



Public Document Pack

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24 September 2024

AUDIT AND GOVERNANCE COMMITTEE

A meeting of the Audit and Governance Committee will be held in **Council Chamber, Arun Civic Centre, Maltravers Road, Littlehampton, BN17 5LF** on **Thursday 3 October 2024 at 6.00 pm** and you are requested to attend.

Members: Councillors Stanley (Chair), O'Neill (Vice-Chair), P. Bower, Goodheart, Haywood, Jones, May, Oppler, Purser, Turner and Wallsgrove

PLEASE NOTE:

A live webcast of the meeting will be available via the Council's [Committee webpages](#).

Any members of the public wishing to address the Committee meeting during Public Question Time, will need to email Committees@arun.gov.uk by 5.15 pm on **Thursday 26 September 2024** in line with current Committee Meeting Procedure Rules.

For further information on the items to be discussed, please contact Committees@arun.gov.uk

AGENDA

1. APOLOGIES FOR ABSENCE
2. DECLARATIONS OF INTEREST

Members and Officers are invited to make any declaration of pecuniary, personal and/or prejudicial interests that they may have in relation to items on this agenda, and are reminded that they should re-declare their interest before consideration of the items or as soon as the interest becomes apparent.

Members and Officers should make their declaration by stating:

- a) the item they have the interest in
- b) whether it is a pecuniary/personal interest and/or prejudicial interest
- c) the nature of the interest

3. MINUTES

(Pages 1 - 10)

The Committee will be asked to approve as a correct record the Minutes of the Audit & Governance Committee held on 16 July 2024.

4. ITEMS ON THE AGENDA THAT THE CHAIRMAN OF THE MEETING IS OF THE OPINION SHOULD BE CONSIDERED AS A MATTER OF URGENCY BY REASON OF SPECIAL CIRCUMSTANCE

5. PUBLIC QUESTION TIME

To receive questions from the public (for a period of up to 15 minutes).

6. EXTERNAL AUDIT UPDATE REPORT

(Pages 11 - 18)

The External Audit Update Report will be presented to Members of the Audit & Governance Committee by representatives from Ernst & Young LLP.
[10 Minutes]

7. INTERNAL AUDIT PROGRESS REPORT JULY 2024

(Pages 19 - 32)

The report outlines the progress of the Council's Internal Audit service against the approved Internal Audit Plan for 2024/25 from 1 April 2024.
[10 Minutes]

8. CORPORATE RISK REGISTER UPDATE

(Pages 33 - 84)

The Corporate Risk Register is reviewed and updated in line with the requirements of the Council's Risk Management Framework.

Quarterly updates reflecting revisions are reported to the Audit and Governance Committee, this report highlights the changes since the last update.

It is proposed that the Committee considers and notes the revised Corporate Risk Register.
[20 Minutes]

9. TREASURY MANAGEMENT – QUARTER 1 REPORT 2024/25 (Pages 85 - 100)

The CIPFA (Chartered Institute of Public Finance and Accountancy) Code of Practice for Treasury Management 2021 recommends that Members be updated on treasury management activities at least quarterly. The 2024/25 Treasury Management Strategy states this report will go to the Audit and Governance Committee around September time. This report, therefore, ensures this Council is implementing best practice in accordance with the Code.

During the first quarter to 30 June 2024, the Council complied with its legislative and regulatory requirements, including confirmation that the authorised limit was not breached.
[20 Minutes]

10. UPDATED ANTI-MONEY LAUNDERING POLICY (Pages 101 - 122)

The Policy provides guidance and introduces safeguards to help staff identify and report instances where money laundering is suspected, and sets out the procedures which must be followed to enable employees to comply with their legal obligations.
[10 Minutes]

11. UPDATED ANTI-FRAUD, CORRUPTION & BRIBERY POLICY (Pages 123 - 170)

The Audit & Governance Committee is the designated body for oversight of the Council's anti-fraud culture.

The Policy sets out Arun District Council's position in relation to fraud, theft, corruption and bribery. This includes the roles and responsibilities of employees and other parties involved in the running of the Council's operations and its approach to the detection and investigation of incidents of fraud or corruption.
[10 Minutes]

12. REGULATION OF INVESTIGATORY POWERS ACT (RIPA) - REVIEW OF POLICY AND PROCEDURES (Pages 171 - 220)

The Regulation of Investigatory Powers Act 2000 (RIPA) governs the acquisition and disclosure of communications data and the use of covert surveillance by local authorities.

The Council must have in place a policy governing its use of RIPA powers, and a set of procedures detailing how officers will implement its policy as part of investigations.

[15 Minutes]

13. WORK PROGRAMME (Pages 221 - 224)

The Committee is required to note the Work Programme for 2024/25.

[5 Minutes]

Note : If Members have any detailed questions, they are reminded that they need to inform the Chair and relevant Director in advance of the meeting.

Note : Filming, Photography and Recording at Council Meetings – The District Council supports the principles of openness and transparency in its decision making and permits filming, recording and the taking of photographs at its meetings that are open to the public. This meeting may therefore be recorded, filmed or broadcast by video or audio, by third parties. Arrangements for these activities should operate in accordance with guidelines agreed by the Council and as available via the following link [Filming Policy](#)

AUDIT AND GOVERNANCE COMMITTEE

23 July 2024 at 6.00 pm

Present: Councillors Stanley (Chair), O'Neill (Vice-Chair), P. Bower, Goodheart, Haywood, Jones, Oppler, Purser, Turner, Wallsgrove and Butcher (Substitute for May)

145. APOLOGIES FOR ABSENCE

Apologies for absence had been received from Councillor May.

146. DECLARATIONS OF INTEREST

Councillor Haywood initially declared a Prejudicial Interest in agenda item 16 as a Member of Littlehampton Harbour Board. However, at the outset of item 16 the Monitoring Officer advised Councillor Haywood that in his opinion she did not have a Prejudicial Interest in the matter but a Personal Interest instead. Councillor Haywood then declared a Personal Interest later in item 16 as a Member of Littlehampton Harbour Board.

Councillor Stanley declared a Personal Interest in agenda item 15 as an employee of Nationwide Building Society.

147. MINUTES

The Minutes of the meeting held on 29 February 2024 were approved by the Committee. These would be signed after the meeting.

148. ITEMS ON THE AGENDA THAT THE CHAIRMAN OF THE MEETING IS OF THE OPINION SHOULD BE CONSIDERED AS A MATTER OF URGENCY BY REASON OF SPECIAL CIRCUMSTANCE

There were no urgent matters for this meeting.

149. PUBLIC QUESTION TIME

There were no urgent matters for this meeting.

Audit and Governance Committee - 23.07.24

150. START TIMES

The Committee

RESOLVED

That its start times for meetings for 2024/25 be 6.00pm.

151. VALUE FOR MONEY INTERIM REPORT - 2022/23

Upon the invitation of the Chair, Simon Mathers, External Audit Partner from Ernst and Young LLP, and Hannah Lill, Senior Audit Manager from Ernst and Young LLP, introduced themselves and presented their report to the Committee. The Senior Audit Manager highlighted the area of Financial Stability. During 2022/23 the Council had been able to set a balanced budget using £5m from reserves, however this was not sustainable. Through planning the 2024/25 budget, the Council had identified a high level savings plan to bridge the gap. Ernst and Young LLP had made two recommendations to the Council, which were included in appendix B of the report. The first recommendation was around timely reporting of the financial position; the second was that the Council identified a savings plan or additional sources of income in order to achieve a sustainable financial position.

The Chair invited questions, and it was asked what the reasons were for the delay in the publishing of the outturn report. The Group Head of Finance and Section 151 Officer explained there had been technical issues with reporting, however significant measures had been put in place in the last 12 months to improve reporting, and he assured Members this would not happen in the 2023/24 outturn. A snapshot of the 2023/24 outturn had already been provided to the Policy and Finance Committee in July.

The Committee noted the report

152. AUDIT PLANNING REPORT - 2023/24

Upon the invitation of the Chair, Simon Mathers, External Audit Partner from Ernst and Young LLP presented the report to the Committee, highlighting key areas including the audit risks and areas of focus summarised on page 48; the Council Materiality on page 49; and the timeline on page 73.

The Chair then invited questions and the following points were raised:

- It was asked why the fees had risen by £100k this year. The External Audit Partner confirmed this was accurate and represented the level of work required and increased regulatory demand.
- It was asked whether fees would be reduced if the government simplified the process. The External Audit Partner explained that if changes were

made to the financial reporting framework produced by Chartered Institute of Public Finance and Accountancy (CIPFA) which simplified the work required, this would be reflected in the fees.

- Questions were asked around the new risk that had been identified regarding IFRS-16. The Group Head of Finance and Section 151 Officer confirmed an implementation plan was in place, and he expected the Council to be compliant with the auditing standard.
- It was asked whether there was a list of all Council owned assets. The Group Head of Finance and Section 151 Officer explained there was a fixed asset register, which he could share with Members upon request.

The Committee noted the report.

153. AUDIT RESULTS REPORT - 2021/22

Upon the invitation of the Chair, Simon Mathers, External Audit Partner from Ernst and Young LLP presented the report, which looked back on the 2021/22 audit, which had been signed off on 25 March 2024.

There were no questions from Members.

The Committee noted the report.

154. AUDITOR'S ANNUAL REPORT - 2021/22

Upon the invitation of the Chair, Simon Mathers, External Audit Partner from Ernst and Young LLP presented the report, which summarised the findings of the 2021/22 audit.

There were no questions from Members.

The Committee noted the report.

155. RESPONSE TO ERNST & YOUNG ON THE ANNUAL ASSURANCE LETTER REGARDING GOVERNANCE ARRANGEMENTS

Upon the invitation of the Chair, the Internal Audit Manager presented the report to the Committee. He explained that the Council's external auditors considered the risk of misstatements affecting the annual accounts due to fraud or error, and as part of this process, they requested the opinion of the Chair of the Audit and Governance Committee. Due to the timing of meetings, the response had been prepared with the previous Chair and was being presented to the Committee for noting.

Audit and Governance Committee - 23.07.24

The Chair invited questions and one Member asked about the reference to future Bognor Regis regeneration requirements and the Council's plans to increase its housing stock (as shown in the second paragraph on page 178), in particular whether details of these had been decided and finalised. The Internal Audit Manager explained Service Committees had received reports regarding such projects which were included in the medium term financial budgets, but as they would potentially incur substantial amounts of borrowing, they needed to be factored into the financial strategy. The Group Head of Finance and Section 151 Officer explained that any additional projects would be presented to the relevant Service Committees for full approval as usual. The Member stated that this paragraph should state that 'there **will** be a need for further future borrowing from the Council' not 'there **may** be a need'.

The Committee noted the report

156. ANNUAL INTERNAL AUDIT REPORT & OPINION 2023/24

Upon the invitation of the Chair, Nick Barrett, Audit Manager for Southern Internal Audit Partnership, introduced himself and presented his report to the Committee. He explained that the report had been presented to the Corporate Management Team on 11 June 2024. He then briefly summarised each section of the report including Section 4, Internal Audit Opinion, which he felt was the most important section of the report, confirmed that for the year an overall reasonable assurance opinion had been given, which was positive; Section 5 was an overview and key observations, and showed that 93% (13 of the 14 systems reviewed) fell within the substantial and reasonable assurance brackets, which was very positive. Two audits – Housing Rents and Housing Voids were not completed in time to feature in the annual report and would feature in the 2024/25 progress monitoring and subsequent annual report. Both of these had reached draft report stage with one due to complete that week and one in early August. The Control Section set out more detail around the one audit review, Asset Management of Council Buildings, that resulted in a limited assurance; He updated that there was a typing mistake in the first sentence of Section 9 which should read from 2023-24 and not 2022-23; Section 10 showed customer satisfaction was above target.

The Audit Manager for Southern Internal Audit Partnership thanked Arun Officers for enthusiastically engaging in the audit work throughout the year.

The recommendation was proposed by Councillor Bower and seconded by Councillor Purser.

The Committee

RESOLVED

That the annual audit report and opinion for the year ended 2023-24 be approved.

157. DRAFT ANNUAL GOVERNANCE STATEMENT 2023/24

Upon the invitation of the Chair, the Internal Audit Manager presented the report to the Committee. The Annual Governance Statement (AGS) was a mandatory document which accompanied the Council's accounts. It would be provided as a draft to the external auditors and published on the website along with the draft accounts. If significant governance changes occurred before the accounts were audited and accepted, then this could be reflected in the AGS and a final version would therefore be presented to a future meeting once the accounts had been audited. Some of the document remained the same from year-to-year and amended/new wording had been highlighted. The document had been considered by the Corporate Management Team and signed by the interim Chief Executive Officers and the Leader of the Council. The draft AGS was presented for the Committee to note at this stage, and the final version would be presented for approval at a later date.

The Chair invited questions. The AGS stated that 'The Council continues to publish its annual gender pay gap data, as required by central Government', and it was asked whether there was a gender pay gap at Arun District Council (ADC). Officers explained the data did not look at the difference in pay between genders for exactly the same role, but more around the split of genders in various roles at various levels within the organisation. This was information held and published by Human Resources (HR) and was available to view on the website. The Group Head of Finance and Section 151 Officer offered to circulate this data to the Committee.

It was highlighted by one Member that the first sentence on page 207 noted there was one Independent group, however this would need to be amended as there was more than one Independent Group. The Group Head of Law and Governance explained the draft AGS had been prepared prior to the new Independent Group being formed, and this would be amended in the AGS.

The Committee noted the report.

158. HOUSING TENANCY FRAUD UPDATE REPORT

Upon the invitation of the Chair, the Neighbourhood Services Manager, presented her report to the Committee, highlighting the comparative data which showed a significant increase in the number of referrals. There had been different kinds of fraud reported that they were able to investigate and stop, such as people attempting to fraudulently exchange into properties. The financial saving for the last financial year had been over £2m. Not only was this work stopping illegal activity, but also bringing properties back into use, reducing the need for expensive emergency accommodation.

Members congratulated the Neighbourhood Services Manager and her team on the excellent work, and savings to the Council.

Audit and Governance Committee - 23.07.24

The Committee noted the report

159. TREASURY MANAGEMENT - ANNUAL REPORT 2023/24

[During this item, the Chair, Councillor Stanley redeclared his Personal Interest in this Item as an employee of Nationwide Building Society.

Upon the invitation of the Chair, the Senior Accountant Treasury presented the report to the Committee. She highlighted a few key areas including paragraph 2 on page 238/239, which showed capital expenditure, and the table in 2.3 which showed the actual expenditure at the end of 2023/24 and how this was financed; paragraph 3 on pages 239-241 updated on borrowing and Capital Financing Requirement (CFR), with the table on 3.9 showing the actual CFR at 31 March 2024; paragraph 4 on pages 242-244 updated on the treasury position, with the table on 4.5 on page 243 showing investments at 31 March 2023 at £43.9m, and 31 March 2024 at £42.8m. It also showed the sector breakdown of investments, with an increase in the use of local authorities and money market funds, and a reduction in banks. The table in 4.6 on page 244 showed the investments greater than one year, which were at £8m. A list of all investments at 31 March 2024 in maturity date order could be seen at appendix 4 on page 256. Since this date £14m has matured and £24m new investments have been placed in 2024/25, some of which were short-term investments, and some liquidity investments; paragraph 5.2.2-5.2.5 on page 246 updated on the bank rate and the directional forecast from advisors, Link Group; page 248 showed external borrowing remained at £35.46m, which was currently all Housing Revenue Account (HRA). The next maturity was on 28 March 2030 at £8.87m; paragraph 7.5 on page 249 showed the budgeted rate of return on interest was £3.2%, however they had achieved a rate of return for the year of 4.94%, generating an increase of investment interest of around £890k; paragraph 8.3 on page 251 updated on International Financial Reporting Standard 9 (IFRS9) and showed the potential impact on the Council's revenue budget, should the override currently in place end on 31 March 2025.

The recommendations were proposed by Councillor Wallsgrove and seconded by Councillor Purser.

There were no questions from Members.

The Committee

RECOMMEND TO FULL COUNCIL that

1. the actual prudential and treasury indicators for 2023/24 contained in the report be noted
2. the annual treasury management report for 2023/24 be noted; and

3. the treasury activity during 2023/24 which has generated interest receipts of £2.43m (4.94%). Budget £1.54m (3.2%), be noted

160. CORPORATE RISK REGISTER UPDATE

[At the start of this Item the Group Head of Law & Governance advised Councillor Haywood that he was satisfied she did not have a Prejudicial Interest in this Item, and that she had a Personal Interest only]

Upon the invitation of the Chair, the Finance and Risk Manager presented the report, which provided the quarterly update on the Corporate Risk Register, and had last been reported to the Committee in February 2024. The Risk Register had been reviewed in line with the requirements of the Council's Risk Management Framework. Appendix 3 of the report contained the Corporate Risk Register Summary, highlighting any changes. One risk had been added - risk 19, which related to the Littlehampton Harbour Board; 2 risks had been removed – risk 4.3, relating to ICT and permission to access Government systems, and risk 16, relating to the Chief Executive vacancy. Appendix 3 also contained the detailed risk register entries with any changes in the content highlighted. At the Audit and Governance Committee on 19 February 2024, an enhanced written update had been requested in respect to CRR 2 - Organisational capacity to deliver, and CRR 5 - Corporate Business Continuity and these were included in appendix 4.

The Interim Chief Executive Officer and Director of Growth introduced his enhanced written update on CRR 2 - Organisational capacity to deliver. Members were invited to ask questions and it was asked whether there was felt to have been an adverse effect on staff morale following the removal of the coffee machines. The Interim Chief Executive Officer and Director of Growth explained whilst he believed staff would have preferred to keep them, the coffee machines were something felt to be desirable rather than essential.

The Group Head of Environment & Climate Change introduced his update on CRR 5 - Corporate Business Continuity. He also updated that all services had recently been requested to update their business continuity plans, particularly to ensure plans accounted for a loss of Information Technology (IT). This was prior to an exercise referred to in the written update that would be taking place in October 2024, and organised by the insurers, Protector Insurance. This would test services with a loss of IT, and the use of a disaster recovery drive. Following the exercise, Protector Insurance would provide a feedback report to highlight any improvements required. Following that the Corporate Business Continuity Plan would be updated. Online training had also been identified for all Managers at Arun to provide a greater awareness of the requirement for Business Continuity, and an intranet page had been set up which was accessible to all staff, identifying the role of emergency planning and the training programme.

Audit and Governance Committee - 23.07.24

Members were invited to ask questions around the Corporate Risk Register and the following points were raised:

- One Member felt that resources would be better spend mitigating the effects of climate change than trying to prevent it, as the Council had a limited amount of money and it shouldn't be spent in the wrong ways.
- Clarification was requested on the outcome of the latest negotiations with Littlehampton Harbour Board. The Interim Chief Executive Officer and Director of Growth explained we were currently in litigation, and were not able to say anything further at this stage.

The Committee noted the report.

161. COUNTER-FRAUD REPORT 2023/24

Upon the invitation of the Chair, the Internal Audit Manager presented his report, which was the annual update to the Committee on counter-fraud activity within the Council. He highlighted page 317-318, which explained that the Council remained proactive in respect of housing fraud investigation, which had been reported separately by the Neighbourhood Services Manager earlier in the meeting; page 318 showed a considerable amount of work had been performed by the Council's Revenues section in reviewing entitlement to Council Tax Single Person Discount (SPD) entitlement and, where appropriate, SPD had been removed and account holders rebilled; page 319 explained the Council's Empty Homes Officer continued to identify and assist in bringing empty homes back into occupation, which benefitted the Council both in terms of New Homes Bonus and Council tax. The work of the Empty Homes Officer was included in the Corporate Plan as indicator CP22 and would be reported to Service Committees as part of the Key Performance Indicator (KPI) reporting.

The Chair invited questions and it was asked whether ADC was sufficiently resourced within the fraud team to ensure the maximum amount of fraud was identified. The Group Head of Finance and Section 151 Officer explained that he felt Arun may not have sufficient resources in place currently, but this was being addressed. It was asked whether further data could be provided around this, in particular benchmarking this against other neighbouring local authorities, and whether it was likely more fraud would have been identified had there been additional resources. The Group Head of Finance and Section 151 Officer confirmed he would be happy to provide a report to the Committee with benchmarking data and actions implemented, although he explained it was not possible to know what fraud activity had been prevented by the team's counter-fraud work.

The Committee noted the report.

162. RECRUITMENT OF INDEPENDENT REMUNERATION PANEL

Upon the invitation of the Chair, the Group Head of Law and Governance presented the report which set out plans to enable the Council to recruit a new Independent Remuneration Panel (IRP) as the existing Panel's Terms of Office expired on 31 March 2024. He went on to explain the recommendations to the Committee.

The recommendations were proposed by Councillor Wallsgrove and seconded by Councillor Turner.

Members thanked the Officers for the report. It was asked when the advert would go out and when the new IRP members were expected to start. The Group Head of Law and Governance confirmed an update would be circulated to Members by the Committee Services Manager, with an expected timeframe for the process, upon her return from annual leave.

The Committee

RESOLVED

1. to endorse the options for recruiting a new Independent Remuneration Panel as set out in Section 4.6 of the report;
2. to agree that the Council seeks to recruit a Panel consisting of five members for a term of 4 years;
3. to agree the guidance note and application pack as attached to the report as Appendix 1;
4. to agree to appoint two Members of the Committee, one to be the Chair, to sit on the IRP's Interview Panel; and
5. it be noted that in line with the Constitution, the Chief Executive will make appointments to the Panel in line with their delegated authority.

163. WORK PROGRAMME

The Committee noted the Work Programme.

(The meeting concluded at 7.16 pm)

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Arun District Council External Audit Update Report

September 2024

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Building a Better
working world

Agenda Item 6

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Public Sector Audit Appointments Ltd (PSAA) issued the “Statement of responsibilities of auditors and audited bodies”. It is available from the PSAA website (<https://www.psa.co.uk/audit-quality/statement-of-responsibilities/>). The Statement of responsibilities serves as the formal terms of engagement between appointed auditors and audited bodies. It summarises where the different responsibilities of auditors and audited bodies begin and end, and what is to be expected of the audited body in certain areas.

