA, can apply to a Tribunal – see section 15.
- **Offence of unlawful disclosure** – disclosing personal data as defined by the DPA that has been gathered as part of a surveillance operation is an offence under Section 55 of the Act. Disclosure can be made but only where the officer disclosing is satisfied that it is necessary for the prevention and detection of crime, or apprehension or prosecution of offenders. Disclosure of personal data must be made where any statutory power or court order requires disclosure.
- **Fine or Imprisonment** – Interception of communications without consent is a criminal offence punishable by fine or up to two years in prison.
- **Censure** – the Office of Surveillance Commissioners conduct regular audits on how local authorities implement RIPA. If it is found that a local authority is not implementing RIPA properly, then this could result in censure.

Oversight by Members

- Elected Members shall have oversight of the Authority’s policy and shall review that policy annually.
- The report to members shall be presented to the Elected Members by the SRO. The report must not contain any information that identifies specific persons or operations.
- Alongside this report, the SRO will report details of ‘Non-RIPA’ surveillance in precisely the same fashion
- Elected Members may not interfere in individual authorisations. Their function is to, with reference to the reports; satisfy themselves that the Authority’s policy is robust and that it is being followed by all officers involved in this area. Although it is elected members who are accountable to the public for council actions, it is essential that there should be no possibility of political interference in law enforcement operations.

Concluding Remarks

Where there is an interference with the right to respect for private life and family guaranteed under Article 8 of the European Convention on Human Rights, and where there is no other source of lawful authority for the interference, or if it is held not to be necessary or proportionate to the circumstances, the consequences of not obtaining or following the correct authorisation procedure may be that the action (and the evidence obtained), is held to be inadmissible by the Courts pursuant to Section 6 of the Human Rights Act 1998.

Obtaining an authorisation under RIPA and following this document will ensure, therefore, that the action is carried out in accordance with the law and subject to stringent safeguards against abuse of anyone's human rights.

Authorising Officers should be suitably competent and must exercise their minds every time they are asked to sign the request. They must never sign or rubber stamp form(s) without thinking about their personal and the City Council's responsibilities.

Any boxes not needed on the Form(s) must be clearly marked as being 'NOT APPLICABLE', 'N/A' or a line put through the same. Great care must also be taken to ensure accurate information is used and is inserted in the correct boxes. Reasons for any refusal of an application must also be kept on the form and the form retained for future audits.

For further advice and assistance on RIPA, please contact the Head of Safer Communities.

Directed Surveillance/CHIS Forms can be obtained from the Home Office website or from NAFN in relation to Access to Communications Data.

Appendix 1: List of Authorising Officers

List of Authorised Officers

Post	Name
Head of Safer Communities	TBC
Head of Revenues and Benefits	Graham Bourne

Designated Person for Approving a Notice in Respect of Access to Communications Data

- Head of Safer Communities: TBC

Single Point of Contact for Accessing Communications Data

- National Anti Fraud Network (NAFN)

