

West Devon Audit Committee



West Devon
Borough
Council

| | |
|--|---|
| Title: | Agenda |
| Date: | Tuesday, 9th February, 2021 |
| Time: | 2.00 pm |
| Venue: | Teams |
| Full Members: | <p style="text-align: center;">Chairman Cllr Davies Vice Chairman Cllr Vachon</p> <p><i>Members:</i> Cllr Ball Cllr Ridgers Cllr Bridgewater Cllr Yelland Cllr Renders</p> |
| Interests – Declaration and Restriction on Participation: | Members are reminded of their responsibility to declare any disclosable pecuniary interest not entered in the Authority's register or local non pecuniary interest which they have in any item of business on the agenda (subject to the exception for sensitive information) and to leave the meeting prior to discussion and voting on an item in which they have a disclosable pecuniary interest. |
| Committee administrator: | Democratic.Services@swdevon.gov.uk |

1. Apologies for absence

2. Declarations of interest

Members are invited to declare any personal or disclosable pecuniary interests, including the nature and extent of such interests they may have in any items to be considered at this meeting.

If Councillors have any questions relating to predetermination, bias or interests in items on this Agenda then please contact the Monitoring Officer in advance of the meeting.

3. Items Requiring Urgent Attention

To consider those items which, in the opinion of the Chairman, should be considered by the Meeting as matters of urgency (if any).

4. Confirmation of Minutes

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Meeting held on 13 October 2020

5. Grant Thornton - Annual Audit Letter

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6. Treasury Management Mid-Year Review

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7. Update on Progress on the 2020-21 Internal Audit Plan

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8. Sundry Debt

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9. Regulation of Investigatory Powers Act 2000 (RIPA) Update

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PART TWO – ITEMS WHICH MAY BE TAKEN IN THE ABSENCE OF THE PUBLIC AND PRESS ON THE GROUNDS THAT EXEMPT INFORMATION MAY BE DISCLOSED (if any).

The Committee is recommended to pass the following resolution:

“**RESOLVED** that under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the Meeting on the grounds that exempt information may be disclosed as defined in the paragraph given below in bold type from Part I of Schedule 12(A) to the Act.”

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Agenda Item 4

At a Meeting of the **AUDIT COMMITTEE** held remotely by Skype, on **TUESDAY** the **13th** day of **October 2020** at **2.00pm**

Present:

- Cllr M Davies (Chairman)
- Cllr P Vachon (Vice Chair)
- Cllr K Ball
- Cllr A Bridgewater
- Cllr M Renders
- Cllr P Ridgers
- Cllr J Yelland

Officers in attendance:

- Section 151 Officer
- Head of Finance
- External Auditors
- Democratic Services Manager
- Accountant Business Partners
- Senior Case Officer – Democratic Services

Also in attendance: Cllr C Edmonds

***AC 10 ITEMS REQUIRING URGENT ATTENTION**

There were no items requiring urgent attention raised by the Chairman.

***AC 11 CONFIRMATION OF MINUTES**

The Minutes of the Committee Meeting held on 21 July 2020 were confirmed as a correct record.

***AC 12 GRANT THORNTON (ISA260) REPORT ACCOUNTS – THE AUDIT FINDINGS FOR WEST DEVON BOROUGH COUNCIL**

The External Auditor introduced the agenda item and stated the impact that the Covid-19 Pandemic had on this year's audit. Timescales of the audit of accounts had been extended, as it had nationally. Some detail was still needed around pensions. An unqualified audit opinion was proposed on the financial statements. In relation to the 'land and buildings and investment property matter', a paragraph was included due to material uncertainty. He went on to explain this was consistent nationwide and related to the Covid-19 impact. An Unqualified Value for Money opinion was to be proposed.

In reply to a Member question, the Section 151 officer confirmed that there was no material uncertainty and so the accounts had been prepared on a going concern basis.

The External Auditor confirmed that the Council had a clean audit opinion on both the financial statements and the Value for Money conclusion. The Chairman thanked the finance team for their hard work.

It was then **RESOLVED** that:

The Grant Thornton Report Accounts be noted.

***AC 13 GRANT THORNTON REPORT – INFORMING THE AUDIT RISK ASSESSMENT FOR WEST DEVON BOROUGH COUNCIL 2019/20**

The External Auditor took Members through the report. There were no questions from Members.

It was then **RESOLVED** that:

The Grant Thornton Report was noted.

***AC 14 GRANT THORNTON REPORT - COVID-19 AND LOCAL GOVERNMENT**

Confirming that Councils were facing difficulties in the Covid-19 Pandemic response and would continue to do so until recovery was in place, the External Auditor set out where the sector was in regard to the Pandemic. The S151 Officer, responding to a question, stated that additional grant funding was to be announced by the Chancellor but as yet no information about how it could be spent had been given. It was noted that £25,512 had been allocated for enforcement and compliance.

It was **RESOLVED** that:

The Grant Thornton Report be noted.

***AC 15 GRANT THORNTON REPORT – LOCAL GOVERNMENT AUDIT AND FINANCIAL REPORTING – THE REDMOND REVIEW**

The External Auditor introduced the Members to the report. As part of the Redmond Review, the July deadline was to move permanently to September. Recommendation that CIPFA will look to simplify the accounts.

A recommendation was also made for the audit fee to rise by 25%. The S151 Officer advised that providing extra statements to the accounts would be extra work for the team and she felt it was already covered within the Narrative Statement of the Accounts.

It was **RESOLVED** that:

The Grant Thornton Report be noted.

***AC 16 AUDITED STATEMENT OF ACCOUNTS 2019/20 AND ANNUAL GOVERNANCE STATEMENT 2019/20 (INCLUDING LETTER OF REPRESENTATION)**

Cllr Edmonds presented the Statement to the Committee. He thanked the finance team for their prudent management of the council's finances. He introduced and welcomed Clare Scotton as the new Business Partner within the finance team.

In discussion, a Member queried the 285% increase in cards payment fees. The S151 Officer confirmed the £20,000 additional cost was built into the base budget for next year.

The S151 Officer also stated that the dormant company, Servaco Ltd did not incur any costs apart from filing a set of accounts. She also confirmed that, due to Covid-19, there would be extra costs incurred for next year's elections. Costs would be largely recharged to the Police & Crime Commissioner's Office and Devon County Council.

A Member queried the reasons for Members' Allowances being higher. This was due to a pay award and also due to the fact that the previous Leader of the Council had also been the Chairman of the Development Management & Licensing Committee and could not claim two Special Responsibility Allowances. There were now two separate post holders to those two roles.

It was **RESOLVED** that the Committee approve:

1. The wording of the Letter of Representation (Appendix A);
2. The audited Statement of Accounts for the financial year ended 31 March 2020 (Appendix B); and
3. The Annual Governance Statement post audit (Appendix C).

***AC 17**

ANNUAL TREASURY MANAGEMENT REPORT FOR 2019/20

Cllr Edmonds introduced the Annual Treasury Management Report for 2019/20. In response to a member question asking about possible negative interest rates the S151 Officer stated that most of the council's investments are kept short apart from the £500,000 in CCLA. They would take advice from the Treasury Management advisors should this happen.

It was **RESOLVED** that:

1. The Audit Committee approved the actual 2019/20 prudential and treasury indicators in the report; and
2. Noted the Annual Treasury Management report for 2019/20

***AC 18**

AUDIT COMMITTEE WORKPLAN

The S151 Officer took Members through the latest version of the Workplan and it was agreed that a verbal Health & Safety update would be considered at the Audit Committee meeting in February 2021.

(The Meeting terminated at 3.35pm)

Dated this

Chairman

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The Annual Audit Letter for West Devon Borough Council

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Year ended 31 March 2020
15 December 2020



Contents



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Section

1. Executive Summary
2. Audit of the Financial Statements
3. Value for Money conclusion

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Appendices

- A Reports issued and fees

Executive Summary

Purpose

Our Annual Audit Letter (Letter) summarises the key findings arising from the work that we have carried out at West Devon Borough Council (the Council) for the year ended 31 March 2020.

This Letter is intended to provide a commentary on the results of our work to the Council and external stakeholders, and to highlight issues that we wish to draw to the attention of the public. In preparing this Letter, we have followed the National Audit Office (NAO)'s Code of Audit Practice and Auditor Guidance Note (AGN) 07 – 'Auditor Reporting'. We reported the detailed findings from our audit work to the Council's Audit Committee as those charged with governance in our Audit Findings Report on 13 October 2020 and the subsequent addendum.

Our work

Materiality

We determined materiality for the audit of the Council's financial statements to be £502,000, which is approximately 1.8% of the Council's gross cost of services.

Financial Statements opinion

We gave an unqualified opinion on the Council's financial statements on 30 November 2020.

We included an emphasis of matter paragraph in our report in respect of the uncertainty over valuations of the Council's land and buildings, investment properties and the property assets of the pension fund assets given the Coronavirus pandemic. This does not affect our opinion that the statements give a true and fair view of the Council's financial position and its income and expenditure for the year. This was a national issue arising from the pandemic and the Council's valuer followed the national guidance issued by RICs in this area.

Whole of Government Accounts (WGA)

We completed work on the Council's consolidation return following guidance issued by the NAO.

Use of statutory powers

We did not identify any matters which required us to exercise our additional statutory powers.

Value for Money arrangements

We were satisfied that the Council put in place proper arrangements to ensure economy, efficiency and effectiveness in its use of resources. We reflected this in our audit report to the Council on 30 November 2020.

Certificate

We certified that we have completed the audit of the financial statements of West Devon Borough Council in accordance with the requirements of the Code of Audit Practice on 30 November 2020.

Working with the Council

We would like to take this opportunity to record our appreciation for the assistance and timely collaboration provided by the finance team and other staff during these unprecedented times.

Respective responsibilities

We have carried out our audit in accordance with the NAO's Code of Audit Practice, which reflects the requirements of the Local Audit and Accountability Act 2014 (the Act). Our key responsibilities are to:

- give an opinion on the Council's financial statements (section two)
- assess the Council's arrangements for securing economy, efficiency and effectiveness in its use of resources (the value for money conclusion) (section three).

In our audit of the Council's financial statements, we comply with International Standards on Auditing (UK) (ISAs) and other guidance issued by the NAO.

Audit of the Financial Statements

Our audit approach

Materiality

In our audit of the Council's financial statements we use the concept of materiality to determine the nature, timing and extent of our work, and in evaluating the results of our work. We define materiality as the size of the misstatement in the financial statements that would lead a reasonably knowledgeable person to change or influence their economic decisions.

We determined materiality for the audit of the Council's financial statements to be £502,000, which is approximately 1.8% of the Council's gross cost of services. We used this benchmark as, in our view, users of the Council's financial statements are most interested in where the Council has spent its revenue in the year.

We also set a lower level of specific materiality for senior officer remuneration which we determined to be approximately 1.8% of the amount disclosed for Senior Officer remuneration.

We set a lower threshold of £25,000, above which we reported errors to the Audit Committee in our Audit Findings Report.

The scope of our audit

Our audit involves obtaining sufficient evidence about the amounts and disclosures in the financial statements to give reasonable assurance that they are free from material misstatement, whether caused by fraud or error. This includes assessing whether:

- the accounting policies are appropriate, have been consistently applied and adequately disclosed;
- the significant accounting estimates made by management are reasonable; and
- the overall presentation of the financial statements gives a true and fair view.

We also read the remainder of the Statement of Accounts to check it is consistent with our understanding of the Council and with the financial statements included in the Statement of Accounts on which we gave our opinion.

We carry out our audit in accordance with ISAs (UK) and the NAO Code of Audit Practice. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

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

We identified key risks and set out overleaf the work we performed in response to these risks and the results of this work.

Audit of the Financial Statements

Significant Audit Risks

These are the significant risks which had the greatest impact on our overall strategy and where we focused more of our work.

| Risks identified in our audit plan | How we responded to the risk | Findings and conclusions |
|---|---|---|
| <p>Covid-19 The global outbreak of the Covid-19 virus pandemic has led to unprecedented uncertainty for all organisations, requiring urgent business continuity arrangements to be implemented. We expected current circumstances would have an impact on the production and audit of the financial statements for the year ended 31 March 2020, including and not limited to:</p> <ul style="list-style-type: none"> remote working arrangements and redeployment of staff to critical front line duties that may impact on the quality and timing of the production of the financial statements, and the evidence we could obtain through physical observation; volatility of financial and property markets which would increase the uncertainty of assumptions applied by management to asset valuations and receivable recovery estimates, and the reliability of evidence we could obtain to corroborate management estimates; financial uncertainty would require management to reconsider financial forecasts supporting their going concern assessment and whether material uncertainties for a period of at least 12 months from the anticipated date of approval of the audited financial statements had arisen; and disclosures within the financial statements could require significant revision to reflect the unprecedented situation and its impact on the preparation of the financial statements as at 31 March 2020 in accordance with IAS1, particularly in relation to material uncertainties. <p>We therefore identified the Covid-19 pandemic as a significant risk.</p> | <p>We:</p> <ul style="list-style-type: none"> worked with management to understand the implications that the response to the Covid-19 pandemic had on the Council's ability to prepare the financial statements and update financial forecasts, and assessed the implications on our audit approach. We received draft financial statements in advance of the revised national timetable; liaised with other audit suppliers, regulators and government departments to co-ordinate practical cross sector responses to issues as and when they arose. An example is in respect of the material valuation uncertainty disclosed by the Council's valuation experts in respect of land and buildings and investment properties which was a national issue; evaluated the adequacy of the disclosures in the financial statements in light of the Covid-19 pandemic; evaluated whether sufficient audit evidence using alternative approaches could be obtained for the purposes of our audit whilst working remotely; evaluated whether sufficient audit evidence could be obtained to corroborate significant management estimates such as asset valuations and recovery of receivable balances; and evaluated management's assumptions that underpin the revised financial forecasts and the impact on management's going concern assessment. | <p>We recommended that the Council enhance it's disclosure around going concern and the impact of, and response to, the economic difficulties created by the Covid-19 pandemic and this updated was made.</p> <p>The Covid-19 pandemic resulted in land and building and investment property valuations being reported on a 'material uncertainty' basis. As explained on page 8, this is a national issue related to the Covid-19 pandemic and the Council followed national guidance from RICS in it's valuations.</p> <p>We reviewed management's other estimates and judgements in light of the Covid-19 pandemic and concluded that these were reasonable.</p> <p>The audit was completed remotely which resulted in certain challenges and work taking longer than we would have expected in normal conditions.</p> |

Audit of the Financial Statements

Significant Audit Risks - continued

These are the risks which had the greatest impact on our overall strategy and where we focused more of our work.

| Risks identified in our audit plan | How we responded to the risk | Findings and conclusions |
|--|---|--|
| <p>Management override of internal controls</p> <p>Under ISA (UK) 240, there is a non-rebuttable presumed risk that the risk of management override of controls is present in all entities. The Council faces external scrutiny of its spending and this could potentially place management under undue pressure in terms of how they report performance.</p> <p>We therefore identified management override of control, in particular journals, management estimates, and transactions outside the course of business as a significant risk for the Council.</p> | <p>As part of our audit work we;</p> <ul style="list-style-type: none"> evaluated the design effectiveness of management controls over journals; analysed the journals listing and determined the criteria for selecting high risk and unusual journals; tested unusual journals recorded during the year and after the draft accounts stage for appropriateness and corroboration; gained an understanding of the accounting estimates and critical judgements applied made by management and considered their reasonableness with regard to corroborative evidence; and evaluated the rationale for any changes in accounting policies, estimates or significant unusual transactions. | <p>We raised a control recommendation in respect of the authorisation of journals.</p> <p>Our testing of journal entries made in year did not identify any issues in relation to the risk.</p> |

Audit of the Financial Statements

Significant Audit Risks - continued

These are the risks which had the greatest impact on our overall strategy and where we focused more of our work.

| Risks identified in our audit plan | How we responded to the risk | Findings and conclusions |
|--|---|--|
| <p>Valuation of net pension liability</p> <p>The pension fund net liability, as reflected in the Council's balance sheet as the net defined benefit liability, represents a significant estimate in the financial statements.</p> <p>The pension fund net liability is considered a significant estimate due to the size of the numbers involved (£21.8) and the sensitivity of the estimate to changes in key assumptions.</p> <p>We therefore identified valuation of the Council's pension fund net liability as a significant risk.</p> | <p>We:</p> <ul style="list-style-type: none"> updated our understanding of the processes and controls put in place by management to ensure that the Council's pension fund net liability is not materially misstated and evaluated the design of the associated controls; evaluated the instructions issued by management to their management expert (an actuary) for this estimate and the scope of the actuary's work; assessed the competence, capabilities and objectivity of the actuary who carried out the Council's pension fund valuation; assessed the accuracy and completeness of the information provided by the Council to the actuary to estimate the liability; tested the consistency of the pension fund asset and liability and disclosures in the notes to the core financial statements with the actuarial report from the actuary; considered the impact of Covid-19; and undertook procedures to confirm the reasonableness of the actuarial assumptions made by reviewing the report of the consulting actuary (as auditor's expert) and performed additional procedures suggested within the report. In particular, reviewing the adjustments made as a result of the McCloud judgement and considering the impact of the 'other experience' adjustment arising from the update of member data as part of the 2019 triennial actuarial valuation. | <p>We did not identify any matters to bring to the attention of those charged with governance.</p> |

Audit of the Financial Statements

Significant Audit Risks

These are the significant risks which had the greatest impact on our overall strategy and where we focused more of our work.

| Risks identified in our audit plan | How we responded to the risk | Findings and conclusions |
|--|--|---|
| <p>Valuation of land and buildings and investment properties</p> <p>The Council re-values its land and buildings on a five-yearly rolling basis to ensure that carrying value is not materially different from current value. This represents a significant estimate by management in the financial statements due to the size of the numbers involved (£21.8m for other land and buildings, £150m for investment properties) and the sensitivity of the estimate to changes in key assumptions.</p> <p>Additionally, management need to ensure the carrying value of assets not revalued as at 31 March 2020 in the Council's financial statements is not materially different from the current value at the financial statements date, where a rolling programme is used.</p> <p>We identified the valuation of land and buildings and investment properties as a significant risk.</p> | <p>We:</p> <ul style="list-style-type: none"> evaluated management's processes and assumptions for the calculation of the estimate, the instructions issued to valuation experts and the scope of their work; evaluated the competence, capabilities and objectivity of the valuation experts; discussed with and wrote to the valuers to confirm the basis on which the valuations were carried out; challenged the information and assumptions used by the valuers to assess completeness and consistency with our understanding; tested revaluations made during the year to see if they had been input correctly into the Council's asset register; and evaluated the assumptions made by management for those assets not revalued during the year and how management has satisfied themselves that these are not materially different to current value at year end. | <p>Guidance from RICS in its valuation of land, buildings and investment properties instructs valuers, nationally, to include a material uncertainty paragraph in their valuation reports with regards to the movement of property prices and valuations as a result of Covid-19. Given the magnitude of the land and buildings and investment property valuations to the balance sheet and the caveat made by the valuers in their valuation reports, we will highlight the material uncertainty in our audit report in an Emphasis of Matter (EOM) paragraph, drawing attention to the disclosures made in the statement of accounts in Note 1.</p> <p>The EOM paragraph does not qualify the opinion but refers to management's disclosure on the material uncertainty that, in our judgement, is of such importance that it is fundamental to users' understanding of the financial statements.</p> <p>The Council's valuation of Property, Plant and Equipment included £167k of valuation changes that had been incorrectly taken to the Revaluation Reserve which should have been posted to the Capital Adjustment Account. This was in relation to a total of eleven assets, the largest three adjustments relating to Meadowlands, Okehampton Pool and Crelake Industrial Estate. The accounts were not updated for these items, and due to the statutory overrides in place in respect of capital accounting would not have an impact on the Council's useable reserves.</p> |

Audit of the Financial Statements

Audit opinion

We gave an unqualified opinion on the Council's financial statements on 30 November 2020.

Preparation of the financial statements

We started our audit on 15 June 2020. The Council's financial statements were provided on 8 July 2020, in advance of the revised national deadline, however we did receive draft working copy on 30 June 2020. In most areas, management provided good working papers and there was generally a responsive attitude to audit queries. As expected, the finance team was stretched throughout lockdown, producing the accounts and dealing with audit queries, alongside the "day job" and the requirements of additional government returns, and internal reporting. There are some areas where working papers could be improved, e.g. debtors, creditors and the fixed asset register, and we discussed these with management throughout the audit.

New remote access working arrangements i.e. remote accessing of financial systems, video calling, and procedures to confirm the completeness and accuracy of information produced by the entity proved to be a challenge for all auditors. Additional work was also required on the Council's property valuations and pensions estimates in line with regulator expectations, with additional time and consultation also experienced on the prior year adjustment identified. All of this meant that the audit took longer than planned.

Issues arising from the audit of the financial statements

We reported the key issues from our audit to the Council's Audit Committee on 13 October 2020 and provided a short summary addendum on 30 November 2020 prior to issuing our audit report.

Annual Governance Statement and Narrative Report

We are also required to review the Council's Annual Governance Statement and Narrative Report. It published them on its website in the draft Statement of Accounts in July 2020.

Both documents were prepared in line with the CIPFA Code and relevant supporting guidance. We confirmed that both documents were consistent with the financial statements prepared by the Council and with our knowledge of the Council.

Whole of Government Accounts (WGA)

We carried out work in line with instructions provided by the NAO. We issued an assurance statement which confirmed the Council was below the audit threshold.

Other statutory powers

We also have additional powers and duties under the Act, including powers to issue a public interest report, make written recommendations, apply to the Court for a declaration that an item of account is contrary to law, and to give electors the opportunity to raise questions about the Council's accounts and to raise objections received in relation to the accounts.

No statutory powers were exercised in respect of the 2019/20 audit.

Certificate of closure of the audit

We certified that we have completed the audit of the financial statements of West Devon Borough Council in accordance with the requirements of the Code of Audit Practice on 30 November 2020.

Value for Money conclusion

Background

We carried out our review in accordance with the NAO Code of Audit Practice, following the guidance issued by the NAO in April 2020 which specified the criterion for auditors to evaluate:

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

Key findings

Our first step in carrying out our work was to perform a risk assessment and identify the risks where we concentrated our work.

The risks we identified and the work we performed are set out overleaf.

As part of our Audit Findings report agreed with the Council in November 2020 we agreed recommendations to address our findings.

Overall Value for Money conclusion

We are satisfied that in all significant respects the Council put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources for the year ending 31 March 2020.

Value for Money conclusion

Value for Money Risks

Risks identified in our audit plan

Financial sustainability

The Council's 2021/22 budget proposals show a shortfall of £0.4m for 2020/21 and £1.6m over the five year life of the current MTFP.

The shortfall is after expected savings of £80k are delivered from Investment Property rental income and £0.2m from a reduction in the pension employer secondary rate contributions.

Total revenue (earmarked and unearmarked) reserves at 31 March 2020 are projected to be £4.4m (PY £5.6m).

How we responded to the risk

As part of our work we considered:

- The Council's arrangements for setting its 2019/20 budget and five year Medium term strategy;
- how these evolved through discussion and reporting;
- The Council's monitoring and flexing of the budget through 2019/20;
- the Council's 2019/20 financial outturn; and
- the Council's response to the Covid-19 pandemic on its income and expenditure streams.

Findings and conclusions

Planning and assumptions

The Council commenced its financial planning for 2019/20 in September 2018, and this comprised:

- updating the forecast financial position for 31 March 2019;
- compiling the projected budget for 2019/20;
- further projecting and updating the medium term financial plan up to 31 March 2025; and
- setting out proposals and options to address the forecast financial shortfall.

The initial forecast set out a £0.5m budget gap for 2019/20 and a five year cumulative shortfall of £3.8m if no mitigating actions were taken. Over a series of budget workshops and member discussions the budget evolved and a balanced budget was agreed and adopted in January 2019.

The Council's out-turn for 2019/20 was a £0.1m underspend against the £7.1m budget (1.9%), the underspend was added to the Council's unearmarked reserves. At 31 March 2020 the Council's usable reserves stood at £6.2m which represents a significant proportion of the Council's net annual budget.

Value for Money conclusion

Value for Money Risks

Findings and conclusions (CONTINUED)

The underspend for 2019/20 arose primarily from:

- £86k - Commercial Property net investment income (meeting the £80k target set out above)
- £40k - Additional Treasury Management investment income
- £59k - Business Rates Pooling Gain

The above were offset by a £109k shortfall in Housing Benefit overpayment recoveries.