The “Terms of Appointment and further guidance (updated July 2021)” issued by the PSAA sets out additional requirements that auditors must comply with, over and above those set out in the National Audit Office Code of Audit Practice (the Code), and in legislation, and covers matters of practice and procedure which are of a recurring nature.

This report is made solely to the Audit & Governance Committee and management of Arun District Council in accordance with the statement of responsibilities. Our work has been undertaken so that we might state to the Audit & Governance Committee and management of Arun District Council those matters we are required to state to them in this report and for no other purpose. To the fullest extent permitted by law we do not accept or assume responsibility to anyone other than the Audit & Governance Committee and management of Arun District Council for this report or for the opinions we have formed. It should not be provided to any third-party without our prior written consent.



BOARDROOM



01 2022/23 audit

2022/23 Audit status

Status of the audit

The new Minister of State responsible for Local Government and English Devolution made a statement to parliament on Tuesday 30 July 2024, setting out the Government's policy proposal for addressing the local government audit backlog. This statement outlines immediate actions the Government – together with the Financial Reporting Council (FRC), the National Audit Office (NAO) and organisations in the wider system – is taking, which are designed to address the backlog and put local audit on a sustainable footing. These now provide helpful clarity on the government's policy intentions and recognise the commitment of finance teams and auditors and the important role that we will all play to restore timely financial reporting.

We have previously discussed with you our intention to disclaim your 2022/23 audit as part of our strategy to reset our local public audits, clear the backlog, and focus our efforts on providing assurance on the most recent financial information.

The Minister's statement establishes the intent for the backstop date of 13 December 2024 for this to be completed. The legislation to allow for this has now been laid before Parliament and is due to be enacted by 30 September 2024.

We have been working with the system leaders to understand what their expectations will be on all auditors to implement the government's policy proposals effectively. We have also reviewed the auditing standards and the work required to move to a disclaimed opinion. Primarily, whilst we do not need to complete detailed testing of the financial statements we do need to review them, complete certain tasks to plan our approach to the audit, understand the business, get updates on key areas to ensure that we are sighted on developments, form a view on aspects that we report on, and communicate the outcome of this work to those charged with governance.

Once we have completed our work we will issue our audit completion reporting with the disclaimed opinion for those charged with governance per authority that includes:

Page 14 details of the work undertaken for planning;

- the results from the work completed for this process; and
- our value for money commentary, as previously presented to the 18 March 2024 Audit & Governance Committee.

We have established our programme of work that will need to be completed to ensure that together we can meet the backstop date of 13 December 2024, which we will adapt if required should further guidance be released from the NAO.

Depending on when we receive all of the required information that has been requested from management, we aim to have our procedures completed and provide our report by the end of November in order for you to review it, provide to us your final signed letter of representation and subsequent events confirmation, and then publish your accounts with the audit report by the December deadline.



02 2023/24 Audit



2023/24 Audit status

Status of the audit

In the same statement to Parliament we refer to on page 4, the new Minister of State responsible for Local Government and English Devolution, the backstop date for 2023/24 audits was established as 28 February 2025. The periods between the two backstop dates of 13 December 2024 and 28 February 2025 is therefore relatively short.

Our Head of UK Government and Public Sector Audit wrote to all s151 officers on 21 August 2024 setting out our commitment to delivering high quality local audit in the public interest, but in the light of the government announcement there was a need to review our current and future work prioritisation to ensure that we meet the requirements being placed on auditors, including completion for outstanding audits up to 2022/23. At the same time, we are also mindful of the expectations on us to safeguard the timeliness of the audits in other priority sectors where we audit public funds – central government, the NHS and higher education. Capacity is finite, and therefore, prioritization decisions are necessary. The correspondence sent on 21 August 2024 is clear that we will be prioritising those audits where draft unaudited financial statements were published by 31 July 2024, and in our view where local authorities are able and ready to support an audit process.

As of the date of drafting this progress report the Council has yet to publish its Statement of Accounts for 2023/24. These were due to be published by 31 May 2024 under the requirements of the Accounts & Audit Regulations 2015 (as amended) and by 31 July 2024 under the timetable set out by the Council in February. Management has stated that the delay in publishing your financial statements was in part due to the expected planned timing of the audit and to allow officers to focus on more timely reporting of the financial position for Q1 of 2024/25.

As it stands at the date of this report, you are not ready to be audited as the draft financial statements have not been published. As a result, resources are being moved elsewhere as we need to re-prioritise resource to audits where published financial statements are available.

We will reassess if there is sufficient skilled availability to enable your audit to start and be completed and fully reported by the end of January, ahead of the 2023/24 backstop date.

Value for Money arrangements:

In our Audit Planning Report dated 24 June 2024, we reported that we had not completed our value for money (VFM) risk assessment. We plan to complete this in October 2024, we have identified no risks of significant weaknesses in arrangements in our work completed to date.

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REPORT TO:	Audit & Governance Committee 3 October 2024
SUBJECT:	Internal Audit Progress Report July 2024
LEAD OFFICER:	Iona Bond, Deputy Head of Southern Internal Audit Partnership
LEAD MEMBER:	Councillor Matt Stanley
WARDS:	All
CORPORATE PRIORITY / POLICY CONTEXT / CORPORATE VISION:	
The Council’s budget promotes all of the Council’s Corporate Priorities.	
DIRECTORATE POLICY CONTEXT:	
The Council’s Internal Audit Service has an effect on all Directorates of the Council.	
FINANCIAL SUMMARY:	
There are no direct financial implications arising from the report. Provision of a sound Internal Audit Service should result in effective financial control and guard against theft and fraud.	

1. PURPOSE OF REPORT

- 1.1. The Committee has a responsibility to review the Internal Audit Progress report to ensure that action has been taken by relevant managers on risk based issues identified by Internal Audit.

2. RECOMMENDATIONS

- 2.1. The Committee is requested to receive this report and note progress to date, as at 31 July 2024.

3. EXECUTIVE SUMMARY

- 3.1. The report outlines the progress of the Council’s Internal Audit service against the approved Internal Audit Plan for 2024/25 from 1 April 2024.

4. DETAIL

- 4.1. Under the Accounts and Audit (England) Regulations 2015, the Council is responsible for:
 - ensuring that its financial management is adequate and effective and that it has a sound system of internal control which facilitates the effective exercise of functions and includes arrangements for the management of

risk; and

- undertaking an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards and guidance.

4.2 In accordance with proper internal audit practices (Public Sector Internal Audit Standards), the Chief Internal Auditor is required to provide a written status report to the Audit Committee, summarising:

- The status of 'live' internal audit reports (outstanding management actions);
- an update on progress against the annual audit plan;
- a summary of internal audit performance, planning and resourcing issues; and a summary of significant issues that may impact on the Chief Internal Auditor's annual opinion.

4.3 The progress report is attached at Appendix 1 and provides a clear and transparent articulation of internal audit activity, performance, and outcomes during the period up to 31 July 2024.

5. CONSULTATION

5.1. N/A

6. OPTIONS / ALTERNATIVES CONSIDERED

6.1. The report is for information only.

7. COMMENTS BY THE GROUP HEAD OF FINANCE AND SECTION 151 OFFICER

7.1. A fit for purpose, monitored Internal Audit system enhances financial control and reduces the risk of theft and fraud for the Council.

8. RISK ASSESSMENT CONSIDERATIONS

8.1. The main risks arising from the process are:

- Issues raised by Internal Audit are not appropriately actioned by managers. This could result in weak systems control, increasing the risk of theft and fraud. Regular reporting and monitoring reduces the risk;
- The other risk is slippage of the approved Audit programme. This would mean the approved programme is not delivered and resources not directed as planned. Regular reporting and monitoring reduces the risk.

8.2. Processes in place and financial controls mitigate against these risks.

9. COMMENTS OF THE GROUP HEAD OF LAW AND GOVERNANCE & MONITORING OFFICER

9.1. A sound system of Internal Audit is one of the requirements of the Local Government Finance Act 1972.

10.HUMAN RESOURCES IMPACT

10.1. There are no impacts.

11.HEALTH & SAFETY IMPACT

11.1. There are no impacts.

12.PROPERTY & ESTATES IMPACT

12.1. There are no impacts.

13.EQUALITIES IMPACT ASSESSMENT (EIA) / SOCIAL VALUE

13.1. There are no impacts.

14.CLIMATE CHANGE & ENVIRONMENTAL IMPACT/SOCIAL VALUE

14.1. There are no impacts.

15.CRIME AND DISORDER REDUCTION IMPACT

15.1. There are no impacts.

16.HUMAN RIGHTS IMPACT

16.1. There are no impacts.

17.FREEDOM OF INFORMATION / DATA PROTECTION CONSIDERATIONS

17.1. There are no impacts.

Name: Iona Bond

Job Title: Deputy Head of Southern Internal Audit Partnership

Contact: iona.bond@hants.gov.uk

BACKGROUND DOCUMENTS: [Annual Internal Audit plan 2024/25](#)

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Southern Internal Audit Partnership

Assurance through excellence
and innovation

ARUN DISTRICT COUNCIL INTERNAL AUDIT PROGRESS REPORT JULY 2024

Prepared by: Iona Bond, Deputy Head of Partnership

August 2024

1. Role of Internal Audit

The requirement for an internal audit function in local government is detailed within the Accounts and Audit (England) Regulations 2015, which states that a relevant body must:

‘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 or guidance.’

The standards for ‘proper practices’ are laid down in the Public Sector Internal Audit Standards [the Standards – updated 2017].

The role of internal audit is best summarised through its definition within the Standards, as an:

‘Independent, objective assurance and consulting activity designed to add value and improve an organisations’ operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes’.

The Council is responsible for establishing and maintaining appropriate risk management processes, control systems, accounting records and governance arrangements. Internal audit plays a vital role in advising the Council that these arrangements are in place and operating effectively.

The Council’s response to internal audit activity should lead to the strengthening of the control environment and, therefore, contribute to the achievement of the organisations’ objectives.

2. Purpose of report

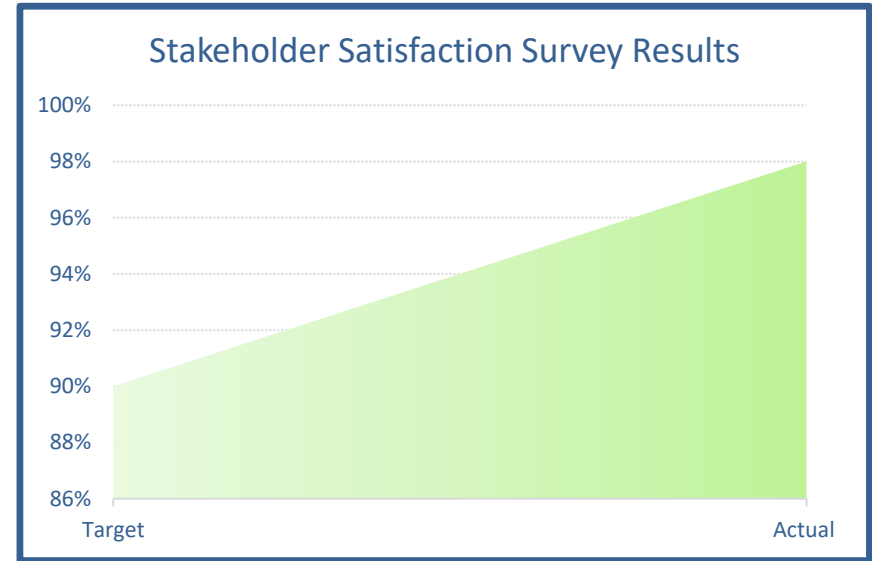
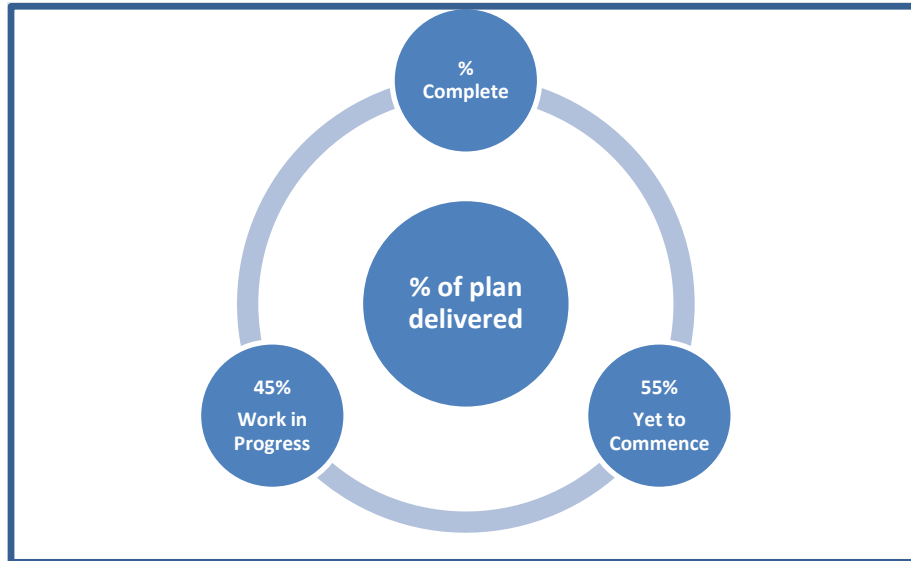
In accordance with proper internal audit practices (Public Sector Internal Audit Standards), and the Internal Audit Charter the Chief Internal Auditor is required to provide a written status report to ‘Senior Management’ and ‘the Board’, summarising:

- The status of ‘live’ internal audit reports;
- an update on progress against the annual audit plan;
- a summary of internal audit performance, planning and resourcing issues; and
- a summary of significant issues that impact on the Chief Internal Auditor’s annual opinion.

Internal audit reviews culminate in an opinion on the assurance that can be placed on the effectiveness of the framework of risk management, control and governance designed to support the achievement of management objectives of the service area under review. The assurance opinions are categorised as follows:

Substantial	<i>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.</i>
Reasonable	<i>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.</i>
Limited	<i>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.</i>
No	<i>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.</i>

3. Performance dashboard



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Compliance with Public Sector Internal Audit Standards

An 'External Quality Assessment' of the Southern Internal Audit Partnership was undertaken by the Institute of Internal Auditors (IIA) in September 2020. The report concluded:

'The mandatory elements of the IPPF include the Definition of Internal Auditing, Code of Ethics, Core Principles and International Standards. There are 64 fundamental principles to achieve with 118 points of recommended practice. We assess against the principles. It is our view that the Southern Internal Audit Partnership conforms to all 64 of these principles.'

'We have also reviewed SIAP conformance with the Public Sector Internal Audit Standards (PSIAS) and Local Government Application Note (LGAN). We are pleased to report that SIAP conform with all relevant, associated elements.'

4. Analysis of 'Live' audit reviews

Audit Review	Report Date	Audit Sponsor	Assurance Opinion	Total Management Action(s)*	Not Yet Due	Complete	Overdue		
							L	M	H
2022/23									
Cyber Security	25/11/2022	CEX	Reasonable	10 (2)	0 (0)	8 (2)	2		
Information Governance	09/12/2022	CEX	Reasonable	8 (5)	0 (0)	6 (3)			2
Car Parks and Enforcement	23/05/2023	DoG	Reasonable	7 (1)	0 (0)	6 (1)		1	
Accounts Receivable and Debt Management	13/06/2023	CEX	Reasonable	4 (1)	0 (0)	3 (0)		1	
Business Continuity	28/07/2023	DoE&C	Limited	23 (10)	0 (0)	19 (10)		4	
2023/24									
Fraud Framework	05/09/2023	CEX	Reasonable	12 (1)	0 (0)	6 (1)	4	2	
National Non Domestic Rates (NNDR)	02/11/2023	CEX	Reasonable	4 (1)	0 (0)	3 (1)	1		
Risk Management	27/11/2023	CEX	Reasonable	5 (0)	1 (0)	3 (0)		1	
Medium Term Financial Planning	12/01/2024	CEX	Reasonable	2 (2)	1 (1)	1 (1)			
IT - Cyber Security (Patch Management)	30/04/2024	CEX	Reasonable	5 (0)	1 (0)	4 (0)			
Asset Management (Corporate Buildings)	17/05/2024	DoG	Limited	11 (6)	5 (3)	5 (2)			1
Community Infrastructure Levy	04/07/2024	DoG	Substantial	1 (0)	1 (0)	0 (0)			
Disabled Facilities Grants	11/07/2024	DoG	Reasonable	7 (1)	7 (1)	0 (1)			
Housing Rents	25/07/2024	DoE&C	Reasonable	12 (0)	3 (0)	9 (0)			
Total							7	9	3

*Total number of actions (total number of high priority actions)

Audit Sponsor			
CEX	Chief Executive	DoE&C	Director of Environment and Communities
DoG	Director of Growth		

5. Executive Summaries of reports published concluding a ‘Limited’ or ‘No’ assurance opinion

There have been no reports published concluding a “Limited” or “No” assurance opinion to date for 2024/25.

6. Planning & Resourcing

The internal audit plan for 2024/25 was presented to the Corporate Leadership Team and the Audit & Governance Committee in February 2024.

The audit plan remains fluid to provide a responsive service that reacts to the changing needs of the Council. Progress against the plan is detailed within section 7.

7. Rolling Work Programme

Audit Review	Sponsor	Scoping	Terms of Reference	Fieldwork	Draft Report	Final Report	Assurance Opinion	Comment
2023/24 Reviews								
Housing Rents	DoE&C	✓	✓	✓	✓	✓	Reasonable	
Housing Void Repairs	DoE&C	✓	✓	✓	✓			
2024/25 Reviews								
Corporate/Governance								
Strategic Economic Partnerships	DoG							Q3
UK Prosperity Fund	DoG	✓	✓	✓				
IR35	CEX							Q4
Human Resources	CEX							Q3
IT								
Disaster Recovery Planning	DoE&C							Q2
Wi-fi Security	DoE&C	✓	✓	✓				
Finance								
Accounts Payable	CEX	✓	✓	✓				
Housing Benefits	CEX	✓	✓	✓				
Payroll	CEX	✓						Q2
Savings Realisation	CEX							Q3

Audit Review	Sponsor	Scoping	Terms of Reference	Fieldwork	Draft Report	Final Report	Assurance Opinion	Comment
Improving the Wellbeing of Arun								
Community Safety/Development	DoE&C	✓	✓					Q2
Delivering the Right Homes in the Right Places								
Housing Allocations	DoE&C							Q4
Repairs and Maintenance (statutory H&S checks)	DoE&C							Q4
Responsive and Emergency Repairs	DoE&C							Q3
Neighbourhood Services/Tenancy Management	DoE&C	✓						Q1
Supporting Our Environment to Support Us								
Cleansing Services	DoG							Q2
Climate Strategy	DoG							Q3
Parks and Green Spaces	DoE&C	✓	✓	✓				
Environmental Health and Protection	DoG	✓						Q2
Fees and Charges (Technical Services)	DoG							Q3
Miscellaneous								
Licensing – Taxi's	DoG							Q4
S106 Agreements	DoG	✓	✓	✓	✓			

8. Adjustments to the Internal Audit Plan

The following adjustment to the plan has been made:

Additions to the Plan	Reason
S106 Agreements	Carried forward from 2023/24

Overdue 'High Priority' Management Actions

Information Governance - Reasonable**Observation:**

The ICO webpage, requires organisation's with systems and applications used for processing or storing personal data to maintain an information asset register. The asset register should capture details of all information assets (software and hardware) including the following information:

- The asset owner.
- The data held.
- Asset location.
- Retention periods.
- The legal basis for holding the data, and.
- Security measures deployed.

We confirmed from our discussions with the Information Governance Manager and the Data Protection Officer that the Council do not have an Information Asset Register, or a Record of Personal Data held.

Assets registers are expected to be reviewed periodically to ensure they remain up to date and accurate. The register would also enable the Council to demonstrate that all personal information held and processed by the Council are handled in line with GDPR guidance and would also assist the IMT in responding to DSAR effectively and in a timely manner.

Management Action	Original Due Date	Revised Due Date	Latest Service Update
The Council will implement a corporate Information Asset Register and review annually thereafter.	31.12.2023	31.12.2024	While the Information Asset Register is drafted it is not in a stage ready for publication and more time is needed. That has been complicated by a departure in the team more recently which has added strain back onto existing resources and ability to complete the Register.
The Council will review the Information Asset Register on an annual basis.	31.12.2023	31.12.2024	As above

Asset Management (Corporate Buildings) - Limited			
<p>Observation: Although fire inspection certificates were in place as required, fire risk assessments due on two operational assets which were provided had missed the next review date and the officer confirmed that others were also overdue.</p>			
Management Action	Original Due Date	Revised Due Date	Latest Service Update
The Structural Engineering and Compliance Officer will identify these overdue statutory responsibilities and work with relevant officers across the team to complete the overdue reviews, updating records and ensuring further reviews are programmed as necessary.	31.07.2024	31.01.2025	The last of the necessary inspections is programmed for 11 November. A revised completion date of 31 January 2025 has been set to allow time to receive the report and complete any actions.