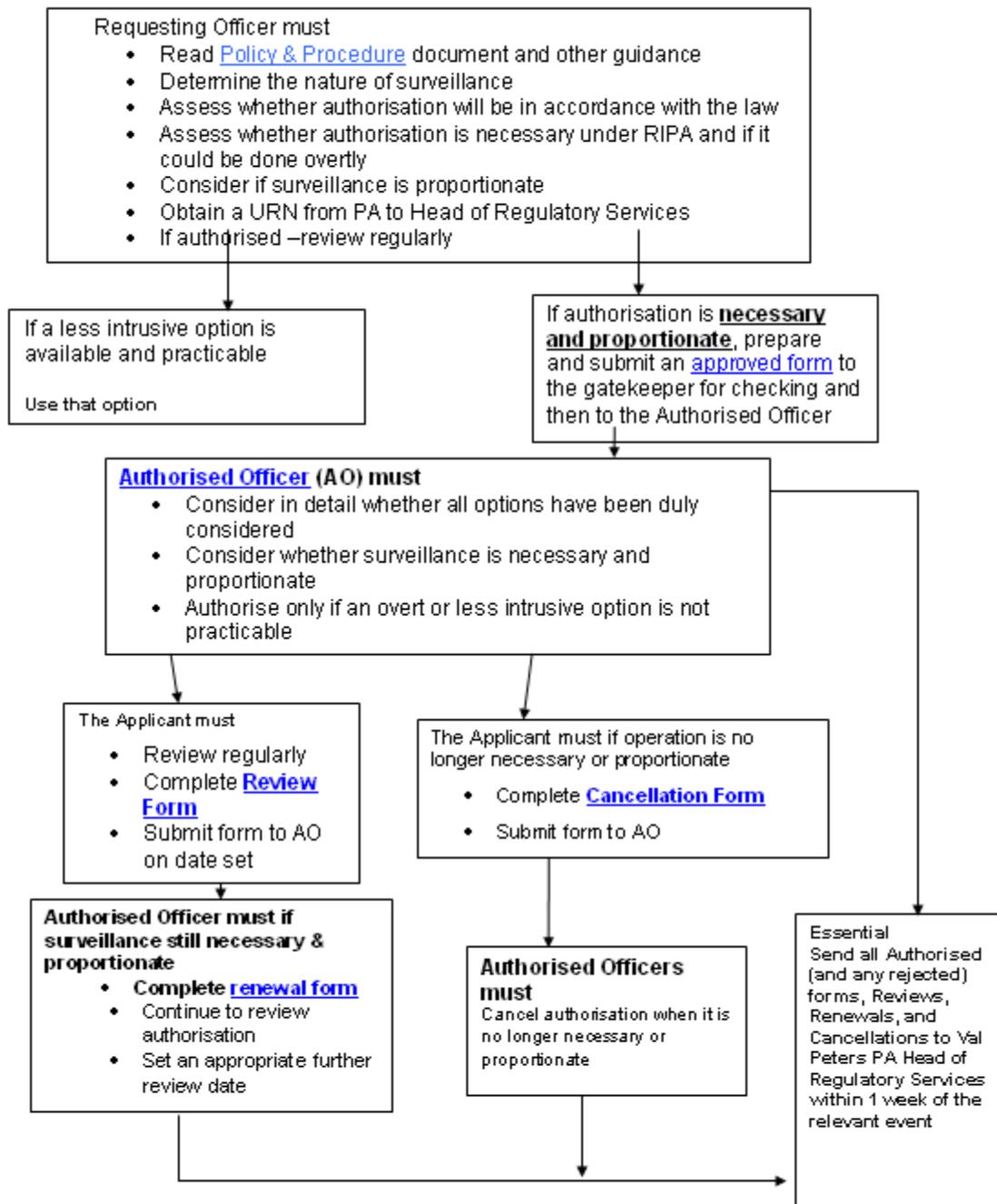
Gatekeepers

- Head of Safer Communities: TBC
- Principal Trading Standards Officer: John Peerless

Please contact Charlotte Farrell for a URN

Appendix 2: Flow chart outlining process

Authorising Directed Surveillance Process



Appendix 3: List of Useful Websites

RIPA Forms, Codes of Practice and Advice

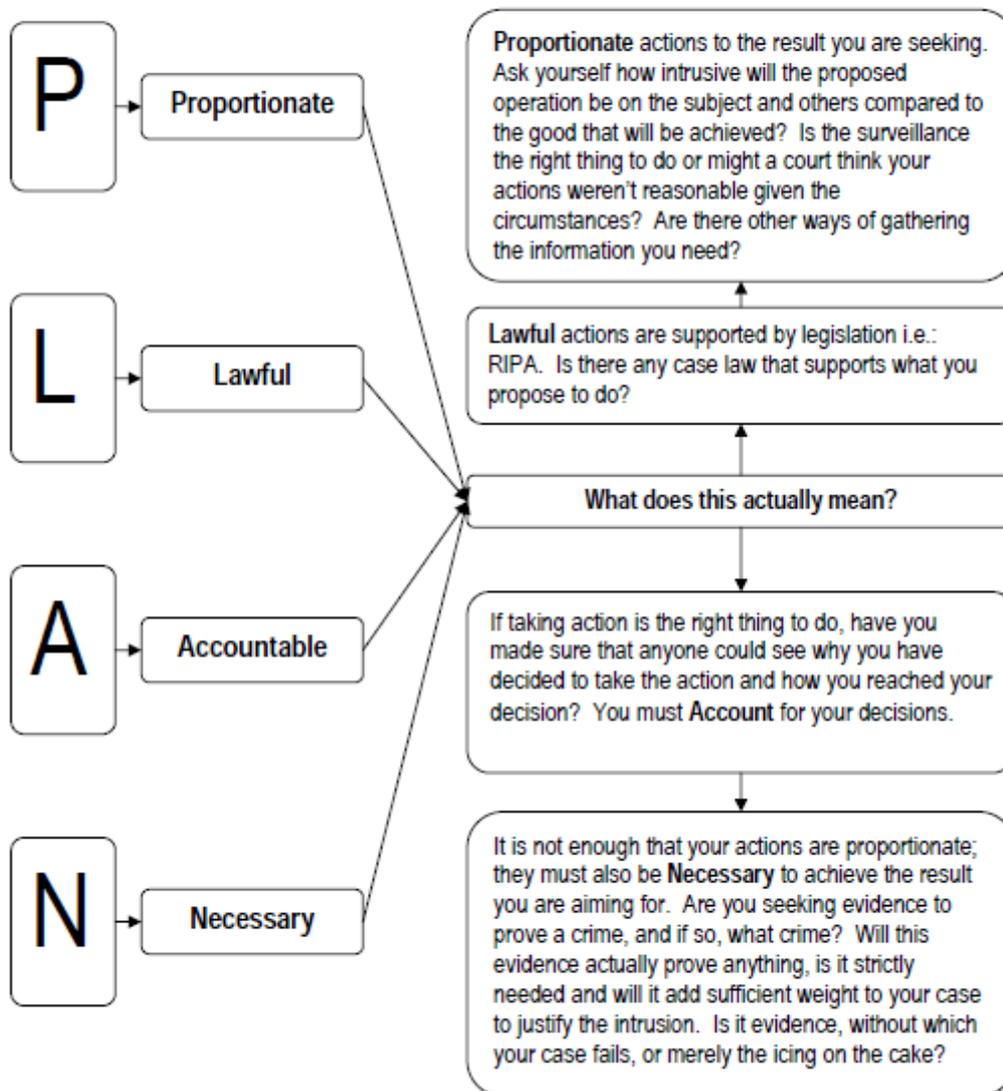
The policy requires you to use the most up-to-date versions of forms and codes of practice. Rather than reproduce forms and codes of practice that are subject to change, we have provided links to the currently approved versions. You should access the document you require by following the relevant link.