Following the triennial actuarial valuation, the expected pension savings were achieved.

The Medium Term Financial Strategy (MTFS) was also developed throughout the year and there remained a five year forecast cumulative gap of £1.4m. Options were set out to mitigate the shortfall, and these included:

- use of the 3rd tranche of COVID funding received from the Government;
- use of the New Burdens Government grant funding received for the administration of the Business Rates Grants;
- utilising the 2019/20 Statement of Accounts underspend;
- allocation of the uncommitted New Homes Bonus (NHB) from 2020/21 to further fund the revenue base budget; and
- reducing the capital budget for the remedial works to the Tavistock Viaduct from £100k to £20k (this capital budget was being funded by New Homes Bonus which is revenue funding).

These measures should close the forecast gap for 2020/21, however they are by their nature one-off. There is a risk that one-off measures will not be available in future years and recurrent measures should be identified.

September 2020 will see the start of the planning for 2021/22. Currently the forecast gap is £0.4m. It is the intention that the 2020 Spending Review will be finalised this Autumn and will cover the years 2021/22 to 2023/24. This will allow the Council to use up to date funding data in its MTFS planning moving forwards.

The Council is in a sound position to address future uncertainties as its reserves of £6.2m represent 85% of its net annual expenditure and, at 31 March 2020, the Council had £14m of accessible cash and investments to cover any short-term cashflow issues.

The Month 7 Revenue Budget Monitoring report to the Hub Committee on 8 December 2020 reported an underspend of £90k for 2020/21 (1.2% of the budget of £7.7million). The budget gap for 2021/22 was reported as £104k and the aggregated budget gap by 2025/26 was £1m.

Value for Money conclusion

Value for Money Risks

Findings and conclusions (CONTINUED)

Auditor view

As the reserves position at 31 March 2020 shows, West Devon has robust procedures to set, monitor and deliver its financial plans and the Council has accumulated a good level of reserves to meet those plans. However, the future financial plans do set out a number of financial challenges that could adversely impact on the Council's ability to continue to deliver services or to maintain financial stability.

The Council will need to continue its close scrutiny and stewardship to ensure it can continue to deliver its services and should ensure that it continues to take any difficult decisions on the delivery of services and savings in the future.

As such, we issued an unqualified Value for Money conclusion for 2019/20.

A. Reports issued and fees

We confirm below our final reports issued and fees charged for the audit.

| Audit fees | Proposed fee |
|--|---------------------|
| Council scale fee | 30,335 |
| Additional proposed audit fee at planning stage | 6,200 |
| Total proposed audit fees (excluding VAT) at planning | 36,535 |
| Further additional fees proposed at completion | 6,500 |
| Total proposed audit fees (excluding VAT) on completion | 43,035 |

Reports issued

| Report | Date issued |
|-----------------------------------|--------------------|
| Audit Plan | March 2020 |
| Audit Findings Report | October 2020 |
| Addendum to Audit findings report | November 2020 |
| Annual Audit Letter | December 2020 |

The Audit Plan presented in March 2020 included £6,500 of proposed additional fees to take account of the additional scepticism required on the audit, the raising of the bar by our regulator and the further work arising from local developments since the original scale fee setting. This is reflected in the total proposed audit fees at planning above.

Since the scoping of the audit fee, we included, in the plan, a significant risk to the audit following the impact of Covid-19. We have now reflected on the time taken to discharge our responsibilities this year and are proposing a further increase in fees of £6,500 in addition to those proposed at the planning stage of the audit. This brings the total proposed audit fee up to £43,035. Further details on the breakdown is provided on the next page.

This further charge has not been entered into lightly but reflects only a proportion of the significant additional work we have had to undertake this year to discharge our responsibilities.

We have been discussing this issue with PSAA over the last few months and note these issues are similar to those experienced in the commercial sector and NHS. In both sectors there has been a recognition that audits will take longer, with commercial audit deadlines being extended by four months and the NHS deadline extended by a month. The FRC has also issued guidance to companies and auditors setting out its expectation that audit standards remain high and of additional work needed across all audits. The link attached <https://www.frc.org.uk/covid-19-guidance-and-advice> (see guidance for auditors) sets out the expectations of the FRC.

We have discussed these additional fees with the Corporate Director for Strategic Finance (Section 151 Officer). Please note that these proposed additional fees are subject to approval by PSAA in line with the Terms of Appointment.

A. Reports issued and fees

We confirm below our final reports issued and fees charged for the audit.

| Audit area | £ | Rationale for fee variation |
|--|---------------|--|
| PSAA scale fee | 30,335 | |
| Raising the bar | 1,200 | The Financial Reporting Council (FRC) has highlighted that the quality of work by all audit firms needs to improve across local audit. This will require additional supervision and leadership, as well as additional challenge and scepticism in areas such as journals, estimates, financial resilience and information provided by the entity. |
| Pensions – valuation of net pension liabilities under International Auditing Standard (IAS) 19 | 1,750 | We have increased the granularity, depth and scope of coverage, with increased levels of sampling, additional levels of challenge and explanation sought, and heightened levels of documentation and reporting. |
| PPE Valuation – work of experts | 1,750 | We have increased the volume and scope of our audit work to ensure an adequate level of audit scrutiny and challenge over the assumptions that underpin PPE valuations. |
| New Accounting Standards | 1,500 | You are required to respond effectively to new accounting standards and we must ensure our audit work in these new areas is robust. This year we will be responding to the introduction of IFRS16. There is a requirement, under IAS8, to disclose the expected impact of this change in accounting treatment in the 2019/20 financial statements. |
| Revised scale fee at planning (approved by PSAA) | 36,535 | |

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A. Reports issued and fees

| Audit area | £ | Rationale for fee variation |
|--|---------------|---|
| Revised scale fee (approved by PSAA, from previous page) | 36,535 | |
| Additional fees incurred as a result of Covid-19 and additional audit work | 6,500 | <p>Over the past six months the current Covid-19 pandemic has had a significant impact on all of our lives, both at work and at home. The impact of Covid-19 on the audit of the financial statements for 2019/20 has been multifaceted. This includes:</p> <ul style="list-style-type: none"> • Revisiting planning - we have needed to revisit our planning and refresh risk assessments, materiality and testing levels. This has resulted in the identification of a significant risk at the financial statements level in respect of Covid-19 necessitating the issuing of an addendum to our original audit plan as well as additional work on areas such as going concern and disclosures in accordance with IAS1, particularly in respect of material uncertainties. • Management's assumptions and estimates - there is increased uncertainty over many estimates including pension and other investment valuations. Many of these valuations are impacted by the reduction in economic activity and we are required to understand and challenge the assumptions applied by management. • Financial resilience assessment – we have been required to consider the financial resilience of audited bodies. Our experience to date indicates that Covid-19 has impacted on the financial resilience of all local government bodies. This has increased the amount of work that we need to undertake on the sustainable resource deployment element of the VFM criteria necessitating enhanced and more detailed reporting in our ISA260. • Remote working – the most significant impact in terms of delivery is the move to remote working. We, as other auditors, have experienced delays and inefficiencies as a result of remote working, including delays in receiving accounts. These are understandable and arise from the availability of the relevant information and/or the availability of key staff (due to shielding or other additional Covid-19 related demands). In many instances the delays are caused by our inability to sit with an officer to discuss a query or working paper. Gaining an understanding via Teams or phone is more time-consuming. • We experienced challenges obtaining breakdowns of year end debtors and creditors balances and raised a management recommendation in respect of this. • Management corrected a prior period adjustment in year that required us to undertake internal consultation and to perform additional audit procedures. |
| Revised Fee (subject to PSAA approval) | 43,035 | |

A. Reports issued and fees continued

Fees for non-audit services

| Service | Fees £ |
|-----------------------------------|--------|
| Audit related services | |
| - Housing Benefit Subsidy return | 6,250* |
| Non-Audit related services | |
| - None | |

*proposed fee, our work has yet to be concluded on the Council's Housing Benefits Subsidy return for 2019/20.

Non-audit services

For the purposes of our audit we have made enquiries of all Grant Thornton UK LLP teams providing services to the Council. The table left summarises all non-audit services which were identified.

We have considered whether non-audit services might be perceived as a threat to our independence as the Council's auditor and have ensured that appropriate safeguards are put in place.

The identified non-audit services are consistent with the Council's policy on the allotment of non-audit work to your auditor.



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Report to: **Audit Committee**

Date: **9 February 2021**

Title: **Treasury Management Mid-Year Review**

Portfolio Area: **Performance & Resources – Cllr C Edmonds**

Wards Affected: **All**

Urgent Decision: **N** Approval and clearance obtained: **Y**

Date next steps can be taken: **N/A**

Author: **Clare Scotton** Role: **Finance Business Partner**

Contact: **01803 861559** clare.scotton@swdevon.gov.uk

Recommendations:

It is recommended that the Audit Committee resolves:-

- i. To endorse the contents of the report.

1. Executive summary

1.1 To date, the Council has outperformed the industry benchmark by 0.07%. The Council has achieved a rate of return of 0.12% against the Sterling Overnight Interbank Average rate (SONIA) of 0.05%. The Council's budget for investment interest in 2020/21 is £105,321. The current forecast is £36,968 leaving a shortfall against budget of £68,353.

2. Background

2.1 The Council operates a balanced budget, which broadly means cash raised during the year will meet its cash expenditure. Part of the treasury management operations ensure this cash flow is adequately planned, with surplus monies being invested in low risk counterparties, providing adequate liquidity initially before considering maximising investment return.

2.2 The second main function of the treasury management service is the funding of the Council's capital plans. These capital plans provide a guide to the borrowing need of the Council, essentially the longer term cash flow planning to ensure the Council can meet its capital spending operations. This management of longer term cash may involve arranging long or short term loans, or using longer term cash flow surpluses.

2.3 Treasury management is defined as:

“The management of the local authority’s investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks.”

2.4 The Council’s Finance Procedure Rules require that a report be taken to the Audit Committee three times a year on Treasury Management. The specific reporting requirements are:

- An annual treasury strategy in advance of the year (Council 28/04/2020 – CM78)
- A mid-year (minimum) treasury update report (This report)
- An annual review following the end of the year describing the activity compared to the strategy

2.5 The CIPFA (Chartered Institute of Public Finance and Accountancy) Code of Practice for Treasury Management recommends that Members be updated on treasury management activities regularly (i.e. Treasury Management Strategy Statement (TMSS), annual and midyear reports). This report therefore ensures this Council is implementing best practice in accordance with the Code.

3. Economics and Interest Rates

Economics Update

3.1 As expected, the Bank of England’s Monetary Policy Committee kept Bank Rate unchanged on 6th August. It also kept unchanged the level of quantitative easing at £745bn. The fall in GDP in the first half of 2020 was revised from 28% to 23% (subsequently revised to -21.8%). This is still one of the largest falls in output of any developed nation. However, it is only to be expected as the UK economy is heavily skewed towards consumer-facing services – an area which was particularly vulnerable to being damaged by lockdown. The peak in the unemployment rate was revised down from 9% in Q2 to 7½% by Q4 2020. It also squashed any idea of using negative interest rates, at least in the next six months or so. It suggested that while negative rates can work in some circumstances, it would be “less effective as a tool to stimulate the economy” at this time when banks are worried about future loan losses. It also has “other instruments available”, including QE and the use of forward guidance. The MPC expected the £300bn of quantitative easing purchases announced between its March and June meetings to continue until the “turn of the year”. This implies that the pace of purchases will slow further to about £4bn a week, down from £14bn a week at the height of the crisis and £7bn more recently. In conclusion, this would indicate that the Bank could now just sit on its hands as the economy was recovering better than expected. However, the MPC acknowledged that the “medium-term projections were a less informative guide than usual” and the minutes had multiple references to downside risks, which were judged to persist both in the short

and medium term. One has only to look at the way in which second waves of the virus are now impacting many countries including Britain, to see the dangers. However, rather than a national lockdown, as in March, any spikes in virus infections are now likely to be dealt with by localised measures and this should limit the amount of economic damage caused. In addition, Brexit uncertainties ahead of the year-end deadline are likely to be a drag on recovery. The wind down of the initial generous furlough scheme through to the end of October is another development that could cause the Bank to review the need for more support for the economy later in the year.

3.2 Overall, the pace of recovery is not expected to be in the form of a rapid V shape, but a more elongated and prolonged one after a sharp recovery in June through to August which left the economy 11.7% smaller than in February.

3.3 The economy was recovering well towards the end of Q2 after a sharp drop in GDP. However, the second wave of the virus affecting some countries could cause a significant slowdown in the pace of recovery, especially in countries more dependent on tourism. The fiscal support package, eventually agreed by the EU after prolonged disagreement between various countries, is unlikely to provide significant support and quickly enough to make an appreciable difference in weaker countries. The ECB has been struggling to get inflation up to its 2% target and it is therefore expected that it will have to provide more monetary policy support through more quantitative easing purchases of bonds in the absence of sufficient fiscal support. The Bank of England has forecast that there would be excess demand in the economy by Q3 2022 causing CPI inflation to rise above the 2% target in Q3 2022, (based on market interest rate expectations for a further loosening in policy). Nevertheless, even if the Bank were to leave policy unchanged, inflation was still projected to be above 2% in 2023.

Interest Rate Forecast

3.4 The Council's treasury advisor, Link Asset Services, has provided the following forecast.

| Link Group Interest Rate View 11.8.20 | | | | | | | | | | |
|---------------------------------------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| | Dec-20 | Mar-21 | Jun-21 | Sep-21 | Dec-21 | Mar-22 | Jun-22 | Sep-22 | Dec-22 | Mar-23 |
| Bank Rate View | 0.10 | 0.10 | 0.10 | 0.10 | 0.10 | 0.10 | 0.10 | 0.10 | 0.10 | 0.10 |
| 3 month average earnings | 0.05 | 0.05 | 0.05 | 0.05 | 0.05 | - | - | - | - | - |
| 6 month average earnings | 0.10 | 0.10 | 0.10 | 0.10 | 0.10 | - | - | - | - | - |
| 12 month average earnings | 0.15 | 0.15 | 0.15 | 0.15 | 0.15 | - | - | - | - | - |
| 5yr PWLB Rate | 1.90 | 2.00 | 2.00 | 2.00 | 2.00 | 2.00 | 2.10 | 2.10 | 2.10 | 2.10 |
| 10yr PWLB Rate | 2.10 | 2.10 | 2.10 | 2.10 | 2.20 | 2.20 | 2.20 | 2.30 | 2.30 | 2.30 |
| 25yr PWLB Rate | 2.50 | 2.50 | 2.50 | 2.60 | 2.60 | 2.60 | 2.70 | 2.70 | 2.70 | 2.70 |
| 50yr PWLB Rate | 2.30 | 2.30 | 2.30 | 2.40 | 2.40 | 2.40 | 2.50 | 2.50 | 2.50 | 2.50 |

3.5 The coronavirus outbreak has done huge economic damage to the UK and economies around the world. After the Bank of England took emergency action in March to cut Bank Rate to first 0.25%, and then to 0.10%, it left Bank Rate unchanged at its meeting on 6th August (and the subsequent September meeting), although some forecasters had suggested that a cut into negative territory could happen. However, the Governor of the Bank of England has made it clear that he currently thinks that such a move would do more damage than good and that more quantitative easing is the favoured tool if further action becomes necessary. As shown in the forecast table above, no increase in Bank Rate is expected within the forecast horizon ending on 31st March 2023 as economic recovery is expected to be only gradual and, therefore, prolonged.

3.6 As the interest forecast table for PWLB certainty rates, (gilts plus 180bps), above shows, there is likely to be little upward movement in PWLB rates over the next two years as it will take economies, including the UK, a prolonged period to recover all the momentum they have lost in the sharp recession caused during the coronavirus shut down period. Inflation is also likely to be very low during this period and could even turn negative in some major western economies during 2020/21.

The balance of risks to the UK

- The overall balance of risks to economic growth in the UK is probably relatively even, but is subject to major uncertainty due to the virus.
- There is relatively little UK domestic risk of increases or decreases in Bank Rate and significant changes in shorter term PWLB rates. The Bank of England has effectively ruled out the use of negative interest rates in the near term and increases in Bank Rate are likely to be some years away given the underlying economic expectations. However, it is always possible that safe haven flows, due to unexpected domestic developments and those in other major economies, could impact gilt yields, (and so PWLB rates), in the UK.

4. Treasury Management Strategy Statement

4.1 The Treasury Management Strategy Statement (TMSS) for 2020/21, was approved by the Council on 28/04/20 – CM78. It sets out the Council's investment priorities as being:

- Security of capital;
- Liquidity; and
- Yield.

4.2 The Council will also aim to achieve the optimum return (yield) on its investments commensurate with proper levels of security and liquidity. In the current economic climate it is considered appropriate to keep investments short term to cover cash flow needs, but also to seek out value

available in periods up to 12 months with highly credit rated financial institutions, using our suggested creditworthiness approach, including a minimum sovereign credit rating, and Credit Default Swap (CDS) overlay information.

4.3 There are no policy changes to the TMSS; the details in this report update the position in the light of the updated economic position and budgetary changes already approved.

5. Investment Portfolio 2020/21

5.1 In accordance with the Code, it is the Council’s priority to ensure security of capital and liquidity, and to obtain an appropriate level of return which is consistent with the Council’s risk appetite. As shown by the interest rate forecasts in 3.4, it is now impossible to earn the level of interest rates commonly seen in previous decades as all investment rates are barely above zero now that Bank Rate is at 0.10%, while some entities, including more recently the Debt Management Account Deposit Facility (DMADF), are offering negative rates of return in some shorter time periods. Given this risk environment and the fact that increases in Bank Rate are unlikely to occur before the end of the current forecast horizon of 31st March 2023, investment returns are expected to remain low.

5.2 The Council held £19.0m of investments as at 30 September 2020 (£13.674 at 31 March 2020) and the investment portfolio yield for the first six months of the year is 0.12% against a benchmark (SONIA rate) of 0.05%.

A full list of investments held as at 30 September 2020 is shown below:

Money Market Funds

| Amount | Investment | Average Interest rate |
|---------------|-------------------------------|------------------------------|
| £3,000,000 | Aberdeen Standard Investments | 0.24% |
| £3,000,000 | BlackRock ICS-Inst GBP | 0.16% |
| £1,600,000 | Deutsche Managed GBP | 0.13% |
| £3,000,000 | LGIM Sterling Liquidity Fund | 0.20% |

The Council currently has four Money Market Funds. The money market funds allow immediate access to the Council’s funds and spreads risk as it is pooled with investments by other organisations and invested across a wide range of financial institutions.

Fixed Term Deposits – Current

| Counterparty | Fixed to | £ | Interest Rate |
|------------------------|-----------------|-----------|----------------------|
| Lloyds TSB Bank Plc | 32 day notice | 3,000,000 | 0.25% |
| Debt Management Office | 01/10/2020 | 1,932,500 | 0.01% |
| Debt Management Office | 20/10/2020 | 3,000,000 | 0.01% |

5.3 The Council's Investments mid-way through the year are always higher than at the end of the year (at 31st March) due to the cash flow advantage that the Council benefits from part way through the year.

This is, in part, due to the timing differences between the Council collecting council tax income and paying this over to major precepting authorities such as Devon County Council, the Police and the Fire Authority

The Council's current counterparty limit is £3 million (£4 million for Lloyds plc).

Property Funds

| Amount | Investment | Dividend Yield |
|---------------|----------------------|-----------------------|
| £473,893 | CCLA – Property Fund | 4.26% |

5.4 The Chief Financial Officer confirms that the approved limits within the Annual Investment Strategy were not breached during the first six months of 2020/21.

5.5 The Council's budgeted investment return for 2020/21 is £105,321, and the current forecast is £36,968. This leaves a forecast shortfall of £68,353 against budget.

Investment Counterparty Criteria

5.6 The current investment counterparty criteria selection approved in the TMSS is meeting the requirement of the treasury management function.

Borrowing Position

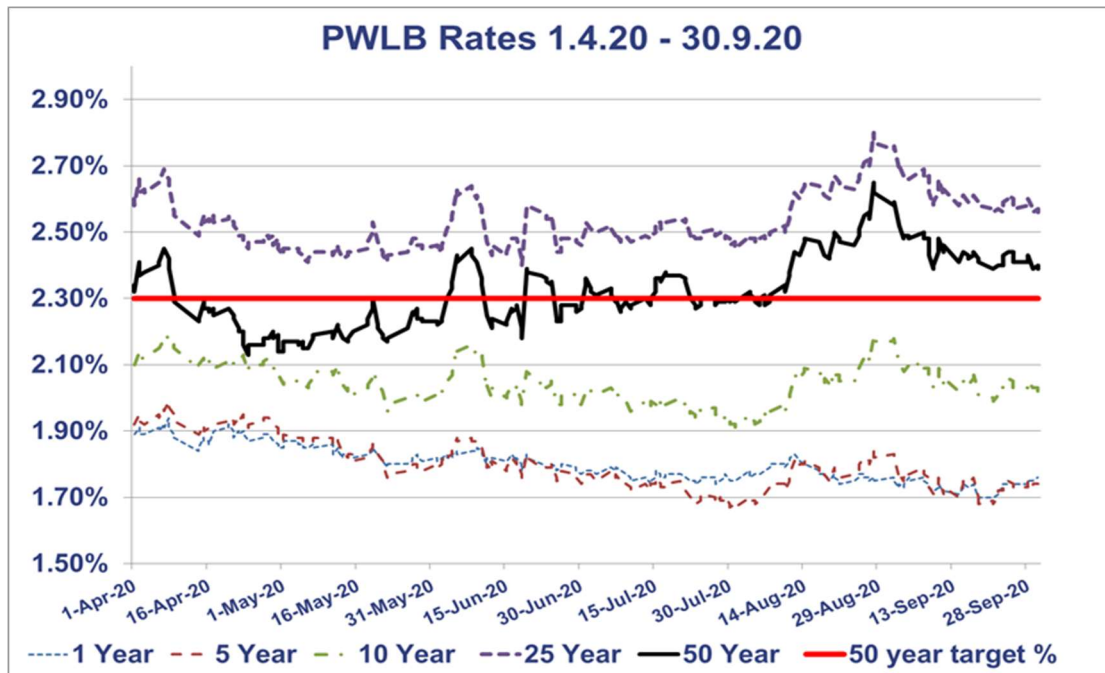
5.7 The Council's capital financing requirement (CFR) for 2020/21 is £25,361 million. The CFR denotes the Council's underlying need to borrow for capital purposes. If the CFR is positive the Council may borrow from the PWLB or the market (external borrowing) or from internal balances on a temporary basis (internal borrowing). The balance of external and internal borrowing is generally driven by market conditions.

A summary of the Council's debt position at 30 September 2020 compared with 31 March 2020 is shown in the table below:

| Lender | Maturity | Interest Rate % | Principal held at 31 March 2020 £'000 | Principal held at 30 Sept 2020 £'000 |
|--------------------------|-----------------|------------------------|--|---|
| PWLB - Maturity | 45 Years | 4.55 | 2,100 | 2,100 |
| PWLB - Annuity | 9 Years | 1.92 | 2,100 | 1,959 |
| PWLB - Annuity | 22 Years | 1.95 | 1,445 | 1,417 |
| PWLB - Annuity | 50 Years | 2.65 | 12,503 | 12,439 |
| PWLB - Annuity | 50 Years | 2.60 | 3,546 | 3,528 |
| PWLB - 23 maturity loans | 49 Years | 2.54* | 3,592 | 3,592 |
| PWLB - Annuity | 50 Years | 2.31 | 1,780 | 1,771 |
| PWLB - Annuity | 30 Years | 1.73 | 2,468 | 2,436 |
| Total | | | 29,534 | 29,242 |

*Average interest rate

5.8 PWLB rates varied within a relatively narrow range between April and July but the longer end of the curve rose during August. This increase came in two periods; the first in the second week of the month was on the back of hopes for fresh US stimulus. This saw investors switch monies out of government bonds and into equities. The second shift higher at the longer end of the curve came in the latter stages of the month as investors reacted to the announcement of the tweak to the Fed's inflation target. Despite moves further out in the yield curve, the short end remained anchored on the basis of no fundamental change to the interest rate outlook. The 50-year PWLB target rate for new long-term borrowing was unchanged at 2.30%.



| | 1 Year | 5 Year | 10 Year | 25 Year | 50 Year |
|---------|------------|------------|------------|------------|------------|
| Low | 1.70% | 1.67% | 1.91% | 2.40% | 2.13% |
| Date | 18/09/2020 | 30/07/2020 | 31/07/2020 | 18/06/2020 | 24/04/2020 |
| High | 1.94% | 1.99% | 2.19% | 2.80% | 2.65% |
| Date | 08/04/2020 | 08/04/2020 | 08/04/2020 | 28/08/2020 | 28/08/2020 |
| Average | 1.80% | 1.80% | 2.04% | 2.54% | 2.33% |

On 26 November 2020, the Public Works Loans Board reduced interest rates by 1% for all new loans arranged from 26 November 2020. Local Authorities are required to submit a summary of their planned capital spending and PWLB borrowing for the following three years. This is updated on at least an annual basis. In March of each year, Council approves its Capital Strategy, Investment Strategy and Treasury Management Strategy. PWLB borrowing is permitted in the future for the four categories of regeneration, service delivery, housing and refinancing.