Overdue 'Low & Medium Priority' Management Actions (July 2024)

Audit Review	Report Date	Opinion	Priority	Due Date	Revised Due Date
Cyber Security	25.11.2022	Reasonable	Low	31.03.2023	30.11.2024
			Low	31.10.2023	30.11.2024
Car Parks and Enforcement	23.05.2023	Reasonable	Medium	31.12.2023	30.11.2024
Accounts Receivable and Debt Management	13/06/2023	Reasonable	Medium	31.12.2023	31.10.2024
Business Continuity	28.07.2023	Limited	Medium	30.09.2023	30.09.2024
			Medium	30.09.2023	30.09.2024
			Medium	31.10.2023	30.09.2024
			Medium	30.11.2023	31.10.2024
Fraud Framework	05.09.2023	Reasonable	Low	29.02.2024	31.10.2024
			Low	31.03.2024	31.10.2024
			Low	30.11.2024	31.10.2024
			Low	31.12.2023	31.10.2024
			Medium	31.10.2023	31.10.2024
			Medium	31.03.2024	31.03.2025
National Non Domestic Rates (NNDR)	02/11/2023	Reasonable	Low	30.05.2024	30.09.2024
Risk Management	27.11.2023	Reasonable	Medium	31.03.2024	31.03.2025

REPORT TO:	Audit and Governance Committee 03 October 2024
SUBJECT:	Corporate Risk Register Update
LEAD OFFICER:	Antony Baden, Group Head of Finance and Section 151 Officer
LEAD MEMBER:	Councillor Matt Stanley
WARDS:	All
CORPORATE PRIORITY / POLICY CONTEXT / CORPORATE VISION:	
<p>The Risk Management Framework presented to the Audit and Governance Committee on 28 September 2023 has been used to review the strategic risks facing the Council. As a result of the review a revised Corporate Risk Register has been produced.</p>	
DIRECTORATE POLICY CONTEXT:	
<p>The Corporate Risk Register is an overriding risk management tool that will capture corporate risks from across the Council.</p>	
FINANCIAL SUMMARY:	
<p>There are no direct financial considerations.</p>	

1. PURPOSE OF REPORT

- 1.1. The purpose of the report is to highlight the updates to the Corporate Risk Register since it was last reported to the Audit and Governance Committee on 23 July 2024.

2. RECOMMENDATIONS

- 2.1. Members of the Audit and Governance Committee are asked to consider and note the revised Corporate Risk Register.

3. EXECUTIVE SUMMARY

- 3.1. The Corporate Risk Register is reviewed and updated in line with the requirements of the Council’s Risk Management Framework.
- 3.2. Quarterly updates reflecting revisions are reported to the Audit and Governance Committee, this report highlights the changes since the last update.

- 3.3. It is proposed that the Committee considers and notes the revised Corporate Risk Register.

4. DETAIL

- 4.1. A report recommending the adoption of a new Risk Management Framework was presented to the Audit and Governance Committee on 29 November 2022. A subsequent report was provided to the Committee on 28 September 2023 detailing amendments to the Framework.
- 4.2. Corporate risks are risks that could influence the successful achievement of our long- term core purpose, priorities, and outcomes. These are risks that could potentially have a council wide impact and/ or risks that cannot solely be managed at a Service Area Level because higher level support or intervention is needed.
- 4.3. The Council's Risk Matrix (an extract from the Risk Management Framework) used to score each risk is included as Appendix 1 to this report.
- 4.4. Risks are assessed for Gross and Net risk. This method is used to evaluate the effectiveness of the identified actions used to mitigate the likelihood or impact of each of the risks.
- 4.5. The Corporate Leadership Team have reviewed the Corporate Risk Register in line with the reviewing and reporting requirements of the Risk Management Framework included as Appendix 2 to this report.
- 4.6. The quarterly review of high risks was undertaken by the Corporate Leadership Team on 20 August 2024 and the 6- monthly review of medium risks was undertaken on 16 April 2024.
- 4.7. A Corporate Risk Register Summary is attached as Appendix 3 to this report, this records the changes in scores and any additions or removals to the Corporate Risk Register.
- 4.8. Actions have been reviewed and updates are highlighted on the risk register entries- Appendix 3.
- 4.9. Members of the Audit and Governance Committee are asked to consider and note the updates resulting in the revised Corporate Risk Register.
- 4.10. The Corporate Risk Register will be reported to the Committee in a revised format with effect from the meeting scheduled for 3 December 2024. The revised Corporate Risk Register is presented in a more user- friendly format. An example of this has been included in Appendix 4.

5. CONSULTATION

- 5.1. There is no requirement for public consultation in relation to the Corporate Risk Register, this is an internal risk management tool.

6. OPTIONS / ALTERNATIVES CONSIDERED

- 6.1. Not applicable.

7. COMMENTS BY THE GROUP HEAD OF FINANCE/ S151 OFFICER

- 7.1. Members will note that some risks will always remain on red by their very nature. The important point is that the risks are identified and then managed, and where possible, mitigations are put in place. There will be some cases whereby it will be financially prohibitive to implement the desired mitigation and such risks will continue to be managed very closely.

8. RISK ASSESSMENT CONSIDERATIONS

- 8.1. The Corporate Risk Register aids in the effective management of strategic risks faced by the Council. (Appendix 3)

9. COMMENTS OF THE GROUP HEAD OF LAW AND GOVERNANCE & MONITORING OFFICER

- 9.1. There are no direct legal services implications. However, the Corporate Risk Register will assist in the effective management of related risks.

10. HUMAN RESOURCES IMPACT

- 10.1. There are no direct human resource implications. However, the Corporate Risk Register will assist in the effective management of related risks.

11. HEALTH & SAFETY IMPACT

- 11.1. There are no direct implications. However, the Corporate Risk Register will assist in the effective management of related risks.

12. PROPERTY & ESTATES IMPACT

- 12.1. There are no direct implications. However, the Corporate Risk Register will assist in the effective management of related risks.

13. EQUALITIES IMPACT ASSESSMENT (EIA) / SOCIAL VALUE

13.1. There are no direct implications. However, the Corporate Risk Register will assist in the effective management of related risks.

14. CLIMATE CHANGE & ENVIRONMENTAL IMPACT/SOCIAL VALUE

14.1. There are no direct implications. However, the Corporate Risk Register will assist in the effective management of related risks.

15. CRIME AND DISORDER REDUCTION IMPACT

15.1. None.

16. HUMAN RIGHTS IMPACT

16.1. None.

17. FREEDOM OF INFORMATION / DATA PROTECTION CONSIDERATIONS

17.1. There are no direct implications. However, the Corporate Risk Register will assist in the effective management of related risks.

CONTACT OFFICER:

Name: Vicky Ashmore

Job Title: Finance and Risk Manager

Contact Number: ext. 37606

BACKGROUND DOCUMENTS:

Audit and Governance Committee report - 29 November 2022

[Arun District Council](#)

Audit and Governance Committee report - 28 September 2023

[Arun District Council](#)

Audit and Governance Committee report - 23 July 2024

[Arun District Council](#)

APPENDIX 1: ARUN DISTRICT COUNCIL'S RISK MATRIX

IMPACT	Very High (4)	4	8	12	16
	High (3)	3	6	9	12
	Medium (2)	2	4	6	8
	Low (1)	1	2	3	4
		Unlikely (1)	Possible (2)	Likely (3)	Very Likely (4)
LIKELIHOOD					

To ensure resources are focused on the most significant risks. The Council's approach to risk management is to assess the risks identified in terms of both the potential likelihood and impact so that actions can be prioritised.

The risk management process requires each risk to be assessed twice- gross and net risk levels.

Gross Risk Level: is taken on the basis that there is no action being taken to manage the identified risk and/ or any existing actions are not operating effectively. The worst-case scenario if the risk were to occur.

Net Risk Level: This re-evaluates the risk, taking into consideration the effectiveness of the identified existing actions. The reality if the risk were to occur in the immediate future.

APPENDIX 2: REVIEWING AND REPORTING FRAMEWORK

Net Risk Level and Score	Frequency of Reviews (applies to <u>all</u> risk registers)
<p>High 12-16</p>	<p>These are significant risks which may have a significant impact on the Council and the achievement of its objectives if not managed.</p> <p>Immediate management action needs to be taken to reduce the level of net risk. Any net red risks at a service area level will be included alongside corporate risks reported to the Corporate Management Team.</p> <p>As a minimum review <u>quarterly</u></p>
<p>Medium 4-9</p>	<p>Although usually accepted, these risks may require some additional mitigation to reduce likelihood if this can be done cost effectively.</p> <p>These risks should be reassessed to ensure conditions remain the same and existing actions/ controls are operating effectively.</p> <p>As a minimum review <u>6- monthly</u></p>
<p>Low 1-3</p>	<p>These risks are being effectively managed and any further action to reduce the risk would be inefficient in terms of time and resources.</p> <p>These risks should be reassessed to ensure that conditions remain the same and existing actions/ controls are operating effectively.</p> <p>As a minimum review <u>annually</u></p>

CORPORATE RISK REGISTER SUMMARY

CRR Ref	Directorate or Service Area	Risk Area	Gross Risk Level (Risk is Likelihood x Impact)	Net Risk Level (Risk is Likelihood x Impact)	Last Review Date	Change in Net Risk Level	Risk Owner
CRR 1-B	Housing/ Finance	Balance of Housing Revenue Account	16 (4x4)	12 (3x4)	CLT Performance Board: 20 August 2024	→	Tony Baden/ Richard Tomkinson
CRR 2	All Directorates	Organisational capacity to deliver	16 (4x4)	12 (4x3)		→	Dawn Hudd
CRR 7	All Directorates	Climate Change	16 (4x4)	16 (4x4)		→	Philippa Dart/ Joe Russell-Wells
CRR 10	Growth	Planning Policy & Conservation- Development Plan	12 (3X4)	12 (3X4)		→	Karl Roberts/ Neil Crowther
CRR 11a	All Directorates	Major Project- Alexandra Theatre	16 (4x4)	16 (4x4)		→	Karl Roberts
CRR 11c	All Directorates	Major Project- Bognor Regis Arcade	12 (3x4)	12 (3x4)		→	Karl Roberts

CRR 1-A	All Directorates	Financial Resilience	12 (3x4)	8 (2x4)	CMT Performance Board: 16 April 2024	→	Tony Baden
CRR 3	All Directorates	Change Management and Transformation	16 (4x4)	9 (3x3)		→	Dawn Hudd
CRR 4.1	All Directorates	ICT- Major successful cyber-attack	16 (4x4)	8 (2x4)		→	Jackie Follis
CRR 4.2		ICT- Physical or technical failure	8 (2x4)	6 (2x3)		→	Jackie Follis
CRR 5	All Directorates	Corporate Business Continuity	12 (3x4)	9 (3x3)		→	Philippa Dart/ Joe Russell-Wells
CRR 6	All Directorates	Information Governance and Data Protection	9 (3x3)	4 (2x2)		→	Daniel Bainbridge
CRR 8	All Directorates	Corporate Health and Safety	12 (3x4)	8 (2x4)		→	Nat Slade
CRR 9	All Directorates	Equality and Diversity	12 (3x4)	8 (2x4)		→	Jackie Follis
CRR 11b	All Directorates	Major Project- Littlehampton Seafront Project	12 (3x4)	8 (2x4)		→	Philippa Dart
CRR 12	Homelessness	Increased Homelessness	16 (4x4)	9 (3x3)		→	Richard Tomkinson
CRR 14	Housing Repairs	Compliance Failings	4 (1x4)	4 (1x4)		→	Richard Tomkinson
CRR 15	Housing	Ineffective Complaints Management	9 (3x3)	4 (2x2)		→	Richard Tomkinson
CRR 19	All Directorates	Littlehampton Harbour Board	16 (4x4)	8 (2x4)			ADDITIONAL RISK: 18 June 2024

CORPORATE RISK REGISTER- ENTRIES REMOVED

CRR Ref	Directorate or Service Area	Risk Area	Gross Risk Level (Risk is Likelihood x Impact)	Net Risk Level (Risk is Likelihood x Impact)	Last Review Date	Change in Net Risk Level	Risk Owner
CRR18	Finance	Housing Benefit Subsidy	12 (3x4)	4 (1x4)	REMOVED November 2023		Tony Baden
CRR 4.3	All Directorates	ICT- Permission to access government systems.	12 (4x3)	6 (2x3)	REMOVED 16 April 2024		Jackie Follis
CRR 16	All Directorates	Chief Executive resignation/ vacancy	16 (4x4)	4 (1x4)	REMOVED 18 June 2024		Karl Roberts/ Philippa Dart
CRR 13	Housing	Housing Management System Implementation	12 (3x4)	6 (2x3)	REMOVED 20 August 2024		Richard Tomkinson
CRR 17	Growth (ORR 54)	Disabled Facilities Grant	4 (1x4)	4 (1x4)	REMOVED 20 August 2024		Nat Slade
CRR 4.4	All Directorates	ICT- Document Management System Support	16 (4x4)	8 (4x2)	REMOVED 20 August 2024		Jackie Follis
CRR 4.5	All Directorates	ICT- Planning, building control and Land Charges System supplier support	16 (4x4)	8 (4x2)	REMOVED 20 August 2024		Jackie Follis

CORPORATE RISK REGISTER

Risks that could influence the successful achievement of our long-term core purpose, priorities, and outcomes. These are:

1. Risks that could potentially have a council- wide impact and/ or
2. Risks that cannot be managed solely at a Service Area Level because higher level support or intervention is needed.

CRR Ref	DIRECTORATE OR SERVICE AREA	RISK AREA	RISKS IDENTIFIED	CAUSES	EFFECTS	RISK OWNER
CRR1 - B	Finance/Housing	Balance of Housing Revenue Account	<p>HRA reserves and balances have consistently reduced since 2021/22 to now unsustainable levels. Current balance are below the target level of £2mil.</p> <p>National pressures and high HRA operating costs have increased the risk of further HRA deficit in year.</p> <p>Service management and national pressures reduce income and increase costs leading to a potential HRA deficit by end March 2023 to be mitigated by approval of changes in capital financing.</p>	<p>Increased supply cost and inflationary pressures.</p> <p>Historically high Supervision and Management and Repairs and Maintenance costs within the HRA.</p> <p>Current financial climate</p> <p>Increase in costs.</p> <p>Significant predicted overspends on planned and responsive repairs contract and Supervision and Management in current year.</p> <p>Increase in cost of Housing ICT/transformation project.</p> <p>Prior years overspends on reactive maintenance.</p>	<p>HRA Reserves and Balances have effectively been reducing since 2021/22 and are now at critical levels</p> <p>Financial loss to the Council, and reputational damage</p> <p>Impacting the scope to which current housing services can be improved</p> <p>Limiting the delivery future developments in housing such as new build.</p> <p>Without mitigation HRA balance at critical level resulting in potential failure of service.</p> <p>Financial loss to the Council.</p> <p>Increase in enforcement actions.</p> <p>Increase in homelessness.</p>	Tony Baden/ Richard Tomkinson

GROSS RISK LEVEL (Risk is Likelihood x Impact)	EXISTING CONTROLS/ MITIGATING ACTIONS	NET RISK LEVEL (Risk is Likelihood x Impact)	FURTHER ACTIONS
<p style="text-align: center;">16 (4x4)</p>	<ol style="list-style-type: none"> 1. Insourcing repairs Contract: The Council has in-sourced the repairs contract from external providers Osbournes. It is anticipated that this will deliver substantial net saving to the HRA (£0.7mil). Housing in partnership with the Finance are closely monitoring all aspects of repairs to ensure the planned level of savings are delivered and that there is evidence to support this. 2. Improving Financial Management and Control within the HRA: A dedicated Project Accountant has been appointed (June 2024) to strength and support the HRA with Financial Management and Business planning: Programme of work includes: <ol style="list-style-type: none"> a. Implementation Monthly Financial Reporting to CLT in relation to the HRA, with the focus on a risk-based approach. b. Improving budget monitoring to ensure responsibility and accountability sit with HRA Budget Holders. There will be ongoing training and development with the department to deliver this. c. Delivering monthly Finance / Housing workshops, covering areas such as Debt Management/Repairs Forecasting/Capital Revenue Split/Business Planning/MTFP budget Setting/Use of RTB receipts d. Improving Month End Process: Ensure there are robust and accurate month end procedures particularly in relation to the E5, particularly in relation to Rents/Rent Debt, Repairs and delivery of savings, Salaries, and Voids management. The aim is to ensure there is one version of the truth. e. Improving Stakeholder management: Ensuring key stakeholders are engaged with HRA financial Management and control through: Monthly Finance budget holder surgeries, Regular workshops on Finance issues, Engaging and updating CLT/Members, ensuring the Business Plan is live and up to date, and engagement and ownership of HRA savings programme. f. Improving HRA Policy and Procedures: The short-term focus will be on Debt management procedures and policies particularly in relation to Current Tenant Arrears (CTAs). Further areas of review will be Voids, Repairs, and Capital vs revenue split. g. Technical Accounting Issues: Ensuring full adherence to CIPFA Service reporting accounting code of practice (SERCOP) in relation to the HRA. Note any changes in methodology will be subject to External Audit review and opinion. 3. Refresh and Update of HRA 30 Year Business plan. This has been completed and will be reported to the Housing and Wellbeing committee in November 2024. Further it will also be used to support 	<p style="text-align: center;">12 (3x4)</p>	<ol style="list-style-type: none"> 1. De-pooling Service Charges: A programme of development work will be led by HRA business improvement team and finance. The current plan for Phase 1 has been agreed: The focus will be on recharging for services provided to tenants and leaseholders by utilising the service charge module in Civica. The timeline is estimated to be 9 months with a goal of introducing De pooled services charges in 25/26 financial year. Note the impact of de-pooling will be reflected in 25/26 HRA budgets, with an on-going resource requirement (increase in established expenditure) on a spend to save basis. <p>Further work is currently being undertaken by the Housing and Finance departments to investigate other areas of spend within the HRA where it may be possible to identify savings and efficiencies. It is expected that a written report will be presented to CMT in September 2023.</p> <p>Introduce service charges where applicable (action for completion in 2024-25). The current plan for Phase 1 has been agreed: The focus will be on recharging for services we already provide to our tenants and leaseholders and utilising the service charge module in Civica to assist with this from a system perspective. Timeline- estimated 12 months, with a goal of introducing for start of 25/26 financial year.</p> <p>Review and remodel HRA business plan and workstream realignment. Completion- December 2024.</p> <p>Note: Actions taken to date are expected to see the HRA reserve balance at around £900k, subject to confirmation of the final 2023/24 out turn and a high-level review of the 2024/25 budget position. This will be reported to CMT in Q2.</p>

the HRA MTFP process for 25/26 and the delivery of the refreshed Housing strategy.

4. Systems integration efficiencies: The HRA business improvement team in partnership with Finance will ensure the Housing Management system (CX) is fully integrated with the financial information system (E5) and the organisation is maximising use of IT and its interfaces to improve budget control and management.

5. Workstream Re-alignment

Work is underway to re-align resources within Housing Services to focus on current and future operational and strategic challenges, including dedicated resources for income maximisation/arrears recovery.

~~Officers have completed their work with a consultant from CIPFA to review the Council's HRA accounting policies in respect of depreciation, capital accounting and staff recharges. Good progress has been made and proposals are currently being reviewed prior to implementation to ascertain if they comply with the main CIPFA accounting code of practice.~~

~~Member updates held in September 2023 on HRA finances to ensure transparency.~~

~~Dedicated post for income recovery. Data analysis undertaken using Mobysoft to identify cases for next stage recovery action/ more specific intensive recovery action. Regular case reviews undertaken with specialist Housing Officer.~~

~~Regular monthly training on income recovery for Housing Officers.~~

~~Budget monitoring.~~

~~Review of Capitalisation Policy.~~

~~Review of Borrowing Strategy.~~

~~Contract Management.~~

~~Review of Repairs Contract.~~

~~Close adherence to rent arrears policy and procedures.~~

~~Ensure officers understand the impact of timely intervention.~~

~~Staff training.~~

~~Debt advice- dedicated officer.~~

~~Good communication with tenants.~~

~~Specialist IT software.~~

CRR Ref	DIRECTORATE OR SERVICE AREA	RISK AREA	RISKS IDENTIFIED	CAUSES	EFFECTS	RISK OWNER
CRR 2	All Directorates	Organisational capacity to deliver.	<p>Lack of resilience in the existing staff structure, so do not have the necessary number of staff with the right skills to deliver services and the Council's priorities.</p> <p>Inability to meet the expectations of service users due to organisational capacity.</p> <p>Inability to attract and retain suitably skilled staff.</p>	<p>Uncompetitive salaries offered for certain positions/ professions.</p> <p>A comprehensive job profiling process that does not recognise external market forces and is resource intensive.</p> <p>Limited scope for career progression can reduce the retention of talented staff.</p> <p>Lack of prioritisation of key workstreams.</p> <p>Skills shortage externally – this is not Arun specific impacting Arun's ability to recruit.</p> <p>Local government – attractiveness/ age profile implications (approx. 60- 70% of staff over 40).</p> <p>Image of Local Government- increased by the media presenting a negative image of the public sector.</p> <p>Negative social media compounds the negativity related to the Council in general.</p> <p>Without compensatory actions or capacity in the organisation, asking a reduced number of staff members to undertake the same level of work as before can lead to delays, or stress, or other negative effects.</p>	<p>Non- achievement of corporate priorities.</p> <p>Loss of staff with essential knowledge and experience.</p> <p>Service disruption leading to a loss of productivity- whilst new starters/replacements are recruited and trained.</p> <p>Service performance and staff health and welfare could be compromised due to high attrition rates.</p> <p>Increased staff sickness as a result of increased stress.</p> <p>Increased costs of recruitment if turnover is high.</p> <p>Stress can be more hidden when staff are working from home/ adopting the hybrid mode.</p> <p>Inability to respond to additional priorities or emergency situations.</p>	Dawn Hudd

GROSS RISK LEVEL (Risk is Likelihood x Impact)	EXISTING CONTROLS/ MITIGATING ACTIONS	NET RISK LEVEL (Risk is Likelihood x Impact)	FURTHER ACTIONS
<p style="text-align: center;">16</p> <p style="text-align: center;">(4x4)</p>	<p>The Council's performance appraisal process identifies individual training requirements and individual objectives linked to service delivery plans.</p> <p>Utilisation of secondment opportunities to benefit from existing skills and develop individual staff.</p> <p>Investment in development of staff via the corporate training budget.</p> <p>Adequate notice periods built into posts.</p> <p>Staff sickness monitoring and reporting undertaken.</p> <p>The use of market supplements and other recruitment and retention payments to attract applicants to vacancies and retain staff.</p> <p>Job profiling is used to determine grades.</p> <p>Pay comparison/ benchmarking exercise with other Local Authorities is undertaken as required.</p> <p>In person staff meetings have been re-established to assist in engagement between staff generally and management.</p> <p>Hybrid working is considered to have a positive impact generally on staff wellbeing, but can be influenced by age, status, personal issues.</p>	<p style="text-align: center;">12</p> <p style="text-align: center;">(4x3)</p>	<p>To review recruitment and retention initiatives to attract and retain appropriately skilled staff (see last action).</p> <p>Identify a specific training plan for all management tiers to cover business and management processes (for example, including Risk Management, the Constitution, Committee Structure/ Committee Reports and Budget management/ monitoring.</p> <p>Undertake regular staff engagement surveys.</p> <p>Annual workforce/ resource planning in conjunction with the zero- based budgeting process. Aids the alignment of Corporate, directorate and service area priorities.</p> <p>Operating Model/ Workforce Strategy/ Service reviews to align resources with new Council Vision- this is linked to the Deep Dive work agreed as part of the financial strategy.</p> <p>Review of job profiling and current reward strategy.</p> <p>All of the above have to be considered in the context of the Councils current financial position and the need for in year savings in 23/24. Some changes to the Senior Management Team have been agreed and are being implemented.</p> <p>CMT with relevant managers are meeting in April to discuss the likely root causes of staff absence, turnover and potential solutions. A brief for a comprehensive pay, reward and grading is being prepared.</p>