- The most up-to-date RIPA forms must always be used. These are available from the Home Office website and may be found by following this link :
<http://www.homeoffice.gov.uk/counter-terrorism/regulation-investigatory-powers/ripa-forms/>
- The full text of the Codes of Practice are available here :
<http://www.homeoffice.gov.uk/counter-terrorism/regulation-investigatory-powers/ripa-codes-of-practice/>
- The Act is available here:
<http://www.legislation.gov.uk/ukpga/2000/23/contents>
- The Office of Surveillance Commissioners website has some useful information and advice and is available here :
<http://surveillancecommissioners.independent.gov.uk/>

Appendix 4: Guidance for Authorising Officers

APPENDIX FOUR

Notes for Guidance for Authorisation – Directed Surveillance



Authorised Officer's Statement

12. Authorising Officer's Statement. [Spell out the "5 Ws" – Who, What, Where, When, Why and the following box.]
I hereby authorise directed surveillance defined as follows: [Why is the surveillance necessary directed against, Where and When will it take place, What surveillance activity/equipment is achieved?]
13. Explain why you believe the directed surveillance is necessary. [Code paragraph 2.4] Explain why you believe the directed surveillance to be proportionate to what is sought to be achieved by carrying it out. [Code paragraph 2.5]

You must start by fully explaining what operation you are authorising. State why the surveillance is necessary to the case, what will be achieved, how it will be carried out, how many people used, what equipment / vehicles / technology you authorise the use of and where the operation will happen.

Make sure it is clear exactly what it is that you are authorising.

Now you must explain your decision. Simply stating that you "agree with the officer who applied for the reasons they gave" is not acceptable. You must give, in your own words, a detailed account of how you came to decide that the operation was necessary and proportionate. Make sure that you review the guidance in section seven and show how the evidence is necessary to the offence, and how the offence is one that it is necessary to investigate. Now ensure that you demonstrate how the officer has shown the need to obtain the evidence to be proportionate, when balanced against the person's expectation of privacy, the privacy of innocent third parties and the seriousness of the offence.

If you have completed a surveillance authorisation worksheet, go back over this as you should have already stated your reasons there.

You must explain why you feel it is in the public interest to carry out the action; is it serious, prevalent in the area, an abuse of position, premeditated? Why do you think that the investigation will be prejudiced without surveillance? Are you certain there is no other obvious and less intrusive way of obtaining the information? Does it need to be done? Record everything in this section.

This section must stand on its own, if you are called to court to justify your authorisation.

Authorised Officer's Statement

14. (Confidential Information Authorisation.) Supply detail demonstrating compliance with 3.1 to 3.12		This section is to be completed only by the Senior Authorised Officer if confidential information might be obtained. They should explain why they felt it to be appropriate for the surveillance to be carried out. To comply with the codes, show how further measures, such as more regular reviews and stricter limitations, have been put in place due to the particularly sensitive nature of the operation.
Date of first review		
Programme for subsequent reviews of this authorisation: [Code paragraph 4.22]. Only complete dates after first review are known. If not or inappropriate to set additional review dates then leave		Use this box to record dates for review. The normal review period is no longer than every four weeks. It doesn't have to be completed but is useful to do so, especially when a shorter review period is appropriate.
Name (Print)	Grade / Rank	
Signature	Date and time	Finally, write your name, sign the form giving the date and time. You must also record the expiry date. This is always three months, to the minute, from the date that the authorisation was given, no longer, or shorter. The operation can be cancelled before this date if appropriate. (See 7.14 (above) for guidance.)
Expiry date and time [e.g.: authorised on 30 June 2005, 23.59]	Expiry date and time [e.g.: authorised on 1 April 2005 - expires]	

Sections 15 and 16:

These sections relate to oral authorisations that may be granted or renewed only in urgent cases. In the case that an oral authorisation is granted, the AO should record the reasons why they considered the case urgent and why they believed it was not practicable to delay in order for the investigator to complete an application. Urgent oral authorisations last for seventy-two hours from the time of the authorisation. The officer carrying out the surveillance must complete a written application at the earliest opportunity, not necessarily at the end of the seventy-two hours.