Debt Rescheduling

5.12 Debt rescheduling opportunities have been very limited in the current economic climate and following the various increases in the margins added to gilt yields which have impacted PWLB new borrowing rates since October 2010. No debt rescheduling has therefore been undertaken to date in the current financial year.

6. Outcomes/outputs

6.1 The Council's budget for investment interest of £105,321 for 2020/21 is not expected to be met. A forecast of £36,968 will leave a shortfall of £68,353 against budget.

6.2 Industry performance is judged and monitored by reference to a standard benchmark; this is the Sterling Overnight Interbank Average rate (SONIA). The average SONIA rate at the end of September was 0.05% which is 0.07% lower than our average return of 0.12% as at 30 September 2020.

7. Options available and consideration of risk

7.1 The Treasury Management Strategy is risk averse with no investments allowed for a period of more than a year and very high credit rating is required, together with a limit of £3m per counterparty. This has resulted in only a small number of institutions in which the Council can invest (see Appendix A).

7.2 The Council's treasury management activities and interest rates are reviewed daily to ensure cash flow is adequately planned with surplus funds being invested in low risk counterparties, providing adequate liquidity initially before considering optimising investment return.

7.3 The 2018 CIPFA Codes and guidance notes have placed enhanced importance on risk management. Where an authority changes its risk appetite e.g. for moving surplus cash into or out of certain types of investment funds or other types of investment instruments, this change in risk appetite and policy will be brought to Members' attention in treasury management update reports.

8. Proposed Way Forward

8.1 The Council's treasury activities and interest rates will continue to be monitored daily and appropriate action taken to mitigate risk whilst optimising investment return where possible.

8.2 Following the increase in the cost of borrowing from the PWLB (1% increase), work is currently being undertaken to reassess the financial viability of capital projects included in the capital programme and business cases being considered under the Commercial Investment Strategy.

9. Compliance with Treasury Limits and Prudential Indicators

9.1 During the financial year the Council has operated within the treasury limits and Prudential Indicators set out in the Council's Treasury Policy Statement and annual Treasury Strategy Statement. The Council's Prudential Indicators for 2020/21 are detailed and shown in Appendix B.

10. Implications

| Implications | Relevant to proposals Y/N | Details and proposed measures to address |
|--|---------------------------|--|
| Legal/Governance | Y | The Statutory Powers that apply to this report are the Local Government Act 1972 Section 151 and the Local Government Act 2003. |
| Financial implications to include reference to value for money | Y | To date, the Council has outperformed the industry benchmark by 0.07%. The Council has achieved a rate of return of 0.12%, against the Sterling Overnight Interbank Average rate (SONIA) of 0.05%. The Council's investment income target of £105,321 for 2020/21 is not expected to be met with a shortfall of £68,353. |
| Risk | | <p>The security risk is the risk of failure of a counterparty. The liquidity risk is that there are liquidity constraints that affect the interest rate performance. The yield risk is regarding the volatility of interest rates/inflation.</p> <p>The Council has adopted the CIPFA Code Of Practice for Treasury Management and produces an Annual Treasury Management Strategy and Investment Strategy in accordance with CIPFA guidelines.</p> <p>The Council engages a Treasury Management advisor and a prudent view is always taken regarding future interest rate movements. Investment interest income is reported quarterly to SLT and the Hub Committee through the quarterly budget monitoring reports.</p> |
| Supporting Corporate Strategy | | The treasury management function supports all six of the Corporate Strategy Themes of Council, Homes, Enterprise, Communities, Environment and Wellbeing. |
| Climate Change – Carbon/Biodiversity Impact | | No direct carbon/biodiversity impact arising from the recommendations. |
| <i>Comprehensive Impact Assessment Implications</i> | | |
| Equality and Diversity | | None directly arising from this report. |
| Safeguarding | | None directly arising from this report. |
| Community Safety, Crime and Disorder | | None directly arising from this report. |
| Health, Safety and Wellbeing | | None directly arising from this report. |
| Other implications | | None directly arising from this report. |

Supporting Information

Appendices:

Appendix A – Lending list as at 30 September 2020

Appendix B – Prudential and Treasury Indicators 2020/2021

Background Papers:

Annual treasury strategy in advance of the year (Audit 28/04/20 – CM78)

Approval and clearance of report

| Process checklist | Completed |
|---|------------------|
| Portfolio Holder briefed/sign off | Yes |
| SLT Rep briefed/sign off | Yes |
| Relevant Heads of Practice sign off (draft) | Yes |
| Data protection issues considered | Yes |
| Accessibility checked | N/A |

APPENDIX A

| Counterparty as at 18th Sept 2020 | | Fitch Rating | | | | Moody's Ratings | | | | S&P Ratings | | | Suggested Duration |
|---|--|--------------|------------|-----------|---------|-----------------|------------|-----------|------------|-------------|------------|------|--------------------|
| | | Long Term | Short Term | Viability | Support | Long Term | Short Term | Long Term | Short Term | Long Term | Short Term | | |
| United Kingdom | | | | | | | | | | | | | |
| AAA Rated and Government Backed Securities | Collateralised LA Deposit* | | | | | | | | | | | | Y - 60 mths |
| | Debt Management Office | | | | | | | | | | | | Y - 60 mths |
| | Multilateral Development Banks | | | | | | | | | | | | Y - 60 mths |
| | Supranationals | | | | | | | | | | | | Y - 60 mths |
| | UK Gilts | | | | | | | | | | | | Y - 60 mths |
| | | | | | | | | | | | | | |
| Banks | Abbey National Treasury Services PLC | NO | A+ | F1 | | 1 | NO | Aa3 | P-1 | | | | O - 12 mths |
| | Bank of Scotland PLC (RFB) | NO | A+ | F1 | a | 5 | NO | Aa3 | P-1 | NO | A+ | A-1 | O - 12 mths |
| | Barclays Bank PLC (NRFB) | NW | A+ | F1 | a | 5 | SB | A1 | P-1 | NO | A | A-1 | R - 6 mths |
| | Barclays Bank UK PLC (RFB) | NO | A+ | F1 | a | 1 | NO | A1 | P-1 | NO | A | A-1 | R - 6 mths |
| | Close Brothers Ltd | NO | A- | F2 | a- | 5 | NO | Aa3 | P-1 | | | | R - 6 mths |
| | Goldman Sachs International Bank | NO | A+ | F1 | | 1 | SB | A1 | P-1 | SB | A+ | A-1 | R - 6 mths |
| | Handelsbanken Plc | NO | AA | F1+ | | 1 | | | | SB | AA- | A-1+ | O - 12 mths |
| | HSBC Bank PLC (NRFB) | NO | AA- | F1+ | a | 1 | NO | Aa3 | P-1 | SB | A+ | A-1 | O - 12 mths |
| | HSBC UK Bank Plc (RFB) | NO | AA- | F1+ | a | 1 | NO | Aa3 | P-1 | SB | A+ | A-1 | O - 12 mths |
| | Lloyds Bank Corporate Markets Plc (NRFB) | NO | A+ | F1 | | 1 | SB | A1 | P-1 | NO | A | A-1 | R - 6 mths |
| | Lloyds Bank Plc (RFB) | NO | A+ | F1 | a | 5 | NO | Aa3 | P-1 | NO | A+ | A-1 | O - 12 mths |
| | NatWest Markets Plc (NRFB) | NO | A+ | F1 | WD | 1 | PO | Baa2 | P-2 | SB | A- | A-2 | G - 100 days |
| | Santander UK PLC | NO | A+ | F1 | a | 2 | NO | Aa3 | P-1 | NO | A | A-1 | R - 6 mths |
| | Standard Chartered Bank | NO | A+ | F1 | a | 5 | SB | A1 | P-1 | SB | A | A-1 | R - 6 mths |
| | Sumitomo Mitsui Banking Corporation | NO | A | F1 | | 1 | SB | A1 | P-1 | SB | A | A-1 | R - 6 mths |
| Building Societies | Coventry Building Society | NO | A- | F1 | a- | 5 | NO | A2 | P-1 | | | | R - 6 mths |
| | Leeds Building Society | NO | A- | F1 | a- | 5 | NO | A3 | P-2 | | | | G - 100 days |
| | Nationwide Building Society | NO | A | F1 | a | 5 | SB | A1 | P-1 | SB | A | A-1 | R - 6 mths |
| | Skipton Building Society | NO | A- | F1 | a- | 5 | SB | Baa1 | P-2 | | | | G - 100 days |
| | Yorkshire Building Society | NO | A- | F1 | a- | 5 | NO | A3 | P-2 | | | | G - 100 days |
| Nationalised and Part Nationalised Banks | National Westminster Bank PLC (RFB) | NO | A+ | F1 | a | 5 | PO | A1 | P-1 | NO | A | A-1 | B - 12 mths |
| | Royal Bank of Scotland Group Plc (RFB) | NO | A+ | F1 | a | 5 | PO | A1 | P-1 | NO | A | A-1 | B - 12 mths |

| Key | |
|----------------------|----------------------|
| Watches and Outlooks | Duration |
| SB Stable Outlook | Yellow - Y 60 Months |
| NO Negative Outlook | Blue - B 12 Months |
| NW Negative Watch | Orange - O 12 Months |
| PO Positive Outlook | Red - R 6 Months |
| PW Positive Watch | Green - G 100 Days |
| EO Evolving Outlook | |
| EW Evolving Watch | |

APPENDIX B

PRUDENTIAL AND TREASURY INDICATORS 2020/21

The Council's capital expenditure plans are the key driver of treasury management activity. The outputs of the capital expenditure plans are reflected in prudential indicators, which are designed to assist members to overview and confirm capital expenditure plans.

Capital Expenditure

This prudential Indicator is a summary of the Council's capital expenditure.

| | 2019/20 Actual £000 | 2020/21 Budget £000 | 2020/21 Estimate £000 |
|-----------------------|------------------------------------|------------------------------------|--------------------------------------|
| General Fund services | 1,401 | 1,726 | |
| Community Housing | - | 2,150 | |
| Capital investments* | 4 | 5,967 | - |
| TOTAL | 1,405 | 9,843 | 1,711 |

*Capital investments relate to areas such as capital expenditure on investment properties.

The table below summarises the financing of the Council's capital programme.

| | 2019/20 Actual £000 | 2020/21 Budget £000 | 2020/21 Estimate £000 |
|------------------|------------------------------------|------------------------------------|--------------------------------------|
| External sources | 1,056 | 1,299 | 1,039 |
| Own resources | 349 | 1,002 | 672 |
| Debt | - | 7,542 | - |
| TOTAL | 1,405 | 9,843 | 1,711 |

NB. Please note that the budget for 2020/21 represents the approved capital programme for that year. However, the estimated capital spend includes not only expenditure on projects within that capital programme, but also expenditure on schemes carried forward from previous capital programmes.

The Council's Borrowing Need (the Capital Financing Requirement)

The Council's cumulative outstanding amount of debt finance is measured by the Capital Financing Requirement (CFR). This increases with new debt-financed capital expenditure and reduces with MRP and capital receipts used to replace debt.

| | 2019/20 Actual £000 | 2020/21 Budget £000 | 2020/21 Estimate £000 |
|-----------------------|------------------------------------|------------------------------------|--------------------------------------|
| General Fund services | 4,996 | 4,615 | 4,615 |
| Community Housing | - | 2,150 | - |
| Capital investments | 20,976 | 26,044 | 20,746 |
| TOTAL CFR | 25,972 | 32,809 | 25,361 |

The Council's Gross Debt and the Capital Financing Requirement

Statutory guidance states that debt should remain below the capital financing requirement, except in the short-term. As can be seen from the indicator below, the debt is slightly higher than the CFR by £3.88m in 2020/21. This is only a short term position as this will finance future capital expenditure which will be incurred within the time frame of the forward approved Capital Financing Requirement estimates.

| | 2019/20 Actual £000 | 2020/21 Budget £000 | 2020/21 Estimate £000 |
|-------------------------------|------------------------------------|------------------------------------|--------------------------------------|
| Debt | 29,534 | 32,582 | 29,242 |
| Capital Financing Requirement | 25,972 | 32,809 | 25,361 |

AFFORDABILITY PRUDENTIAL INDICATORS

The previous sections cover the overall capital and control of borrowing prudential indicators, but within this framework prudential indicators are required to assess the affordability of the capital investment plans.

These provide an indication of the impact of the capital investment plans on the Council's overall finances.

Ratio of financing costs to net revenue stream

Although capital expenditure is not charged directly to the revenue budget, interest payable on loans and MRP are charged to revenue, offset by any investment income receivable. The net annual charge is known as financing costs; this is compared to the net revenue stream i.e. the amount funded from Council Tax, business rates and general government grants.

The financing costs were increased in the 2020/21 budget to reflect the proposals within the commercial property acquisition strategy, and therefore increased this indicator. These proposals will now take place in 2021/22 and 2022/23.

| | 2019/20 Actual | 2020/21 Budget | 2020/21 Estimate |
|----------------------------------|---------------------------|---------------------------|-----------------------------|
| Financing costs (£m) | 1,217,195 | 1,711,526 | 1,326,526 |
| Proportion of net revenue stream | 17.2% | 22.2% | 17.9% |

TREASURY INDICATORS: LIMITS TO BORROWING ACTIVITY

The Operational Boundary – This is the limit beyond which external debt is not normally expected to exceed. This is the maximum level of external debt for cash flow purposes.

| Operational Boundary | 2019/20 | 2020/21 |
|-----------------------------|----------------|----------------|
| | £ | £ |
| Borrowing | 47,500,000 | 47,500,000 |
| Other long term liabilities | - | - |
| Total | 47,500,000 | 47,500,000 |

The Authorised Limit for External Debt – A further key prudential indicator represents a control on the overall level of borrowing. This represents a limit beyond which external debt is prohibited, and this limit needs to be set or revised by Full Council. It reflects the level of external debt which, while not desired, could be afforded in the short term, but is not sustainable in the longer term.

This provides headroom over and above the operational boundary for unusual cash movements. This is the maximum amount of money that the Council could afford to borrow.

This is the statutory limit determined under section 3 (1) of the Local Government Act 2003. The Government retains an option to control either the total of all councils' plans, or those of a specific council, although no control has yet been exercised.

| Authorised limit | 2019/20 | 2020/21 |
|-----------------------------|-------------------|-------------------|
| | £ | £ |
| Borrowing | 50,000,000 | 50,000,000 |
| Other long term liabilities | - | - |
| Total | 50,000,000 | 50,000,000 |

West Devon Borough Council's current level of borrowing as at 30 September 2020 was £29.24 million.

As part of the Medium Term Financial Strategy, Members approved an overall Borrowing Limit of £50 million.

Report to: **Audit Committee**

Date: **9 February 2021**

Title: **Update on Progress on the 2020-21 Internal Audit Plan**

Portfolio Area: **Support Services – Cllr C Edmonds**

Wards Affected: **All**

Urgent Decision: **N** Approval and clearance obtained: **Y**

Date next steps can be taken:

Author: **Dominic Measures** Role: **Audit Manager**
Robert Hutchins **Head of Partnership**

Contact: dominic.measures@swdevon.gov.uk **01803 861375**
Robert.hutchins@swdevon.gov.uk **01392 383000**

Recommendations:

It is recommended that:

1. The progress made against the 2020/21 internal audit plan, and any key issues arising are noted and approved.

1. Executive summary

The purpose of this report is to inform members of the principal activities and findings of the Council's Internal Audit team for 2020/21 to 8th January 2021, by:

- Showing the progress made by Internal Audit against the 2020/21 annual internal audit plan, as approved by Full Council in April 2020; and
- Highlighting any revisions to the 2020/21 internal audit plan;

2. Background

The Audit Committee, under its Terms of Reference contained in West Devon Council's Constitution, is required to consider the Chief Internal Auditor's audit reports, to monitor and review the internal audit programme and findings, and to monitor the progress and performance of Internal Audit.

The Accounts and Audit (Amendment) (England) Regulations 2015 require that all Authorities need to carry out an annual review of the effectiveness of their internal audit system, and need to incorporate the results of that review into their Annual Governance Statement (AGS), published with the annual Statement of Accounts.

The Internal Audit plan for 2020/21 was originally due to be presented to the Audit Committee in March 2020. However, due to the COVID-19 pandemic, the meeting was cancelled and the plan was subsequently presented and approved by Full Council on 28th April 2020.

Progress in the period up to 8th January 2021 has been impacted by the pandemic with Internal Audit resources used to assist officers in the payment of various grants to businesses, in particular the evaluation/reviewing of applications. Out of 363 productive days so far by the audit team, 142 days have been spent on COVID related work. There was therefore a delay in commencing the 2020/21 plan, which included time spent on the completion of work outstanding from 2019/20. As a result of the recent lockdowns in November and since Christmas, at least one of the audit officers has been further engaged in assisting with business grants. A review of the plan took place in December to decide on which audits should go ahead in the remainder of the audit year and those which can be either cancelled or deferred into 2021/22. Any amendment to the plan will be agreed by the Senior Leadership Team and Audit Committee.

I am pleased to inform the Committee that there have been no days reported sickness absence in the year to date.

3. Outcomes/outputs

In carrying out systems and other reviews, Internal Audit assess whether key, and other controls are operating satisfactorily within the area under review, and an opinion on the adequacy of controls is provided to management as part of the audit report.

All final audit reports include an action plan which identifies responsible officers, and target dates to any address control issues or recommendations for efficiencies identified during each review. Implementation of action plans are reviewed during subsequent audits or as part of a specific follow-up process.

As already pointed out, progress against the agreed 2020/21 Internal Audit Plan has been greatly impacted by the COVID-19 pandemic with the Internal Audit resources diverted onto “response” tasks, especially in the first quarter of the year. However, during the summer, as well as completing those audits that remained from the 2019/20 plan, some work commenced on new audits, a number of which have been completed, with draft and final reports issued. For other audits, fieldwork has been completed and draft reports issued and we await responses from management on the content of those reports and the recommendations made. Several audits are planned for the final quarter, and planning for these reviews is underway. A summary of progress is attached at **Appendix A**, and this provides the detailed position for each audit as at 8th January 2021.

Overall, and based on work performed to date during 2020/21, Internal Audit is able to provide **reasonable assurance** on the adequacy and effectiveness of the Authority’s internal control environment. Risk management and the system of internal control are generally sound and designed to meet the organisation’s objectives. However, some weaknesses in design and / or inconsistent application of controls do not mitigate all risks identified, putting the achievement of particular objectives at risk. (please refer to **Appendix B** for definition).

It should be noted that from 2020/21, DAP has adopted new audit opinion rating systems, ones recently recommended by CIPFA. The first replaces the previous High Standard, Good Standard, Improvements Required and Fundamental Weaknesses ratings that we have used when reporting on each audit assignment. The second replaces the ratings previously used for our overall opinion that appears in our progress reports and annual report. Details are given in **Appendix B**.

The reporting of individual high and medium priority recommendations is set out at **Appendix B**. This is an ongoing part of the report to advise the Audit Committee, in detail, of significant findings since the last report and confirm that the agreed action has been implemented or what progress has been made.

Appendix C provides a summary of work where the planned work is complete but no audit report produced. This includes information with regards Non-Compliance with Contract or Financial Procedure Rules, and Fraud / Irregularity issues reported to Internal Audit during the reporting period.

4. Options available and consideration of risk

No alternative operation has been considered as the failure to maintain an adequate and effective system of internal audit would contravene the Accounts and Audit Regulations, 2003, 2006, 2011 and 2015.

5. Proposed Way Forward

We continue to be flexible in our approach and with the timetabling of audits to ensure that resources are assigned to specific areas of the plan to enable our work to be delivered at the most effective time for the organisation.

6. Implications

| Implications | Relevant to proposals Y/N | Details and proposed measures to address |
|---|---------------------------|--|
| Legal/Governance | Y | <p>The Accounts and Audit Regulations 2015 issued by the Secretary of State require every local authority to undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards.</p> <p>The work of the internal audit service assists the Council in maintaining high standards of public accountability and probity in the use of public funds. The service has a role in promoting robust service planning, performance monitoring and review throughout the organisation, together with ensuring compliance with the Council's statutory obligations.</p> |
| Financial | Y | There are no additional or new financial implications arising from this report. The cost of the internal audit team is in line with budget expectations. |
| Risk | Y | The work of the internal audit service is an intrinsic element of the Council's overall corporate governance, risk management and internal control framework. |
| Supporting Corporate Strategy | Y | This Progress Report and the work of Internal Audit supports all six of the Corporate Themes of Council, Homes, Enterprise, Communities, Environment and Wellbeing. |
| Climate Change – Carbon / Biodiversity Impact | Y | <p>None directly arising from this report. However, the Internal Audit function, managed by Devon Audit Partnership is very mindful of the need to minimise travel in completing the internal audit plan. Where possible, desk-top review of documents, and the use of electronic records, is used to obtain evidence to support the audit process, although it is inevitable that on-site verification may be required at times.</p> <p>The team use an audit management system (Mki) which enables managerial review to take</p> |

| | | |
|--|---|---|
| | | place remotely, thus also saving on the need for travel. |
| Comprehensive Impact Assessment Implications | | |
| Equality and Diversity | N | There are no specific equality and diversity issues arising from this report. |
| Safeguarding | N | There are no specific safeguarding issues arising from this report. |
| Community Safety, Crime and Disorder | N | There are no specific community safety, crime and disorder issues arising from this report. |
| Health, Safety and Wellbeing | N | There are no specific health, safety and wellbeing issues arising from this report. |
| Other implications | N | There are no other specific implications arising from this report. |

Supporting Information

Appendices:

There are three separate appendices to this report; Appendix A, B, and C.

Background Papers:

Annual Internal Audit Plan 2020/21 as approved by Full Council on 28 April 2020.