CRR Ref	DIRECTORATE OR SERVICE AREA	RISK AREA	RISKS IDENTIFIED	CAUSES	EFFECTS	RISK OWNER
CRR 7	All Directorates	Climate Change	<p>Failure to make the activities of the Council carbon neutral by 2030.</p> <p>Failure to complete/ achieve the actions detailed in the Council's Climate Action and Biodiversity Work Plan 2022- 2023.</p>	<p>Increased severity of global warming caused by continued use of carbon.</p> <p>A lack of understanding, resource allocation, and commitment to achieving climate change goals, through both officer actions and members vote.</p> <p>Slow take- up of energy saving measures e.g. green/ renewable tariffs, smart meters, installation of PV etc.</p> <p>Increase of sustainable energy costs verses carbon energy in short term.</p> <p>Inadequate level of sustainability required in proposal/ approved developments.</p> <p>Inadequate level of sustainability required in the Councils procurement process, for both purchased goods and services.</p> <p>Slow development of Government led policies for home/office energy standards, including for new developments and retrofit projects.</p> <p>Lack of financial support through relevant and applicable Government funding/grants.</p> <p>Government slow to introduce waste strategy including mandatory food waste collection.</p> <p>Slow take-up of electric, hybrid and low- emission vehicles- lack of accessible charging points.</p> <p>Progress of initiatives delayed due to Covid.</p>	<p>Increased likelihood of extreme weather: (hot and cold) impacting vulnerable residents and staff.</p> <p>Increased likelihood of flooding (coastal, fluvial and surface) impacting on properties.</p> <p>Extreme weather impacting the delivery of day-to-day services and damaging properties, both residential and cooperate. In turn an increased budget required for regular repairs of these damages.</p> <p>Detrimental impact on the local environment, including a significant reduction or loss in biodiversity and ecosystem stability.</p> <p>Continued reduction of air quality and resident health through emissions associated with petrol/diesel fuelled transport.</p>	Philippa Dart/ Joe Russell- Wells

GROSS RISK LEVEL (Risk is Likelihood x Impact)	EXISTING CONTROLS/ MITIGATING ACTIONS	NET RISK LEVEL (Risk is Likelihood x Impact)	FURTHER ACTIONS
16 (4x4)	<p>Climate Change & Sustainability Manager appointed.</p> <p>Prioritisation of climate change in council Vision</p> <p>Increased national awareness and drive for change including Member desire to progress climate change agenda.</p> <p>Government manifesto promises and global input (COP26 and beyond) and introduction of legislation.</p> <p>Council monitoring and implementing changes to Government standards (e.g. Future Homes).</p> <p>The Council's Carbon Neutral Strategy 2022- 2030 and Climate Action and Biodiversity Work Plan 2023- 2024 including actions and clear priorities being progressed.</p> <p>Continued annual monitoring of Scope 1, 2 and 3 emissions in line with greenhouse gas protocols and guidance. The analysis for the 20-24 financial year is now underway and reports will be taken to Policy and Finance in late 2024 and early 2025. The analysis for the 22-23 financial year has now been completed and reports have been updated to reflect any changes in emissions. To ensure continuity and cohesion work has now been completed to ensure a multi- year contract is in place for the annual emission audit and a consultant has been appointed for the next three years. This will ensure results are comparable.</p> <p>Annual update and review of the Council's Climate Action and Biodiversity Work Plan. The updated report has now been taken to Policy and Finance and accepted by members. An updated report is available on the website. The updated report is now under review from officers across the Council and will be taken to Policy and Finance Committee in the next cycle.</p> <p>Work has been completed around a procurement 'deep dive' and emission analysis for the 22/23 financial year. This works includes extensive analysis and review of procurement emissions (Arun's single largest emitter) and will help determine next steps and produce a list of actions which will be used to help increase reductions in this area. Additionally, Ricardo have produced a strategy prioritising low carbon purchasing and will use the information gathered during the procurement deep dive to help determine next steps and produce a list of actions which will be used to help increase reductions in this area. A final report has now been issued to ADC. Work has now started on undertaking these suggestions. It should be noted that this is very much the start of this, and procurement related emissions are extremely difficult to manage and reduce. Officers will work with SLT, GMT, Hampshire and other internal departments to push forward. Results from the Ricardo work have been formatted into a Procurement Deep Dive</p>	16 (4x4)	<p>Support to be provided to suppliers and contractors, as well as local SMEs, businesses and companies around emission reduction and procurement changes. This will be in the form of support via information sheets and guidance documentation, as well as sign posting to external help and support. Time scale: this will be one of the focuses for the above role and will start once they are appointed.</p> <p>It is being considered if the Council can support an external climate fund for non-profits to help them in their journey of sustainability. This has been copied from what Horsham are doing - Community Climate Fund Horsham District Council. Time scale: originally this was going to use the additional £100k made available by members during the budget setting of the 2022-2023 financial year. However this has been discarded now and there will be review to implement this into the 24-25 climate change budget. An officer report has been drafted and is ready to go- targeted for Policy and Finance at the end of 2024.</p> <p>A motion was put forward around examining the concept and feasibility to establish a mechanism of advocacy and improved protect for the River Arun. This is currently being explored by officers and work is being undertaken to explore what the impacts would be for Arun to take this forward. Where possible a joint up approach will be taken with other D&Bs and the relevant River Trusts- this is going to the Environment Committee in September 2024.</p> <p>Following on from the climate action day for Town and Parish Council's (which took place on 6 June 2024), future events are being considered. It is hopeful that a network can be set up for best practises to be shared amongst T&Ps within Arun.</p> <p>Offsetting is an important step in reaching carbon neutral/net zero targets. Though the Council will be doing everything possible to reduce emissions it is likely that some emissions will remain. To allow the Council to reach this target offsetting options have started to be considered.</p>

Action Plan which officers are working through, and a meeting with two members of SLT for initial review and feedback.

Development of climate related training for officers (mandatory) and members. This will include an introduction to climate change/ sustainability, emissions and what the Council aims to do and is doing to reach the 2030 carbon neutral target. As this is mandatory training this should be completed by all officers, this is also available for members to complete. A 2-year contract to access training has now been taken forward. Work has been completed to update this with new emissions for the 23-24 financial year. ~~started to update this with new emissions for the 23-24 financial year.~~

Provision of Carbon Literacy training at a senior level (including director and group heads, along with managers) to help start behavioural change within the Council. Further training has been carried out through the 23/24 year to include other officers to help imbed climate change/sustainability thinking throughout all levels of the Council. Cohorts 3 and 4 have been completed. Additionally a cohort targeted an elected members has also been undertaken. A budget for additional carbon literacy training has been included for the 24/25 FY, but ~~SLT CMT~~ will need to encourage staff update due to a sharp reduction of attendance over time.

Arun become a Bronze certified Carbon Literate organisation in 2023, requirements to become Silver are being reviewed and it is hoped that the Council will become Silver in 2024. However due to recent changes in requirements this now requires 30% of staff to be certified, rather than 15%. If CMT are able to support the uptake of officers to this training Arun will be able to become silver certified in the future.

Work has been completed around the energy audits of a selection of key buildings for the Council. These provide next steps on how to improve efficiency and drive down emission production. Building on from this funding for the LCSF phase 4 was successful and a heat decarbonisation plan ~~has now been completed is now underway~~ for Arun Leisure Centre, ~~using the energy audit for this to help inform this.~~ Willmott Dixon ~~completed this and internal review has finalised the results. the heat decarbonisation plan and internal review has been completed. The final report, and supporting documents have been sent to Salix for review and payment request.~~ Wave 5 was applied for in April 2024, however, the Council was not successful in receiving funding. In total £190k was applied for, £150k for detailed design work (up to RIBA Stage 4) at the Arun Leisure Centre, and £40k for heat decarbonisation reports (and associated reports at the Civic Centre and Laburnum Centre. Future waves will be applied for where possible. ~~In total £19k was applied to undertake heat decarb plans (and associated work) for the Laburnum Centre and Civic Centre will be put forward for heat decarb plans, with the heat decarb plan for ALC to be taken to detailed design. It is hoped that Salix will open future waves of the LCSF.~~

Continued connection with other D&Bs within West Sussex (and externally) to share ideas and support climate change related work.

A feasibility study has been completed for the ~~is underway for the~~ generation of renewable electricity at Mewsbrook car park. This ~~will~~ is due to be taken to the Environment Committee ~~November 2024. in the 24-25~~ cycle. Initial results have indicated that there is a business case for the installation of solar carports, however there is current concerns from Southern Water about build over/ build near agreements due to the extensive utilities going under the carpark.

A Climate Change and Sustainability officer was appointed in Autumn 2023 and are providing further support to the Council in reducing emissions, through engagement (including with the youth council) and general project support. They will also be looking at increasing internal and external communication on climate change factors. Work has started on implementing a town and parish council network which has future targets of spreading to community organisations to support the community around climate change understanding on highlighting actions that can easily be taken. A date for town and parish related training has been put in for the 6th of June.

Options for developing planning policy guidance and Supplementary Planning Documents (SPD) aimed at improving the sustainability of developments compared to the current position and action plan to be progressed.

Liaison with external agencies (water agencies on local water quality- Blue Flag beaches and the Sussex Air Quality Partnership, Sussex Nature Partnership around biodiversity and BNG across Sussex).

Liaison with partners/ advice on provision of suitable vehicle charging points for the future and advice to residents on energy saving, reduction in carbon emission, wellbeing etc.

Providing support for other national/ local initiatives e.g. waste recycling and the Sussex Kelp Project. A members brief was booked in for Mid-October 2023 to provide members (and interested officers) on an update on the Kelp restoration occurring off the South Coast. A meeting has been booked in with officers and the Sussex Wildlife Trust for September 2024 to consider a future member briefing. The Council is also engaging with Sussex Bay to get a better understanding on where/ how Arun can get involved with this work. A meeting has been booked in with officers and Sussex Bay for late August 2024 to consider future projects and the potential for a member briefing.

A climate action day for Town and Parish Council's was delivered on June 6, 2024. This provided attendees with good grounding of the context of climate change for local action, and highlighted the role councils can play in tackling climate change at a local level. The workshop also touched on major issues faced by local authorities when combating climate change, and what actions councils can take to address them. A specific flooding aspect was also included within the action day to help further inform attendees the responsibilities of different bodies when it comes to flooding.

Once completed resources and signposting was shared to attendees, along with an action plan made up of input from the action day.

CRR Ref	DIRECTORATE OR SERVICE AREA	RISK AREA	RISKS IDENTIFIED	CAUSES	EFFECTS	RISK OWNER
CRR 10	Growth	Planning Policy and Conservation (Local Plans Team)	Not having an up-to-date Development Plan, guidance and a supporting evidence and monitoring framework.	<ul style="list-style-type: none"> - Key staff vacancies not filled/insufficient capacity and experience. - Unmanageable workload. - Competing work priorities within the policy team. - Member decisions to pause/postpone. - National Policy changes. - Failure of budget management/project planning. 	<ul style="list-style-type: none"> • Non compliance with Local Development Scheme – Local Plan update. • Failure to deliver Neighbourhood Plan preparation/updates. • The above would result in failure to have a 5-year land supply in place which would render certain policies out of date and trigger the presumption in favour. • Failure under Housing Delivery Test. This does not place an additional burden as the presumption would already apply without a 5 year land supply. • Risk of Plans being prepared by Government intervention. • Policy Framework out of date and decision making at risk of appeal and costs. • Additional budget needed to cover additional National policy requirements. • Legal costs (Appeals and JR) of failure to comply with national planning legislation. • Developments will be granted on appeal at an ever-increasing rate leading to reactive rather than proactive planning. Smaller sites not allocated in Plans would come forward and be difficult to resist. Opportunity for joined up infrastructure would be significantly reduced. • Insufficient evidence commissioning to support plan making. • Inability to progress important work on matter such as biodiversity, climate change or infrastructure (for example). These matters will be contained in future planning policies and betterment will only be secured when policies are adopted. • Abortive work/costs. 	Karl Roberts/ Neil Crowther

GROSS RISK LEVEL (Risk is Likelihood x Impact)	EXISTING CONTROLS/ MITIGATING ACTIONS	NET RISK LEVEL (Risk is Likelihood x Impact)	FURTHER ACTIONS
12 (3x4)	<ul style="list-style-type: none"> • More proactive engagement with Members. A need for more regular and detailed meetings to discuss issues and implications. • Clear project plan to be prepared and adhered to. • Regular team meetings specifically on Local Plan update and Neighbourhood Plan to review progress and to identify any difficulties arising with a view to finding solutions. • Full use of Neighbourhood Planning grant. • Ensure statutory consultation stages are achieved and compliant. • Ensure that consultant is appointed to lead on Plan preparation as a matter of urgency. • Ensure that a resource is secured to cover for the three vacant posts in the Policy team. <p>Project Initiation Document in respect of the Local Plan completed and subject to regular review. Last reviewed in August 2023.</p>	12 (3x4)	<p>Political commitment must be sought and agreed on the back of these meetings. Full Council agreed to proceed with review of Local Plan in July 23.</p> <p>Develop/monitor Recruitment Strategy and call off contract support for output deliverables. Proposed outsourcing of preparation of Local Plan. It was agreed at Committee in July 2023 that a large proportion of the Local Plan preparation can be outsourced. Progress on commissioning has been exceptionally slow and we have yet to be able to send out a brief for this work. Following an identification of a specific resource to progress this, this has made more progress and should be issued in June September 2024.</p> <p>This is now complicated further by the Policy Team Leader that he is leaving on 5 June 2024. Further, s Senior Officer in the team has also left. That means that a team that had seven policy posts a year ago, would now only have three staff in these posts. An interim Team Leader has been secured and is expected that progress will increase as a result. A recruitment into the Senior role has also commenced.</p> <p>Political 'buy in' to the Plan preparation process is going to be exceptionally difficult to secure and this has been made even more difficult by the new governments proposed changes to Planning. Even with an extensive programme of briefings and workshops with members being scheduled during the Plan preparation process, there is still going to be a very difficult political decision to take at a time when there will be local elections forthcoming.</p> <p>Further regular benchmarking – monitoring and review.</p>

CRR Ref	DIRECTORATE OR SERVICE AREA	RISK AREA	RISKS IDENTIFIED	CAUSES	EFFECTS	RISK OWNER
CRR 11a	All Directorates	Major Project- Alexandra Theatre	<p>Failure to regenerate coastal towns within the district.</p> <p>Failure to deliver major projects in line with funder requirements meaning funding is withdrawn.</p> <p>Insufficient resources to deliver vision and aspirations for the district.</p> <p>Delays to the delivery of the project</p>	<p>Lack of funding to deliver major projects.</p> <p>Decisions not made swiftly enough.</p> <p>Lack of public/ partnership acceptance of, and buy-in to strategies.</p> <p>Multiple major projects running simultaneously- resources stretched.</p> <p>Impact of growth of Butlins and Chichester University influencing local market conditions.</p> <p>Other Council borrowing priorities/ increase in PWLB rates.</p> <p>Further uncertainty over availability of Council and external funding in the future.</p> <p>Inconsistent decision making leading to projects being started and then abandoned.</p> <p>Delays may lead to withdrawal of funding from Govt</p> <p>Contractor doesn't meet programme</p>	<p>Project fails to deliver objectives on time and/ or exceeds budget.</p> <p>Developers and invested could be deterred.</p> <p>Lack of growth.</p> <p>Possible legal issues from developer plans submitted before the Council consideration of schemes.</p> <p>Missed opportunities to invest in areas of development potential.</p> <p>Lack of visible progress with developments.</p> <p>Financial and reputational risk/ poor publicity.</p> <p>Development of Council land (car parks etc) could mean loss of income streams.</p> <p>Further uncertainty over availability of Council and external funding in the future.</p> <p>Business closure e.g. in retail, hospitality and leisure sectors.</p> <p>The Council could face large revenue costs for aborted projects if external funding is withdrawn.</p>	Karl Roberts

GROSS RISK LEVEL (Risk is Likelihood x Impact)	EXISTING CONTROLS/ MITIGATING ACTIONS	NET RISK LEVEL (Risk is Likelihood x Impact)	FURTHER ACTIONS
<p style="text-align: center;">16 (4x4)</p>	<p>Briefings for members (held regularly).</p> <p>Project Manager post extended until 31/03/2025.</p> <p>Bidding for external funds (arts council).</p> <p>Use of external support – Project Officers.</p> <p>Communications – Press Releases.</p> <p>Engagement with Partners e.g.: University, Bognor Regis Regeneration Board, Town & Parish Councils.</p> <p>High level business plan undertaken to inform future strategy.</p> <p>Specific project risk schedule.</p> <p>Provision made for Arun Arts equipment.</p> <p>Regularly reviewed at Arun Programme Board.</p> <p>Engagement with DLUHC over timetables.</p> <p>Director of Growth meeting Project officer regularly.</p>	<p style="text-align: center;">16 (4x4)</p>	<p>The decision has been made to not increase the level of resource available for the present.</p>

CRR Ref	DIRECTORATE OR SERVICE AREA	RISK AREA	RISKS IDENTIFIED	CAUSES	EFFECTS	RISK OWNER
CRR 11c	All Directorates	Major Project- Bognor Regis Arcade	<p>Failure to regenerate coastal towns within the district.</p> <p>Failure to deliver major projects in line with funder requirements meaning funding is withdrawn.</p> <p>Insufficient resources to deliver vision and aspirations for the district.</p> <p>Relationship with existing tenants.</p> <p>Misunderstandings between P&E team and Project Manager</p>	<p>Lack of funding to deliver major projects.</p> <p>Decisions not made swiftly enough.</p> <p>Lack of public/ partnership acceptance of, and buy-in to strategies.</p> <p>Multiple major projects running simultaneously- resources stretched.</p> <p>Impact of growth of Butlins and Chichester University influencing local market conditions.</p> <p>Other Council borrowing priorities/ increase in PWLB rates.</p> <p>Further uncertainty over availability of Council and external funding in the future.</p> <p>Inconsistent decision making leading to projects being started and then abandoned.</p>	<p>Project fails to deliver objectives on time and/ or exceeds budget.</p> <p>Developers and invested could be deterred.</p> <p>Lack of growth.</p> <p>Possible legal issues from developer plans submitted before the Council consideration of schemes.</p> <p>Missed opportunities to invest in areas of development potential.</p> <p>Lack of visible progress with developments.</p> <p>Area turns into a commuter belt and is not regenerated leading to decline.</p> <p>Financial and reputational risk/ poor publicity.</p> <p>Further uncertainty over availability of Council and external funding in the future.</p> <p>The Council could face large revenue costs for aborted projects if external funding is withdrawn.</p> <p>Need to resolve delivery/ management mechanism for residential units created.</p>	Karl Roberts

GROSS RISK LEVEL (Risk is Likelihood x Impact)	EXISTING CONTROLS/ MITIGATING ACTIONS	NET RISK LEVEL (Risk is Likelihood x Impact)	FURTHER ACTIONS
<p style="text-align: center;">12 (3x4)</p>	<p>Briefings for members.</p> <p>Funding secured from Brownfield Land Fund. Other external funding opportunities being explored.</p> <p>Use of external support – Project Officers.</p> <p>Communications – Press Releases</p> <p>Engagement with Partners e.g.: University, Bognor Regis Regeneration Board, Town & Parish Councils.</p> <p>Specific project risk schedule.</p> <p>Reviewed regularly at Arun Programme Board.</p> <p>Regular meetings between Project Manager and P&E.</p>	<p style="text-align: center;">12 (3x4)</p>	<p>Ask for minutes of meetings between P&E and Project Mgr.</p>

CRR Ref	DIRECTORATE OR SERVICE AREA	RISK AREA	RISKS IDENTIFIED	CAUSES	EFFECTS	RISK OWNER
CRR 1- A	All Directorates	Financial Resilience	<p>Failure to maintain a robust and deliverable budget will lead to a lack of resources to fund services and council priorities, leading to reactive decision making and reputational consequences.</p> <p>Failure to maximise efficient use of resources and so unsuccessful redirection of resources and not achieving objectives and outcomes of the Council.</p> <p>Failure to exploit income streams/ income generating activities/ commercial opportunities.</p> <p>Increased inflation caused by utilities and supply contracts leading to significantly increased, unbudgeted costs.</p> <p>Potential for government to clawback ~300K pa from 2020 onwards of Better Care Fund grant that is used on salaries of PSH team staff delivering adaptations, county project manager salary & countywide minor repairs contract and countywide deep clean contract</p>	<p>The annual Local Government Finance Settlement creating uncertainty beyond the next financial year.</p> <p>The outcome of proposed Government reviews of the local authority funding system, e.g. the Fair Funding review, Business Rates review.</p> <p>Reduction in government grants and external funding.</p> <p>Ineffective financial/ budget management and monitoring.</p> <p>Increased cost of building/ construction and maintenance.</p> <p>The outcome of the National Pay Negotiations/ Award.</p>	<p>Non- achievement of corporate priorities.</p> <p>Budget deficit.</p> <p>Forced to make savings leading to a reduction in the quality-of-service delivery.</p> <p>Increased costs and lower returns on investments.</p> <p>Minimal return from income generating activities/ commercial opportunities.</p> <p>Further pressure on demand led services e.g. benefits, homelessness etc.</p> <p>Reduction or delays in housebuilding and maintenance of corporate/ commercial buildings. Significant pressure on contracts, staff and projects.</p> <p>If the Council is unable to achieve financial resilience through a balanced revenue budget, the Section 151 officer would be obliged to issue a section 114 notice, which would prohibit all new expenditure. This would be a very serious situation for the Council because under the 1988 Local Government Finance Act, it is not permissible for a Council's expenditure to exceed its income. However, this is currently deemed to be highly unlikely.</p>	Tony Baden