Appendix 5: Guidance for Applicants

The RIPA 1 Form – Guidance Notes on Completion

Directed Surveillance Unique Reference Number (URN) (to be supplied by the central monitoring officer).

Unique reference number. This must be provided by the Authorising Officer

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

APPLICATION FOR AUTHORISATION TO CARRY OUT DIRECTED SURVEILLANCE

Public Authority (including full address)

What public body do you work for? Record it here

Unit/Branch/Division

What dept / unit do you work in? Record it here.

Full address

Full address of your dept / office / building.

Contact details

Give a phone number, email address and / or fax number to contact you on.

Investigation/Operation Name (if applicable)

You can give the operation a name if you wish.

Investigating Officer (if a person other than the applicant)

If the person who is the investigator in the case is someone other than you, record their name here.

Details of application:

1. Give rank or position of authorising officer in accordance with the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2003; No. 3171. For local authorities exact position of the authorising officer should be given. For example, Head of Trading Standards.

You must give the position of the Authorised Officer who will be reviewing the application. You do not need to give their name. This should be their full job title, rank or position.

Page Two

Enter a summary of the reason for the operation and what you are planning to do. Be brief: what will you do, why are you doing it and what will you get out of it?

2. Describe the purpose of the specific operation or investigation.

3. 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.

What methods will you use for the surveillance? What are the technical aspects? Who, what, when, where, how long, how many, equipment etc. Mention everything. You will not be authorised to do things you don't mention here.

4. The identities, where known, of those to be subject of the directed surveillance.

Name:

- Address:
- DOB:
- Other information as appropriate:

5. Explain the information that it is desired to obtain as a result of the directed surveillance.

Who are you intending to gather evidence on? If you do not know the identity of all parties you must describe them as best as you are able.

What evidence do you intend to obtain from the surveillance? Specify exactly what you intend to get, how much and what types. This is so a judgement can be made on the weight of the evidence that you will get. Be careful what you write here: when you have achieved these aims the surveillance must stop immediately.

Page Three

<p>Specify the offences that you are investigating or preventing. State why the information has to be obtained by surveillance, why do you need it for the reason you specified? How is it essential to the case?</p>	<p>6. Identify on which grounds the directed surveillance is necessary under Section 28(3) of RIPA. Delete that are inapplicable. Ensure that you know which of these grounds you are entitled to rely on. (SI 2003 No 3171)</p> <ul style="list-style-type: none">• In the interests of national security;• For the purpose of preventing or detecting crime or of preventing disorder;• In the interests of the economic well-being of the United Kingdom;• In the interests of public safety;• for the purpose of protecting public health;• for the purpose of assessing or collecting any tax, duty, levy or other imposition, contribution or charge payable to a government department; <p>7. Explain why this directed surveillance is necessary on the grounds you have identified [Code paragraph 2.4]</p> <p>8. Supply details of any potential collateral intrusion and why the intrusion is unavoidable. [Bear in mind Code paragraphs 2.6 to 2.10.] Describe precautions you will take to minimise collateral intrusion</p>	<p>Cross out the conditions that do not apply to you. In the case of a local authority, the only one that <i>does</i> is prevention or detecting crime or disorder.</p>
<p>Collateral intrusion is where the operation interferes with the private lives of those not intended to be subject to the surveillance. This could be members of the suspect's family, their partners, colleagues or members of the public. You must identify where there is a risk that you will gather this sort of information. You must take steps to minimise this risk and show that the risk left is unavoidable: what times are you conducting surveillance? Can you avoid catching others on camera? Do you have facilities to remove identifying features? The AO must be satisfied that the need to carry out the operation outweighs this risk.</p>		

Page Four

This is where you must justify your actions as proportionate. You should have completed a planner and decided that surveillance is necessary and the last resort. Record here what you have done already and what you cannot do as it'll prejudice the investigation. Tell the AO why the need to carry out the action outweighs the suspect's right to privacy. How serious is the matter? How intrusive will the operation be on the suspect and on others? What might happen if you don't carry out surveillance? Why can't you get the information in other ways? What will be achieved by gathering the evidence?

9. Explain why this directed surveillance is proportionate to what it s
be on the subject of surveillance or on others? And why is this
surveillance in operational terms or can the evidence be obtained
2.5]

...ive might it
by the need for
...? (Code paragraph
2.5]

10. Confidential information [Code paragraphs 3.1 to 3.12].

INDICATE THE LIKELIHOOD OF ACQUIRING ANY CONFIDENTIAL INFORMATION.

11. Applicant's details

Name (print)		Tel No:	
Grade/Rank		Date	
Signature			

Confidential information is *special knowledge* of a person's religious, political or medical life or information of a confidential journalistic nature (journalistic sources). Communications subject to legal privilege are also confidential. If there is a chance that you might gather this sort of information, indicate the risk here. The authorisation can then only be given by the person within your public body designated by the RIPA code of practice for this purpose.

Finish by giving your name, telephone number, job title or rank. Date the form and sign it.