Approval and clearance of report

| Process checklist | Completed |
|--|------------------|
| Portfolio Holder briefed | Yes |
| SLT Rep briefed | Yes |
| Relevant Exec Director sign off (draft) | Yes |
| Data protection issues considered | Yes |
| If exempt information, public (part 1) report also drafted. (Committee/Scrutiny) | N/A |

Summary of progress against agreed internal audit plan 2020/21 for **West Devon Borough Council & South Hams District Council**

- Status as reported in 2019-20 Annual Report ✓ Change to Status since June 2020 ✗ Progress since 1st April 2020

| Projects agreed in the Audit Plan | Planned Number of Days | Fieldwork started | Report Issued in draft | Management comments received | Final Report Issued | Opinion | | | | Comments |
|---|------------------------|-------------------|------------------------|------------------------------|---------------------|---------------|---------------|-----------------------|------------------------|---|
| | | | | | | High Standard | Good Standard | Improvements Required | Fundamental Weaknesses | |
| Work Carried forward from 2019/20 | | | | | | | | | | |
| Housing Benefit 19/20 | 20 | ■ | ■ | ✓ | ✓ | | ✓ | | | Final report issued. Extract provided at Appendix B.. |
| Treasury Management 19/20 | | ■ | ■ | ✓ | ✓ | ✓ | | | | Final report issued. Extract provided at Appendix B.. |
| Debtors 19/20 | | ■ | ✓ | ✓ | ✓ | | ✓ | | | Final report issued. Extract provided at Appendix B.. |
| Creditors 19/20 | | ■ | ■ | ✓ | ✓ | | ✓ | | | Final report issued. Extract provided at Appendix B.. |
| Payroll 19/20 | | ■ | ■ | ✓ | ✓ | | ✓ | | | Final report issued. Extract provided at Appendix B.. |
| Employment / Recruitment Checks / Leavers Process 19/20 | | ■ | ■ | ✓ | ✓ | | | ✓ | | Final report issued. Extract provided at Appendix B.. |
| Contract Management 19/20 | | ■ | ■ | ✓ | ✓ | | | ✓ | | Final report issued. Extract provided at Appendix B.. |
| Grounds Maintenance Operations – Follow Up 19/20 | | ■ | ■ | ✓ | ✓ | | ✓ | | | Final report issued. Extract provided at Appendix B.. |

| Projects agreed in the Audit Plan | Planned Number of Days | Fieldwork started | Report Issued in draft | Management comments received | Final Report Issued | Assurance Opinion | | | | Comments |
|--|------------------------|-------------------|------------------------|------------------------------|---------------------|-------------------|------------|---------|----|---|
| | | | | | | Substantial | Reasonable | Limited | No | |
| 2020/21 Plan | | | | | | | | | | |
| MAIN FINANCIAL SYSTEMS | | | | | | | | | | |
| Main Accounting System (inc budgetary control) | 15 | x | | | | | | | | |
| Creditor (Payments) | 15 | | | | | | | | | |
| Debtors (Income Collection) | 15 | | | | | | | | | |
| Payroll | 15 | x | | | | | | | | |
| Business Rates | 15 | x | | | | | | | | |
| Council Tax | 15 | x | | | | | | | | |
| Housing Benefits | 15 | | | | | | | | | |
| Treasury Management | 8 | x | x | x | x | x | | | | Final report issued. Extract provided at Appendix B.. |
| Main Financial Systems | 113 | | | | | | | | | |

| Projects agreed in the Audit Plan | Planned Number of Days | Fieldwork started | Report Issued in draft | Management comments received | Final Report Issued | Assurance Opinion | | | | Comments |
|---------------------------------------|------------------------|-------------------|------------------------|------------------------------|---------------------|-------------------|------------|---------|----|--------------------------------|
| | | | | | | Substantial | Reasonable | Limited | No | |
| PLACE & ENTERPRISE | | | | | | | | | | |
| Community Housing Programme | 10 | | | | | | | | | |
| Salcombe Whitestrand Project | 5 | x | x | x | x | | x | | | |
| Commercial Property & Rents Follow Up | 5 | | | | | | | | | Propose to Defer until 2021/22 |
| Salcombe Harbour (S.Hams) | 10 | | | | | | | | | Propose to Defer until 2021/22 |
| Env Services – Coastal Work (S. Hams) | 8 | x | x | x | x | | x | | | |
| Dartmouth Lower Ferry (S.Hams) | 5 | | | | | | | | | Propose to Defer until 2021/22 |
| Place & Enterprise | 43 | | | | | | | | | |

Appendix A

| Projects agreed in the Audit Plan | Planned Number of Days | Fieldwork started | Report Issued in draft | Management comments received | Final Report Issued | Assurance Opinion | | | | Comments |
|--|------------------------|-------------------|------------------------|------------------------------|---------------------|-------------------|------------|---------|----|--|
| | | | | | | Substantial | Reasonable | Limited | No | |
| CUSTOMER SERVICE & DELIVERY | | | | | | | | | | |
| ICT Audit – Installation and Healthcheck | 23 | x | x | | | | | | | |
| ICT Audit – Incident and Problem Management | | | | | | | | | | Propose to Defer until 2021/22 |
| ICT Audit – Access Management | | x | x | | | | | | | |
| Locality Officers – Management, roles & scheduling | 15 | | | | | | | | | Propose to Defer until 2021/22 |
| Development Control – Planning Enforcement | 15 | x | x | | | | | | | |
| Building Maintenance – Works Scheduling | 10 | x | x | x | x | | | x | | Final report issued. Extract provided at Appendix B. |
| Safeguarding | 5 | x | x | x | x | | | x | | Final report issued. Extract provided at Appendix B. |
| HR - Absence Management | 5 | x | x | x | x | x | | | | Final report issued. Extract provided at Appendix B. |

Appendix A

| Projects agreed in the Audit Plan | Planned Number of Days | Fieldwork started | Issued in draft | Management comments received | Final | Assurance Opinion | | | | Comments |
|---|------------------------|-------------------|-----------------|------------------------------|-------|-------------------|------------|---------|----|--|
| | | | | | | Substantial | Reasonable | Limited | No | |
| CUSTOMER SERVICE & DELIVERY Contd. | | | | | | | | | | |
| Capital Expenditure and Receipts Follow-Up | 3 | x | x | x | x | | x | | | Final report issued. Extract provided at Appendix B. |
| Cash Collection & Online Payments | 5 | | | | | | | | | Propose to Defer until 2021/22 |
| Insurance – Review of Cover Follow-Up | 3 | x | x | | | | | | | |
| Health & Safety Further Follow-Up | 3 | x | x | x | x | | x | | | Final report issued. Extract provided at Appendix B. |
| Customer Service & Delivery | 87 | | | | | | | | | |

| Projects agreed in the Audit Plan | Planned Number of Days | Fieldwork started | Report Issued in draft | Management comments received | Final Report Issued | Assurance Opinion | | | | Comments | |
|---|------------------------|-------------------|------------------------|------------------------------|---------------------|-------------------|------------|---------|----|----------|--|
| | | | | | | Substantial | Reasonable | Limited | No | | |
| GOVERNANCE & ASSURANCE | | | | | | | | | | | |
| Project Management – Governance and Process (deferred from 19/20) | 20 | | | | | | | | | | Propose to Defer until 2021/22 |
| Project Management – Civica W360 Replacement | 15 | x | | | | | | | | | Propose to Defer major part of the audit until 2021/22 once the new system is embedded |
| Contract Management – Leisure Management & Waste Collection and Street Cleansing Contract | 15 | | | | | | | | | | Propose to Defer until 2021/22 |
| Corporate Information Management (Data Protection, Filing System Housekeeping) | 12 | x | | | | | | | | | |
| Change Control – Business Processes (deferred from 19/20) | 10 | | | | | | | | | | Propose to Defer until 2021/22 |
| Climate Change – Governance and Strategy | 5 | x | x | x | x | | | x | | | Final report issued. Extract provided at Appendix B.. |
| Risk Management Review (deferred from 19/20) | 10 | | | | | | | | | | Propose to Defer until 2021/22 |
| Performance Management (Data quality) | 5 | x | x | x | x | | | | x | | Final report issued. Extract provided at Appendix B.. |
| Governance & Assurance | 92 | | | | | | | | | | |

Appendix A

| Projects agreed in the Audit Plan | Planned Number of Days | Fieldwork started | Report Issued in draft | Management comments received | Final Report Issued | Assurance Opinion | | | | Comments |
|--|------------------------|-------------------|------------------------|------------------------------|---------------------|-------------------|------------|---------|----|---|
| | | | | | | Substantial | Reasonable | Limited | No | |
| OTHER ESSENTIAL ITEMS | | | | | | | | | | |
| Audit Management including:- - Audit planning, - Monitoring & reporting, - Audit Committee | 28 | x | - | - | - | - | - | - | - | Includes attendance at Audit Committee – Internal Audit Annual Report presented to Audit Committee on 23rd June 2020, |
| Annual Governance Statement | 2 | - | - | - | - | - | - | - | - | Review of the Code of Corporate Governance presented to July & October 2020 Audit Committees under separate cover |
| Exemptions from Financial Regulations | 5 | x | | | | | | | | |
| Grants - Greater Dartmoor Local Enterprise Action Fund (LEAF) & South Devon Coastal Action Group (LAG) | 30 | x | - | - | - | - | - | - | - | 18 days spent on claims to date. |
| National Fraud Initiative (NFI) | 5 | x | | | | | | | | |
| Contingency & Advice | 5 | x | - | - | - | - | - | - | - | |
| OTHER ESSENTIAL ITEMS | 95 | | | | | | | | | |
| TOTAL DAYS | 430 | | | | | | | | | |

Summary of Internal Audit Findings 2020/21 – Final Reports

As at 8 January 2021, eight final reports have been issued in respect of 2020/21 work with a further eight final reports relating to audits that were part of the previous 2019/20 Audit Plan. The conclusions from this work are summarised below.

| Subject | Audit Findings | Management Response |
|--|---|--|
| 2020/21 Audit Plan | | |
| Treasury Management 2020/21 | <p>High Standard</p> <p>Based on our review we can confirm that the Councils are adhering to legislative requirements and have appropriate and effective controls in place over the day to day treasury management operations. We noted two minor administrative issues which we have reported verbally and made one recommendation within our report concerning the recording of checks made by officers on counterparty creditworthiness and investment limits for each investment transaction, which is usually recorded on a spreadsheet but this had stopped. Our recommendation was actioned immediately.</p> | <p>The 'Decision Making Process' spreadsheet will be reinstated in order that all the checks are clearly evidenced in one location.</p> |
| Building Maintenance - Works Scheduling 2020/21 | <p>Limited Assurance</p> <p>Those officers with responsibility for maintaining the buildings owned and/or leased by the Councils understand the need for a planned maintenance schedule and the benefits this offers.</p> <p>At the time of the audit, the development of a comprehensive schedule was in progress, almost fully completed for WDBC, and partially completed for SHDC. It has not been possible to finish the work in the timescales expected as staff resource has been diverted by responding to requirements resulting from the Covid-19 pandemic.</p> <p>There is no policy to guide the maintenance of Council property, with reliance being placed on the knowledge, experience and personal approach of the Senior Specialist - Assets (ST) and the Senior Case</p> | <p>Agreed – the Planned Building Maintenance Schedule will be completed at the earliest opportunity.</p> <p>Agreed – A Building Maintenance Policy will be drawn up.</p> <p>Agreed – All planned property maintenance schedules will be entered onto Concerto, the system used by the Council to manage most aspects of property maintenance.</p> <p>Agreed – An internal review of the property maintenance service will be done in conjunction with the planned Case Management review of the building maintenance service timetabled for 2021/22. Such an exercise will include a review of Building Maintenance delivery arrangements and processes.</p> |

| Subject | Audit Findings | Management Response |
|---|--|--|
| Building Maintenance - Works Scheduling 2020/21 Contd. | <p>Manager (PC).</p> <p>The Senior Case Manager is very aware of the need to undertake planned works in the most efficient manner, including minimising the travel time of the team, as well as maximising best value from hired equipment such as cherry pickers and scaffolding. However, we understand that due to the small size of the Building Maintenance team, it is very difficult to deliver the planned maintenance schedule alongside those reactive works which arise.</p> <p>The latter are, by their very nature, usually of a higher priority and so take precedence over the planned tasks, which, as a result, fall behind schedule. There are insufficient members of the team skilled in certain trades to allow reactive works and planned works to be undertaken at the same time. The limited staff resource is also exacerbated by the significant amount of travel time required to reach some sites.</p> <p>As a result, contractors are sometimes used to complete tasks such as painting and decorating, often at cheaper hourly rates than the Council's own internal recharges which are shown on a full cost recovery basis and include wider council.</p> <p>We have made a number of recommendations which focus on considering how best to develop the most effective means of delivering building maintenance on a timely and efficient basis, considering the existing constraints summarised above and how these may be overcome.</p> | |
| Safeguarding | <p>Reasonable Assurance</p> <p>The Councils are largely meeting the statutory duties placed on them with regards to Safeguarding, which are described in this report's Introduction. However, there are some areas where there is scope to strengthen existing arrangements, to ensure that it is considered as part of all day to day activities, including:</p> <ol style="list-style-type: none"> 1. Case Management support to allow additional safeguarding activities to be carried out, which will also contribute to the corporate priority of | <ol style="list-style-type: none"> 1. Disagreed. Statutory safeguarding duties are being delivered effectively at the present time. Unfortunately, the business case is insufficient to warrant additional resource to develop non-statutory elements of the safeguarding function. <p>The Specialist – Safeguarding (LD) has been asked to keep a record of referrals received each week, in order to monitor the time required. If this does suggest a need for extra resource, the matter will be reconsidered.</p> <ol style="list-style-type: none"> 2. Agreed. - HR are to introduce a series called 'theme of the |

| Subject | Audit Findings | Management Response |
|---------------------|---|---|
| Safeguarding Contd. | <p>Wellbeing;</p> <ol style="list-style-type: none"> 2. As planned, making a number of training modules on Learning Pool mandatory for all staff; 3. Considering additional posts for which Disclosure and Barring Service (DBS) checks should be made and with what frequency; 4. As intended, completing the viability study looking at DBS checks for members; 5. Continuing to lobby the Devon Children and Families Partnership for guidance around the Section 11 audit; 6. Appointing a Key Designated Officer known to the manual operatives based out of the Councils' depots; and 7. Requiring safeguarding risks to be considered as part of operational business plans. | <p>month'. Each month will focus on a different topic and associated courses on Learning Pool will be publicised, some of which it will be mandatory to complete. The first theme will be Safeguarding, and the 'Safeguarding Adults' course will be mandatory.</p> <p>Staff will be given one month to complete mandatory courses, after which the reporting mechanism in Learning Pool will be used to confirm who has and has not completed these. Managers will be advised of the latter and required to enforce this, by mechanisms to be discussed with ELT.</p> <ol style="list-style-type: none"> 3. Agreed. A new policy has recently been drafted, which sets out the Councils' approach to DBS checks. <p>The Head of HR Practice, in consultation with the relevant Business Manager or Recruiting Manager, will determine whether each new role or vacancy is eligible for a DBS check, and if so, at what level. The www.gov.uk on-line eligibility tool will be used to guide this decision.</p> <p>The document will be amended to require that a record of the decision taken by the Manager will be kept securely on the personnel file of a successful applicant and the recruitment file for the post.</p> <p>It is proposed that DBS checks are repeated every three years for all relevant employees.</p> <p>The draft policy is to be reviewed by the Specialist – Safeguarding (LD) and the Chief Executive (AB) prior to being published.</p> 4. Agreed. The viability study will be completed to allow an informed decision to be made as to the need for DBS checks for members. 5. Agreed. The matter will be discussed with the Head of Housing, Revenues and Benefits Practice (IB) and the Specialist – Safeguarding (LD) to determine how best to |

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| Safeguarding Contd. | | <p>discharge the duty.</p> <p>6. Agreed. An appropriate officer will be identified and trained.</p> <p>7. Agreed. A new Corporate Strategy is to be developed and once this is in place it will inform operational business plans.</p> <p>As well as linking to the Corporate Strategy, each business plan will also include a number of standard items such as health and safety, risk, well-being etc., as well as safeguarding. The degree of consideration to the latter is expected to be proportionate to the tasks being delivered.</p> <p>It is intended that the new Corporate Strategy be adopted in Summer 2021 and operational business plans will be further developed after this date.</p> |
| HR - Absence Management | <p>Substantial Assurance</p> <p>We found evidence of repeated short term absences not being identified and delays in addressing sickness absence in line with the Managing Absence policy, but the instances all arose due to employees not promptly submitting sickness declarations prior to the new reporting and reconciliation processes.</p> <p>Absence management appears to be more effective and timely since new procedures were introduced in March 2020 for the centralised reporting of sickness and in July 2020 for monitoring those sickness days recorded and the submission of sickness declaration forms. The introduction of the new processes should prevent re-occurrences of those issues identified.</p> <p>The Case Management Team Leaders are now responsible for receiving notifications of sickness absence from all employees across the organisation and for ensuring that these are recorded on a central Smartsheet database. The Smartsheet is then used by two dedicated Case Managers and the HR Specialists to ensure that a sickness declaration form or medical certificate is received for all reported absences, that a return to work interview is completed and that absence</p> | <p>1. Agreed. Officers have been regularly instructed to ensure that extensions of time are requested promptly and before applications go out of time.</p> <p>Joint work with the Business Development Team has resulted in some new models which are being piloted. Unfortunately, they have not been entirely successful and so further work will be required to identify a solution.</p> <p>2. Agreed. The guidance will be reviewed and updated, prior to being published.</p> |

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| <p>HR - Absence Management Contd.</p> | <p>duration is monitored and accurately recorded. This allows more robust monitoring of sickness absence across the organisation.</p> <p>There is evidence that HR are routinely involved in absence management, supporting managers as necessary. The two Business Managers, supported by the HR Specialists, line managers and team leaders across the organisation, are able to manage employee absences on a timely and informed basis.</p> <p>We have made a small number of recommendations, mostly in support of action already planned by the HR Practice and some which will help to strengthen existing controls. These concerned:</p> <ol style="list-style-type: none"> 1. Completion of FlexPlanner, the corporate time recording system used by all employees with computer access, to record hours of work, annual leave, sickness etc, by staff. 2. Updating the Guidance for Managers document to reflect the 2019 version of the Managing Attendance Policy; 3. Reporting sickness and absence to SLT and Heads of Practice. | <p>3. Agreed. Previously regular updates were taken to SLT on long-term absences, disciplinary cases and grievances, but these ceased with the departure of the former Chief Executive. Although the reports are not being taken to SLT, the information is still gathered and is available on request.</p> <p>Regular updates on absences whether COVID-19 related or “general” absences are given to the Incident Management Team which meets at least weekly at the present time.</p> <p>The Head of HR Practice (AW) is due to have a 1-2-1 with the Deputy Chief Executive in late October 2020, to establish what SLT require.</p> <p>Sickness reports for Heads of Practice and the Business Manager – Specialists (CB) have been created and need a few final tweaks before being regularly produced.</p> |
| <p>Capital Expenditure and Receipts Follow-Up</p> | <p>Our assurance opinion, after completing follow up work in this area, remains Reasonable Assurance, the equivalent of Good Standard. However, the overall direction of travel for improvement is positive.</p> <p>There are effective procedures in place to allow a robust capital programme to be set for each authority and subsequent progress and expenditure to be controlled and monitored for individual projects. We have made a minor recommendation regarding evidencing authorisation for disposal of assets.</p> <p>Controls over the application, approval and payment of Housing Assistance, including Disabled Facilities Grants, remain broadly unchanged from previous years.</p> | <p>Agreed. A mechanism is required, by which all approvals for disposal can be formally documented, including for those handled by external lawyers. Evidence should be on the legal file as a minimum and not solely on the Councils’ network.</p> <p>The most appropriate process will be identified in liaison with the Legal Practice.</p> |

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| <p>Health & Safety Further Follow-Up</p> | <p>Our assurance opinion, after completing follow up work in this area, has increased from Limited Assurance, the equivalent of Improvements Required, to Reasonable Assurance. However, if the recommendations we have made are not implemented, we may need to revise our opinion back to one of 'Limited Assurance'.</p> <p>The Head of Environmental Health Practice (IL) is of the opinion that as a result of the Covid-19 pandemic, there is a much improved health and safety culture and awareness within the organisation, particularly amongst managers. However, there remains a need to improve record keeping, in order to evidence the work being carried out.</p> <p>Also, it needs to be ensured that non-manual staff in particular, are aware of the Health and Safety Statement and associated Codes of Practice (induction procedures generally require manual staff to be made aware of the health and safety requirements of their role).</p> <p>As in previous years, the Head of Environmental Health Practice (IL) continues to maintain a Health and Safety action plan, setting out those tasks which it is desirable to complete, to improve the health and safety culture of the Councils. The tasks are prioritised by risk. However, some tasks rely on other officers to assist in their delivery or require the support of the Senior Leadership Team.</p> <p>In 2018 a temporary Senior Case Manager was seconded to assist in the administration of health and safety amongst other tasks. At the time of our review, the secondment was due to end in September 2020. But should the secondment not be extended or made permanent, we understand that most of the tasks being carried out by the officer would cease, to the detriment of the health and safety function, due to lack of other staff resource.</p> <p>Responding to the Covid-19 pandemic, including related health and safety matters, has placed considerable and unsustainable pressure on the Head of Environmental Health Practice (IL). If the level of input continues to be necessary, then we are advised that additional qualified staff</p> | <p>The Chief Executive has expressed a personal commitment to ensuring that the Councils meet their health and safety responsibilities. With this in mind, the subject is to be discussed at the Senior Leadership Team meeting, with the aim of identifying what resource is needed to allow this.</p> <p>There is a sharp focus on Health & Safety as a result of COVID-19 and resourcing in this area will be reviewed on a continuous basis.</p> <p>It is to be noted that the introduction of a 'corporate assurance' role is being considered, which would be accountable for ensuring that responsibilities with respect to health and safety, risk, information management etc. are being followed across the organisation.</p> <p>It is felt appropriate to link the health and safety obligations of individuals to their Personal Continuous Improvement commitments. The possibility of taking advantage of the planned 'theme of the month' programme to be delivered by the HR Practice will also be investigated in liaison with the Head of Environmental Health Practice.</p> <p>As far as the specific points raised are concerned:</p> <ol style="list-style-type: none"> 1. Agreed. The COP meetings have been reinstated and will be attended by the Director of Governance and Assurance. Health and Safety is very much at forefront of the organisation and is being constantly reviewed by the Covid-19 Incident Management Team. 2. Agreed. It is not felt that bespoke software is necessary for this task. Rather, it is preferable to make sure that effective controls are in place to ensure that risk assessments are regularly reviewed and the best means of doing this will be considered. |

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| <p>Health & Safety Further Follow-Up Contd.</p> | <p>resource will be needed to allow a continued response to Covid-19, as well as management of the day-to-day Environmental Health function.</p> <p>As well as the issues identified above, we have also highlighted several others, including the need to:</p> <ol style="list-style-type: none"> 1. Reinstate the meetings of the virtual Health and Safety Community of Practice; 2. Ensure that managers review and update all risk assessments on a timely basis; and 3. Ensure that quarterly workplace inspections are completed by a competent person(s), particularly for the higher risk functions. | <ol style="list-style-type: none"> 3. Agreed in principle. Whilst having an independent officer make an inspection of a service area is best practice, it is not a statutory requirement. <p>The manager responsible for delivery in that service area would be expected to have the competency to undertake such inspections themselves.</p> <p>There isn't the spare staff capacity to continue with independent inspections at the present time, but the matter will be discussed at a future Health and Safety COP meeting.</p> |
| <p>Climate Change – Governance and Strategy</p> | <p>Reasonable Assurance</p> <p>We undertook a high level review of the Councils' arrangements for responding to the climate and biodiversity emergency declared by the majority of local authorities in 2019/20, including SHDC and WDBC.</p> <p>Being a relatively new commitment for the Councils, and as such, the first year that Audit have reviewed it, our work focussed on the strategic aims of the two Authorities and those governance arrangements which have been put in place to ensure delivery of the planned Climate Change Strategy.</p> <p>The Councils have recruited a shared Specialist - Climate Change, who commenced in June 2020, initially for two years, to be the Councils' expert advisor on carbon reduction and climate change policy. Key elements of the role include developing the Councils' strategic approach and co-ordinating delivery against the action plans.</p> <p>Although the Councils have yet to produce a Climate Change Strategy, they do each have Action Plans in place and work has commenced on the delivery of some of the actions. There are two Action Plans: operational</p> | <ol style="list-style-type: none"> 1. Agreed. This work was delayed by the Covid-19 pandemic, but a draft Climate Change Strategy and Action Plan was taken to each Full Council in September 2020. It was recommended that the Climate Change and Biodiversity Working Groups develop a first version of the final Strategy and Action Plans, which was subsequently adopted at the Full Council meetings in December 2020. It is recognised that the nature of the subject means that the Strategy will continue to evolve and develop over time. 2. Agreed. The Climate Change and Biodiversity Working Group at each Council have completed a review of the initial Action Plans, using high level cost-benefit analysis, to refine these to a realistic set of actions. <p>The Climate Change Strategy and Action Plans were adopted by each Full Council in December 2020 and business cases will be developed for those to be taken forward.</p> |