GROSS RISK LEVEL (Risk is Likelihood x Impact)	EXISTING CONTROLS/ MITIGATING ACTIONS	NET RISK LEVEL (Risk is Likelihood x Impact)	FURTHER ACTIONS
<p style="text-align: center;">12 (3x4)</p>	<p>The Group Head of Finance has engaged an external resource to review and develop the Council's Medium Term Financial Forecast. This will be reported to Members as part of the budget setting process and will give an updated view of the Council's overall financial position. An updated MTFP report will be presented to the October and December Policy & Finance Committee.</p> <p>Medium Term Financial Strategy (MTFS) regularly reviewed and reported to Members at the Policy & Finance Committee. Annual budget setting and quarterly budget monitoring of income and capital and revenue expenditure .</p> <p>Regular reports to CMT, raising awareness of our current financial position. This includes the budget monitoring report, medium- term forecast and specific service area requirements e.g. quarterly report on the HRA to CMT.</p> <p>Capital Strategy 2021/22- 2023/24 reviewed annually.</p> <p>Continue to maximise Council tax increases.</p> <p>Control of expenditure- Approval limits and routes for additional funding are detailed in the Council's Constitution and Financial Regulations.</p> <p>Monitoring of potential changes to government policy, legislation etc.</p> <p>Sufficient reserves.</p>	<p style="text-align: center;">8 (2x4)</p>	<p>Officers concluded a service planning review exercise in September 2023. Proposals put forward by Group Heads were discussed with the Joint Chief Executives and identified significant savings in the 2024/25 budget which Members approved as part of the 2024/25 budget setting process.</p> <p>Monitoring and reporting to CMT of the £1.5 million savings approved as part of the detailed 2024/25 revenue budget.</p> <p>Two iterations of the MTFP have been reported to Members since October 2023, as well as several briefing sessions. It is intended that a further update will be presented to the next Policy & Finance committee.</p> <p>Further implementation of the Council's Financial Strategy, approved by Full Council on 10th January 2024.</p>

CRR Ref	DIRECTORATE OR SERVICE AREA	RISK AREA	RISKS IDENTIFIED	CAUSES	EFFECTS	RISK OWNER
CRR 3	All Directorates	Change Management & Transformation	<p>Lack of a corporate operating model and a clear plan to achieve this.</p> <p>Failure to maintain business as usual (BAU)/ appropriate levels of service at the same time as transformation.</p> <p>Failure to implement change programmes within timescales and at the desired pace.</p> <p>Failure to deliver service improvement, efficiencies and/ or savings.</p> <p>Lack of financial resource to deliver programmes.</p> <p>Inability to re- engineer processes and systems so that they are fit for a lean and transformed council.</p> <p>Inability to secure cultural changes and engagement.</p> <p>Lack of engagement and understanding of objectives by staff and contractors.</p> <p>Lack of engagement and support for objectives by members.</p>	<p>Insufficient knowledge, skills, and resources to facilitate change.</p> <p>Insufficient management information to properly model proposed changes and impacts.</p> <p>Services unable to provide the required level of input.</p> <p>Key suppliers/ existing contractual arrangements do not enable or support transformation plans.</p> <p>Ineffective communication and engagement.</p> <p>An unstable, demotivated workforce at a time of change.</p> <p>Unmanageable workloads resulting in unsustainable pressure on existing staff.</p>	<p>Unachieved strategic and operational objectives and/ or overruns on time and cost.</p> <p>Poor standards of service or disruption to service.</p> <p>Staff experience stress related health issues.</p> <p>Reputational damage.</p> <p>Services that do not meet the needs of the community.</p> <p>Services that are not delivered in a modern and cost-effective way.</p>	Dawn Hudd

GROSS RISK LEVEL (Risk is Likelihood x Impact)	EXISTING CONTROLS/ MITIGATING ACTIONS	NET RISK LEVEL (Risk is Likelihood x Impact)	FURTHER ACTIONS
<p style="text-align: center;">16</p> <p style="text-align: center;">(4x4)</p>	<p>Project management processes and governance in place to monitor project delivery.</p> <p>Utilisation of secondment opportunities to benefit from existing skills in project management.</p> <p>Frequent budget monitoring and the implementation of zero- based budgeting.</p> <p>Effective procurement and contracting processes in place.</p> <p>Process for key risks identified and monitored for major projects.</p> <p>Service performance monitoring (KPIs) and management processes in place.</p> <p>The Council agreed to a Financial Savings Plan in Feb 24 which included a deep dive review of each service area alongside other key areas of activity. Changes to the Senior Management Team have been implemented.</p> <p>Financial reporting to CMT and committees has been improved.</p>	<p style="text-align: center;">9</p> <p style="text-align: center;">(3x3)</p>	<p>Number of directorates reduced from 3 to 2 and each directorate will publish an updated business plan.</p> <p>Accommodation review to be undertaken.</p> <p>Develop a transformation programme including processes to ensure:</p> <ul style="list-style-type: none"> • The right staff with the right knowledge, skills and competencies are in place and retained for the delivery of Business As Usual (BAU) and effective transformation. • Appropriate/ sufficient levels of staffing within individual projects in place to sustain BAU and to deliver transformation. • Clear roles and responsibilities defined between transformation and BAU. • Scrutiny of transformational programme through monthly Programme Boards. • Early warning signs of areas where efficiencies/ savings will not be realised (either amount or on time). • An effective communication and engagement plan is in place with stakeholders. • Effective commissioning of high- quality services. • Early identification of resource gaps and/ or redundancy costs for inclusion in project plans at an early stage. • Management of stakeholder expectations (Customer/ resident expectations vs Council's delivery model).

CRR Ref	DIRECTORATE OR SERVICE AREA	RISK AREA	RISKS IDENTIFIED	CAUSES	EFFECTS	RISK OWNER
CRR 4.1	All Directorates	ICT	Successful major cyber- attack	Virus, malware, ransomware or unauthorised access stamps.	Loss of IT services to staff & public, data loss & corruption or data breach; impact could be localised or whole council.	Jackie Follis

GROSS RISK LEVEL (Risk is Likelihood x Impact)	EXISTING CONTROLS/ MITIGATING ACTIONS	NET RISK LEVEL (Risk is Likelihood x Impact)	FURTHER ACTIONS
16 (4x4)	Layered approach to security defences. Alert systems of potential attacks. Information sharing with cyber and crime agencies. Staff training, testing and awareness bulletins. New supplier security questions.	8 (2x4)	Review cyber insurance market.

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CRR Ref	DIRECTORATE OR SERVICE AREA	RISK AREA	RISKS IDENTIFIED	CAUSES	EFFECTS	RISK OWNER
CRR 4.2	All Directorates	ICT	Complete loss of datacentre facility (physical).	Fire, flood or natural disaster.	Loss of IT services to all users.	Jackie Follis

GROSS RISK LEVEL (Risk is Likelihood x Impact)	EXISTING CONTROLS/ MITIGATING ACTIONS	NET RISK LEVEL (Risk is Likelihood x Impact)	FURTHER ACTIONS
8 (2x4)	Key component redundancy by design, immutable/ off- site backups (for recovery), a limited capacity recovery site, cloud services, laptops as standard issue, website hosted externally, insurance cover for IT equipment. Services should have a BCP in place including scenarios for extended periods of no ICT.	6 (2x3)	Accept risk and existing mitigations.

CRR Ref	DIRECTORATE OR SERVICE AREA	RISK AREA	RISKS IDENTIFIED	CAUSES	EFFECTS	RISK OWNER
CRR 5	All Directorates	Corporate Business Continuity	Failure in the delivery of some or all services, including statutory services.	<p>Loss of buildings/ infrastructure through fire, flooding, or other serious environmental incident possibly because of climate change.</p> <p>Sudden loss of key personnel or mass loss of staff through illness e.g., pandemic.</p> <p>Industrial action.</p> <p>Breakdown in supply chain.</p> <p>Loss of power or other services.</p> <p>Significant ransomware or cyber-attacks. (See separate risk # CRR 4).</p> <p>Insufficient time made available for staff training for both business continuity issues and requirements for dealing with emergencies under the Civil Contingencies Act incumbent on the authority.</p>	<p>Inability to provide a range of key services to customers, including vulnerable customers.</p> <p>Financial loss and service disruption to customers and the Council.</p> <p>Inability to pay customers or contractors leading to loss of contractors/ suppliers reducing service provision.</p> <p>Inability to provide services leading to reputational damage.</p> <p>Possible breach of the Council's statutory duties under the Civil Contingencies Act.</p>	Philippa Dart/ Joe Russell-Wells

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GROSS RISK LEVEL (Risk is Likelihood x Impact)	EXISTING CONTROLS/ MITIGATING ACTIONS	NET RISK LEVEL (Risk is Likelihood x Impact)	FURTHER ACTIONS
12 (3x4)	<p>Corporate Business Continuity Plan (CBCP). An updated version was produced Oct 2023. This addressed shortfalls identified at the outcome of the Audit in July 2023. The plan sets out the generic steps for the organisation to recover from an incident.</p> <p>The CBCP includes the Business Recovery Management Team (BRMT) roles and responsibilities.</p> <p>Business Impact Analysis (BIA) and Business Continuity Plan (BCP) templates and guidance to officers for their completion is included in the CBCP.</p> <p>Also included in the CBCP</p>	9 (3x3)	<p>Support and training is being gained from council insurers to carry out an exercise to test BCP arrangements with an emphasis on recovery period with no reliance on IT for a minimum period to be specified.</p> <p>Continue a testing programme for BCPs to ensure they are fit for purpose. Outcomes of the reviews and lessons learnt should be used for continuous improvement.</p> <p>Staff to test and challenge their arrangements together with contractors and suppliers.</p> <p>Continued and further review of off-site storage of BCPs and copies retained by all senior managers.</p> <p>Consider arrangements as part of procurement strategy.</p>

- A checklist for activities during an incident
- Critical activities and recovery time objectives for identified priority services.
- Possible threats and suggested recovery strategies
- Draft agendas for meetings of the BRMT
- Action log template
- BRMT contact details
- RAG report template

All service areas are required to review and update their BIA and BCP annually or if there is a change in service.

As part of the BCP each service is required to address how their service would continue to operate with loss of IT - updated to identify critical service and IT requirements.

The **Business Recovery Management Team (BRMT)** meets every 6 months. Tasks include identifying possible risks, ensuring Group Heads have signed off all BIA and BCP for all services areas. Minutes of the meeting are reported to CMT.

Business Continuity arrangements are reviewed by CMT at regular Performance Board meeting.

Storage of all plans is made on the separate server to enable access in case of IT failure.

Procurement tender processes require all major contractors to have business continuity plans in place. These are required to be set out in all service BCP.

Lessons learned through the Covid pandemic has tested mobile working arrangements.

Generic training for all staff is to be rolled out to provide greater awareness of business continuity.

Emergency Planning

CMT approved an identified role and programme of training (Feb 2024) for staff across the organisation. This training is to be implemented over the next 12 months and kept under review.

A 3 year plan for emergency plan review, training and exercising was approved by CMT (Feb 2024). This is to form a continuous 3 year cycle.

Consider further communications with staff over business-critical risks as continual reminder.

Recent Audit review of Corporate Business Continuity arrangements across the authority has taken place over Q4 2022-23. Report received in July 2023 which identifies a number of actions.

Timescales – all actions are being progressed through to completion and updates have been fed into the monthly CMT performance board meetings.

Role of the authority in an Emergency to be presented at a future staff meeting.

CRR Ref	DIRECTORATE OR SERVICE AREA	RISK AREA	RISKS IDENTIFIED	CAUSES	EFFECTS	RISK OWNER
CRR 6	All Directorates	Information Governance and Data Protection	Failure to keep all personal data secure leading to a breach of the General Data Protection Regulations (GDPR) and Data Protection Act resulting in fines and reputational risk.	<p>Lack of awareness on information governance, security requirements and standards.</p> <p>Lack of training and staff/ Member awareness of requirements.</p> <p>Lack of clarity around what information is where and who is responsible for it.</p> <p>Increased information sharing.</p> <p>Increase in home and mobile working.</p>	<p>Breach of GDPR/ Data Protection legislation resulting in financial penalties/ ICO censure.</p> <p>Poor publicity/ reputational damage.</p> <p>Incident management of possible breaches will require corporate/ CMT support and will impact existing work.</p> <p>Less control over shared data.</p>	Daniel Bainbridge

GROSS RISK LEVEL (Risk is Likelihood x Impact)	EXISTING CONTROLS/ MITIGATING ACTIONS	NET RISK LEVEL (Risk is Likelihood x Impact)	FURTHER ACTIONS
Page 64 9 (3x3)	<p>Trained resource to handle FOI/ DPA requests. Data Protection Officer appointed and trained.</p> <p>Hut Six training on data protection in place for new starters and when updates are rolled out.</p> <p>Annual mandatory DP training in place and undertaken for all staff including safe home working guidance to ensure protection and confidentiality of ADC data while working at home.</p> <p>ICO guidance on preparation for General Data Protection Regulation (GDPR) reviewed and Action Plan progressed. Additional external advice obtained and transfer to GDPR and new Data Protection Act complete.</p> <p>Data audit conducted, and policies updated for DPA/ GDPR compliance- now subject to ongoing review.</p> <p>Policy/ publication updates completed, and regular briefings provided to CMT and staff.</p> <p>Information Security Group (ISG) oversight of data protection and security compliance. ISG to review terms of reference and membership annually.</p>	4 (2x2)	<p>Implementation programme/action plan Information Governance audit recommendations. This includes implementing annual DP training for Members. All recommendations to be addressed by December 2024.</p> <p>Fresh data audit needed. Asset mapping required. Process needed for ongoing review- December 2024.</p> <p>Review library of DP and FOI policies. Update where needed. Create policies where required- December 2024.</p>

Data Protection incident management process developed and advised to staff/ management.

Head of Technology & Digital and ICT Digital Manager added to delegated authority for GDPR/ DPA (to increase capacity). Availability arrangements for ICT out- of- hours incident response accepted by CMT.

Senior Information Management Officer has obtained FOI qualification.

Monitoring any ongoing legislative changes and implement actions as required.

Annual review of delegations to ensure they are up-to-date to reflect current postholders and that delegations sit within the correct service areas.

CRR Ref	DIRECTORATE OR SERVICE AREA	RISK AREA	RISKS IDENTIFIED	CAUSES	EFFECTS	RISK OWNER
CRR 8	All Directorates	Corporate Health and Safety	Failure to adhere to Health and Safety policies and procedures and legal requirements leading to death, serious injury, or life limiting illness, of an employee or third party resulting in prosecution under Health and Safety legislation, adverse publicity, fines, and possible prison sentences. Such failures may also lead to civil claims for compensation.	<p>Inadequate health and safety arrangements.</p> <p>Lack of awareness of Health and Safety policies, procedures, and responsibilities.</p> <p>Inadequate capability, competence and/or training of managers and staff on health and safety.</p> <p>Insufficient resources or capacity to manage health and safety.</p> <p>Lack of staff training.</p>	<p>Death, injury or life limiting illness, to staff or third party resulting in prosecution under Health and Safety legislation.</p> <p>Other enforcement action causing prohibition/closure or interruption of service or activity.</p> <p>Reputational damage/ poor publicity.</p> <p>Corporate manslaughter prosecution.</p> <p>Fines and possible prison sentences.</p> <p>Civil claims for compensation.</p> <p>Regulatory censure/ intervention.</p>	Nat Slade

Page 6	GROSS RISK LEVEL (Risk is Likelihood x Impact)	EXISTING CONTROLS/ MITIGATING ACTIONS	NET RISK LEVEL (Risk is Likelihood x Impact)	FURTHER ACTIONS
	12 (3x4)	<p>Adopted and published health and safety policies, and procedures and guidance are available to all staff via the intranet. The Council Health & Safety Policy includes detailed responsibilities.</p> <p>Safety Management Programme tasks issued monthly, to manage service level risks.</p> <p>Corporate health and safety support function within Environmental Health.</p> <p>Quarterly reports on health and safety provided to CMT. Monthly KPI (CP6).</p> <p>Corporate health and safety commentary on committee reports.</p> <p>Internal Audit of Corporate Health & Safety July 2022.</p>	8 (2x4)	<p>Introduce manager health & safety induction training. Unable to progress at present due to resource constraints (additional post was not approved), however we will look to include some manager specific training within the training courses bought-in using the £20k of additional funding by the end of March 2024. The result of the training and its impact on the Net Risk score will be monitored.</p> <p>Introduce corporate health and safety training programme. Work is already being undertaken on this with Adele, and a number of potential training platforms are being reviewed. Target to commence initial phase of training- End January 2024.</p> <p>Review the safety management programme. Unable to carry out a comprehensive review at present due to resource constraints (additional post was not approved), however we have adopted use of the MS Forms for tasks (where possible) to make the tasks more user friendly and easier/ quicker to complete.</p> <p>Introduce an annual health and safety verification/assurance programme. Unable to proceed at present due to resource constraints (additional post was not approved). We will endeavour to utilise any underspend on the £20k following implementation of the training programme towards audits/ assurance, however the ability to organise and supervise any assurance scheme may be limited by the current resource allocated to corporate health & safety. In 2023/24 we have already committed to provide assurance</p>

			<p>on the reception risk assessment and arrangements. Target to confirm scope/ capacity for an annual audit assurance plan (subject to remaining funds) by 31 March 2024.</p> <p>Audit action plan is complete, except for review of SMP tasks and risk areas which is in progress and being informed by the August SMP task. Target to complete End December 2023.</p> <p>Develop health and safety culture and communications. Unable to proceed due to resource constraints (additional post was not approved).</p>
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CRR Ref	DIRECTORATE OR SERVICE AREA	RISK AREA	RISKS IDENTIFIED	CAUSES	EFFECTS	RISK OWNER
CRR 9	All Directorates	Equality & Diversity	<p>The Council fails to meet its statutory obligations under the Equality Act 2010.</p> <p>Insufficient resource is put in place to ensure equality and diversity requirements are mainstreamed and embedded.</p> <p>Services areas may focus on what they consider their core business and consider equality and diversity less relevant/ important.</p> <p>Staff are not protected and as a result are subjected to unacceptable behaviour/ treatment.</p>	<p>Lack of consistent council- wide knowledge on Public Sector Equality duty and how to take equalities into consideration.</p> <p>Gaps in available data and analysis to understand potential impacts of decision making.</p> <p>Compliance driven rather than understanding based on good analysis.</p> <p>High turnover of staff resulting in loss of knowledge/ institutional memory loss.</p> <p>Overall budget pressures. Other priorities require funding.</p> <p>Some funding is in place, but it is not sufficient to meet all aspirations.</p> <p>Insufficient prioritisation/ competing against other priorities corporately and within service areas.</p> <p>Lack of or inconsistent ownership within or across service areas.</p>	<p>Challenged in court via Judicial review for failing to meet equalities duties.</p> <p>Negative Impact on staff morale and performance if the work environment is not perceived to be equitable resulting in increased turnover and staff absence.</p> <p>Our aspirations are not achieved, and this could result in stakeholders' concerns not being addressed.</p> <p>Compliance failure within some service areas.</p> <p>Financial implications of non- compliance resulting in legal action at Employment Tribunal or civil action for external issues. Worst case scenario is that there is no financial limit on discrimination remedy at an ET.</p> <p>Reputational damage.</p>	Jackie Follis

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GROSS RISK LEVEL (Risk is Likelihood x Impact)	EXISTING CONTROLS/ MITIGATING ACTIONS	NET RISK LEVEL (Risk is Likelihood x Impact)	FURTHER ACTIONS
12 (3x4)	<p>By the nature of the services delivered by the Council, policies and procedures are designed to be inclusive. As a result equality, diversity and inclusion requirements are automatically captured and addressed.</p> <p>Consultation on Council services and projects enables equality and diversity feedback to be obtained and considered where appropriate.</p> <p>Staff and Customer satisfaction surveys are undertaken providing an opportunity for weaknesses to be highlighted and addressed.</p>	8 (2x4)	<p>An equalities and diversity assessment/ review was planned to ascertain what service areas currently do to ensure compliance. This action cannot be completed within existing resources and will be removed as a further action.</p> <p>Strongly encourage awareness training for all members following local elections in 2023 and annually thereafter.</p>

The Council has a specific section on the Committee Report Template ((Section 13: Equalities Impact Assessment (EIA)/ Social Value) to ensure that equality and diversity is considered as part of the decision- making process. Any comments completed within this section will be reviewed by an appropriate officer prior to going to committee.

The Council's Complaints Procedure provides an opportunity for equality and diversity weaknesses/ failings to be highlighted and monitored, addressed and lessons learnt to be carried forward.

The Council has strong Human Resource policies and procedures that support equality and diversity, for example:

- Dignity at work,
- Equality, diversity and inclusion policy,
- Recruitment

Mandatory online equalities and diversity refresher training is provided to all staff every two years. Annual training carried out for new starters.

Awareness training is offered to all members when they are elected (but with limited take-up).

Annual monitoring of equal opportunities recruitment is undertaken.

The Council's Customer of Concern Register aims to protect staff against unacceptable behaviour/ treatment.