Brighton & Hove City Council

Audit & Standards Committee

Agenda Item 38

Subject: Standards Update, including annual review of member complaints

Date of meeting: 30th January 2024

Report of: Executive Director, Governance, People & Resources and Monitoring Officer

Contact Officer: Victoria Simpson, Senior Lawyer – Corporate Law
Tel: 01273 294687
Email: Victoria.Simpson@brighton-hove.gov.uk

Ward(s) affected: All

For general release

1. Purpose of the report and policy context

1.1. To provide an update on Standards-related matters, including a review of complaints received in during 2023 alleging that Members have breached the Council's Code of Conduct for Members.

2. Recommendations

2.1. That the Audit & Standards Committee note the contents of this report.

3. Context and background information

3.1. The Council is required by the Localism Act 2011 to have in place arrangements for dealing with complaints against elected and co-opted Members. Brighton & Hove City Council regularly reviews the arrangements it has in place, including its Code of Conduct for Members and related Procedure and guidance. It is transparent about those arrangements, which it publishes on [its website](#). It also makes data regarding the complaints received in about member conduct publicly available via the reports to this Committee.

3.2. Members will be aware that since the passing of the Localism Act 2011, Standards Committees have no power to suspend a Member where there has been a finding that the Code has been breached. The options are limited to censuring a Member and/or taking measures such as recommending training -which the subject Member is free to accept or reject. The Government's response in March 2022 to the detailed 2019 review carried out by the Committee on Standards in Public Life on local government standards indicates that the current Government does not plan to make any substantive legislative changes to this framework.

- 3.3. At Brighton & Hove City Council, the Audit & Standards Committee has delegated authority for leading in discharging the statutory requirement that the Council maintain and promote high standards of conduct by Members. This Committee receives quarterly reports on complaints against members as well as information on the training and briefings offered to assist Members in discharging their responsibilities according to the expectations of the Nolan Principles.
- 3.4. This quarterly Report provides data on the complaints both still outstanding at the time of the last Report, and those which have been received in since then. In this way, the Report seeks to provide reassurance that recent complaints are being considered and dealt with pursuant to the Council's processes.
- 3.5. It also provides data on complaints received in during the 2023 calendar year with a view to enabling members to better assess the overall picture.
- 3.6. Members are asked to note the contents of the Report and to make any comments or suggestions they wish, including regarding the ongoing challenges of dealing with the complaints received in by this authority in a context of budgetary pressures.

4. Data re Member Complaints

Complaints previously reported to this Committee

- 4.1. In accordance with the last report to this Committee, this data is provided in the attached Appendix 1, at table 1.
- 4.2. It will be noted that all of the complaints reported on in the September Update have now been determined, the majority of them by decisions by the Monitoring Officer (having consulted with one of the Council's three Independent Persons) to take no action at preliminary assessment stage.

Complaints received in since the last Update, in September 2023

- 4.3. This data is provided in table 2 of Appendix 1.
- 4.4. All of the complaints referred to in this section are being progressed by the Monitoring Officer in accordance with the Procedure which governs member complaints.

Annual review of Member Complaints

- 4.5. This Report seeks to provide annual review data which may be read alongside [the Report on this same topic published this time last year](#). The data provided in Appendix 2 offers a flavour of the volume of complaints made about elected members during 2023 and on their subject matter. There is no legal requirement to make member complaint data publicly available and – in a context where this Council goes much further than many others in terms of the information it makes available - data from other authorities is limited. That said, past attempts at benchmarking have

consistently indicated that more complaints appear to be made to Brighton & Hove City Council appear to be made than at comparator authorities. It may be relevant to see this phenomenon in the context of the high degree of democratic engagement which is so much a feature in this City.

- 4.6. The Appendix provides an indication of the subject matter of complaints, which continue to be spread across the full range of activities carried out by elected Members in their capacity as Council and ward Members. In terms of other comments: complaints continue to vary not just in terms of complexity but also seriousness. All complaints are reported as such, including those which do not meet the initial tests in the Procedure. whether because there is insufficient evidence to support them or for another reason.
- 4.7. Otherwise, and in a context where the composition of the Council changed significantly midway through the calendar year (following the May 2023 local elections), Members are simply asked to note this Report.

5. Member Training

- 5.1. To assist Committee in discharging its role in promoting and maintaining high standards of conduct by councillors, member training sessions on standards-related matters is offered in addition to the member development training run by other areas in the Council.
- 5.2. Following the local elections in May there was a particular focus on providing all elected members – including but not only those who were new - with the tools they needed to carry out their roles effectively, while acting within the Code. This included offering sessions focused on the Council's standards arrangements and on how members are expected to discharge their duties in accordance with the Code of Conduct. This training is a requirement for all members and a repeat session will be planned for those members who have not yet attended in early 2024, with an invitation extended to the newly elected councillor for South Portslade.

6. Analysis and consideration of alternative options

- 6.1. The Council is obliged under the Localism Act to make arrangements for maintaining high standards of conduct among members and to make arrangements for the investigation of complaints. This Council's arrangements are regularly reviewed. This Report draws attention to available data without recommending specific options.