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| <p>Climate Change – Governance and Strategy Contd.</p> | <p>plans, which address the Councils’ own carbon footprints, created in the delivery of services, and outward facing plans, which seek to address district and borough wide issues where the Councils have limited influence. The outward facing plans are generally aligned with the Devon Carbon Plan and thus regional targets and aspirations.</p> <p>It is important that momentum is not lost in addressing the climate and biodiversity emergency, nor in delivering the Action Plans, as a result of the Covid pandemic response and recovery. Indeed, the two should be considered in tandem.</p> <p>For example, the pandemic has demonstrated that it is possible to adapt the delivery of some services, making greater use of electronic tools and reducing the amount of travel required, whether by officers, members or the public. Opportunities to retain and indeed, further develop, such changes should be embraced.</p> <p>Also, when looking to facilitate the re-development of the local economy, the focus should be on encouraging clean, sustainable businesses, rather than those which have an environmental impact, whether in terms of development, travel, associated pollution etc., or which are vulnerable to future pandemics.</p> <p>We have made a number of recommendations, the majority of which are in support of actions already planned by officers, the most significant including:</p> <ol style="list-style-type: none"> 1. The completion of the Climate Change and Biodiversity Strategy; 2. Prioritising the order of delivery of those items within the Action Plans; 3. Ensuring that clear performance indicators are in place to measure the Councils' success in reducing carbon emissions; and 4. A review of existing strategies and policies to ensure that they complement the Councils' commitment to addressing climate change and increasing biodiversity. | <ol style="list-style-type: none"> 3. Agreed. The proposed actions within each authority’s draft Climate Change Action Plan have been reviewed and prioritised, resulting in an updated version of the Action Plans which was approved by each Full Council in December 2020. <p>Having prioritised those actions to be delivered, the methods of delivery have yet to be determined in detail. It is only once this has been done that targets will be set for those actions where it is appropriate and meaningful to do so.</p> <p>Targets won’t be applicable to all actions, as some are outside the Councils’ control and they can only seek to influence external partners or the public.</p> <ol style="list-style-type: none"> 4. Agreed. The Operational Carbon Reduction Plan considers the Councils’ own activities or those which they can influence. It is planned to review internal policies and the strategic use of assets, to identify areas where they can be updated to help achieve carbon savings. <p>In terms of outward-looking strategies and plans, the new Corporate Strategy, to be developed in liaison with members, will be key in considering carbon reduction and biodiversity.</p> <p>Also, the Joint Local Plan (JLP) has a five year review cycle. A first review is being actively pursued with Plymouth City Council as it is now approximately six years since work commenced on writing the JLP and two years since it was adopted.</p> <p>Existing timetables such as this will influence when work can be completed to review current strategies and policies.</p> |

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| <p>Performance Management (Data quality)</p> <p>Performance Management (Data quality) Contd.</p> | <p>Limited Assurance</p> <ol style="list-style-type: none"> 1. The Councils' Data Quality Assurance Strategy is aged, being written in 2013, refers to a previous performance management regime and has not been brought to the attention of staff for some years. 2. There is no formal corporate training or awareness raising with respect to the importance of data quality, reliance being placed on the arrangements of individual business areas. 3. Whilst the Councils have a performance management system, this is not used to best effect, only being used to record a limited number of performance measures. We understand that replacement risk and performance management software is being actively considered. This would offer the opportunity to introduce a new culture of centrally recording all performance measures. 4. Responsibility for the reliability and accuracy of data does not sit with one team, but rather, rests with any officer tasked with producing such information. Decisions as to whether data should be validated in any way, are left to the individual or their manager. 5. Having reviewed a sample of data published in the draft 2019/20 Annual Reports, we demonstrated that some of this was inaccurate, either due to human error, or not using the most recently available data. 6. Audit trails evidencing how a performance measure was calculated from raw data, were not always maintained, and in some instances, it was not possible to readily replicate the data. 7. The data published in the draft Annual Reports was not always obtained directly from the officer responsible for producing it, but was sometimes taken from intermediate sources, such as member reports. In these instances, it appeared that there was sometimes a lack of awareness that the data had in fact been manipulated in order to | <ol style="list-style-type: none"> 1. Agreed. The Data Quality Strategy will be updated and promoted to staff. 2. Agreed. If there is an existing module in the Learning Pool catalogue, then this will be made available. Otherwise the focus will be on general awareness raising, using the Flash, team meetings etc., to ensure that individuals required to capture data are aware of their responsibilities. 3. Agreed. The existing software is likely to be retained for the foreseeable future and is currently used for the recording of key performance indicators which are reported to members. However, its use will be extended to record other performance indicators where it is reasonable to do so, such as those included in the Annual Reports. In the first instance a review needs to be made of what data is being captured by services (to be done by 31 March 2021), to allow an informed decision to be made as to which should be recorded on the performance software. A suite of appropriate performance measures will be developed to support the new corporate strategy. 4. The need and importance for confirmation of data accuracy will be incorporated into the revised Data Quality Strategy to guide staff as to what level of data validation is expected when obtaining data from various sources. 5. Agreed. Links to data sources will be included where possible, but it is now felt necessary to continue to publish figures taken at a fixed point in time. However, in future, the date to which any published data relates to, will also be included and assurance that any data cited represents the period intended e.g a full year rather than six months. This |

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| <p>Performance Management (Data quality)</p> | <p>represent a particular issue. This was then presented as if the original, un-manipulated data in the Annual Reports.</p> <p>8. Manual intervention was sometimes necessary in producing the data, but we noted instances where it may be possible to reduce the amount of intervention by better use of system reporting and spreadsheet capabilities.</p> | <p>principle will be included in the revised Data Quality Strategy and be actioned in the 2020/21 Annual Reports.</p> <p>Where published data applies across both authorities this will be stated.</p> <p>6. Agreed, any data used to calculate a performance measure will be retained as part of the audit trail supporting the published figure. This will be included in the revised Data Quality Strategy and the staff awareness raising.</p> <p>7. Agreed. This will be included in the revised Data Quality Strategy and the awareness raising and training for staff, emphasising the importance of understanding how data was created or manipulated and the need to record calculation methodologies.</p> <p>Data provided by contractors should, as a minimum, be sense checked. It will also be included in the Contract Management Strategy, currently being developed by the Procurement Officer (RW), that quality and accuracy of data should be confirmed as part of contract management meetings.</p> <p>8. Agreed. Improvements in the report functionality will be investigated for some performance indicators, as will making a more efficient and effective process.</p> <p>This issue could be overcome by the development of automated reporting in current and future system software and a reports dashboard e.g. telephone system software or systems used by Localities Team.</p> |

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| <p>2019/20 Audit Plan</p> | | |
| <p>Housing Benefit 2019/20</p> | <p>Good Standard</p> <p>The use of on-line benefit claim forms, and the integration of the W360 system with the benefits system, has allowed the benefits service to continue to make best use of the resources available to it and overall it is considered that the procedures and controls within the benefit system remain at a good standard.</p> <p>Based on our testing it appears that benefits processing is generally undertaken accurately and performance against the key indicators of processing speed for new claims and changes in circumstances has been good, with reported performance for both councils being within the target number of processing days during the year.</p> <p>Last year we reported that there had been an increase in housing benefit overpayments created during 2017/18 and 2018/19 due to the DWP fraud and error initiative Real Time Information (RTI), which the Councils voluntarily signed up to. RTI is a data matching service between HMRC and the DWP. However, following the initial surge, it is expected that this service will have reduced the number of overpayments going forward, by identifying on a more timely basis, the use of inaccurate data provided by claimants or failure to advise of changes.</p> <p>Analysis of the Overpayment Reports (OVR310), taken from the benefits system, showed that for SHDC, at the end of 2018/19 £1.15m overpayments were outstanding, but that at the end of 2019/20, this had reduced to £728k. For WDBC there was also a decrease in outstanding overpayments, with a total of £864k at the end of 2018/19, which had reduced to £702k at the end of 2019/20.</p> <p>Just under half (43%) the overpayments as at 1 April 2020 are being recovered from on-going entitlement for each authority. For the remainder, where the customer is no longer in receipt of any deductible benefits, benefit debtors invoices have been raised. Payment of such</p> | <ol style="list-style-type: none"> <p>Agreed. Since late June 2020 the Senior Specialist – Benefits (LM) and the Specialist – Housing Benefits (DH) have been undertaking quality checks, based on the process which was originally introduced in January 2020.</p> <p>A list of claims processed in the previous week is used to select a random, anonymous sample of claims for checking.</p> <p>A spreadsheet guides the checker through a list of questions which vary depending on the type of check being made. The answers are entered on to the spreadsheet which calculates the error rate.</p> <p>The results are used to provide feedback regarding assessors’ performance, to the L6 Senior Case Managers (NU & JS) and the Case Management Team Leader (NC).</p> <p>If just one assessor is making an error, they will be provided with individual training. If an error is being made by several assessors, then team training is provided. Following any training, each assessor is required to sign to say that they understand the training received. A library of training documents is being compiled, which the assessors can refer to at any time.</p> <p>The results of the quality checks will feed into performance management for the assessors.</p> <p>An appropriate workflow process for court cases will be considered once the replacement for W360 workflow system is in place. However, priority will be given to the implementation of processes which are already live in the</p> |

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| <p>Housing Benefit 2019/20 Contd.</p> | <p>invoices is enforced through the normal corporate recovery routes.</p> <p>In reaching our conclusions, we have sometimes had to make assumptions based on the evidence available to us, without further explanation from staff, who were unavailable during the audit due to the unprecedented number of benefit claims being received following the COVID-19 pandemic. It has been clearly stated where this is the case, and a small number of recommendations from last year have been repeated where we have been unable to confirm their implementation.</p> <p>In addition, there are a couple of areas where it is believed that action could be taken to further strengthen existing controls or gain efficiencies, including:</p> <ol style="list-style-type: none"> 1. Ensuring that the new arrangements for making effective quality checks of benefit assessors are re-introduced and assessed for effectiveness when the workload due to the COVID-19 pandemic allows; and 2. Maximising the use of all available recovery routes for housing benefit overpayments, including enforcement agents and through the courts. <p>All recommendations are made in relation to business as usual and it is assumed that it will not be possible to consider their implementation until after this point, or a 'new normal', is reached, following the recovery phase of the COVID-19 pandemic.</p> | <p>current software.</p> <p>A truly corporate debt team could improve recovery rates. At present, the size of the debt team means that officers each focus on one type of income stream and so resource may not always be used to best effect.</p> <p>The principle of introducing enforcement agents as a standard recovery stage is agreed with, but it needs to be addressed once a corporate debt team is in place, allowing efficiencies to be gained for both the Councils and the customers, for example, by amalgamating all debts an individual may owe to the Council into one sum to be recovered, rather than seeking multiple liability orders against an individual.</p> <p>It will be determined who is responsible for making the reviews of enforcement agent performance and then to implement them.</p> |
| <p>Treasury Management 2019/20</p> | <p>High Standard</p> <p>Based on our review we can confirm that the Councils are adhering to legislative requirements and have appropriate and effective controls in place over the day to day treasury management operations. We noted a small number of minor administrative issues where we have made recommendations.</p> | |

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| Debtors 2019/20 | <p>Good Standard</p> <p>Recovery and identification of accounts with aged debts has been improved and there is the opportunity to progress this further with better methods of identification, such as broken arrangements reports and additional avenues for recovery action, such as through court action. However, this is dependent on maintaining an efficient process and implementation of additional resources. The need for resources and specialised management of the ongoing debt will be driven by the considerable impact of the pandemic.</p> <p>Our review of the service has identified that controls need strengthening in some areas and that, in a number of instances, action has been taken to address the agreed recommendations within the previous year’s audit report. This is largely due to the improved centralised processing and efficiencies of the Support Services Case Management Team.</p> <p>In the case of recovery activity, the use of in-house resources has shown some marked improvements in reducing and stabilising the ongoing aged debt since the start of the centralised processing. Additional resources will be needed to maintain this. See audit report point 4.3.</p> <p>Other issues include:</p> <ol style="list-style-type: none"> 1. Duplicate accounts, redundant accounts, aged data and records are known to exist, but there is no formal review of accounts to identify these and remove those that are no longer required; 2. A process is in place to identify debts by service and this needs to be monitored to ensure that the system is effective in ensuring services also recover outstanding debts; 3. A more formalised system needs to be implemented to identify and action relevant changes to Project Initiation Documents (PIDs) and related accounts from all services inputting to the process; | <ol style="list-style-type: none"> 1. With the new Archive system being available soon this should be possible once training has been given. 2. Reports are sent from Debtors to Licensing and Assets who carry out their own recovery. <p>Due to COVID 19 the Strategic Leadership Team (SLT) put a hold on “active” recovery such as court action. The Senior Case Manager Customer Service and Delivery (MB) gets updates from the Director of Strategic Finance (LB) as to when any action can be taken. This has been in the form of reminder letters since March 2020, advising customers that they are in arrears on Council Tax, Business Rates or sundry debts and detailing various sources of advice and help. The Councils have not taken proceedings further to court action in the first six months of 2020.</p> <p>Agreed. This is something that we are planning on reviewing in the coming months as the impact of Covid-19 means that this has changed the financial impact associated with certain debts and this needs to be understood. The Senior Specialist Finance Officer (CS) will be tasked to review the management of corporate debt.</p> <p>However, it will be difficult to cost evaluate the service and different debt recovery and this will be taken under consideration for the future and when resources are available after the year end.</p> <ol style="list-style-type: none"> 3. Further training has already been arranged with Licencing on this was due to take place in October 2020. 4. The Senior Specialist Finance Officer (CS) will be tasked to review the management of corporate debt and identify the areas where additional monitoring is required. She will liaise |

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| Debtors 2019/20 Contd. | <p>4. Identifying the key performance of the service in more detail, such as specific collection rates, level of aged debts, number of write offs and related performance of the service to further monitor the performance of the service and to confirm service improvements are working effectively; and</p> <p>5. Review the effectiveness of the service, identify areas for improvement and, where appropriate, further develop the automation of raising and processing of debtors.</p> | <p>with the services and SSCM team to enable better analysis of corporate debts. Civica have been commissioned to</p> <p>make aged debt report improvements to enable bespoke reporting in this area.</p> <p>5. Agreed this is something that we are keeping a close eye on at the moment and when the ongoing impact of the virus is known, early next year, we will further examine the resources needed for this service in consultation with Finance.</p> <p>Support Services will input to the finance review of the service to ensure there is an effective understanding of the performance of recovering the different forms of debt.</p> |
| Creditors 2019/20 | <p>Good Standard</p> <p>We were able to confirm that, generally, controls are in place to manage the payment of creditors, with most payments being made accurately and on a timely basis. Action has been taken, or is in progress, to address many of the recommendations made in 2018/19, although a small number do remain outstanding, some of which are outside the control of the Central Invoicing Team. We have repeated these, and other issues identified during our 2019/20 review, which would contribute to both the strengthening and the enforcing of controls over payments being made, the most significant of which are:</p> <p>1. Reminding officers of the requirement to raise a purchase order at the time of commissioning goods or services, rather than after the invoice is received;</p> <p>2. Ensuring that all relevant officers understand the procurement requirements within Contract Procedure Rules, when purchasing goods or services;</p> <p>3. Completing a review of the financial limits imposed on individual users who are able to authorise the ordering of goods and services on behalf</p> | <p>1. Agreed. The Senior Specialist – Accountant Business Partner (RH), in liaison with the Case Management Team Leader (SB), will incorporate this messaging into some refresher training which is already planned for Case Managers.</p> <p>2. Agreed.</p> <p>3. Agreed. A review will be made by the Senior Specialist – Accountant Business Partner (RH).</p> <p>4. Agreed. The team have been reminded of the process and what they need to record.</p> <p>5. Agreed. This function has not been looked at in detail, nor tested. Other authorities have not rolled it out either, which is understood to be because it is not very user-friendly from the customer perspective. If Civica continues to be used in the long term it may be worth investigating further at a future date.</p> |

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| <p>Creditors 2019/20 Contd.</p> | <p>of the Councils;</p> <ol style="list-style-type: none"> 4. Reminding members of the Support Services Case Management team of the importance of recording that new or amended creditors' bank details have been independently checked; and 5. Investigating the possibility of providing creditors with the option to securely register their personal and bank details on-line, to both provide an improved customer service and to gain efficiencies. | |
| <p>Payroll 2019/20</p> | <p>Good Standard</p> <p>The current arrangements for delivering the payroll function are operating effectively as possible, with suitable key controls in the majority of areas.</p> <p>Due to the limitations of the current software, it is not possible to gain further significant efficiencies, for example by removing the need to perform a number of key calculations manually such as starters, leavers and maternity pay. We are aware that officers have been exploring options for new software over the past year, but these have been put on hold as unexpected costs relating to the production of payslips were identified for the system being considered. Meanwhile, the existing software is reliant on a Windows 7 operating system, which is no longer supported by Microsoft, although we understand that the current software supplier may be in a position to improve their offering in the future. Therefore, there remains the need for continued consideration of alternative payroll software and/or service delivery options, which may contribute to further resource efficiencies.</p> <p>We have made a small number of minor recommendations to strengthen existing payroll controls and several higher priority recommendations which really relate to the recruitment process and have been raised in our 2019/20 review of the Employment, Recruitment and Leavers Checks, see below</p> | <p>At the present time there is a desire to keep the payroll function wholly or largely in house and within the Councils' control. There is little appetite for offering a service to other organisations, as there is a lot of competition in this area, including from many far larger companies.</p> <p>We commenced conversations with a neighbouring authority owned company to explore options for them providing a payroll function to South Hams and West Devon. Covid-19 had delayed their own implementation of the system until October 2020 and, at the time of the audit, the Council were waiting for revised timescales for them to take on any additional customers, including ourselves.</p> <p>In parallel with this, the current payroll system provider, TeamSpirit, has been bought by a larger company, FMP, who are able to offer a new cloud-based solution, Amity. Therefore, this improved system will also be considered.</p> <p>FMP are not on any existing Framework Agreements and so it will be necessary to carry out a procurement exercise, with the assistance of the Procurement Officer (RW), which will, in any case, allow an objective evaluation of the two products.</p> <p>Update – the decision has been made to procure an external Payroll/HR solution as a replacement to the existing system. Capital Bids of £15k for each Council will appear in the</p> |

| Subject | Audit Findings | Management Response |
|---|--|---|
| | | 2021/22 capital programme. |
| <p>Employment / Recruitment Checks / Leavers Process 2019-20</p> | <p>Improvements Required</p> <p>The Councils have a structured and controlled approach to the recruitment of staff, with a strategic overview of manpower resource and its deployment. Procedures are in place to ensure that selection of candidates takes place in accordance with legislation and to ensure that the people best suited to the role and the organisation are appointed. Similarly, there is a process in place to manage those staff leaving the organisation.</p> <p>However, we did note several areas where existing controls would benefit from being strengthened, to increase their effectiveness. The most significant of these include:</p> <ol style="list-style-type: none"> 1. Ensuring that references are obtained for all starters; 2. Introducing better controls over the engagement of agency staff; and 3. Ensuring that managers complete all leaving documentation, in order that Payroll and ICT are aware of departing staff. | <ol style="list-style-type: none"> 1. Agreed. The recruitment smart sheet now allows the Senior Case Manager (SH) to track the progress of receiving references. Where two references are not received, then a case-by-case judgement is made as to whether or not this is acceptable. For example, if someone has worked for the same employer for many years and only one reference is received, this would probably be accepted. But, if someone has been through numerous short-term jobs, then a second reference may be insisted on. 2. Agreed. Existing procedures require that all business cases for the appointment of agency staff are approved through the HR Panel smartsheet process before the manager makes a request in the Comensura portal. In addition, the Business Manager – Specialists (CB) reviews all requests and ensures that there is sufficient budget for such appointments. 3. Agreed. It is acknowledged that a more robust process is needed to ensure the completion and submission of the leavers' forms. It is intended to use the new NetCall system to develop an intuitive and automatic system, to ensure compliance with this requirement, as well as recovering Council equipment. Until a solution can be developed in Netcall, existing methods will continue to be used. |
| <p>Contract Management Strategy and Process – Follow-Up 2019-20</p> | <p>Improvements Required</p> <p>We have reviewed how officers oversee the management of a variety of contracts including key areas such as IT.</p> <p>We have found that beyond procurement, the management of contracts is</p> | <p>The Director of Governance and Assurance has been discussing the future requirements of contract management with the Chief Executive. Although some of the significant contracts are subject to sufficient governance there is the potential that others may not be appropriately reviewed.</p> |

| Subject | Audit Findings | Management Response |
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| <p>Contract Management Strategy and Process – Follow-Up 2019-20 Contd.</p> | <p>spread across all disciplines of the Authorities and there is no overarching strategy or policy currently in place which outlines guidance on how the Councils should manage contracts nor a shared standard approach to administration and governance.</p> <p>As we have identified in other internal audit reports, although the Councils have various lists of known suppliers and a corporate Contract Register, these records are not linked, the register is not regularly updated and they do not include all contracts or details of agreements held by the Councils.</p> <p>Each service has its own methods of recording contract information, such as contract amendments and performance. There are a variety of officers involved in the process of administering and managing contracts, with a range of contract management skills and experience. However, there is no specific training programme related to contract management or overview.</p> <p>In general, councils spend a significant amount of resources managing all their contracts and this may not be formally recorded or analysed to provide effective costing for future contract requirements or if the service and contracted provisions might change. There is a risk that where contracts are under resourced, due to lack of oversight and controls, that the benefits of the contract may not be wholly realised and ultimately may cost a council more money. This is a common issue for all Local Authorities and the public sector as a whole.</p> <p>Services need to be more aware of contract risks and include this in the service and corporate Risk Registers. There is a need to ensure that significant contractors have business continuity plans and that the Councils have evaluated exit strategies should the contract terminate before the end of the agreement.</p> | <p>Currently reliance is placed on the services procuring the contracts and we are aware that without a comprehensive Contracts Register and adequate resources and capacity for senior officers that performance and governance of some contracts will not be adequate.</p> <p>Although we do capture some of the key contracts there is a need to improve on the Contract Register and use it to identify the higher risk contracts, those that need reviewing and further managing certain contracts.</p> <p>There is a need to capture all of the contracts and agreements held and the use of services such as payments and finance to identify these will be considered.</p> <p>Based on the weaknesses already identified and outlined in the report we will be strengthening the process of recording contracts and their management and during 2021 consider how best to allocate resources to managing contracts better either as a single contract officer or at service level.</p> <p>This will be incorporated into the Organisation Forward Plan.</p> <p>The Council’s Procurement Strategy will be reviewed and linked to a Contract Management Strategy that will provide a consistent approach to the management of contracts across the Councils.</p> <p>With the updating of the procurement regulations this would be a good time to remind the Extended Leadership Team (ELT) of the requirements to manage their procured contracts. This will include the importance of recording amendments and recording variations to contracts.</p> <p>Other senior officers are able to maintain and monitor the ICT contracts and reliance is not placed on the ICT HoP.</p> <p>Due to Brexit and more recently with Covid-19, we are</p> |

| Subject | Audit Findings | Management Response |
|---|---|--|
| | | <p>regularly reviewing the Council's resilience with regard supply chains and related contracts and this needs to be formally included in the Council's Contracts Register and Business Continuity Plan. This will include regular review of supplier's continuity plans to account for changing circumstances and obtaining assurance from key suppliers that their plans have been regularly tested.</p> |
| <p>Grounds Maintenance Operations – Follow Up 2019-20</p> | <p>The service has made progress since our last audit review with the introduction of a tree inspection programme for West Devon and inputting the grounds maintenance planned and unplanned work into Concerto and enabling electronic recording of completed jobs.</p> <p>The Council has also enlisted an independent external appraisal of the efficiency and capacity of the service and the report should be fully considered in driving future changes.</p> <p>However, we have identified that the processes regarding the fundamental changes to the service have not been fully realised since our last audit report in May 2019 and so we have reiterated these recommendations, the most significant of which are:</p> <ol style="list-style-type: none"> 1. To use the service reviews to drive a new maintenance plan for the service which establishes the work required by the service, for both external and internal clients, which can be updated for future environmental and organisational changes; 2. That the long-term plan enables effective development of staff, and elimination of single points of failure, and evolution of the service, such as machinery procurement; 3. That the services are obtaining the best value for money and that the Council knows how much each aspect of the service, both internally and externally, costs and this drives an accurate budget; 4. That the Concerto system is used effectively to record work and the | <ol style="list-style-type: none"> 1. We have now completed the review of grounds maintenance, in conjunction with the external review by the Environmental Services Manager from South Somerset District Council. Using this review a comprehensive business plan will be submitted for Member approval in January 2021. 2. Agreed. A robust service specification will be built into the business plan. We have already started reviewing the staff and providing a more stable and sustainable plan for our employees. We are reviewing the training and ensuring that support is provided to those with specialist knowledge. <p>We have started work on a clear structure, to refine the employees' roles to have a better opportunity to improve their roles and responsibilities. We have initiated in conjunction with Human Resources an incremental improvement plan based on their performance. Additional training has been planned to improve the resilience and functionality of the service.</p> <ol style="list-style-type: none"> 3. We are undertaking a comprehensive review of costs, which will include evaluation of other competitors in this area and comparing to industry standards, and we will not be extending beyond the current external contracts until we have fully evaluated the service. <p>Meetings are currently underway to evaluate the costs associated with these external contracts and how to price for</p> |

| Subject | Audit Findings | Management Response |
|--|--|---|
| <p>Grounds Maintenance Operations – Follow Up 2019-20 Contd.</p> | <p>related costs;</p> <p>5. That there are adequate performance indicators set and that these are effective and independently monitored and regularly reported; and</p> <p>6. That the grounds maintenance and tree maps are accurately updated, that this is fed into the maintenance service plan and ultimately available to users for reporting.</p> | <p>the work provided. Discussions are incorporating factors such as location and the type of work required and devising a matrix of charging schedules to account for the variety of work and areas covered.</p> <p>4. When the Concerto system is populated with work completed, we will be using this to evaluate the service performance.</p> <p>5. Agreed we will be undertaking planned inspections and by independent officers and the service graded and performance monitored. This will be linked to the Service Specification. A recent member working group identified that there was positive feedback on the performance of the service.</p> <p>6. A significant amount of the missing data on the mapping system has been updated by Case Management. The future development of the system, including monitoring and reporting, will be developed with the new IT system.</p> |

Definition of Assignment and Overall Assurance Opinions

The CIPFA Special Interest Group (SIG) for Internal Audit have undertaken to look at the issue of standardising “Engagement Opinions”, which is “the rating, conclusion and/or other description of results of an individual internal audit engagement, relating to those aspects within the objectives and scope of the engagement”

Until recently DAP have used four assignment assurance opinions levels which Members will be familiar with, they are:

| | |
|-------------------------------|---|
| High Standard | The system and controls in place adequately mitigate exposure to the risks identified. The system is being adhered to and substantial reliance can be placed upon the procedures in place. We have made only minor recommendations aimed at further enhancing already sound procedures. |
| Good Standard | The systems and controls generally mitigate the risk identified but a few weaknesses have been identified and / or mitigating controls may not be fully applied. There are no significant matters arising from the audit and the recommendations made serve to strengthen what are mainly reliable procedures. |
| Improvements Required | In our opinion there are a number of instances where controls and procedures do not adequately mitigate the risks identified. Existing procedures need to be improved in order to ensure that they are fully reliable. Recommendations have been made to ensure that organisational objectives are not put at risk. |
| Fundamental Weaknesses | The risks identified are not being controlled and there is an increased likelihood that risks could occur. The matters arising from the audit are sufficiently significant to place doubt on the reliability of the procedures reviewed, to an extent that the objectives and / or resources of the Council may be at risk, and the ability to deliver the service may be adversely affected. Implementation of the recommendations made is a priority. |

Based on their analysis of existing practice, the CIPFA SIG have recommended that the following standard internal audit assurance opinions are provided for engagements, as follows:

Audit Assignment Assurance Opinion Levels – New from May 2020

| | |
|------------------------------|--|
| Substantial Assurance | A sound system of governance, risk management and control exists, with internal controls operating effectively and being consistently applied to support the achievement of objectives in the area audited. |
| Reasonable Assurance | There is a generally sound system of governance, risk management and control in place. Some issues, non-compliance or scope for improvement were identified which may put at risk the achievement of objectives in the area audited. |
| Limited Assurance | Significant gaps, weaknesses or non-compliance were identified. Improvement is required to the system of governance, risk management and control to effectively manage risks to the achievement of objectives in the area audited. |
| No Assurance | Immediate action is required to address fundamental gaps, weaknesses or non-compliance identified. The system of governance, risk management and control is inadequate to effectively manage risks to the achievement of objectives in the area audited. |

Devon Audit Partnership Management Board approved the adoption of the new assurance opinions for all internal audit assignments completed from **2020/21** for all its partners and clients.