CRR Ref	DIRECTORATE OR SERVICE AREA	RISK AREA	RISKS IDENTIFIED	CAUSES	EFFECTS	RISK OWNER
CRR 11b	All Directorates	Major Project- Littlehampton Seafront Project	<p>Failure to regenerate coastal towns within the district.</p> <p>Failure to deliver major projects in line with funder requirements meaning funding is withdrawn.</p> <p>Insufficient resources to deliver vision and aspirations for the district.</p>	<p>Lack of funding to deliver major projects.</p> <p>Decisions not made swiftly enough.</p> <p>Lack of public/ partnership acceptance of, and buy-in to strategies.</p> <p>Existing covenants and leases impose restrictions on scheme design.</p> <p>Multiple major projects running simultaneously- resources stretched.</p> <p>Other Council borrowing priorities/ increase in PWLB rates.</p> <p>Uncertainty surrounding major Government schemes impacting the area e.g. Arundel by-pass, Chichester by- pass.</p> <p>Further uncertainty over availability of Council and external funding in the future.</p> <p>Inconsistent decision making leading to projects being started and then abandoned.</p>	<p>Project fails to deliver objectives on time and/ or exceeds budget.</p> <p>Developers and invested could be deterred.</p> <p>Lack of growth.</p> <p>Possible legal issues from developer plans submitted before the Council consideration of schemes.</p> <p>Missed opportunities to invest in areas of development potential.</p> <p>Lack of visible progress with developments.</p> <p>Area turns into a commuter belt and is not regenerated leading to decline.</p> <p>Financial and reputational risk/ poor publicity.</p> <p>Development of Council land (car parks etc) could mean loss of income streams.</p> <p>Further uncertainty over availability of Council and external funding in the future.</p> <p>Business closure e.g. in retail, hospitality and leisure sectors.</p> <p>The Council could face large revenue costs for aborted projects if external funding is withdrawn.</p>	Philippa Dart

GROSS RISK LEVEL (Risk is Likelihood x Impact)	EXISTING CONTROLS/ MITIGATING ACTIONS	NET RISK LEVEL (Risk is Likelihood x Impact)	FURTHER ACTIONS
<p style="text-align: center;">12 (3x4)</p>	<p>Update report presented to every meeting of Policy and Finance Committee. Regular updates included in members newsletter.</p> <p>Project supported financially by external funds.</p> <p>Use of external support – project management and cost control (Mace)</p> <p>Communications – Press Releases, posters in the town/on site. Website kept up to date.</p> <p>Engagement with stakeholders (internal and external).</p> <p>Engagement with parties regarding leases and covenants.</p> <p>Project specific risk register reviewed and updated.</p> <p>Project progress reported to Project Board.</p> <p>Resourced by internal project team.</p>	<p style="text-align: center;">8 (2x4)</p>	<p>Communications strategy in preparation for construction phase.</p> <p>Logistics review of construction phasing to minimise impact on council revenue (car parks income) and summer season generally.</p> <p>Engagement with Harvester agent regarding scheme layout.</p> <p>Cost review.</p> <p>Promotion of new concession opportunities.</p>

CRR Ref	DIRECTORATE OR SERVICE AREA	RISK AREA	RISKS IDENTIFIED	CAUSES	EFFECTS	RISK OWNER
CRR 12	Directorate of Environment and Communities	Homelessness	Increase in homelessness presentations. Homelessness demand exceeds resources available.	Not being able to meet the homelessness need. Lack of suitable Emergency Accommodation and available Temporary Accommodation. Private Sector housing market becoming more expensive. Increased complex homeless presentations. Impact of the cost-of-living increases demand. Increases in mortgage rates lead to more housing repossessions.	Inadequate resource to manage the number of presentations. Legal challenge. Children being subject to homelessness. Vulnerable people (disabled, elderly, chronically ill etc.) being subject to homelessness.	Richard Tomkinson

GROSS RISK LEVEL (Risk is Likelihood x Impact)	EXISTING CONTROLS/ MITIGATING ACTIONS	NET RISK LEVEL (Risk is Likelihood x Impact)	FURTHER ACTIONS
16 (4x4)	Effective planning and deployment of resources. Timely decision making and effective casework management by Housing Options Officers. Regular monitoring of caseloads by the Team Leader. Flag to Senior Management Team.	9 (3x3)	Aim to increase supply of accommodation for those who are homeless/ threatened with homelessness- acquire 7 new units by March 2023 through LAHF scheme. Review the possibility of a temporary adjustment to the allocation policy to prioritise households in TA; complete the review by end of September. Develop and deliver Emergency Accommodation (nightly paid) reduction plan

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CRR Ref	DIRECTORATE OR SERVICE AREA	RISK AREA	RISKS IDENTIFIED	CAUSES	EFFECTS	RISK OWNER
CRR 14	Directorate of Environment and Communities	Housing Repairs	<p>Compliance Failings</p> <p>Inadequate resourcing of compliance programmes.</p>	<p>A complaint or report to the Regulator of Social Housing (RSH) or an inspection which identifies failings could result in the RSH to serve a notice.</p> <p>Withdrawal of current resource without establishment of Compliance Manager role to base budget.</p> <p>Reduced expenditure budget for programmes and remedial works.</p>	<p>Regulator takes over compliance.</p> <p>Budget pressures to resolve with urgency.</p> <p>Reputational damage.</p> <p>Tenant complaints.</p> <p>Risk of serious incidents increased.</p>	Richard Tomkinson

GROSS RISK LEVEL (Risk is Likelihood x Impact)	EXISTING CONTROLS/ MITIGATING ACTIONS	NET RISK LEVEL (Risk is Likelihood x Impact)	FURTHER ACTIONS
<p>Page 73</p> <p>4 (1x4)</p>	<p>Robust contract evaluation.</p> <p>Regular financial checks.</p> <p>Have alternative suppliers/ framework in reserve Appointed different gas contractors for Domestic and Commercial Contracts so have built in back up should one fail.</p> <p>Monthly contract review meetings.</p> <p>Group Head developing role profile and wider service realignment to accommodate along with business case for inclusion in salaries and supervision budgets.</p>	<p>4 (1x4)</p>	<p>These measures have been established.</p> <p>Activity is undertaken to a program and continues to be managed and reviewed closely.</p> <p>CMT approval required and recruitment and selection.</p>

CRR Ref	DIRECTORATE OR SERVICE AREA	RISK AREA	RISKS IDENTIFIED	CAUSES	EFFECTS	RISK OWNER
CRR 15	Directorate of Environment and Communities	Housing	Ineffective complaints management.	High staff turnover. Lack of training. Lack of procedure. Lack of lessons learnt reviews.	Reputational damage. Poor relationship with tenants. Missed opportunity for service improvement. Complaints escalation. Non-compliance with the Ombudsman complaint handling code. Coming to the attention of the Housing Ombudsman & Regulator for Social Housing.	Richard Tomkinson

GROSS RISK LEVEL (Risk is Likelihood x Impact)	EXISTING CONTROLS/ MITIGATING ACTIONS	NET RISK LEVEL (Risk is Likelihood x Impact)	FURTHER ACTIONS
9 (3x3) Page 74	<p>Adherence to the Corporate Complaints Procedure requires the Council to have clear mechanisms in place for tenants to complain, and to respond to complaints promptly and effectively. Housing Services also need to ensure compliance with the Housing Ombudsman Complaint Handling Code which became statutory on 1 April 2024.</p> <p>An improved complaints process is now embedded within our service which has improved complaint handling and response times.</p> <p>Performance against the code, our policy and processes is monitored on a monthly basis and reported to the housing management team.</p> <p>We have a dedicated role which co-ordinates our complaints, and have recently appointed a complaints officer who holds a caseload of complaints.</p> <p>Correct culture on complaints handling means complaint resolution is well managed and actions are clearer.</p>	4 (2x2)	<p>Mandatory training for all housing staff to be completed by the end of quarter, this will then be carried out periodically and when new staff join.</p>

CRR Ref	DIRECTORATE OR SERVICE AREA	RISK AREA	RISKS IDENTIFIED	CAUSES	EFFECTS	RISK OWNER
CRR 19	All Directorates	Littlehampton Harbour Board	<p>Possibility of Arun District Council being liable to pay an unanticipated large sum of the LHB costs. The Council is legally obliged to fund 50% of LHB operational costs, WSCC funds the other 50%.</p> <p>The amount to be paid by the Council is in dispute and subject to litigation.</p> <p>The amount currently sought by the LHB would increase pressure on the Council's revenue budget and capital to the extent that the Council would need to identify major cuts to other services and projects.</p>	<p>LHB levy ADC to fund operational running costs because the LHB does not operate at a surplus.</p> <p>Additional expenditure would have a major impact on the Council's ability to achieve financial resilience – see CRR1-A.</p>	<p>Without mitigation, the Council would face a considerable additional revenue budget deficit per annum, on top of the existing structural budget deficit.</p> <p>A major reduction in the Council's revenue reserves, which would result in the issuing of a section 114 notice.</p>	Nat Slade/Tony Baden/Philippa Dart

GROSS RISK LEVEL (Risk is Likelihood x Impact)	EXISTING CONTROLS/ MITIGATING ACTIONS	NET RISK LEVEL (Risk is Likelihood x Impact)	FURTHER ACTIONS
16 (4x4)	<p>Various meetings and discussions have been held with the LHB and internally amongst officers.</p> <p>LHB have been advised that ADC does not consider itself liable for the costs of large infrastructure renewal schemes.</p> <p>Lead and Deputy Leader have been briefed and all Group Leaders will be briefed by 23/07/2024.</p>	8 (2x4)	<p>Case meeting between Officers and the Council's legal representatives, to prepare papers for an independent judicial review.</p>

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CORPORATE RISK REGISTER- ENTRIES REMOVED

CRR 18 removed from the Corporate Risk Register in November 2023 as an auditor was identified for the housing benefit subsidy.						
CRR Ref	DIRECTORATE OR SERVICE AREA	RISK AREA	RISKS IDENTIFIED	CAUSES	EFFECTS	RISK OWNER
CRR 18	Finance	Housing Benefit Subsidy 2023/24	Delayed audit of the housing benefit subsidy	<p>External audit resource shortages (this applies to other local authorities and is not unique to Arun).</p> <p>Delays in the procurement/ appointment process.</p>	<p>Reimbursement of the housing benefit subsidy is denied or delayed. (Total value of the subsidy is c.£35- £45m for 2023/24).</p> <p>Financial penalties or sanctions- potential for 1 month's subsidy to be held back (approx. £2.5m).</p> <p>Budget implications.</p> <p>Reputational damage.</p>	Tony Baden

GROSS RISK LEVEL (Risk is Likelihood x Impact)	EXISTING CONTROLS/ MITIGATING ACTIONS	NET RISK LEVEL (Risk is Likelihood x Impact)	FURTHER ACTIONS
<p>Page 76</p> <p>12 (3x4)</p>	<p>Procurement advice from Hampshire County Council.</p> <p>Procurement process has commenced. Appointment of external auditor anticipated by 1st October 2023 (subject to expressions of interest).</p> <p>Liaise with the DWP to provide assurance that action is being taken to procure an auditor and complete the audit process as soon as possible.</p>	<p>4 (1x4)</p>	<p>Review expressions of interest by 1st October and ask for price quotes.</p>

CRR 4.3: Risk removed from the Corporate Risk Register as of 16th April 2024. PSN resources are now in place and the Council are in the process of completing the application for the PSN Certificate- this is now business as usual.

CRR Ref	DIRECTORATE OR SERVICE AREA	RISK AREA	RISKS IDENTIFIED	CAUSES	EFFECTS	RISK OWNER
CRR 4.3	All Directorates	ICT	Permission to connect to government systems such as DWP is revoked.	Lack of resources / not having a current code of connection certificate. Service provider not accepting mitigations and/or remediation plan.	Unable to undertake functions requiring access to government systems e.g. benefits processing.	Jackie Follis

GROSS RISK LEVEL (Risk is Likelihood x Impact)	EXISTING CONTROLS/ MITIGATING ACTIONS	NET RISK LEVEL (Risk is Likelihood x Impact)	FURTHER ACTIONS
12 (4x3)	Undertake annual IT Health Check, create and action remediation plan and submit application to Cabinet Office. Would need to look at another organisation to process DWP data for benefits.	6 (2x3)	Ensure sufficient resources allocated. New security post starts January 2024.

CRR 16: Risk removed from the Corporate Risk Register as of 18th June 2024. Chief Executive appointed and will commence employment on 29th July 2024.

CRR Ref	DIRECTORATE OR SERVICE AREA	RISK AREA	RISKS IDENTIFIED	CAUSES	EFFECTS	RISK OWNER
CRR 16	All Directorates	Chief Executive resignation/ vacancy	<p>Delayed or unsuccessful recruitment of replacement Chief Executive.</p> <p>Gaps in the delegation of decision- making, responsibility, and accountability.</p>	New administration wishes to explore all appropriate options regarding recruitment as part of the recruitment process.	<p>Breach of statutory obligations.</p> <p>Increased accountability, responsibility and pressure on directors and senior management.</p> <p>Lack of or reduced representation on external bodies.</p> <p>Strategic decisions delayed including transformation.</p> <p>Potential delay in delivering a significant improvement to the net budget position and implementation of Target Operating Model.</p> <p>Staff uncertainty and low staff morale.</p> <p>Reputational issues.</p> <p>Negative public perception.</p>	Karl Roberts/ Philippa Dart

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GROSS RISK LEVEL (Risk is Likelihood x Impact)	EXISTING CONTROLS/ MITIGATING ACTIONS	NET RISK LEVEL (Risk is Likelihood x Impact)	FURTHER ACTIONS
16 (4x4)	<p>Robust recruitment process.</p> <p>Communication with staff to provide assurance.</p> <p>Communication with the public/ press releases.</p> <p>Secure political support for implementation of measure for early action on delivering a significant improvement to the net budget position and implementation of Target Operating Model.</p> <p>Appointment of current Directors as joint interim CEO's.</p>	4 (1x4)	<p>Role of CEO was advertised in March 2024 and interviews are scheduled for April 2024. Likely start date in August 2024.</p>

CRR 13: Risk removed from the Corporate Risk Register as of 20th August 2024- this risk will now be managed and monitored at a service area level via the Housing Operational Risk Register.

CRR Ref	DIRECTORATE OR SERVICE AREA	RISK AREA	RISKS IDENTIFIED	CAUSES	EFFECTS	RISK OWNER
CRR 13	Directorate of Environment and Communities	Housing	Delayed or non- implementation of the new housing management system Cx.	<p>Poor project management.</p> <p>Interface/API solution delays with partners.</p> <p>Reduced project team resources/sickness/absence/resignations.</p> <p>Lack of, or changes in decision making.</p> <p>Lack of service level expertise.</p> <p>Contractual issues.</p> <p>Additional costs.</p>	<p>Reputational damage.</p> <p>Inability to deliver services.</p> <p>Inability to collect payments.</p> <p>Inability to set rents.</p> <p>Inability to create and end tenancies.</p> <p>Reduced service to tenants.</p> <p>Missed opportunity for service improvement.</p> <p>Coming to the attention of the Housing Ombudsman & Regulator for Social Housing.</p>	Richard Tomkinson

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GROSS RISK LEVEL (Risk is Likelihood x Impact)	EXISTING CONTROLS/ MITIGATING ACTIONS	NET RISK LEVEL (Risk is Likelihood x Impact)	FURTHER ACTIONS
12 (3x4)	<p>Change in project manager via 3C consultants to give improved governance and direction to the project.</p> <p>Backfills completed for the project team, less requirements on them from their day-to-day roles.</p> <p>New project manager working closely with Civica and will escalate within Civica and Arun if the project plan timescales look at risk.</p> <p>Project plan includes more time for testing, build, data passes and realistic contingency based on previous projects of this type.</p> <p>Four full time members of staff working on the project.</p> <p>Project board established.</p> <p>Appointment of role of Housing Project Team Leader to oversee user acceptance testing and training.</p>	6 (2x2)	<p>Performance monitoring of project management.</p> <p>Increased project meetings as we approach critical points in the project.</p>

CRR 17: Risk removed from the Corporate Risk Register as of 20th August 2024- this risk will now be managed and monitored at a service area level via the Operational Risk Register.

The risk identified has been incorporated into CRR1- A due to the potential financial implications.

CRR Ref	DIRECTORATE OR SERVICE AREA	RISK AREA	RISKS IDENTIFIED	CAUSES	EFFECTS	RISK OWNER
CRR 17 (ORR 54)	Growth	Disabled Facilities Grant	<ul style="list-style-type: none"> Potential for government to clawback ~300K pa from 2020 onwards of Better Care Fund grant that is used on salaries of PSH team staff delivering adaptations, county project manager salary & countywide minor repairs contract and countywide deep clean contract 	<ul style="list-style-type: none"> Ambiguity over use of Better Care Fund on revenue exacerbated by non-statutory DLUHCs guidance produced by Foundations. 	<ul style="list-style-type: none"> Detriment to Council's financial position – reduction of reserves. 	Nat Slade

GROSS RISK LEVEL (Risk is Likelihood x Impact)	EXISTING CONTROLS/ MITIGATING ACTIONS	NET RISK LEVEL (Risk is Likelihood x Impact)	FURTHER ACTIONS
4 (1x4) Page 80	<ul style="list-style-type: none"> Risks applicable to all District & Borough Councils within the West Sussex Adaptations Project. Risks outlined by joint Project Manager considered by the inter-authority project Steering Group – recommendation made by Steering Group to WSCEO Group in June 2022 who decided to accept the risk and proceed with project. 	4 (1x4)	None identified.

CRR 4.4: Risk removed from the Corporate Risk Register as of 20th August 2024- this risk will now be managed and monitored at a service area level via the ICT Operational Risk Register.

CRR Ref	DIRECTORATE OR SERVICE AREA	RISK AREA	RISKS IDENTIFIED	CAUSES	EFFECTS	RISK OWNER
CRR 4.4	All Directorates	ICT	Supplier unable to support corporate document management system (C-Cube) or withdraws product.	Supplier issues notice.	A number of service areas rely on this system for their electronic documents and without it would not be able to operate.	Jackie Follis

GROSS RISK LEVEL (Risk is Likelihood x Impact)	EXISTING CONTROLS/ MITIGATING ACTIONS	NET RISK LEVEL (Risk is Likelihood x Impact)	FURTHER ACTIONS
16 (4x4)	Initial funding identified in 2023/24. Project initiated 2023/24 to identify alternative solutions and options. Work included in the ICT Work Programme.	8 (4x2)	Continue dialogue with supplier. Continue looking at alternative products/ options.

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CRR 4.5: Risk removed from the Corporate Risk Register as of 20th August 2024- this risk will now be managed and monitored at a service area level via the ICT Operational Risk Register.

CRR Ref	DIRECTORATE OR SERVICE AREA	RISK AREA	RISKS IDENTIFIED	CAUSES	EFFECTS	RISK OWNER
CRR 4.5	All Directorates	ICT	Supplier of our planning, building control and land charge system issues notice and retiring product.	Supplier issues notice.	A number of service areas rely on this system as their main back-office system and without it would not be able to operate.	Jackie Follis

GROSS RISK LEVEL (Risk is Likelihood x Impact)	EXISTING CONTROLS/ MITIGATING ACTIONS	NET RISK LEVEL (Risk is Likelihood x Impact)	FURTHER ACTIONS
16 (4x4)	Project initiated 2023/24 to identify alternative solutions and options. Work included in the ICT Work Programme.	8 (4x2)	Continue dialogue with supplier. Continue looking at alternative products/ options.

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EXAMPLE OF ALTERNATIVE REPORTING FORMAT CRR1- A: Financial Resilience	MEDIUM
Risk Owner: Tony Baden	Last updated: 18 June 2024
<p>Risks Identified</p> <p>Failure to maintain a robust and deliverable budget will lead to a lack of resources to fund services and council priorities, leading to reactive decision making and reputational consequences.</p> <p>Failure to maximise efficient use of resources and so unsuccessful redirection of resources and not achieving objectives and outcomes of the Council.</p> <p>Failure to exploit income streams/ income generating activities/ commercial opportunities.</p> <p>Increased inflation caused by utilities and supply contracts leading to significantly increased, unbudgeted costs.</p>	
<p>Causes</p> <p>The annual Local Government Finance Settlement creating uncertainty beyond the next financial year.</p> <p>The outcome of proposed Government reviews of the local authority funding system, e.g. the Fair Funding review, Business Rates review.</p> <p>Reduction in government grants and external funding.</p> <p>Ineffective financial/ budget management and monitoring.</p> <p>Increased cost of building/ construction and maintenance.</p> <p>The outcome of the National Pay Negotiations/ Award.</p>	
<p>Effects</p> <p>Non- achievement of corporate priorities.</p> <p>Budget deficit.</p> <p>Forced to make savings leading to a reduction in the quality-of-service delivery.</p> <p>Increased costs and lower returns on investments.</p> <p>Minimal return from income generating activities/ commercial opportunities.</p> <p>Further pressure on demand led services e.g. benefits, homelessness etc.</p> <p>Reduction or delays in housebuilding and maintenance of corporate/ commercial buildings. Significant pressure on contracts, staff and projects.</p> <p>If the Council is unable to achieve financial resilience through a balanced revenue budget, the Section 151 officer would be obliged to issue a section 114 notice, which would prohibit all new expenditure. This would be a very serious situation for the Council because under the 1988 Local Government Finance Act, it is not permissible for a Council's expenditure to exceed its income. However, this is currently deemed to be highly unlikely.</p>	

Existing controls/ mitigating actions

The Group Head of Finance has engaged an external resource to review and develop the Council’s Medium Term Financial Forecast. This will be reported to Members as part of the budget setting process and will give an updated view of the Council’s overall financial position. An updated MTFP report will be presented to the October and December Policy & Finance Committee.

Medium Term Financial Strategy (MTFS) regularly reviewed and reported to Members at the Policy & Finance Committee.

Annual budget setting and quarterly budget monitoring of income and capital and revenue expenditure .

Regular reports to CMT, raising awareness of our current financial position. This includes the budget monitoring report, medium- term forecast and specific service area requirements e.g. quarterly report on the HRA to CMT.

Capital Strategy 2021/22- 2023/24 reviewed annually.

Continue to maximise Council tax increases.

Control of expenditure- Approval limits and routes for additional funding are detailed in the Council's Constitution and Financial Regulations.

Monitoring of potential changes to government policy, legislation etc.