7. Community engagement and consultation

- 7.1. Past reviews of the Council's Standards arrangements (most recently in 2021) have been carried out by its elected Members and the Council's Independent Persons, supported by officers who have provided stakeholder data as well as signposting relevant LGA resources. While the local community has not been consulted or provided input, this could be an option for future reviews.

8. Conclusion

- 8.1. Members are asked to note the contents of this Report, which aims to assist the Council in discharging its responsibilities for overseeing that high standards of conduct are maintained in a way which is compliant with local requirements.

9. Financial implications

- 9.1. There are no additional financial implications arising from the recommendation in this Report. All activity referred to has been, or will be, met from existing budgets.

Finance officer consulted: Nigel Manvell Date consulted: 14/1/24

10. Legal implications

- 10.1. These are covered in the body of the Report.

Name of lawyer consulted: Victoria Simpson Date consulted 08/01/24

11. Equalities implications

- 11.1. There are no equalities implications arising from this Report. It provides reassurance on the arrangements which have been developed with the need to ensure the Council and its members discharge their responsibilities with appropriate regard for equalities considerations in mind.

12. Sustainability implications

- 12.1. No sustainability implications have been identified.

13. Other Implications

- 13.1. No significant other implications have been identified as arising from this Report.

Supporting Documentation

Appendices

1. Appendix 1 – data on member complaints
2. Appendix 2 – annual overview of complaints, showing data from 2023

Appendix 1: Complaint data

Table 1: Complaints previously reported to this Committee (at its [September 2023 meeting](#))

Case No	Date	Status of complaint	If concluded, basis on which decision was taken	Complaint Topic <i>*note see end of Appendix 2 for key</i>	Additional notes
A/2023	Jan/ Feb 2023	Determined by decision to take no action at preliminary assessment stage.	Insufficient evidence of conduct contrary to the Code identified to merit referral of complaint for formal investigation.	A	Complainant alleged that member had acted toward them in a way which exhibited prejudice and bias.
C/2023	Jan 2023	Although a decision was taken to refer complaint for formal investigation, it has since been determined without a finding being made.	In the absence of a legal basis for reviewing the conduct complained of against the Code, this complaint was closed.	A	Complainant alleged that member had engaged in conduct contrary to the Code which failed to meet appropriate standards of respect and courtesy.
R2023	July 2023	Determined by decision to take no action at preliminary assessment	Investigation was neither proportionate nor necessary in the public interest to merit referral of complaint for formal investigation.	B	Complainant alleged that the member breached the Code of Conduct at a Council meeting when responding to a public question submitted by the complainant. .

		stage.			
S2023	September 2023	Determined by decision to take no action at preliminary assessment stage.	Insufficient evidence of conduct contrary to the Code identified to merit referral of complaint for formal investigation.	A	Complaint against a current elected member alleging that a leaflet to the constituents in their ward breached the expectations of the Code.
T2023	September 2023	Determined by decision to take no action at preliminary assessment stage.	Insufficient evidence of conduct contrary to the Code identified to merit referral of complaint for formal investigation.	A	Complainant alleged that the member had been insufficiently responsive to the complainant's requests for information/ input about a local issue.
U2023	September 2023	Determined by decision to take no action at preliminary assessment stage.	Insufficient evidence of conduct contrary to the Code identified to merit referral of complaint for formal investigation.	A	Complaint against two current elected members of the same ward alleging that they had both failed to respond to concerns about a ward issue articulated via email.

Table 2: Complaints received in since September 2023

Case No	Date	Status of complaint	If concluded, basis on which decision was taken	Complaint Topic	Additional notes
V2023	November 2023	Determined by decision	Insufficient evidence of	A	Complaint against member alleging failure to respond to concerns about a ward issue articulated via email and voicemail.

		to take no action at preliminary assessment stage.	conduct contrary to the Code identified to merit referral of complaint for formal investigation.		
W2023	November 2023	Ongoing	N/A	D	Complaint about member's posts on social media re events in the global arena.
X2023	November 2023	Determined by decision to take no action at preliminary assessment stage.	Insufficient evidence of conduct contrary to the Code identified to merit referral of complaint for formal investigation.	B	Complaint against two members regarding conduct at the Children, Families and Schools Committee and one of the member's comments on X, formerly known as Twitter, after the CFS meeting.
Y2023	November 2023	Determined by decision to take no action at preliminary assessment stage.	Insufficient evidence of conduct contrary to the Code identified to merit referral of complaint for formal investigation.	D	Complaint about member's retweets / posts on social media re events in the global arena.
Z2023	November 2023	Determined by decision to take no action at preliminary assessment stage.	Insufficient evidence of conduct contrary to the Code identified to merit referral of complaint for formal investigation.	B	Complaint against member's conduct towards other Councillors at the Culture, Heritage, Sport, Tourism & Economic Development Committee.
AA2023	November 2023	Remains at preliminary assessment stage and is	N/A	B	Complaint about a member's conduct at an online consultation session with a Council maintained school.