Overall / Annual Assurance Opinions

Further to the above, our progress reports and annual audit report aim to provide a statement for senior management and the Audit Committee (or equivalent) on the overall organisational control environment. Again, there is no prescribed way in which Internal Audit should provide this; Until now, DAP have used four categories for the overall/annual opinion as set out below:

| | | | |
|-----------------------|---|-------------------|--|
| Full Assurance | Risk management arrangements are properly established, effective and fully embedded, aligned to the risk appetite of the organisation. The systems and control framework mitigate exposure to risks identified & are being consistently applied in the areas reviewed. | Limited Assurance | Inadequate risk management arrangements and weaknesses in design, and / or inconsistent application of controls put the achievement of the organisation's objectives at risk in a number of areas reviewed. |
| Substantial Assurance | Risk management and the system of internal control are generally sound and designed to meet the organisation's objectives. However, some weaknesses in design and / or inconsistent application of controls do not mitigate all risks identified, putting the achievement of particular objectives at risk. | No Assurance | Risks are not mitigated and weaknesses in control, and /or consistent non-compliance with controls could result / has resulted in failure to achieve the organisation's objectives in the areas reviewed, to the extent that the resources of the Council may be at risk, and the ability to deliver the services may be adversely affected. |

It would seem logical to closely mirror the individual assignment opinions when providing our annual, overall assurance opinion. Some small changes are required to make this work, but it was proposed that the following four ratings should be used for our overall audit opinion provided during 2020/21.

Overall / Annual Assurance Opinion Levels – New from May 2020

| | | | |
|-------------------------------------|---|---------------------------------|---|
| <p>Substantial Assurance</p> | <p>A sound system of governance, risk management and control exists across the organisation, with internal controls operating effectively and being consistently applied to support the achievement of strategic and operational objectives.</p> | <p>Limited Assurance</p> | <p>Significant gaps, weaknesses or non-compliance were identified across the organisation. Improvement is required to the system of governance, risk management and control to effectively manage risks and ensure that strategic and operational objectives can be achieved.</p> |
| <p>Reasonable Assurance</p> | <p>There are generally sound systems of governance, risk management and control in place across the organisation. Some issues, non-compliance or scope for improvement were identified which may put at risk the achievement of some of the strategic and operational objectives.</p> | <p>No Assurance</p> | <p>Immediate action is required to address fundamental control gaps, weaknesses or issues of non-compliance identified across the organisation. The system of governance, risk management and control is inadequate to effectively manage risks to the achievement of strategic and operational objectives.</p> |

Devon Audit Partnership Management Board approved the adoption of the new overall/annual assurance opinions from 2020/21 for all its partners and clients.

Planned Audit 2020/21 – Work Complete (No Audit Report)

| Subject | Comments |
|---|---|
| <p>System of Internal Control (SIC), and Annual Governance Statement (AGS)</p> | <p>Included within the Internal Audit Annual Report presented to the June Audit Committee was the internal audit opinion providing assurance that the Council's systems contain a satisfactory level of internal control.</p> <p>In addition, there is a requirement for the Council to prepare an AGS statement. Internal Audit provided support and challenge, as appropriate, to the Senior Leadership Team as they drafted the statement in respect of the 2019/20 financial year.</p> <p>The S151 Officer presented the 2019/20 AGS to the Audit Committee on 21 July & 13 October 2020.</p> |
| <p>Exemptions to Financial Procedure Rules</p> | <p>Three applications for Contract / Financial Procedure Rules have been received in the year to date, two were accepted whilst one was subsequently cancelled.</p> |
| <p>Fraud / Irregularity</p> | <p>There have been no irregularities to report.</p> |

Report to: **Audit Committee**
Date: **9 February 2021**
Title: **Sundry Debt**
Portfolio Area: **Support Services – Cllr C Edmonds**

Wards Affected: **All**

Urgent Decision: **N** Approval and clearance obtained: **Y**

Date next steps can be taken: N/A

Author: **Clare Scotton** Role: **Finance Business Partner**
Pauline Henstock **Head of Finance Practice**
and Deputy S.151 Officer

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Recommendation:

That the Audit Committee note the position in relation to Sundry Debt

1. Executive summary

- 1.1 The Council is responsible for the collection of: Sundry Debts, Housing Benefit Overpayments, Council Tax and National Non-Domestic Rates (NDR).
- 1.2 Following the last position update on 29th October 2019, the report scheduled for 24th March 2020 was postponed due to COVID-19. This report provides members with an update of the position of Sundry Debt and Housing Benefits Overpayments up to 30th September 2020.

2. Background

- 2.1 The Council's management arrangements underpin delivery of all the Council's priorities, including the commitment to providing value for money services. Incorporated within this, is the timely collection of monies due to the Council. Debts are recovered in accordance with the Council's Recovery Policy as published on our website.

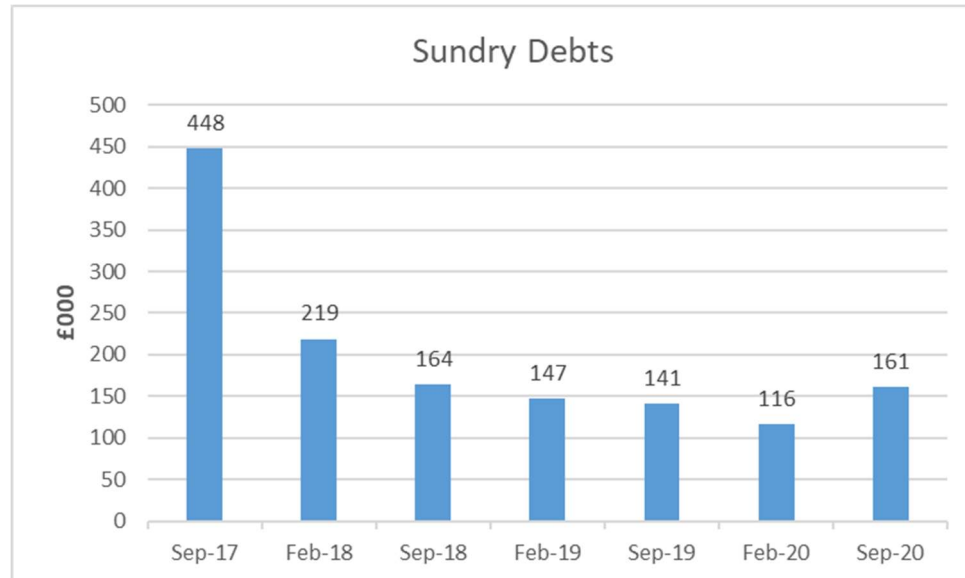
- 2.2 Following the centralisation of debt recovery into one service from October 2017 and the implementation of the Debt Recovery Action Plan, members requested a series of updates to demonstrate robust control of debt recovery procedures, particularly relating to sundry debt.
- 2.3 The implementation of a comprehensive action plan has resulted in robust recovery procedures. This report outlines the latest positions in collection relating to Sundry Debt and Housing Benefit Overpayments by providing data that demonstrates the progress made.

3. Outcomes/outputs

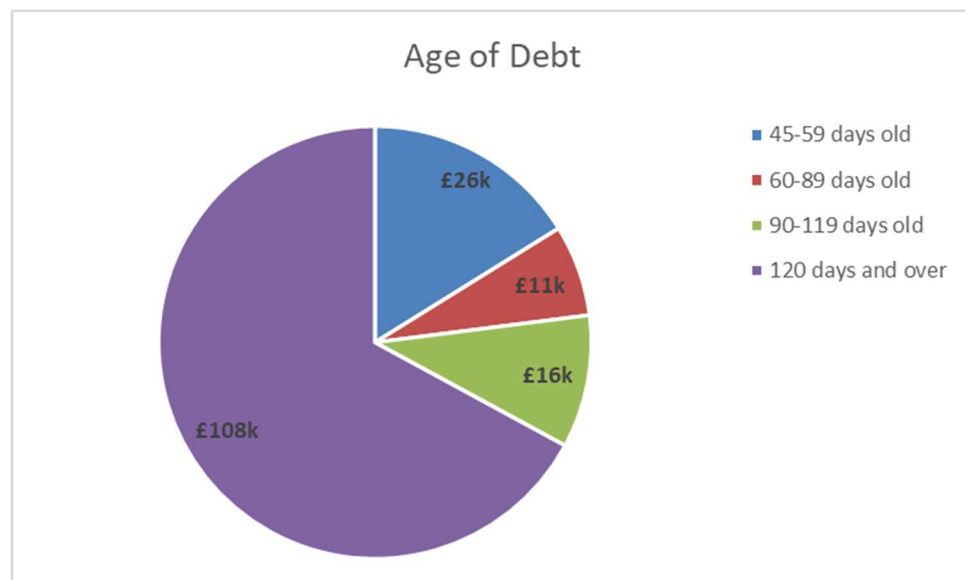
- 3.1 The arrears covered in this report are split into three categories as follows:
 - a. Sundry Debts
 - b. Housing Benefit Overpayment Recoveries from those still in receipt of Housing Benefit
 - c. Housing Benefit Overpayment Recoveries from those no longer in receipt of Housing Benefit
- 3.2 All Council sundry debts are actively pursued, and in most instances are collected with little difficulty. In cases where payment is not received on time, a series of reminders are issued promptly to the debtor. If this fails to secure payment, recovery is pursued through the courts.
- 3.3 The Council took the decision to pause the chasing of Sundry Debts at the start of the pandemic but this process was resumed in the Summer and reminder letters are being sent out regularly.

Sundry Debts

- 3.4 The balance of arrears for Sundry Debts over recent years is summarised below. Sundry Debts consist of Estates Management, Licencing and Housing. This excludes car parking fines which are included on a different system.



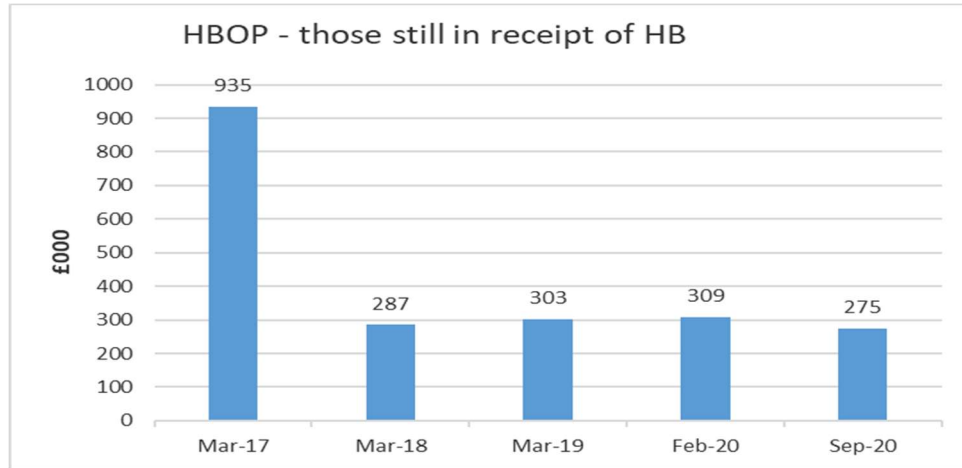
- 3.5 This balance of £161k can be further broken down by age category to give a clearer picture of the nature of Sundry Debt arrears, as follows.



- 3.6 The current balance for Sundry Debts of £161k includes only three high value debtors (in excess of £10k). These all appear to be low risk debtors where the likelihood of recovery is considered high. A bespoke report has been commissioned from the IT system supplier, on further aged debt analysis reporting, to further report on all debt over 120 days old.

Housing Benefit Overpayment Recoveries from those still in receipt of Housing Benefit

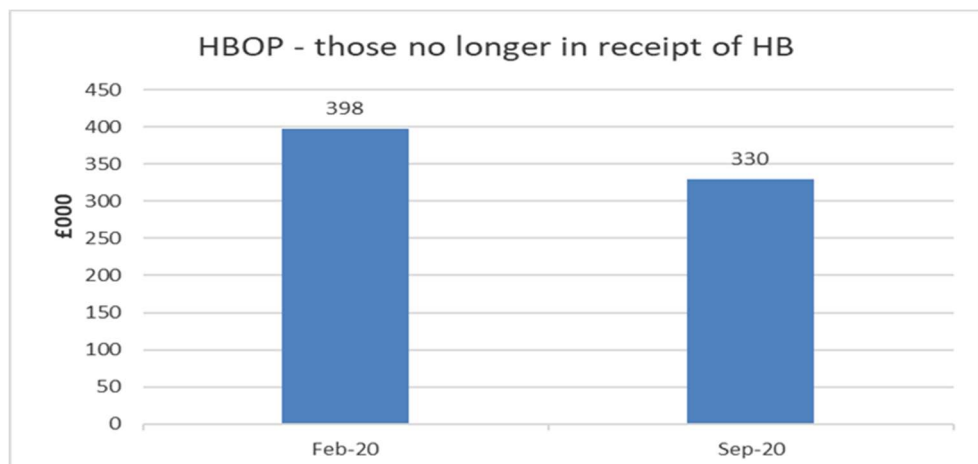
3.7 The balance of arrears for Housing Benefit Overpayment Recoveries from those still in receipt of Housing Benefit is £275k as at 30th September 2020, a slight decrease on the balance of £309k as at 1st February 2020. The balance over time can be seen on the chart below.



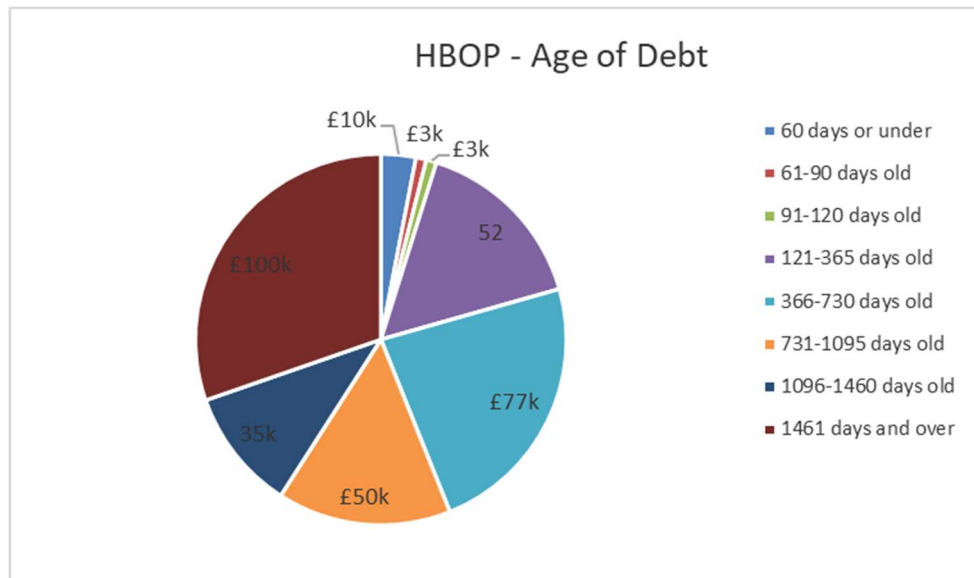
3.8 Recovery action was paused following the initial lockdown in March but this process is now back up and running. The Case Management team make every effort to identify overpayments promptly and so begin the recovery process whilst amounts are still relatively low. By recovering these debts whilst people are still in receipt of Housing Benefit, the ease of recovery is greater, as is the likelihood of full recovery.

Housing Benefit Overpayment Recoveries from those no longer in receipt of Housing Benefit

3.9 The balance of arrears for Housing Benefit Overpayment Recoveries from those no longer in receipt of Housing Benefit is £330k as at 30th September 2020, well down from the balance of £398k as at 1st February 2020.



- 3.10 The amount outstanding is continuously monitored and well managed for both categories of Housing Benefit Overpayment Recoveries. A downwards trend is expected as members of the public move increasingly from the Housing Benefit system over to the Universal Credit system.
- 3.11 The effect of this will be that less Housing Benefit will be administered by the Authority and so the amount that is overpaid will reduce.
- 3.12 The balance of £330k can be further broken down by age category to give a clearer picture of the nature of these arrears, as follows.



4. Options available and consideration of risk

- 4.1 The Business Manager for Case Management is keen to continue to focus on debt recover and it is anticipated that every effort will be made to recover monies owed to the Council promptly. Where this isn't possible, the debt recovery procedures will be followed and overdue debts will be duly followed up.

5. Proposed way forward

- 5.1 The Committee note the content of this report and continue half yearly reporting.

6. Implications

| Implications | Relevant to proposals Y/N | Details and proposed measures to address |
|--|---------------------------|---|
| Legal/Governance | Y | The guidelines for Statutory Interest Charging and adding recovery costs falls under the European Directive 2011/7/EU on Combating Late Payment in Commercial Transactions. Enforcing successful legal action for recovery of debt is dependent upon a robust system of ensuring correct business names are recorded within our systems. |
| Financial implications to include reference to value for money | Y | Improved income collection, resulting in less impact of uncollectable debt on the Income and Expenditure Account, due to fewer write offs. |
| Risk | Y | There remains a risk of income not being collected. The Debt Recovery Plan alongside the Debt Recovery Policy seeks to minimise this. Risk to reputation is managed carefully by prompt recovery of amounts due wherever possible. This risk is also mitigated by taking a balanced view and ensuring that resources are not expended on debts which are not cost effective to pursue and these are written off in accordance with the Council's Write Off Policy |
| Supporting Corporate Strategy | | The debt recovery process supports all six of the Corporate Strategy Themes of Council, Homes, Enterprise, Communities, Environment and Wellbeing. |
| Climate Change - Carbon / Biodiversity Impact | | None directly arising from this report. |
| Comprehensive Impact Assessment Implications | | |
| Equality and Diversity | N | All enforcement action that is taken prior to this point is undertaken in accordance with legislation and accepted procedures to ensure no discrimination takes place. |
| Safeguarding | N | N/A |
| Community Safety, Crime and Disorder | N | N/A |
| Health, Safety and Wellbeing | N | N/A |
| Other implications | N | None |

Supporting Information

Appendices:

None

Background Papers:

None

Approval and clearance of report

| Process checklist | Completed |
|---|------------------|
| Portfolio Holder briefed/sign off | Yes |
| SLT Rep briefed/sign off | Yes |
| Relevant Heads of Practice sign off (draft) | Yes |
| Data protection issues considered | Yes |
| Accessibility checked | N/A |

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Report to: **Audit Committee**

Date: **9 February 2021**

Title: **Regulation of Investigatory Powers Act 2000 (RIPA) Update**

Portfolio Area: **Cllr Chris Edmonds**
Performance & Resources

Wards Affected: **All**

Urgent Decision: **N** Approval and clearance obtained: **N**

Date next steps can be taken:

Author: **Neil Hawke** Role: **Head of Strategy and Projects**

Contact: **01803 861323** neil.hawke@swdevon.gov.uk

RECOMMENDATIONS

That the Committee:

- 1. Welcomes the report of the Investigatory Power Commissioners Office (Appendix A); and**
- 2. Acknowledges that there have been no RIPA Authorisations since the last report to Members (2018).**

1. Executive summary

- 1.1** The Regulation of Investigatory Powers Act 2000 (RIPA) was designed to regulate the use of investigatory powers, and its effect is that formal authorisation must be obtained before carrying out certain surveillance, monitoring and other evidence gathering activities. RIPA ensures that the right balance is achieved between public interest and individual human rights
- 1.2** This report provides an update on RIPA activity within the previous 12 months and the outcome of a recent inspection by the Investigatory Powers Commissioner's Office, including the Councils action plan for addressing the findings.

2. Background

- 2.1** RIPA requires the Council to have in place procedures to ensure that when required, surveillance is seen as necessary, proportionate and is properly authorised. The Council is required to have a policy and procedures in place that are

designed to protect the Council against a claim of a breach of Article 8 of the Human Rights Act (right to respect for private and family life, home and correspondence) if correctly followed.

- 2.2 No RIPA authorisations have been applied for, or granted, since the last report to Members in 2018.
- 2.3 The reason for no authorisations are due to a combination of factors, including the fact that for local authorities, the only statutory reason for a RIPA authorisation is for the purpose of preventing or detecting a criminal offence where that offence is punishable by a minimum term of at least 6 months imprisonment. Another reason for no RIPA activity being undertaken is a greater access to data-matching as a means to detect crime and overt, rather than covert law enforcement (such as placing of monitoring equipment that is highly visible and in plain view).
- 2.4 The Office of the Surveillance Commissioner undertakes an Inspection of the Council every three years in order to identify if we have the correct procedures, policies and governance in place in respect of RIPA authorisations. An inspection was undertaken on 17th September 2020.

3. Outcomes/outputs

- 3.1 The Council participated in a telephone-based inspection with an Investigatory Powers Commissioner Inspector on 17th September 2020.
- 3.2 The Commissioner concluded that:
 - a. The Council is well placed with regard to the required safeguards in respect of Data Handling
 - b. That our RIPA policy makes clear how RIPA activity would be managed within the Council
 - c. That the information provided during the telephone inspection demonstrated a level of compliance that removed the need for more in-depth inspection.
- 3.3 The Commissioner did make some recommendations that minor amendments are made to the Council policy to reflect recent changes to powers and some administrative corrections to the document. These are not material changes and therefore the revised policy does not need Council approval.
- 3.4 The Commissioner also made an observation with regard to the role of Senior Responsible Officer. Currently the SRO function rests with the Chief Executive. It is felt that this role should sit more comfortably with the Director Governance and Assurance in order for the Chief Executive to take an independent monitoring role of RIPA activity.