Sufficient reserves.

Further Actions

Action	Target date
Officers concluded a service planning review exercise in September 2023. Proposals put forward by Group Heads were discussed with the Joint Chief Executives and identified significant savings in the 2024/25 budget which Members approved as part of the 2024/25 budget setting process.	
Monitoring and reporting to CMT of the £1.5 million savings approved as part of the detailed 2024/25 revenue budget.	
Two iterations of the MTFP have been reported to Members since October 2023, as well as several briefing sessions. It is intended that a further update will be presented to the next Policy & Finance committee.	
Further implementation of the Council’s Financial Strategy, approved by Full Council on 10 th January 2024.	

RISK SCORING	Likelihood	Impact	TOTAL	Change in Net Risk Level
Gross Risk Level	Likely (3)	Very High (4)	12	
Net Risk Level	Possible (2)	Very High (4)	8	
Target Risk Level				

Agenda Item 9

REPORT TO:	Audit and Governance Committee – 3 October 2024
SUBJECT:	Treasury Management – Quarter 1 report 2024-25
LEAD OFFICER:	Antony Baden - Group Head of Finance and Section 151 Officer
LEAD MEMBER:	Councillor Matt Stanley
WARDS:	All
CORPORATE PRIORITY/POLICY CONTEXT/CORPORATE VISION: The Treasury Management function is required by regulation and has an effect on all Directorates of the Council.	
DIRECTORATE POLICY CONTEXT: This report is the Treasury Management update report for Quarter 1 (Q1) 2024-25. This report summarises: <ul style="list-style-type: none">• Investment position (Appendix 1)• Borrowing position (Appendix 2) and• Prudential Indicators (Appendix 3)	
FINANCIAL SUMMARY: The financial implications arising from this report are detailed in Appendices 1 to 3. Some of the figures contained in this report are draft, and subject to external audit but they are not expected to change significantly. Any such changes will be reported to this Committee.	

1. PURPOSE OF REPORT

1.1. To note the Treasury Management activities for the first financial quarter ending 30th June 2024.

2. RECOMMENDATIONS

The Audit and Governance Committee is asked to recommend the following to Full Council:

2.1. note the Quarter 1 treasury management report for 2024/25;

2.2. note the treasury activity for the quarter ended 30 June 2024, which has generated interest receipts of £563,000 (5.15%) against a budget of £1,896,310 (4.63%); and

2.3. note the quarter 1 prudential and treasury indicators for 2024/25 contained in the report.

3. EXECUTIVE SUMMARY

- 3.1. The CIPFA (Chartered Institute of Public Finance and Accountancy) Code of Practice for Treasury Management 2021 recommends that Members be updated on treasury management activities at least quarterly. The 2024/25 Treasury Management Strategy states this report will go to the Audit and Governance Committee around September time. This report, therefore, ensures this Council is implementing best practice in accordance with the Code.
- 3.2. During the first quarter to 30 June 2024, the Council complied with its legislative and regulatory requirements, including confirmation that the authorised limit was not breached.

4. DETAIL

- 4.1. The Council has also implemented the Ministry of Housing, Communities and Local Government (MHCLG) investment guidance in producing these regular reports.
- 4.2. The investment activity to date conforms to the approved strategy and the Council has had no liquidity difficulties. This report focuses on the 2024/25 financial period ending 30 June 2024 and is based on the data available at the time of writing.
- 4.3. The detail can be found in appendices 1 to 3.

4.4. Economic update

4.5. The first quarter of 2024/25 saw:

- GDP growth flatlining in April following positive Q4 2023/24 growth figures of 0.7% q/q.
- A stalling in the downward trend in wage growth, with the headline 3myy rate staying at 5.9% in April.
- CPI inflation falling from 2.3% in April to 2.0% in May.
- Core CPI inflation decreasing from 3.9% in April to 3.5% in May.
- The Bank of England holding rates at 5.25% in May and June.
- 10-year gilt yields climbing to 4.35% in April, before closing out at 4.32% in May.

4.6. The economy grew by 0.7% q/q in Q4 2023/24 and confirmed that it moved out of its very mild technical recession that prevailed at the back end of 2023. However, data released for April and May so far shows a slight stalling in the recovery, with GDP data for April coming out at 0.0% m/m.

4.7. Interest rate forecasts

4.8. The PWLB rate forecasts below are based on the Certainty Rate (the standard rate minus 20 bps) which has been accessible to most authorities since 1st November 2012. For Housing Revenue Account authorities, the lower Housing Revenue Account (HRA) PWLB rate has also been available since 15 June 2023 (standard rate minus 60 bps) but is available for HRA borrowing only.

4.9. The latest forecast, updated on 28th May, sets out a view that both short and long-dated interest rates will start to fall once the Bank of England feels that it has a sufficient handle on inflation.

4.10. Below is Link group's Interest rate view at 28 May 2024.

Link Group Interest Rate View 28.05.24												
	Jun-24	Sep-24	Dec-24	Mar-25	Jun-25	Sep-25	Dec-25	Mar-26	Jun-26	Sep-26	Dec-26	Mar-27
BANK RATE	5.25	5.00	4.50	4.00	3.50	3.25	3.25	3.25	3.25	3.00	3.00	3.00
3 month ave earnings	5.30	5.00	4.50	4.00	3.50	3.30	3.30	3.30	3.30	3.00	3.00	3.00
6 month ave earnings	5.30	4.90	4.40	3.90	3.50	3.30	3.30	3.30	3.30	3.10	3.10	3.20
12 month ave earnings	5.10	4.80	4.30	3.80	3.50	3.40	3.40	3.40	3.40	3.20	3.30	3.40
5 yr PWLB	4.90	4.70	4.50	4.30	4.10	4.00	3.90	3.90	3.90	3.90	3.90	3.80
10 yr PWLB	5.00	4.80	4.60	4.40	4.30	4.10	4.10	4.10	4.00	4.00	4.00	3.90
25 yr PWLB	5.30	5.20	5.00	4.80	4.70	4.50	4.50	4.40	4.40	4.40	4.30	4.30
50 yr PWLB	5.10	5.00	4.80	4.60	4.50	4.30	4.30	4.20	4.20	4.20	4.10	4.10

5. CONSULTATION

5.1. Consultation has been undertaken with the Council's Treasury Advisors – Link Group, Link Treasury Services Limited.

6. OPTIONS / ALTERNATIVES CONSIDERED

6.1. As the CIPFA Code of Practice for Treasury Management 2021 recommends that Members be updated on treasury management activities at least quarterly, the only option available is to request that Full Council note the recommendations (2.1, 2.2, 2.3).

7. COMMENTS BY THE GROUP HEAD OF FINANCE SUPPORT/SECTION 151 OFFICER

7.1. The Council is required to ensure that cash raised during the year will meet expenditure. Part of the treasury management operation is to ensure that this cash flow is adequately planned, with cash being available when it is needed. Surplus monies are invested in low-risk counterparties or instruments in line with the Council's low risk appetite, providing adequate liquidity before considering investment return.

7.2. Another key function of the treasury management service is to manage the funding of the Council's Capital Programme. It determines borrowing needs in respect of longer-term cash flow planning so that the Council can deliver its capital plans. This involves arranging long and short-term loans as well as the use of cash flow surpluses. It can also involve restructuring existing debt if this reduces costs or risk exposure to interest rate increases.

7.3. The Treasury Management function looks to optimize interest income and reduce debt interest payments whilst ensuring that the Council has enough liquidity to meet all its spending commitments. Since cash balances generally consist of reserves and balances, it is paramount that investments are placed as securely as possible as any losses would have an adverse impact on the revenue budget.

7.4. The parameters guiding our approach to treasury management are set out in the Council's approved Treasury Management and Annual Investment strategies and the financial implications and detail arising from our Treasury Management activities are outlined in appendices 1 and 2.

8. RISK ASSESSMENT CONSIDERATIONS

8.1. The main risks in treasury management are financial ones. These are identified in the Council's Treasury Management Practices and the main risks in these activities are:

- liquidity;
- markets or investment;
- inflation;
- credit and counterparty;
- legal and regulatory

8.2. The consequences of ignoring these are poor practices implemented, diminished interest returns, loss of capital invested, poor liquidity (funds available when required). The Council's strategies guard against most of these risks.

9. COMMENTS OF THE GROUP HEAD OF LAW AND GOVERNANCE & MONITORING OFFICER

9.1. Under Section 151 of the Local Government Act 1972, the Section 151 Officer has statutory duties in relation to the financial administration and stewardship of the authority including securing effective arrangements for treasury management. There are no other specific legal implications arising from this report.

10. HUMAN RESOURCES IMPACT

10.1. None direct

11. HEALTH & SAFETY IMPACT

11.1. None direct

12. PROPERTY & ESTATES IMPACT

12.1. None direct

13. EQUALITIES IMPACT ASSESSMENT (EIA) / SOCIAL VALUE

13.1. None

14. CLIMATE CHANGE & ENVIRONMENTAL IMPACT/SOCIAL VALUE

- 14.1. Best practice is taken when reviewing investment options to ensure that they are with companies or banks that are actively looking to reduce their impact on the environment and increase sustainability.
- 14.2. Current Investments with CCLA (better world cautious fund and the property fund) and Standard Chartered (Sustainable deposits) have positive ESG (Environmental, Social and Governance) factors.
- 14.3. Further options with be explored and considered.

15. CRIME AND DISORDER REDUCTION IMPACT

- 15.1. None

16. HUMAN RIGHTS IMPACT

- 16.1. None

17. FREEDOM OF INFORMATION / DATA PROTECTION CONSIDERATIONS

- 17.1. None
-

CONTACT OFFICER:

Name: Sian Southerton

Job Title: Senior Accountant (Treasury)

Contact Number: 01903 737861

BACKGROUND DOCUMENTS:

- The Local Government Act 2003 ([The Local Government Act 2003](#)).
- Treasury Management in the Public Services: Code of Practice and Cross Sectoral Guidance Notes (CIPFA, December 2021) (*Link not available as copyright*).

- The Prudential Code for Capital Finance in Local Authorities (CIPFA, December 2021) (*Link not available as copyright*).
- MHCLG Guidance on Local Government Investments
[Guidance on local government investments.pdf \(publishing.service.gov.uk\)](#)-
- Link Asset Services Ltd Annual Treasury Management review Template 2023/24. (*Link not available as copyright*).
- 2024/2025 Strategy:
[\(Public Pack\)Agenda Document for Audit and Governance Committee, 19/02/2024 18:00 \(arun.gov.uk\)](#)

Arun District Council

Investment Position

1. Investment and Strategy review

1.1. The Treasury Management Strategy Statement (TMSS) for 2024/25, which includes the Annual Investment Strategy, was approved by the Council on **13 March 2024**. In accordance with the CIPFA Treasury Management Code of Practice, it sets out the Council's investment priorities as being (SLY):

- Security of capital
- Liquidity
- Yield

1.2. The Council will aim to achieve the optimum return (yield) on its investments commensurate with proper levels of security and liquidity, aligned with the Council's risk appetite. In the current economic climate, over and above keeping investments short-term to cover cash flow needs, there is a benefit to seek out value available in periods up to 2 years with high credit rated financial institutions to achieve the best yield possible but with SLY at the forefront.

1.3. A full list of investments held as at 30 June 2024 are shown in the following table:

Reference no.	Counterparty	Issue Date	Maturity Date	Principal	Current Interest Rate
904	DBS Bank Ltd.	09/04/2024	05/07/2024	£1,000,000.00	5.2800
905	DBS Bank Ltd.	11/04/2024	22/07/2024	£3,000,000.00	5.2900
890	DBS Bank Ltd	25/10/2023	25/07/2024	£1,000,000.00	5.620
892	Goldman Sachs International	01/11/2023	01/08/2024	£1,000,000.00	5.620
894	DBS Bank Ltd	15/11/2023	15/08/2024	£1,000,000.00	5.500
902	Merthyr Tydfill CBC	15/02/2024	15/08/2024	£1,000,000.00	6.000
910	Lloyds Bank Plc (RFB)	13/06/2024	13/09/2024	£3,000,000.00	5.2600
907	Lancashire County Council	25/04/2024	20/09/2024	£3,000,000.00	5.3600
903	Goldman Sachs International Bank	08/04/2024	07/10/2024	£1,000,000.00	5.2750
906	Lloyds Bank Plc (RFB)	18/04/2024	14/10/2024	£2,000,000.00	5.2300
888	Standard Chartered Bank - Sustainable Deposits	18/10/2023	17/10/2024	£1,000,000.00	5.820
889	Goldman Sachs International	20/10/2023	18/10/2024	£1,000,000.00	5.750
909	Goldman Sachs International Bank	09/05/2024	19/11/2024	£1,000,000.00	5.2800
908	City of Bradford Metropolitan District Council	02/05/2024	20/11/2024	£2,000,000.00	5.3800
865	Goldman Sachs International	05/01/2023	06/01/2025	£1,000,000.00	4.645
911	National Westminster Bank PLC (RFB)	20/06/2024	20/02/2025	£2,000,000.00	5.1800
912	Goldman Sachs International Bank	27/06/2024	07/04/2025	£1,000,000.00	5.2050
893	Close Brothers Limited	06/11/2023	06/11/2025	£1,000,000.00	5.350
44447	Lloyds Bank			£2,000,000.00	5.140
100500	CCLA (Churches, Charities and LA's) (MMF)			£4,000,000.00	5.2103
110000	Federated Investors LLP (MMF)			£4,000,000.00	5.2231
99999	Fidelity Fund Management Ltd (MMF)			£4,000,000.00	5.1886
130000	Deutsche Bank (MMF)			£10,000.00	5.1062
140000	CCLA (Churches, Charities and LA's) LAPF			£5,000,000.00	*5.33
140500	CCLA (Churches, Charities and LA's) BWCF			£2,000,000.00	*3.40
				£48,010,000.00	

* rates at 30-6-24

MMF - Money Market Fund

LAPF - Local Authority Property Fund

BWCF - Better World Cautious Fund

1.4. The table below shows the £48m investment portfolio and percentage in each sector.

INVESTMENT PORTFOLIO	31.3.24 Actual £000	31.3.24 Actual %	30.6.24 Actual £000	30.6.24 Actual %
Treasury investments				
Banks	15,800	37%	23,000	48%
Building Societies - rated	1,000	2%	0	0%
Building Societies - unrated	0	0%	0	0%
Local authorities	6,000	14%	6,000	13%
Money Market Funds	12,965	30%	12,010	25%
Total managed in house	35,765	83%	41,010	86%
Property funds	5,000	12%	5,000	10%
Diversified funds	2,000	5%	2,000	4%
TOTAL TREASURY INVESTMENTS	42,765	100%	48,010	100%

- 1.5. Investment rates have remained elevated during the first quarter of 2024/25 but are expected to fall back through the second half of 2024 as inflation reduces and the MPC starts to reduce interest rates.
- 1.6. Creditworthiness - There have been few changes to credit ratings over the quarter under review. However, officers continue to closely monitor these, and other measures of creditworthiness to ensure that only appropriate counterparties are considered for investment purposes.
- 1.7. Investment counterparty criteria - The current investment counterparty criteria selection approved in the TMSS is meeting the requirement of the treasury management function.
- 1.8. Investment balances - The average level of funds available for investment purposes during the quarter was just shy of £44m. The level of funds available was mainly dependent on the timing of precept payments, receipt of grants and progress on the capital programme.
- 1.9. The table below shows the total useable reserves compared to the investment balances at 31 March 2024. The figures contained in this table are draft, and subject to revisions and external audit.

Usable Reserves at 31 March 2024	£m
Earmarked Reserves	14.677
Housing Revenue Account Balance	0.481
General Fund Revenue Balance	5.000
Usable Capital Receipts	1.103
Housing Major Repairs Reserve	4.209
Capital Grants Unapplied	10.560
Total	36.030
S106 / CIL	8.067
ADC acting as Agents for grants	1.188
Reserves + S106/CIL + Grants to repay	45.285
<i>Investments at 31-3-24</i>	<i>42.765</i>
<i>Lloyds Bank current account</i>	<i>0.295</i>
Investments & Bank at 31-3-24	43.060

1.10. The usable reserves and the above other elements will never match exactly to cash & investments, due to timing differences (accruals mainly), but also there are other cash movements which are not captured in the table above.

1.11. Investment performance for quarter ended 30 June 2024

Benchmark	Benchmark Return	Budgeted Return	Council Performance	Investment Interest Earned
Average O/N *Sonia	5.20%	4.63%	5.15%	£563,000

* The SONIA is a risk-free rate for sterling markets administered by the Bank of England. It is based on actual transactions and reflects the average of the interest rates that banks pay to borrow sterling overnight from other financial institutions and institutional investors.

1.12. As illustrated, the authority is outperforming the budgeted interest return and is close to the benchmark rate. The Council's budgeted investment return for 2024/25 is £1,896,310 and performance for the year to date is above budget based on a straight-line profile. The estimated outturn is currently around £2.04m showing an over achievement of around £140k. This enhanced return is largely due to rates applied to investments being higher than expected plus more principal available to invest, in some case due to large payments being delayed as works not completed.

1.13. The CCLA property fund continues to increase the returns the Council is achieving on its investments and currently £5M is invested in this fund achieving an average rate of return of

approx. 4.96%, however the Capital value is down around 8.8% (at 30 June 2024). This is a long-term investment, and values will rise and fall over the years.

1.14. The Council had the following valuations at 30 June 2024:

- CCLA property fund - £4,558,037 (£5m invested)
- CCLA better world cautious fund - £1,964,520 (£2m invested)

This would have had an adverse impact of £477,443 on the Council's revenue budget if the IFRS 9 override was not in place.

1.15. IFRS 9 - following the consultation undertaken by the Ministry of Housing, Communities and Local Government (MHCLG), the Government has extended the mandatory statutory override for local authorities to reverse out all unrealised fair value movements resulting from pooled investment funds to 31st March 2025. Local authorities are required to disclose the net impact of the unrealised fair value movements in a separate unusable reserve throughout the duration of the override in order for the Government to keep the override under review and to maintain a form of transparency.

1.16. Approved limits - Officers can confirm that the approved limits within the Annual Investment Strategy were not breached during the quarter ended 30 June 2024.

1. **Borrowing position**

- 1.1 No borrowing was undertaken during the quarter ended 30th June 2024.
- 1.2 The Council has no immediate plans to borrow externally for capital expenditure in the current financial year, although funding will need to be arranged for approved schemes. We will look to borrowing internally for these in the first instance, until interest rates reduce further.
- 1.3 Currently Arun's only borrowing relates to the HRA Self-Financing settlement (£35.46m), also summarised in the table below:

<u>Lender</u>	<u>Principal</u>	<u>Type</u>	<u>Interest Rate</u>	<u>Maturity</u>
PWLB	£8.870m	Maturity	3.21%	28/3/2030
PWLB	£8.870m	Maturity	3.40%	28/3/2035
PWLB	£8.860m	Maturity	3.53%	28/3/2050
PWLB	£8.860m	Maturity	3.48%	28/3/2062
	£35.46m			

- 1.4 Officers will continue to keep borrowing policy under review and use internal balances where possible to minimise borrowing costs.

1. Treasury and Prudential Indicators

- 1.1. As required by the 2021 CIPFA Treasury Management Code, the Council monitors and measures the following Treasury Management Prudential Indicators.
- 1.2. The borrowing activity is controlled by prudential indicators for net borrowing, the Capital Financing Requirement (CFR), and by the authorised limit which is summarised in the table below and in 4.6.

Prudential Indicators	*31 March 2024 Actual £000	**2024/25 Original Forecast £000	2024/25 Current Forecast £000
Capital Expenditure:			
Non - HRA	7,224	24,020	31,302
HRA	7,114	15,151	26,897
TOTAL	14,338	39,171	58,200
Ratio of financing costs to net revenue stream:			
Non - HRA	(8.37)%	(6.22)%	(7.14)%
HRA	18.25%	16.96%	17.91%
Capital Financing Requirement (CFR):			
Total opening CFR	52,858	55,212	51,884
<u>Closing CFR</u>			
Non - HRA	119	6,451	6,640
HRA	51,765	60,538	58,304
TOTAL	51,884	66,989	64,944
Annual change in CFR:			
Non – HRA	138	5,707	4,915
HRA	(1,111)	6,069	8,145
TOTAL	(973)	11,776	13,060
Unfinanced capital expenditure	2,654	16,277	***25,724

* Slightly amended from annual report as there have been changes to the 23-24 accounts since

** Original estimate as per the 2024-25TMSS

***Of the £58.2m capital expenditure it is assumed that £25.7m is currently unfinanced

1.3. The Council undertakes capital expenditure on long-term assets. These activities may either be:

- Financed immediately through the application of capital or revenue resources (capital receipts, capital grants, revenue contributions etc.), which has no resultant impact on the Council's borrowing need: or
- If insufficient financing is available, or a decision is taken not to apply internal resources, the capital expenditure will give rise to a borrowing need.

1.4. In the table in 4.2, all "unfinanced capital expenditure" results in a financing or borrowing need which will come from either internal or external borrowing.

1.5. The ratio of Financing Costs to the Net Revenue Stream is estimated to be (7.14)% by the end of the financial year (non-HRA) which is a change of (0.92)%. This is largely due to better than expected interest rates.