		with the Independent Person for review.			
BB2023	November 2023	Determined by decision to take no action at preliminary assessment stage.	Insufficient evidence of conduct contrary to the Code identified to merit referral of complaint for formal investigation.	B	Complainant alleged that member had breached the Code of Conduct at meetings of the Council in the context of an item relating to alleged child safeguarding concerns.
CC2023	December 2023	Determined by decision to take no action at preliminary assessment stage.	Insufficient evidence of conduct contrary to the Code identified to merit referral of complaint for formal investigation.	B	Complaint against two members alleging that they had breached the Code of Conduct at a meeting of Full Council in the context of an item relating to alleged child safeguarding concerns.
DD2023	December 2023	Remains at preliminary assessment stage and is with the Independent Person for review.	N/A	A	Complaint against member alleging failure to respond to concerns about child safeguarding concerns in schools articulated via email.
EE2023	December 2023	Remains at preliminary assessment stage and is with the	N/A	D	Complaint about member's comments on a Brighton and Hove news article regarding events in the global arena

		Independent Person for review.			
FF2023	December 2023	Remains at preliminary assessment stage and is with the Independent Person for review.	N/A	A	Complaint against member alleging failure to respond to concerns about a ward issue articulated via email.
GG2023	December 2023	Determined by decision to take no action at preliminary assessment stage.	Investigation was neither proportionate nor necessary in the public interest to merit referral of complaint for formal investigation.	B	Complaint against member regarding their response in Committee to a written question concerning a section 106 agreement involving the Council.
A2024	January 2024	Ongoing	N/A	A	Complaint regarding information given by a member regarding their place of residence whilst campaigning for the May 2023 local elections.
B2024	January 2024	Ongoing	N/A	A	Complaint alleged that member had engaged in conduct contrary to the Code by failing to act with integrity and honesty and / or failing to act lawfully by providing a false place of residence, plus also alleged failures to respond re ward issues via email.
C2024	January 2024	Ongoing	N/A	A	Complaint alleged that the member had been insufficiently responsive to the complainant's requests for information about

					the Council's services in the local area and about being asked to make an email appointment to see the member to discuss ward issues.
D2024	January 2024	Ongoing	N/A	A	Complaint against member alleging failure to respond to concerns about a ward issue articulated via email.

Key to Complaint topics

Code	Description of type of conduct complained about
A	<i>Complaints about members' conduct in their wards, including when discharging their ward responsibilities or otherwise communicating with constituents or other stakeholders.</i>
B	<i>Complaints about comments or conduct either at council meetings, or at meetings at which members are representing BHCC</i>
C	<i>Complaints about conduct relating to council business or other members made outside council meetings, including on social media</i>
D	<i>Complaints about a member's conduct or position on an issue which is not council business or a ward matter, including conduct or a statement reported in the press or made on social media</i>

Appendix 2

Overview of complaints alleging that members have breached the code of conduct which were received in between 1st Jan & 31st Dec 2023

Section one – volume & status of complaints

Table 1 - Number of complaints

Complaints against members made in 2019	Complaints against members made in 2020	Complaints against members made in 2021	Complaints against members made in 2022	Complaints against members made in 2023
13	33	36	26	31