4. Options available and consideration of risk

- 4.1 The Council is obliged under the Regulation of Investigatory Powers Act to have a RIPA Policy in place and to ensure compliance with that policy. Home office guidance also requires

that officers are trained in RIPA in the future event that the Policy needs to be applied and authorisations granted.

- 4.2 A number of senior officers within the Council received training in 2018 although refresher training will be commissioned within the next 12 months.
- 4.3 The Investigatory Powers Commissioner requires that an update on RIPA activity, even where there has been none, is required to be reported to Members.
- 4.4 The Senior Leadership Team have considered the recommendation regarding the Senior Responsible Officer role and conclude that it agrees with this function being carried out by the Director Governance and Assurance.

5. Proposed Way Forward

- 5.1 The proposed way forward is for the Audit Committee to note the recommendations of the Investigatory Powers Commissioner as set out in Appendix A.
- 5.2 Officers have implemented the changes to the current policy (Appendix B) required by the Commissioner but given that they are minor, Council approval is not required. .
- 5.3 A further report on RIPA activity will be considered by this committee in 2022.

6. Implications

| Implications | Relevant to proposals Y/N | Details and proposed measures to address |
|--|---------------------------|--|
| Legal/Governance | Y | The Council's duties for covert surveillance are set out in RIPA Policy. The Policy ensures the Council complies with the requirements of the Regulation of Investigatory Powers Act 2020 and in doing so that the Council acts in such a way that does not breach an individual's human rights. |
| Financial implications to include reference to value for money | N | There are no financial implications to this report. |
| Risk | Y | Adoption of (and compliance with) a RIPA policy will minimise any risk to the Council of breaches of the Human Rights Act in any future investigations involving covert surveillance. Regular review of Policy and RIPA use, together with reporting to O&S will further mitigate that risk and ensure consistent application of the policy. |
| Supporting Corporate Strategy | Y | Council – Efficient and Effective Services |

| | | |
|---|---|--|
| Climate Change - Carbon / Biodiversity Impact | N | None |
| Comprehensive Impact Assessment Implications | | |
| Equality and Diversity | N | No direct implications to this report but these issues are considered in each individual application and RIPA authorisation |
| Safeguarding | N | There are no direct implications to this report but these issues are considered in each individual application and RIPA authorisation. |
| Community Safety, Crime and Disorder | N | There are no direct implications to this report but these issues are considered in each individual application and RIPA authorisation |
| Health, Safety and Wellbeing | N | There are no direct implications to this report but these issues are considered in each individual application and RIPA authorisation |
| Other implications | N | None |

Supporting Information

Appendices:

Appendix A – Investigatory Powers Commissioner Report

Appendix B –RIPA Policy (with Minor Amends)

Background Papers:

Approval and clearance of report

| Process checklist | Completed |
|---|------------------|
| Portfolio Holder briefed/sign off | Yes/No |
| SLT Rep briefed/sign off | Yes/No |
| Relevant Heads of Practice sign off (draft) | Yes/No |
| Data protection issues considered | Yes/No |
| Accessibility checked | Yes/No |



Investigatory Powers
Commissioner's Office

PO Box 29105, London
SW1V 1ZU

Andrew Bates
Chief Executive
West Devon Borough Council and South Hams District Council
Follaton House
Plymouth Road
Totnes, Devon
TQ9 5NE

directors@swdevon.gov.uk

17 September 2020

Dear Mr. Bates,

**Inspection of West Devon Borough Council and
South Hams District Council**

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

Your Council was recently the subject of a telephone-based inspection by one of my Inspectors, Mr Paul Gration. The inspection examined your level of compliance with regard to the use of directed surveillance and covert human intelligence sources (CHIS) in accordance with the provisions of the Regulation of Investigatory Powers Act 2000 and the acquisition of communications data in accordance with the provisions of the Investigatory Powers Act 2016. This discussion is ordinarily held with the Senior Responsible Officer (SRO) who should be in a position to outline how regular, ongoing internal oversight of the actual or potential use of these powers is conducted.

I understand that the role of SRO sits with the Chief Executive in your organisation, a position to which you have only recently been appointed. It was felt by your Monitoring Officer and Business Manager, Ms Catherine Bowen, that others were best placed to discuss the current arrangements which are delivered jointly across both authorities. Ms Bowen was joined in the discussion by your Head of Strategy (Governance), Mr Neil Hawke, and I should be grateful if you could pass on my thanks for their contribution and the provision of the necessary records and documentation. I trust you have been fully briefed with regard to the details of that discussion.

The information provided has demonstrated a level of compliance that removes, for the present, the requirement for a physical inspection. I ask you to consider and to ensure that any observations from the findings of the remote inspection are promptly addressed.

The Councils' previous inspection was conducted by His Honour Norman Jones QC who raised a number of recommendations. Mr Gration has reviewed those recommendations and while they are discharged, he has raised some of his own observations.

I understand, following receipt of my correspondence outlining my expectations regarding handling of data, that you are well placed with regard to the required safeguarding measures. Your current RIPA policy, although in need of a review in part, makes clear reference to the management of surveillance product and signposts staff to your current corporate record management policy for further guidance.

The finer points of Mr Gration's observations have been fully discussed with Ms Bowen and Mr Hawkes and can be summarised as follows:

Recommendation

- As mentioned previously, your current RIPA policy should be reviewed and the following amendments are required:
 - The policy should reflect recent legislative and procedural changes. This should include the impact of the Investigatory Powers Act 2016 and the recent amendment to the authorisation period for a juvenile CHIS.
 - Hyperlinks throughout the document could be more helpful, as they currently take the reader to the Home Office website front page rather than to the required reference point.
 - The appropriate crime threshold is correctly referred to on page 2, but requires correction on page 11 to reflect the amendment detailed in the RIPA Directed Surveillance and CHIS Order 2010.

Observation

- The role of SRO warrants further internal discussion. It is not in itself a compliance issue that it sits at CEO level but after review, you may feel it fits more comfortably elsewhere within the Corporate Leadership team. You, of course, may well be required to authorise activity as the senior authorising officer.
- HH Jones raised the requirement to keep Elected Members updated regarding RIPA activity in line with paragraph 4.47 of the Covert Surveillance and Property Interference Code of Practice. Although there has been no recent activity, it is important to remember that this remains a requirement and that they are given the responsibility to review the authority's use of RIPA and set your RIPA policy each year.

In conclusion, although your Council has not used its surveillance powers for several years, I take the opportunity here to reiterate to you the importance of regular, ongoing internal oversight of the actual or potential use of these powers. The role of SRO is key to that oversight and a timely review will give you the opportunity to assess who is best placed to perform that role.

It is also important that officers engaged in investigatory or enforcement areas where RIPA considerations are not so immediately apparent, maintain their levels of knowledge and know whom to approach for guidance. It is pleasing to note that you have conducted recent training for those likely to be involved in this type of activity. Ms Bowen and Mr Hawkes have given the appropriate reassurance that the integrity of your Council's processes and governance procedures will be maintained to ensure that high standards of compliance with the Act and relevant codes of practice are achieved.

I hope that you find this letter to be helpful and constructive. My Office is available to you should you have any queries following the recent inspection, or at any point in the future. Contact details are provided at the foot of this letter.

I shall be grateful if you would acknowledge receipt of the report within two months, and your plans regarding the above advice.

Yours sincerely,

A handwritten signature in black ink that reads "Brian Leveson". The signature is written in a cursive style with a prominent initial 'B'.

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

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**SOUTH HAMS DISTRICT Council
And
WEST DEVON BOROUGH COUNCIL**

**Regulation of Investigatory Powers Act 2000
Joint Policy**

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Introduction

Overview

The Regulation of Investigatory Powers Act 2000 (RIPA) means that formal authorisation from a senior officer must be obtained before carrying out certain surveillance, monitoring and other evidence-gathering activities. The Council may not carry out any other types of surveillance at all.

It is important to remember that RIPA must always be complied with, regardless of whether the information obtained is to be used as evidence in court proceedings. Failure to comply with RIPA doesn't just mean that the evidence cannot be used in court; it means that the whole procedure is illegal and that the officers concerned do not benefit from the above protection.

This Policy applies to South Hams District Council and West Devon Borough Council.

What is this document for and why is it needed?

The Councils' are allowed and required to carry out investigations in relation to their duties. Such investigations may require surveillance or information gathering of a covert nature.

Article 8 of the European Convention on Human Rights provides:

- Article 8.1: Everyone has the right to respect for his private and family life, his home and his correspondence.
- Article 8.2: There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of rights and freedoms of others.

This right is not absolute, it is a qualified right. This means that in certain circumstances the Council *may* interfere with the right if the interference is:

- in accordance with the law
- necessary, and
- proportionate

Covert Surveillance and information gathering may constitute an interference with the right to respect for private and family life. To ensure that such an action is not unlawful under the Human Rights Act 1998, the Council needs to meet the requirements of the Regulation of Investigatory Powers Act 2000 (RIPA).

In simple terms, RIPA requires the Council to have in place procedures to ensure that when required, surveillance is seen as necessary and is properly authorised. Surveillance is usually a last resort that an investigator will use to prove or disprove an allegation. RIPA sets out a statutory mechanism for authorising covert surveillance and the use of covert human intelligence sources (see below). RIPA seeks to ensure that any interference with

an individual's rights under Article 8 is necessary and proportionate and that, therefore, there is a balance between public interest and an individual's human rights. Covert surveillance will only be undertaken where there is no reasonable and effective alternative means of achieving the desired objective.

What is meant by necessary?

It is essential to consider whether an investigation requiring surveillance or information gathering can be done overtly rather than covertly. What would the result be if you carried out the investigation overtly?

If an investigation can be reasonably carried out by any means other than by using covert surveillance, then the use of covert surveillance is not necessary.

It must then be considered whether it is necessary to conduct covert surveillance or use covert human intelligence sources in the circumstances of the particular case for the **purpose of preventing or detecting crime where the offence is punishable by imprisonment of a term of six months or more.**

What is meant by proportionate?

This is an important concept, and it means that any interference with a person's rights must be proportionate to the intended objective. The action must be aimed at pursuing a legitimate aim. Interference will not be justified if the means used to achieve the aim are excessive in all the circumstances.

The use of surveillance must be designed to do no more than meet the objective in question; it must not be unfair or arbitrary, and the impact on the individual (or group of people) concerned must not be too severe. In deciding whether the use or action is proportionate, the risk of intrusion into the privacy of persons other than those who are the object of the investigation must be considered, and the measures proposed to minimise such intrusion must be properly assessed. You must be satisfied that, on balance, the principle of the subject's right to privacy is outweighed by the purpose of the investigation. Clearly, the more serious the matter being investigated, the more likely that surveillance will be proportionate.

The proportionality test will also require you to consider whether there are any other appropriate means of obtaining the information and whether there is a risk of collateral intrusion. The least intrusive method will be proportionate. Some of the things you may also wish to consider in terms of proportionality are whether covert surveillance is the only option, what other options have been considered, the intended length of the investigation, the number of officers to be deployed in the investigation.

The activity will not be proportionate if it is excessive in the circumstances of the case or if the information which is sought could reasonably be obtained by other less intrusive means.

What is covered by the Regulation of Investigatory Powers Act 2000?

The main purpose of the Regulation of Investigatory Powers Act 2000 is to ensure that the relevant investigatory powers are used in accordance with human rights. The Act sets out

these powers in more detail. Part II of the Act sets out the powers available to local authorities.

The Council is able to carry out investigations using covert surveillance and/or by using a covert human intelligence source under RIPA following the formal authorisation procedures and codes of practice as set out in this document. RIPA applies to the Council's core functions. Please ask the RIPA Co-ordinating Officer for advice if you are unsure as to whether RIPA will apply.

RIPA not only covers the surveillance of members of the public but would also cover the observation of staff and members as part of an internal investigation.

Do we need to follow these rules?

Although RIPA does not impose a requirement for local authorities to comply with it, it is essential for the Council to do so to ensure that:

- it is less vulnerable to a challenge under the Human Rights Act and
- any material gathered is admissible by the civil and criminal courts.

Following the requirements of RIPA and acting in accordance with this Policy, will therefore protect the Council against potential challenges to its decisions and procedures. Not following the procedures specified in this document could also lead to a complaint of maladministration or a complaint to the independent Tribunal set up under RIPA, details of which are to be found at the end of this document.

What is the relevant legislation?

- The Regulation of Investigatory Powers Act 2000
- The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010
- Protection of Freedom Act 2012
- Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012, SI 2012/1500

Authorisation may only be granted if it is necessary for the reason permitted by RIPA. For local authorities the only statutory reason is **for the purposes of preventing or detecting a criminal offence where that offence is punishable (whether on summary or indictment) by a minimum term of at least 12 months imprisonment.**

These penalties only apply to the authorisation of *directed surveillance* and not CHIS

This means that directed surveillance cannot be used for minor offences.

What is the Council's Policy on RIPA?

This document is the Council's policy on RIPA. As such, it should be adhered to unless it is in conflict with either of the Government Codes of Practice which have been made under RIPA. The Codes of Practice are admissible as evidence in court and **must** be complied with.

Copies of the Codes of Practice are available on the Home Office site:

<https://www.gov.uk/government/collections/ripa-codes>~~www.homeoffice.gov.uk~~—These are:

- Covert Surveillance Code Of Practice
- Covert Human Intelligence Sources Code Of Practice

When will this document be reviewed?

This document shall be subject to review once a year. An earlier review may take place should circumstances in the law so require it. Minor amendments may be made from time to time.

Who is responsible for reviewing and monitoring this document and the use of RIPA?

West Devon Borough Council's **Overview and Scrutiny Committee** and South Hams District Council's **Corporate Performance & Scrutiny Panel** are responsible for the overview of the RIPA policy and the Councils' use of RIPA. The Committees will not be involved in making decisions on specific authorisations.

The RIPA Co-ordinating Officer is responsible for;

1. Training and awareness across the Councils
2. Oversight of Authorisations
3. Maintaining and storing records including a retrievable Central Register of authorisations
4. Annual reports to the relevant scrutiny committees
5. Updates and implementation of the RIPA Policy
6. Quarterly reports to the Community Safety Committee (do we have one of these?)

How do I find out more?

General guidance on RIPA may be found on the Home Office site:

<https://www.gov.uk/government/collections/ripa-codes>~~http://www.homeoffice.gov.uk/~~

Please contact the Council's Legal Section if you require any further advice on RIPA, this document or any of the related legislative provisions.

For the Benefits Section – further guidance may be found in the DWP Circulars.

Surveillance

What is 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)
- the interception of a communication in the course of its transmission by means of a postal service or telecommunication system if it is one sent by, or intended for, a person who has consented to the interception of the communication.

Surveillance can be overt or covert.

Overt Surveillance

Most of the surveillance carried out by the Council will be done overtly.

General observations made by officers in the course of their duties constitutes overt surveillance.

Warning the person about the surveillance (preferably in writing) constitutes overt surveillance. Consideration should be given to how long the warning should last. This must be a reasonable length of time (three months may be appropriate in many cases), but each case must be assessed as to what is reasonable having regard to the circumstances. Whatever period is chosen, this **must** be set out in the written warning. At the expiry of the period, further written warning should be given otherwise the surveillance will become covert.

Overt surveillance does not require authorisation under RIPA.

Covert Surveillance

“Covert Surveillance” means surveillance which is carried out in a manner calculated to ensure that the persons subject to the surveillance are unaware that it is or may be taking place.

Covert surveillance does require authorisation under RIPA.

What are the different types of covert surveillance?

RIPA regulates two types of covert surveillance:

- Directed Surveillance, and
- Intrusive Surveillance;

RIPA also regulates the use of Covert Human Intelligence Sources.

Directed Surveillance

Directed surveillance is defined as surveillance which is:

- covert,
- not intrusive (see definition below)
- undertaken for the purposes of a specific investigation or specific operation;
- carried out in such a manner as is likely to result in the obtaining of private information about a person (whether or not that person is the target of the investigation or operation); and
- undertaken in a planned manner, and not as an immediate response to events or circumstances.

Intrusive surveillance

Intrusive surveillance is surveillance of any activities on any residential premises or in any private vehicle by a person (other than a Covert Human Intelligence Source) on those premises or in that vehicle or is carried out by means of a surveillance device on the premises or in the vehicle or which provides information of the same quality and details as if it was on the premises or in the vehicle

However, directed surveillance authorisation may be granted for parts of residential premises, such as gardens or driveways which can be observed from the public highway. Further guidance on this point may be obtained from the Council's Legal Section.

It is important to get this right because:

COUNCIL OFFICERS CANNOT CARRY OUT INTRUSIVE SURVEILLANCE

Covert Human Intelligence Sources (CHIS)

The term Covert Human Intelligence Sources is used to describe people who are more commonly known as informants or officers working "undercover". Throughout this document these people are referred to as "Sources"

This does not include members of the public who volunteer information to the Council as part of their normal civic duties or to contact numbers set up to receive information.

A person is a Source if he/she:

- establishes or maintains a covert personal or other relationship for the purposes of:
 - obtaining information; or
 - providing access to information to another person; or
 - discloses information obtained by the use or existence of that covert relationship
- RIPA authorisation is required for using a Source.

There are special rules for using juvenile or vulnerable persons as sources, and only the Director (HoPS) or in his/her absence the appointed deputy can authorise such surveillance. Further advice should be sought from the Council's Legal Section in such cases.

Special safeguards also apply to the use or conduct of juveniles, that is, those under 18 years old, as sources. On no occasion should the use or conduct of a CHIS under 16 years of age be authorised to give information against their parents or any person who has parental responsibility for them. In other cases, authorisations should not be granted unless the special provisions, contained within the Regulation of Investigatory Powers (Juveniles) Order 2000 (as amended), are satisfied. Authorisations for juvenile sources should be granted by those listed in the attached table at Annex A. The duration of such an authorisation is four months from the time of grant or renewal (instead of twelve months), and the authorisation should be subject to at least monthly review. For the purpose of these rules, the age test is applied at the time of the grant or renewal of the authorisation.

More information on Juvenile CHIS can be found in the code here https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/742042/20180802_CHIS_code_.pdf

Interception of Communications

Local authorities can carry out interception of communications in a restricted number of circumstances.

These are:

In the course of normal business practice

The Councils are permitted without authorisation under RIPA to lawfully intercept its employees' e-mail or telephone communications and monitor their internet access for the purposes of prevention or detection of crime or the detection of unauthorised use of these systems.

The Councils' policies on use of the internet and e-mail are set out on the intranet site under Policies and Procedures/ICT policies.

The Council also has regard to the Employment Practices Data Protection Code – Part 3: Monitoring at Work produced by the Information Commissioner. A copy of this code and its supplementary guidance can be found at: https://ico.org.uk/media/for-organisations/documents/1064/the_employment_practices_code.pdfwww.ico.org.uk

Interception with the consent of both parties.

Such interception does not require RIPA authorization, but should be properly recorded.

Interception with the consent of only one of the parties.

Such interception would require RIPA authorisation because it would fall within the definition of surveillance (either directed or using a Source). The main type of interception envisaged here is the recording of telephone calls where either the caller or the receiver has given consent to the recording.

Where as part of an already authorised Directed Surveillance or use of a Source a telephone conversation is to be recorded by the Officer or the Source then no special or additional authorisation is required.

Interception without the consent of either of the parties

The recording of telephone calls between two parties when neither party is aware of the recording **CANNOT BE UNDERTAKEN**, except under a Warrant granted by the Secretary of State under Part 1 of RIPA. Such warrants are only granted by the Secretary of State and it is not envisaged that such activity would fall within the remit of local authority investigations.

Procedures

What is the procedure for obtaining authorisation under RIPA?

Directed surveillance and the use of a Source can only be lawfully carried out if properly authorised, and in strict accordance with the terms of the authorisation.

All directed surveillance and use of a Source operations shall be:

- Applied for in writing or verbally in cases of urgency
- Approved
- Monitored
- Renewed when necessary
- Cease when no longer authorised

All the above actions will be carried out in accordance with this document and the relevant Codes of Practice and will be recorded on the Standard Forms listed below:

The Standard Forms are available from the Home Office web-site
<https://www.gov.uk/government/collections/ripa-forms--2www.homeoffice.gov.uk>

Directed Surveillance

- Application for directed surveillance authorisation
- Review of directed surveillance authorisation
- Application for cancellation of directed surveillance authorisation
- Application for renewal of directed surveillance authorisation

Use of a Source

- Application for conduct-use of a CHIS authorisation
- Review of use of a CHIS authorisation:
- Application for renewal of use of a CHIS authorisation
- Application for cancellation of conduct-use of a CHIS authorisation

Copies of all these documents will be retained and kept on the investigation file as part of the evidence to show that the information gained by directed surveillance or the use of a Source has been obtained legally.

This document provides guidance on the Procedures required to be undertaken by the Investigating Officer and the Authorising Officer for the different stages specified above.

• **The Senior Responsible Officer's Duties**

Who is the Senior Responsible Officer?

The Councils' Senior Responsible Officer is listed in the annex to this document.

What are my duties?

In accordance with the recommendations of the Codes of Practice, you are responsible for the following areas:-

- the integrity of the process in place within the Council for the management of Covert Human Intelligence Sources and Directed Surveillance
- compliance with Part II of RIPA and the Codes of Practice
- oversight of the reporting of errors to the relevant oversight Commissioner and the identification of both the cause(s) of errors and the implementation of processes to minimise repetition of errors
- engagement with the OSC inspectors when they conduct their inspections
- oversight of the implementation of any post-inspection action plan approved by the relevant oversight Commissioner
- ensuring that all Authorising Officers are of an appropriate standard in light of any recommendations in the inspection reports by the Office of the Surveillance Commissioner

- **The Investigating Officer's Duties under RIPA.**

The Application

The application for authorisation is the responsibility of the Investigating Officer

What do I need to do?

You will need to consider:

- Whether covert surveillance is needed
- Whether directed surveillance or use of a Source is needed
- Whether directed surveillance or use of a Source is necessary for statutory reasons
- Whether directed surveillance or use of a Source is proportionate
- The risk of collateral intrusion
- Safety and welfare arrangements (use of Source only)

These are discussed in more detail below.

What do I need to consider?

- **Consideration: Whether covert surveillance is needed**

Consideration must be given as to whether covert surveillance is needed. You are advised to discuss the need to undertake directed surveillance or the use of a Source with your line manager before seeking authorisation. All options for the use of overt means **must** be fully explored. Remember: if the investigation can be carried out by overt means, then covert surveillance is not necessary.

- **Consideration: Whether directed surveillance or use of a Source is needed**

You must establish which type of "surveillance" is required for the investigation or operation having regard to the guidance contained in this document. The type of surveillance you require affects which application forms you need to complete. Additional considerations are needed for using a Source. Further detail is found below. Combined authorisations for both directed surveillance and the use of a Source may be applied for where appropriate.

- **Consideration: Whether directed surveillance or use of a Source is necessary for the statutory reason**

Authorisation may only be granted if it is necessary for the reason permitted by RIPA. For local authorities the only statutory reason is for the purposes of preventing or detecting a criminal offence where that offence is punishable (whether on summary or indictment) by a minimum term of at least 12-6 months imprisonment.

This means that directed surveillance cannot be used for minor offences.

You must set out this ground in your application form and provide details of the reasons why it is necessary to use covert surveillance.

- **Consideration: Whether directed surveillance or use of a Source is proportionate**

You must consider why it is proportionate to use covert methods to collect evidence. Please see the definitions set out on page 2 “what is proportionate?” Remember, the use of covert methods must do no more than meet your objective. The proportionality test will also require you to consider whether there are any other appropriate means of obtaining the information and whether there is a risk of collateral intrusion (see consideration below). The least intrusive method will be proportionate. The following aspects of proportionality must be considered and evidenced:-

- balancing the size and scope of the proposed activity against the gravity and extent of the perceived crime or offence
 - explaining how and why the methods to be adopted will cause the least possible intrusion on the target and others
 - considering whether the activity is an appropriate use of the legislation and a reasonable way, having considered all reasonable alternatives, of obtaining the necessary result
 - evidencing, as far as reasonably practicable, what other methods have been considered and why these were not implemented.
- **Consideration: The risk of collateral intrusion**

Collateral intrusion is the risk of intrusion into the privacy of persons other than the target. You are required to assess the risk of collateral intrusion. Details of any potential collateral intrusion should be specified. Measures must be taken wherever practicable to avoid or minimise collateral intrusion and a plan should be included in your application specifying how the potential for collateral intrusions will be minimised. You should give as much detail as possible, insufficient information may lead to the rejection of the application.