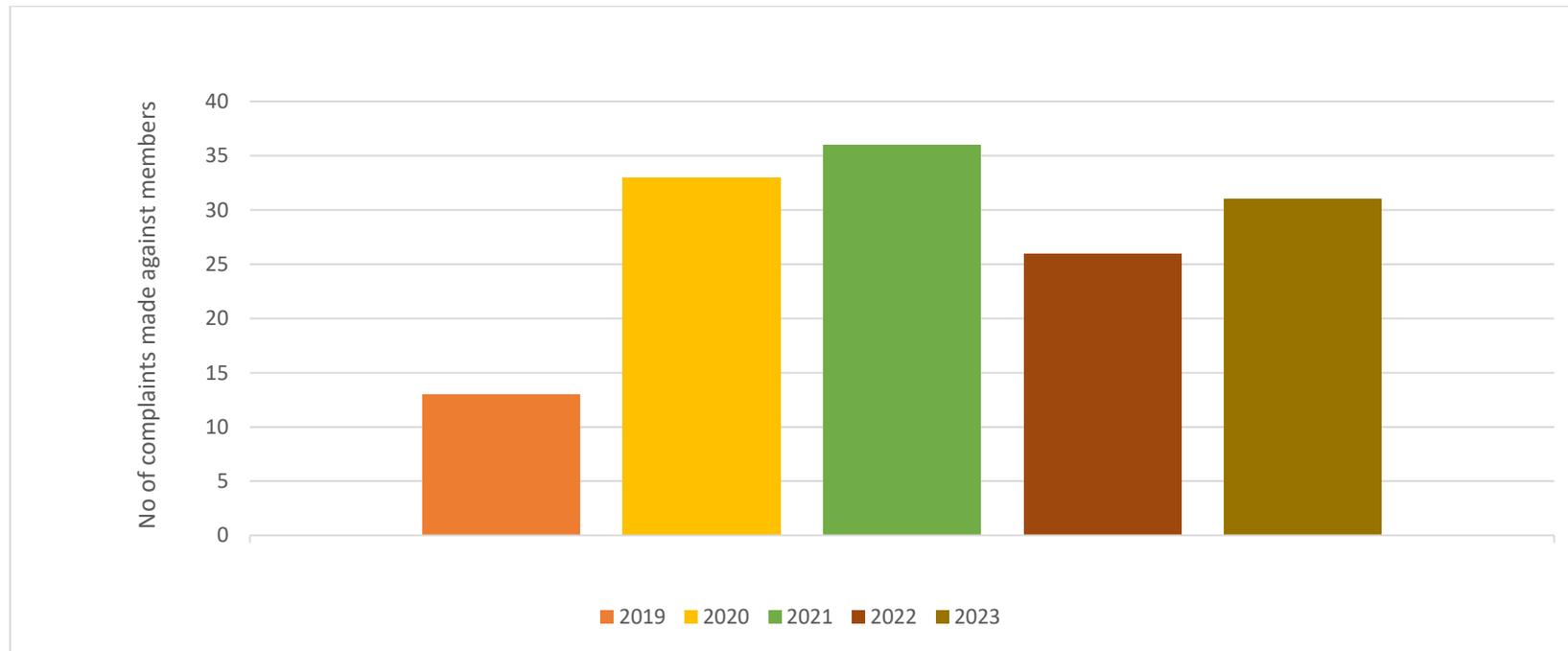
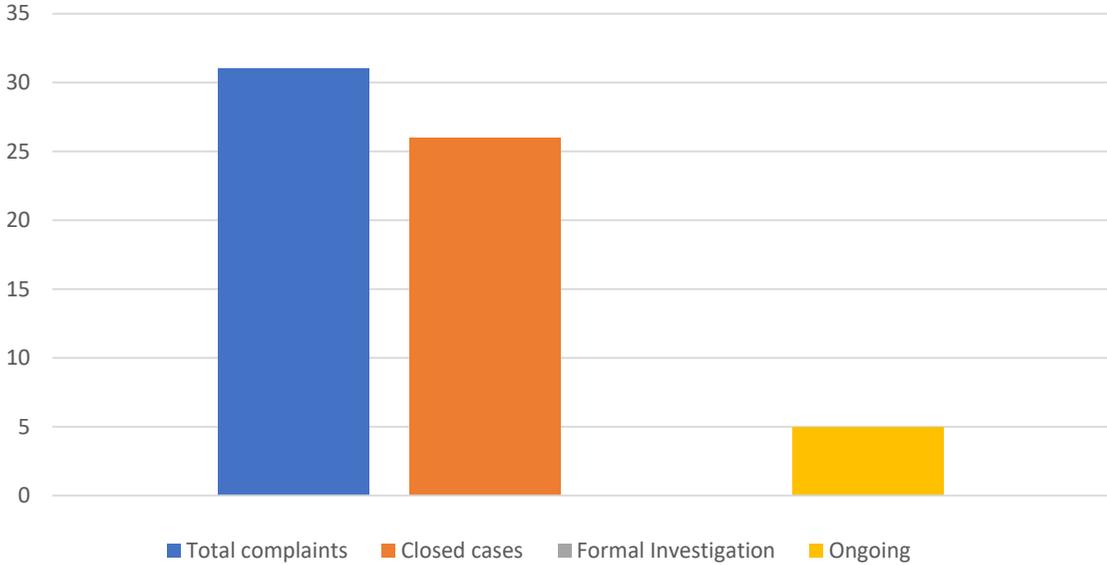


Table 1.1 – Status of complaints received in during 2023 as at 17/1/24



Comments:

- 26 complaints have been determined while 5 remain at preliminary assessment stage at time of writing.

Section two – Data re subject members (ie the members who were the subject of complaints) and also complainants

Table 2.1 – subject members

	Total number of councillors complained about
2023	27
2022	11

Table 2.2 - complainants¹

	Complaints made by members about other members	Complaints made by residents or other stakeholders*
2023	6	25
2022	3	23
2021	5	31

¹ NB complaints made about members by officers are normally dealt with under the Council's Officer/ Member Protocol.

Section 3 - Complaint topics/ content

Table 3.1 – Complaint topics

Code	Description of type of conduct complained about	2023	2022	2021
A	Complaints (including but not only by constituents) about members' discharge of their ward responsibilities, or other activities in their wards	18	6	14
B	Complaints about comments or conduct either at council meetings, or at meetings at which members are representing BHCC	10	8	3
C	Complaints about conduct relating to council business or other members made outside council meetings, including on social media	0	9	16
D	Complaints about a member's conduct or position on an issue which is not council business or a ward matter, including conduct or a statement reported in the press or made on social media	3	3	3