- **Consideration: Surveillance from private premises**

It is preferable for surveillance to be carried out from a public place, such as a public highway. However, there may be circumstances where private premises may be required for the carrying out of surveillance. In which case, it is essential that you obtain the consent of the owner and/or occupier of the premises prior to authorisation being sought. You should seek further guidance from the Council’s Legal Section on this point.

- **Consideration: safety and welfare arrangements – use of a Source**

You must provide a risk assessment as to the likely risks to be faced by an officer or other person both during the conduct of the investigation and after the cancellation of the authorisation. Details must also be included setting out the arrangements for the safety of the Source, this should include:

- the name of the Officer who has day to day responsibility for:
 - Dealing with the Source
 - Directing the day to day activities of the Source

- Recording the information supplied by the Source
 - The Source's security and welfare
- The name of the Officer responsible for recording and monitoring the use made of the Source
 - Arrangements for ensuring the security of the records which identify the Source
 - Records relating to the Source meet the requirements of the Statutory Instrument: The Regulation of Investigatory Powers (Source Records) Regulations 2000 (SI 2000 No. 2725) – please see either the Home Office website: www.homeoffice.gov.uk or the Office of Public Sector Information website: www.opsi.gov.uk

How do I apply?

All applications must be made in writing on the standard forms as set out in this document. The relevant forms are:

- An application for directed surveillance authorisation, and/or
- An application for use of a Source

The considerations set out above, form part of the application form.

The application form must be fully completed and passed to the Authorising Officer. The annex to this document contains details of the Council's Authorising Officers.

NB. All authorisations and renewals must have the prior approval of the Magistrates' before they take effect.

What if authorisation is urgent?

The 2012 Home Office Guidance states that in most emergency situations where the police have power to act, then they are able to authorise activity under RIPA without prior JP approval. Therefore local councils may need to work with the police if faced with an emergency.

NB. Urgent authorisation may not be necessary if, under section 26(2) of the Act, an officer suddenly sees something relevant to his duties and takes an immediate note, observation of follow-up activity (within reason).

Monitoring

How long will an authorisation last for?

The authorisation for Directed Surveillance will last for **three months** from the date of authorisation unless renewed.

The authorisation for use of a Source will last for **12 months** from the date of authorisation (i.e. date of Magistrates' Order) unless renewed. The authorisation period for a juvenile Source is 1 month less 1 day.

Review dates for the authorisation will be set by the Authorising Officer.

I now have my authority for surveillance, is there anything else I should be aware of?

It will be the responsibility of the Investigating Officer to ensure that any Directed Surveillance or use of a Source is only undertaken under an appropriate and valid authorisation.

During the surveillance, you should ensure:

- Surveillance is carried out in accordance with the approval
- Collateral intrusion is minimised as far as possible
- Intrusive surveillance is not carried out
- All information obtained is recorded contemporaneously or as soon as possible thereafter

During the use of a Source, you should also ensure:

- That the source is aware that:
 - Only the tasks authorised are carried out
 - Third party collateral intrusion is minimised as far as possible
 - Intrusive surveillance is not carried out
 - Entrapment is not committed
 - They must regularly report to you

You should also be mindful of the date when authorisations and renewals will cease to have effect. Please see the notes on Renewals and Cancellation below.

What do I do if circumstances change during the investigation?

You must inform the Authorising Officer if the investigation unexpectedly interferes with the privacy of individuals who are not covered by the authorisation or if there is another change in circumstances usually brought about by unforeseen action.

When the original authorisation may not be sufficient, consideration should be given to whether the authorisation needs to be amended and re-authorised (for minor amendments only) or whether it should be cancelled and a new authorisation obtained. The relevant forms should be used.

Particular care should be taken when using a Source to ensure that authorisation is sufficient. It is difficult to predict what might occur each time a meeting with a Source takes place. If unforeseen action takes place, the occurrence should be recorded as soon as possible after the event and the sufficiency of the authorisation must be considered.

You must bring to the attention of the Authorising Officer any concerns about the personal circumstances of the Source in relation to: the validity of the risk assessment; the conduct of the source; the safety and welfare of the Source.

Renewals

Why are renewals important?

Once the authorisation expires, surveillance must cease unless a renewal has been applied for and approved. Renewals must be authorised prior to the expiry of the original authorisation but will run from the date and time of expiry of the original authorisation.

What should I do?

If it appears that the directed surveillance or use of a Source is needed beyond the authorisation date, you must seek a renewal of the authorisation.

You must consider whether covert methods are still necessary and proportionate.

An application for renewal for either Directed Surveillance and/or use of Source should be made on the relevant form and passed to the Authorising Officer for consideration.

Authorisation for renewal may be sought verbally, but only in exceptional circumstances.

NB. All authorisations and renewals must have the prior approval of the Magistrates' before they take effect.

Cancellations

Why are cancellations important?

All authorisations, including renewals, must be cancelled if the reason why Directed Surveillance or use of a Source was required no longer exists or is no longer proportionate. This will occur in most instances when the purpose for which surveillance was required has been achieved and officers must be mindful of the need to cancel any authorisation which has been issued. A cancellation should be issued at the expiry date if not before.

How do I cancel an authorisation?

To cancel an authorisation, you should complete the Cancellation of Authorisation form and submit it to the Authorising Officer for endorsement.

Authorising Officer Responsibilities under RIPA

The Approval

Who are the Authorising Officers?

The Council's Authorising Officers are listed in the annex to this document.

If the investigation may involve the acquisition of confidential or religious material, or require an authorisation for using juveniles or vulnerable persons as sources, the Authorising Officer is, by law, the Head of Paid Service (or in his/her absence the appointed deputy).

Authorising Officers should not be responsible for authorising investigations or operations in which they are directly involved. If this is the case, the application form for authorisation should be noted to this effect.

NB. All authorisations and renewals must have the prior approval of the Magistrates' before they take effect.

What are my responsibilities?

Responsibility for authorising the carrying out of directed surveillance or using a Source rests with the Authorising Officer and requires the personal authority of the Authorising Officer.

You must be satisfied that a defensible case can be made for surveillance. Authorisation is a safeguard against the abuse of power by public authorities. Full consideration of necessity and proportionality will make the action less vulnerable to challenge under the Human Rights Act 1998.

What do I need to consider?

You are required to consider the application for authorisation in relation to the following:

Consideration: Is the directed surveillance or use of a Source necessary?

Firstly, you must consider whether it is necessary to carry out the investigation by covert methods. This is an important consideration and must be recorded on the form. Please see "what is meant by necessary?" on Pages 1 and 2 of the Policy.

Secondly, as authorisation may only be granted if it is necessary for the reason permitted by RIPA. You should consider, having regard to the outline of the case provided by the Investigating Officer, whether authorisation is necessary for the purposes of preventing and detecting crime or of preventing disorder

Consideration: Is the directed surveillance or use of a Source proportionate?

This involves balancing the intrusiveness of the activity on the target and others who may be affected by it (see “consideration: risk of collateral intrusion” below) against the need for the activity in operational terms. Please refer to “what is proportionate?” on page 2 of this Policy.

Consideration: The risk of collateral intrusion

You must take into account the risk of interfering with the privacy of persons other than the target (collateral intrusion). Full details of potential collateral intrusion and the steps to be taken to minimise such intrusion must be included in the form. If there are insufficient details further information should be sought. Collateral intrusion forms part of the proportionality test and is therefore very important. Remember: the least intrusive method should be chosen otherwise the surveillance activity will not be proportionate.

Consideration: confidential material

In cases where through the use of directed surveillance or the use of a Source it is likely that knowledge of confidential information will be acquired, authorisation may only be granted by the Chief Executive.

Confidential information consists of matters subject to legal privilege, confidential personal information or confidential journalistic material.

Authorisation involving the acquisition of confidential information should only be given in exceptional and compelling circumstances having full regard to the proportionality issues involved.

Further details about the type of information covered under this category are to be found in the Chapter 3 of the relevant Code of Practice. Further advice may be sought from the Council's Legal Section.

Consideration: Safety and welfare arrangements of a Source

When authorising the conduct or use of a Source, you must be satisfied:

- That the conduct and/or use of the Source is proportionate to what is sought to be achieved;
- That arrangements exist for the management and oversight of the Source, particularly the health and safety of the Source including:
 - Identifying the person who will have day to day responsibility for dealing with the Source
 - Security and welfare arrangements of the Source both during and after the investigation/operation.
 - Monitoring and recording the information supplied by the Source
 - Ensuring records disclosing the identity of the Source will not be made available to persons except where there is a need for access to them

- Records relating to the Source meet the requirements of the Statutory Instrument: The Regulation of Investigatory Powers (Source Records) Regulations 2000 (SI 2000 No. 2725) – please see either the Home Office website:

<https://www.legislation.gov.uk/uksi/2007/2196/contents/made>~~www.homeoffice.gov.uk~~ or the Office of Public Sector Information website: www.opsi.gov.uk

Consideration: local community

You should consider whether there any particular sensitivities in the local community where surveillance will be taking place.

Having taken all these factors into consideration, you may either approve the application or refuse it.

What do I do if I have refused the application?

You must complete the form and give your reasons for refusal. Then follow the procedures below (“I have completed the form what do I do with it?”)

What do I do if I have approved the application?

You need to follow the rest of the procedure set out below.

Regular review should be undertaken to assess the need for surveillance or use of a Source to continue and whether it is still proportionate. Where the surveillance or use of a Source provides access to confidential information or involves collateral intrusion, review should be more frequent.

You will therefore need to consider a Review Date(s). Both types of authorisation require you to specify a date when the authorisation should be reviewed (the Review Date) and the frequency of the review thereafter. This must be stated on the form.

What do I do if the authorisation is urgent?

The 2012 Home Office Guidance states that in most emergency situations where the police have power to act, then they are able to authorise activity under RIPA without prior JP approval. Therefore local councils may need to work with the police if faced with an emergency. NB. Urgent authorisation may not be necessary if, under section 26(2) of the Act, an officer suddenly sees something relevant to his duties and takes an immediate note, observation of follow-up activity (within reason).

What do I do with the completed form?

You must send the completed application form(s) to the RIPA Co-ordinating Officer as soon as you are able. This includes any forms in which you have refused authorisation. You should retain a copy of the form and send a further copy to the relevant Investigating Officer for retention on the investigation file.

Monitoring

How long will an authorisation last for?

The authorisation for **Directed Surveillance** will last for **three months** from the date of authorisation unless renewed.

The authorisation for use of a **Source** will last for **12 months** from the date of authorisation unless renewed.

It is important to set a review date which gives the opportunity to cancel if the authorisation is no longer required. If the surveillance is still required, set another review date (see below)

I have now given the authority for surveillance, what should I do next?

After authorisation the Authorising Officer is responsible for continuing to oversee the progress of the investigation. You must ensure that whatever was authorised does actually happen, and that actions do not exceed the boundaries of the authorisation.

Progress of the investigation or operation should be reviewed in accordance with the review dates set by the authorisation using the relevant review form. In any case, as soon as the investigation or operation objectives have been achieved the authority should be cancelled.

You will regularly monitor the surveillance to ensure:

- Surveillance is being carried out in accordance with the authority given
- There is still a need for the approved surveillance or use of the Source
- The surveillance is achieving the intended results
- The risks of collateral intrusion are still minimal
- The risks associated with the surveillance or use of the Source are within an acceptable level
- The security and/or welfare of the Source has not been jeopardised. You must consider any concerns raised by the Investigating Officer relating to the personal circumstances of the Source.

You should record the outcome of such monitoring and take whatever action is appropriate.

Renewals

Why are renewals important?

Once the authorisation expires, surveillance must cease unless a renewal has been applied for and approved.

NB. All authorisations and renewals must have the prior approval of the Magistrates' before they take effect.

What are my responsibilities in respect of renewals?

You may renew an authorisation before it expires if it is necessary for the authorisation to continue for the purpose for which it was given.

You must consider the application for renewal in relation to the original purpose for which authorisation was granted, taking into account any change in circumstances. You should be satisfied that:

- There is a need to renew the authorisation (applying the test of necessity)
- That such a renewal is likely to contribute to the investigation or operation (it is proportionate to the aim)
- That the information could not be reasonably obtained by other less intrusive means.
- The risk of collateral intrusion is minimal – you should consider what collateral intrusion has occurred
- The risks associated with the use of a Source have not increased beyond an acceptable level

The outcome of a consideration for renewal may lead to:

- Approval
- A new application
- Refusal

Approval

If you decide to approve a renewal you will need to provide details of why in your opinion you believe the renewal is justified, and state the date and time when the renewed authorisation will commence and expire on the application form.

The maximum time that renewal of authorisation can be approved for, is three months at a time for directed surveillance and 12 months for the use of a Source, but you may consider shorter periods if this is more appropriate to the circumstances.

You should also set Review Dates and continue to monitor the progress of the investigation or operation.

A new application for authorisation

If the reason for requiring the authorisation has changed from the purpose for which it was originally granted, then the outstanding authorisation should be cancelled and new authorisation sought by way of a new application. You will need to note the refusal to renew the application on the renewal form setting out the reasons for your decision. You will also need to follow the procedures for cancellation see below and advise the Investigating Officer to seek new authorisation.

Refusal

If in your opinion surveillance is no longer required, or justified, or proportionate, the renewal should be refused and the authorisation cancelled. See the paragraph on cancellation below. You will need to note on the renewal form your reasons for refusal.

What do I do with the completed form?

You must send the completed renewal form to the RIPA Co-ordinating Officer as soon as you are able. This includes forms where you have refused a renewal. You should retain a copy of the form and send a further copy to the relevant Investigating Officer for retention on the investigation file.

Cancellations

Why are cancellations important?

All authorisations, including renewals, must be cancelled if the reason why directed surveillance or use of a Source was required no longer exists or is no longer proportionate. This will occur in most instances when the purpose for which surveillance was required has been achieved and officers must be mindful of the need to cancel any authorisation which has been issued. A cancellation should be issued at the expiry date if not before.

What are my responsibilities in respect of cancellations?

The responsibility to ensure that authorisations are cancelled rests with the Authorising Officer. If you think cancellation should have been applied for, then you should make enquiries of the Investigating Officer as part of your monitoring of the authorisation. On receipt of the cancellation form from the Investigating Officer, you must consider the reasons for cancellation and if acceptable endorse the form.

As soon as the decision is taken that directed surveillance or use of a Source should be discontinued, the instruction must be given to those involved to stop all surveillance of the subject. The date and time when such an instruction was given should be recorded on the cancellation form.

Where necessary the safety and welfare of the Source should continue to be taken into account after the authorisation has been cancelled.

What do I do with the completed form?

You must send the completed renewal form to the RIPA Co-ordinating Officer as soon as you are able. This includes forms where you have refused a renewal. You should retain a copy of the form and send a further copy to the relevant Investigating Officer for retention on the investigation file.

Working with or through other Agencies

What do I do if I want to instruct another organisation to carry out surveillance?

When some other agency has been instructed on behalf of the Council to undertake some action under RIPA, this Document and the forms in it, must be used in the normal way and the agency advised as necessary of the various requirements. They must be made aware explicitly what they are authorised to do.

What do I do if I want to carry out an investigation with another organisation?

It is possible for two public authorities to carry out a joint directed surveillance investigation or use of a Source. It must be decided which of the authorities is to take the lead role. The Authorising Officer from the lead organisation must make the decisions on the necessity and proportionality of the surveillance or use of a Source. The Investigating Officer must make it clear on the application form that it is a joint investigation and provide details of Officers involved from both authorities.

Where joint surveillance is authorised by the lead organisation, it is good practice for the Investigation Officer of the other organisation to advise their Authorising Officer of the surveillance activity. It is important for each organisation's Authorising Officer to be aware of all surveillance activity being undertaken by their own Investigating Officers, regardless of which organisation authorised the activity.

Record-Keeping

What records must I keep?

The Council must keep a detailed record of all authorisations, renewals, cancellations and rejections in Departments and a Central Register of all these forms will be maintained and monitored by the RIPA Coordinating Officer.

In all cases, the relevant department should maintain the following documentation:

- a copy of the application and a copy of the authorisation together with any supplementary documentation and notification of the approval given by the Authorising Officer;
- The Magistrates' Order
- 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 the supporting documentation submitted when the renewal was requested;
- the date and time when any instruction was given by the Authorising Officer.
- A record of the use made of any Source

How long must I keep these records?

The Council will retain records in accordance with the Council's Record Management Policy. Retention of a record will therefore depend on an assessment of the need to retain the record.

How should the records relating to a Source be maintained?

Records kept relating to an investigation or operation using a Source should be maintained in such a way as to preserve the confidentiality of the Source and the information provided by the Source. Regard should be had to the Council's Record Management Policy.

Material obtained from Directed Surveillance and/or use of a Source operations

How should material be handled and stored?

Material, or product, such as: written records (including notebook records); video and audio tape; photographs and negatives; and electronic files, obtained under authorisation for Directed Surveillance or use of a Source investigations or operations should be handled, stored and disseminated according to the following guidance and with regard to the Council's Records Management Policy, which is available on the intranet.

Where material obtained during the course of an investigation may be relevant to pending or future criminal or civil proceedings, it should be retained in accordance with the established disclosure requirements having regard to the Criminal Procedure and Investigations Act 1996 and Civil Procedure Rules.

Where material is obtained which is not related to a criminal or other investigation, or to any person who is the subject of the investigation, and there is no reason to suspect that it will be relevant to any future civil or criminal proceedings, it should be assessed for retention or destruction under the Council's Record Management Policy.

Material may be used in investigations other than the one which authorisation was issued for. However, use of such material outside the Local Authority or the Courts should only be considered in exceptional circumstances.

What about confidential material?

This is privileged information from, for example, lawyers, doctors, priests etc. Where such persons are involved, and there is a possibility that you maybe obtaining confidential material, then further additional precautions must be taken. If this is the case, please seek appropriate advice from the Legal Section or from the statutory RIPA Code of Practice.

(Lord Coleville advised that reference only to confidential material is needed, as we are very unlikely to ever use these provisions.)

Complaints

The Regulation of Investigatory Powers Act has established an Independent Tribunal. This Tribunal is made up of senior members of the judiciary and the legal profession and is independent of the Government. The Tribunal has full powers to investigate and decide any cases within its jurisdiction. It also has the power to award compensation.

Details of the relevant complaints procedure can be obtained from the following address:

Investigatory Powers Tribunal
PO Box 33220
London
SW1H 9ZQ

Other actions that could be taken against the Council for failing to meet the requirements of RIPA are civil proceedings under the Human Rights Act 1998 or a complaint to the Ombudsman.

Annex A

AUTHORISING OFFICERS

The following Officers shall be designated Authorising Officers on behalf of West Devon Borough Council and South Hams District Council under the Regulation of Investigatory Powers Act 2000.

CHIEF EXECUTIVE (Head of Paid Service) – Andy Bates

DEPUTY CHIEF EXECUTIVE – Steve Mullineaux

STRATEGIC FINANCE DIRECTOR – Lisa Buckle

DIRECTOR of GOVERNANCE AND ASSURANCE – Drew Powell

DIRECTOR of PLACE & ENTERPRISE – Chris Brook

NB. Only the Chief Executive (Head of Paid Service) or in his/her absence the appointed deputy has the authority to grant authorisation for the acquisition of confidential information or where the authorisation would involve juvenile or vulnerable CHIS.

SENIOR RESPONSIBLE OFFICER

The following Officer shall be designated Senior Responsible Officer on behalf of the Councils' under the Codes of Practice.

~~**CHIEF EXECUTIVE (Head of Paid Service) – Andy Bates**~~ **Director of Governance and Assurance – Drew Powell**

RIPA CO-ORDINATING OFFICER

Legal Specialist and Solicitor – Becky Fowlds

ANNEX B

Guidance on the use of Social Networking Sites for investigations

It is recognised that the use of the internet and, in particular, social networking sites, can provide useful information for South Hams District Council and West Devon Borough Council staff carrying out investigations. These investigations may relate to the various enforcement roles within the council – for example Fraud, Planning Enforcement, Licensing or Environmental Health, but will equally apply to some non-enforcement teams, such as Debt Collection or Housing. The use of the internet and social networking sites may fall within the definition of covert directed surveillance. This is likely to result in the breaching of an individual's Article 8 rights under the Human Rights Act (the right to privacy).

Social Networking Sites

There is a fine line between general observation, systematic observation and research and it is unwise to rely on a perception of a person's reasonable expectations or their ability to control their personal data.' The Councils' policy in relation to the use of social media for the gathering of evidence to assist in its enforcement activities is set out below:

- Officers of South Hams and West Devon must not 'friend' individuals on social networks as part of undertaking their roles and should not use their own private social networking accounts to view the social networking accounts of other individuals as part of their professional role
- officers viewing an individual's profile on a social networking site should do so only once in order to obtain evidence to support or refute their investigation
- further viewing of open profiles on social networking sites to gather evidence or to monitor an individual's status, must only take place once RIPA authorisation has been granted and approved by a Magistrate
- officers should be aware that it may not be possible to verify the accuracy of information on social networking sites and, if such information is to be used as evidence, steps must be taken to ensure its validity.

The **purpose** of this guidance note is to provide clarity on the Councils' position:

9. It is not possible to provide a definitive list of social networking sites, so this should be taken to mean any site which involves individuals creating a profile which contains personal information and is viewable by others, whether accepted as 'friends' or otherwise.

This might include sites such as 'Facebook' and 'LinkedIn'.

9. As the definition of 'private information' under RIPA includes:

'any information relating to a person's private or family life and should be taken generally to include any aspect of a person's private or personal relationship with others, including family and professional or business relationships'

Sites used to advertise goods and services should be included within the definition. Although there is likely to be a reduced expectation of privacy with this type of site, there is still the possibility of obtaining private information which may be subsequently used in any enforcement proceedings.

9. If an allegation is received or, as part of an investigation into an individual, it is necessary to view their social networking site, officers may access the main page of the individual's profile once in order to take an initial view as to whether there is any substance to the allegation or matter being investigated.
4. The initial viewing must be reasonable – for example, it would not be reasonable to spend any significant amount of time searching through various pages of the individual's profile or to print out several pages just in case they may reveal something useful.
5. In some cases where, for example, a link to a site is provided by a complainant, it may be relevant for the receiving officer to view the link before passing it onto the investigating officer to also view. This would count as one viewing. However, it would not be reasonable for each officer in a team to view the site in turn so that they may each gather some information.
6. Each single viewing of an individual's social networking site must be recorded on the log maintained by Legal Services (RIPA Co-ordinating Officer). This is to enable the reporting of the number of viewings to the Overview & Scrutiny Committee of each Council.
7. If it is considered that there is a need to monitor an individual's social networking site, authorisation must be obtained from an Authorising Officer.
8. If the offence being investigated falls under RIPA, a formal RIPA application must be completed, authorised by one of the Councils' Authorising Officers and then approved by a Magistrate.
9. If the offence being investigated falls outside of RIPA (for example if the offence does not carry a custodial sentence of at least 12 months imprisonment or is not a core function of the council) a non-RIPA form must be completed. General guidance on RIPA and appropriate forms can be found on the Councils' Intranet and in the main RIPA Policy document.

Annex C

Procedure to be adopted for obtaining the approval of a magistrate

The government guidance for obtaining authorisation from a magistrate for surveillance is contained in full at Annex D.

The relevant form is set out below as Form 1.

FORM 1

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

Local authority:.....

.....

Local authority department:.....

.....

Offence under investigation:.....

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Address of premises or identity of subject:.....

.....

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Covert technique requested: (tick one and specify details)

Communications Data

Covert Human Intelligence Source

Directed Surveillance

Summary of details

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

Investigating
Officer:.....
.....

Authorising Officer/Designated
Person:.....

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

Address of applicant
department:.....
.....

Contact telephone
number:.....
.....

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

Local authority
reference:.....
.....

Number of
pages:.....
.....

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

Magistrates'
court:.....
.....

Having considered the application, I (tick one):
am satisfied that there are reasonable grounds for believing that the requirements of the Act were satisfied and remain satisfied, and that the relevant conditions are satisfied and I therefore approve the grant or renewal of the authorisation/notice.
refuse to approve the grant or renewal of the authorisation/notice.
refuse to approve the grant or renewal and quash the authorisation/notice.

Notes
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Reasons
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Signed:
Date:
Time:
Full name:
Address of magistrate

Appendix D