1.6. The treasury Indicators are shown in the table below:

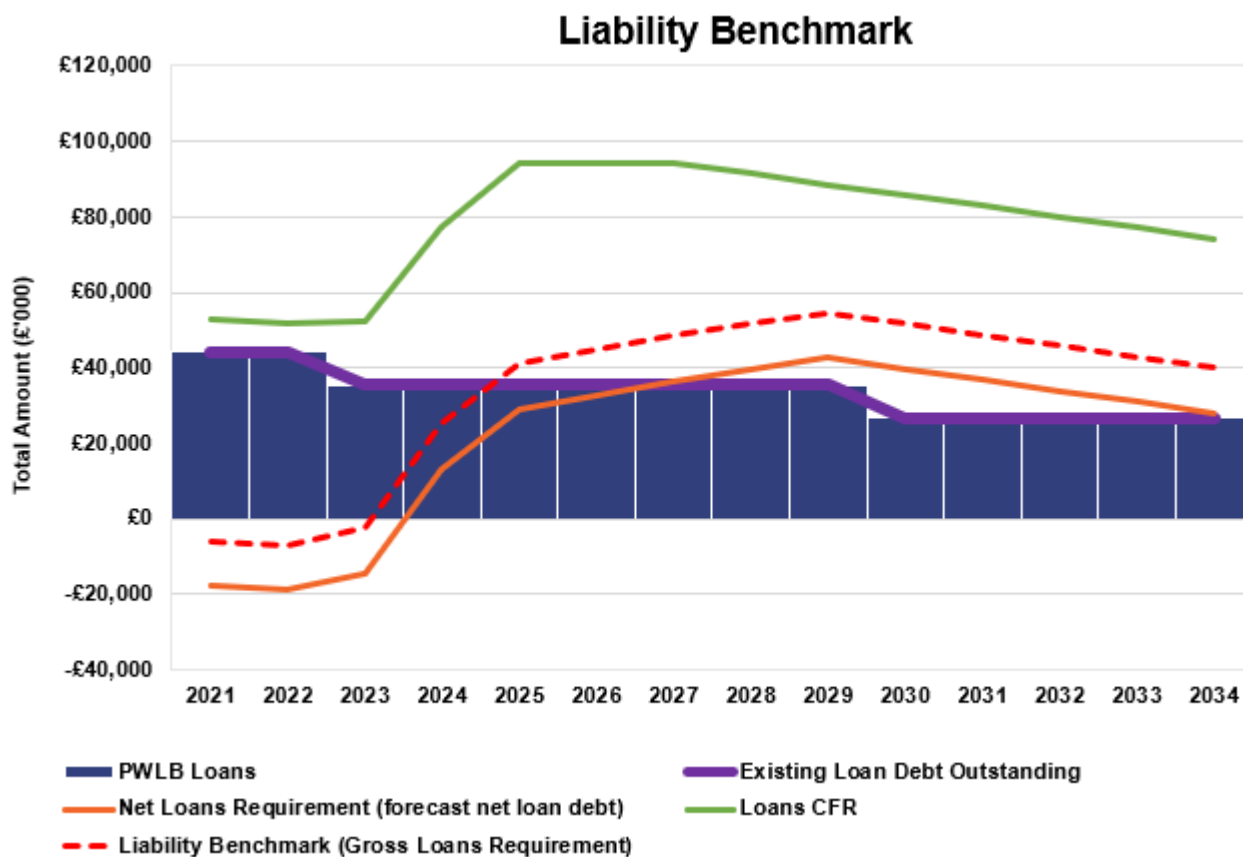
Treasury indicators	31 March 2024 Actual £000	2024/25 Original £000	June 2024 Position £000
Authorised Limit for External Debt:			
Borrowing	59,000	75,000	75,000
Other long-term liabilities	4,000	8,000	8,000
TOTAL	63,000	83,000	83,000
Operational Boundary for External Debt:			
Borrowing	55,000	70,000	70,000
Other long-term liabilities	4,000	8,000	8,000
TOTAL	59,000	78,000	78,000
Gross External Debt (Actual)			
Non – HRA	0	0	0
HRA	35,460	35,460	35,460
TOTAL	35,460	35,460	35,460
Remaining Authorised Limit for External debt:	27,540	47,540	47,540
Total Investments	42,765	40,000	48,010
Net borrowing (Net debt)	7,305	4,540	12,550

1.7. There is one treasury borrowing related prudential indicator against the maturity structure of the Council’s borrowing portfolio. Gross upper and lower percentage limits are set to limit exposure to large sums falling due for refinancing.

1.8. The current limits are shown in the table below:

Maturity structure of borrowing – upper & lower limits:	Actual fixed borrowing 30 June 24	lower limit	upper limit
Under 12 months	0%	0%	40%
12 months and within 24 months	0%	0%	40%
24 months and within 5 years	0%	0%	50%
5 years and within 10 years	25%	0%	60%
10 years and above	75%	0%	100%

1.9. The Liability Benchmark compares the Council’s actual existing borrowing against a Liability Benchmark that has been calculated to show the lowest risk level of borrowing.



1.10. The liability benchmark is a projection of the amount of loan debt outstanding that the authority needs each year into the future to fund its existing debt liabilities, planned prudential borrowing and other cash flows. The benchmark shows the gap between the authority's outstanding loans (purple line) at future points in time and the authority's need to borrowing (the benchmark- red line). It can be used to identify the debt maturities needed for new borrowing in order to match to future liabilities.

1.11. **An explanation of what this is showing is highlighted below:**

- The green line (at the top) represents the Loans CFR.
- The purple line represents the existing load debt outstanding and tracks the existing debt balance.

A liability benchmark above the current maturity portfolio, indicates an additional borrowing need, should the schemes in the CFR come to fruition.

1.12. It is a statutory duty for the Council to determine and keep under review the affordable borrowing limits. During the quarter ended 30th June 2024, the Council has operated within the treasury and prudential indicators set out in the Council's Treasury Management Strategy Statement for 2024/25. The Group Head of Finance reports that no difficulties are envisaged for the current or future years in complying with these indicators.

Arun District Council

REPORT TO:	Audit & Governance Committee - 3 October 2024
SUBJECT:	Updated Anti-Money Laundering Policy
LEAD OFFICER:	Antony Baden – Group Head of Finance and Section 151 Officer
LEAD MEMBER:	Councillor Matt Stanley
WARDS:	All
CORPORATE PRIORITY / POLICY CONTEXT / CORPORATE VISION:	
The Council must ensure that it complies with all legislation when delivering its corporate objectives.	
DIRECTORATE POLICY CONTEXT:	
The Proceeds of Crime Act 2002 and the Terrorism Act 2000 place certain obligations on the Council and its employees regarding suspected money laundering.	
FINANCIAL SUMMARY:	
There are no direct financial implications associated with this report.	

1. PURPOSE OF REPORT

- 1.1. To present the updated Anti-Money Laundering Policy to the Committee.

2. RECOMMENDATIONS

It is recommended that the Committee:

- 2.1. Agrees the proposed amendments and approves the updated Anti-Money Laundering Policy for adoption by the Council; and
- 2.2. Delegates authority to the Group Head of Finance & Section 151 Officer to make consequential changes to the Policy in respect of any organisational / legislative changes and minor typographical corrections.

3. EXECUTIVE SUMMARY

- 3.1. The Policy provides guidance and introduces safeguards to help staff identify and report instances where money laundering is suspected, and sets out the procedures which must be followed to enable employees to comply with their legal obligations.

4. DETAIL

- 4.1. While local authorities are not subject to the requirements of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, guidance from the Chartered Institute of Public Finance & Accountancy (CIPFA) indicates that they should still comply with the underlying spirit of the legislation and regulations by taking all reasonable steps to minimise the likelihood of money laundering, including putting in place proper policies and procedures.
- 4.2. The Council's Anti-Money Laundering Policy was last reviewed in 2015. A recent internal audit by the Southern Internal Audit Partnership (SIAP) raised the lack of recent review as an issue.
- 4.3. The Policy has been reviewed and references to legislation and parties involved updated, as appropriate.
- 4.4. The proposed revised policy is contained in Appendix A and the previous policy in Appendix B.

5. CONSULTATION

- 5.1. The document has been provided to the Corporate Leadership Team for review in advance of this meeting.

6. OPTIONS / ALTERNATIVES CONSIDERED

- 6.1. The Committee could request further information or changes to the final document prior to its adoption.

7. COMMENTS BY THE GROUP HEAD OF FINANCE AND SECTION 151 OFFICER

- 7.1. Adoption of the policy will enable the Group Head of Finance and Section 151 Officer to implement a recommendation from a recent internal audit report on the Council's Anti-Fraud framework, which advised that the policy be revisited and approved by Members.

8. RISK ASSESSMENT CONSIDERATIONS

- 8.1. The risk that the Council fails to meet its requirements under the legislation covering money laundering is low as the Council has not directly handle cash payments for its services for some time; rather cash payments are made via approved third parties e.g. the Post Office or other outlets via the AllPay service.

9. COMMENTS OF THE GROUP HEAD OF LAW AND GOVERNANCE & MONITORING OFFICER

9.1. The Terrorism Act 2000, Proceeds of Crime Act 2002 and the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 place the Council under a duty to take reasonable steps to minimise the risk of becoming involved in money laundering and to have in place safeguards and reporting arrangements for those purposes.

10.HUMAN RESOURCES IMPACT

10.1. There are no impacts.

11.HEALTH & SAFETY IMPACT

11.1. There are no impacts.

12.PROPERTY & ESTATES IMPACT

12.1. There are no impacts.

13.EQUALITIES IMPACT ASSESSMENT (EIA) / SOCIAL VALUE

13.1. There are no impacts.

14.CLIMATE CHANGE & ENVIRONMENTAL IMPACT/SOCIAL VALUE

14.1. There are no impacts.

15.CRIME AND DISORDER REDUCTION IMPACT

15.1. There are no impacts.

16.HUMAN RIGHTS IMPACT

16.1. There are no impacts.

17.FREEDOM OF INFORMATION / DATA PROTECTION CONSIDERATIONS

17.1. There are no specific FOI or Data Protection implications.

CONTACT OFFICER:

Name: Stephen Pearse
Job Title: Internal Audit Manager
Contact Number: 01903 737561

BACKGROUND DOCUMENTS: N/A

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Anti-Money Laundering Policy

Document owner:	Antony Baden, Group Head of Finance & S151 Officer
Version:	Draft
Date:	31 August 2024
Review date:	31 August 2027

1.0 Introduction

The Proceeds of Crime Act 2002 and the Terrorism Act 2000 place certain obligations on the Council and its employees regarding suspected money laundering.

Any employee could potentially be caught by the money laundering provisions if they suspect money laundering and either become involved with it in some way and/or do nothing about it. Failure to report these suspicions is a criminal offence.

This policy has therefore been adopted in order to provide guidance and introduce safeguards to help staff identify and report instances where money laundering is suspected.

2.0 Objectives and Scope

The policy sets out the procedures which must be followed to enable employees to comply with their legal obligations.

The aim of this policy is to prevent criminal activity through money laundering by:

- raising awareness of the legal and regulatory requirements affecting both individuals and the Council as a whole; and
- helping employees to correctly respond to any concerns they may have about money laundering in the course of their dealings for the Council.

This policy applies to all employees, whether permanent or temporary.

3.0 What is Money Laundering?

3.1 Definition

Money laundering is generally understood to mean the process by which illegally acquired funds (i.e. from crime or terrorism) are moved through financial systems so that they appear to come from a legitimate source. However, the term also covers a range of activities, which do not necessarily need to involve money.

3.2 Legislation

The main requirements of the UK anti-money laundering regime are set out in the:

- Proceeds of Crime Act 2002 (as amended by the Serious Organised Crime and Police Act 2005 and further amended by the Serious Crime Act 2015)
- Terrorism Act 2000 (as amended by the Anti-Terrorism, Crime and Security Act 2001 and the Terrorism Act 2006 and further amended by the Money Laundering Regulations 2007)
- Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (which supersede the Money Laundering Regulations 2007, 2012 and 2015).

Whilst local authorities are not subject to the requirements of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, guidance from the Chartered Institute of Public Finance & Accountancy (CIPFA) indicates that they should still comply with the underlying spirit of the

legislation and regulations by taking all reasonable steps to minimise the likelihood of money laundering, including putting in place proper policies and procedures.

3.3 *Legislative Requirements*

The main requirements of the legislation are:

- To nominate a Money Laundering Reporting Officer (MLRO)
- Maintain client identification procedures in certain circumstances
- Implement a procedure to enable the reporting of suspicions of money laundering
- Maintain record keeping procedures.

3.4 *Offences*

Money laundering offences under the Proceeds of Crime Act 2002 include:

- concealing, disguising, converting, transferring criminal property or removing it from the UK (section 327);
- entering into or becoming concerned in an arrangement which you know or suspect facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person (section 328); and
- acquiring, using or possessing criminal property (section 329).

There are also two secondary offences:

- failure to disclose any of the three primary offences above; and
- “tipping off” whereby somebody informs a person or persons who are, or who are suspected of being involved in money laundering, in such a way as to reduce the likelihood of their being investigated or prejudicing an investigation.

The Terrorism Act 2000 includes the money laundering offence of becoming concerned in an arrangement relating to the retention or control of property likely to be used for the purposes of terrorism or resulting from acts of terrorism.

3.5 *Penalties*

The consequences for staff committing an offence are potentially very serious. Money laundering offences may be tried at a Magistrates’ Court or in the Crown Court, depending on the severity of the suspected offence. Trials at the former can attract fines of up to £5,000, up to six months in prison or both. In a Crown Court, fines are unlimited, and sentences from two to fourteen years may be imposed.

4.0 **The Money Laundering Reporting Officer (MLRO)**

The officer nominated to receive disclosures about money laundering activity within the Council is Antony Baden, the Group Head of Finance & Section 151 Officer.

5.0 **How do I know when money laundering is taking place?**

It is not possible to give a definitive list of ways in which to identify money laundering or how to decide whether to make a report to the MLRO. The following are types of risk factors which may, either alone or cumulatively, suggest possible money laundering activity:

- Payment of a substantial sum in cash (i.e. over £10,000)
- Payment of lower cash sums where cash is not the normal means of payment

- A new customer or use of new/shell companies
- A secretive customer – e.g. refuses to provide requested information without a reasonable explanation
- Concerns about the honesty, integrity, identity or location of a customer
- Illogical third party transaction such as unnecessary routing or receipt of funds from third parties or through third party accounts
- Involvement of an unconnected third party without logical reason or explanation
- Overpayments by a customer or payments of deposits subsequently requested back
- Absence of an obvious legitimate source of funds
- Movement of funds overseas, particularly to a higher risk country or tax haven
- Unusual transactions or ways of conducting business, without reasonable explanation
- A transaction without obvious legitimate purpose or which appears uneconomic, inefficient or irrational
- The cancellation or reversal of an earlier transaction
- Requests for release of customer account details other than in the normal course of business
- Transactions at substantially above or below fair market values
- Poor business records or internal accounting controls
- A previous transaction for the same customer which has been, or should have been, reported to the MLRO
- Lack of ‘traceability’ of persons involved
- Individuals and companies that are insolvent yet have funds.

Facts that tend to suggest that something odd is happening may be sufficient for a reasonable suspicion of money laundering to arise.

6.0 What should I do if I suspect a case of money laundering?

Anyone who knows or suspects money laundering activity is either taking, or has taken, place **must** inform the MLRO immediately, either in person or in writing by completing Part A of the disclosure form included at the end of the policy.

If you do not disclose information immediately, then you may be liable to criminal prosecution.

If you are concerned that your involvement in the transaction would amount to a prohibited act under sections 327 to 329 of the Proceeds of Crime Act 2002, then your report must include all relevant details, as you will need consent from the National Crime Agency, via the MLRO, to take any further part in the transaction.

You should make it clear in the report if such consent is required and clarify whether there are any deadlines for giving such consent – e.g. a completion date or court deadline.

You must follow any subsequent directions from the MLRO but must not make any further enquiries into the matter or any related transactions.

You must not disclose or indicate your suspicions to the person suspected of the money laundering as this could be regarded as “tipping off” which is itself an offence.

Similarly, you must not discuss the matter with others or note on the file that a report has been made to the MLRO in case this results in the suspect becoming aware of the situation.

7.0 What will the MLRO do?

The MLRO will consider the report and any other available internal information he thinks relevant. This may include:

- reviewing other transaction patterns and volumes
- the length of any business relationship involved
- the number of any one-off transactions and linked one-off transactions
- any identification evidence held.

The MLRO will undertake any other enquiries deemed appropriate and will ensure that all available information is taken into account before deciding whether a report to the National Crime Agency (NCA) is required. When making further enquiries the MLRO must avoid any action which could tip off those involved, or which could give the appearance of tipping them off.

The MLRO may also need to discuss the report with you.

If the MLRO concludes that there is actual money laundering taking place, or that there are reasonable grounds to suspect so, he will record his reasoning in Part B of the disclosure form (included at the end of this policy) and must submit a Suspicious Activity Report (SAR) to the NCA immediately.

If consent is required to proceed with transactions for any prohibited acts under sections 327 to 329 of the Proceeds of Crime Act 2002, this can also be requested when the MLRO submits his report.

SARs are now submitted online through a secure portal via the NCA website www.nationalcrimeagency.gov.uk (registration required). This provides instant confirmation and a reference number once the report has been received.

The system does not retain a file copy for your use, so the MLRO should keep a copy of the report.

The MLRO will commit a criminal offence if he knows or suspects, or has reasonable grounds to do so, that another person is engaged in money laundering, and he does not disclose this to the NCA as soon as practicable.

Where the MLRO concludes that there are no reasonable grounds to suspect money laundering, or he suspects money laundering but has a good reason for non-disclosure, then this must be noted accordingly on Part B of the disclosure form and consent given in writing for any ongoing or imminent transactions to proceed. The MLRO should consult with the Council's Legal Services before reaching a non-disclosure decision. If in any doubt, the MLRO should always disclose.

8.0 Customer Due Diligence

The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 require 'relevant persons' (i.e. credit and financial institutions, audit and accountants' firms, tax advisers and insolvency practitioners,

independent legal professionals, trust or company service providers, estate agents, high value dealers and casinos) to perform additional checks when undertaking certain activities in the course of their business. This process is known as customer due diligence.

Customer due diligence measures consist of identifying and verifying the identity of the customer, and any beneficial owner of the customer, and obtaining information on the purpose and intended nature of the business relationship. Regulated businesses are required to undertake these measures where they establish a business relationship, carry out an occasional transaction over 15,000 euros, suspect money laundering or terrorist financing or doubt the accuracy of customer identification information.

The regulations concerning customer due diligence are detailed and complicated, and there is no legal obligation for local authorities to carry them out. However, Council employees are encouraged to adopt the regulations where practical to minimise the likelihood of money laundering.

The basic identity check for **existing business customers** is to verify that signed, written instructions on the organisation's headed paper were obtained at the outset of the business relationship.

For **new business customers**, the Council can exercise due diligence by conducting some simple enquiries such as:

- checking with the customer's website to confirm their business address
- conducting an online search via Companies House to confirm the nature and business of the customer and confirm the identities of any directors
- attending to the client at their business address
- seeking evidence of the key contact's personal identity (e.g. passport, photo ID card or driving licence) and position within the organisation.

If satisfactory evidence of identity is not obtained at the outset then the business relationship (or one-off transaction) should not proceed any further and you should report the matter immediately to the MLRO.

For further information on the customer due diligence requirements visit the money laundering regulations guidance on the GOV.UK website and go to the following location: <https://www.gov.uk/guidance/money-laundering-regulations-your-responsibilities>

9.0 Other Customer Checks

Staff dealing with transactions which involve income should be suspicious of any unusual payments received from private individuals – e.g. in respect of council tax, benefit overpayments, sundry debtors, etc. In particular, the following practices may indicate potential money laundering:

- large payments of cash
- substantial overpayments of debts followed by a request for a refund (especially if this happens more than once)
- substantial overpayments by credit or debit card where a cheque refund is requested (also a potential indication of credit card fraud)

Suggested checks include:

- Assess whether the size/method of payment seems reasonable given the nature and value of the debt
- Check whether substantial overpayments are due to a genuine mistake – e.g. the customer used the wrong payee details, accidentally made a duplicate payment or entered too many zeros on an Internet payment. (This excuse becomes less credible if the customer then repeats this behaviour once the matter is corrected)
- Consider whether the customer requesting a refund is attempting to introduce intermediaries to either protect their identity or hide their involvement. (The safest policy is to always refund the originating card/bank account).

Preferably, all of the above checks should be carried out based on information already received rather than through further contact with the customer. Care must be taken to avoid “tipping off” the customer.

If you are still suspicious about the transaction after carrying out the above checks, you should report the matter immediately to the MLRO.

10.0 Record Keeping

All disclosure reports referred to the MLRO and reports subsequently made to NCA must be retained by the MLRO in a confidential file kept securely for that purpose, for a minimum of five years.

Where operational, evidence of customer due diligence checks and details of all relevant business transactions carried out for those customers must also be kept for at least five years.

11.0 Guidance and Training

In support of this policy, the Council will:

- make all staff aware of the requirements and obligations placed on the Council and on themselves as individuals by the Anti-Money Laundering legislation; and
- provide targeted training to those officers considered most likely to encounter money laundering.

Note - It is the duty of officers to report all suspicious transactions whether they have received their training or not.

12.0 Conclusion

Given the nature of the Council’s services and for whom these services are provided, instances of suspected money laundering are unlikely to arise very often, if at all. However, we must be mindful of the legislative requirements, as failure to comply may render individuals liable to prosecution.

The Council believes that this policy represents a proportionate response to the level of risk faced.

Money Laundering Activity – Disclosure Form (Part A)

To report suspected money laundering, complete this form and pass it to the Money Laundering Officer (MLRO)

From:	Name:	
	Job Title:	
	Service:	
	Tel/Ext No:	

Date by which a response is required:

Details of suspected offence:

Name(s) and address(es) of person(s)/company/public body involved and nature of business if a company/public body:

Nature, value and timing of activity involved (e.g. what, when, where, how):

(Continue on a separate sheet if necessary)

Nature of suspicions regarding such activity:
<p><i>(Continue on a separate sheet if necessary)</i></p>

Has any investigation been undertaken (as far as you are aware)? <i>(Delete as appropriate)</i>	Yes / No
---	----------

If yes, please include details below:

Have you discussed your suspicions with anyone else? <i>(Delete as appropriate)</i>	Yes / No
---	----------

If yes, please specify below, explaining why such discussion was necessary:

Please set out below any other information you feel is relevant:

Signed: Dated:

Please do not discuss the content of this report with anyone you believe may be involved in the suspected money laundering activity described. To do so may constitute a “tipping off” offence under the Proceeds of Crime Act 2002 which carries a maximum penalty of five years imprisonment.

Money Laundering Activity – Disclosure Form (Part B)

This part of the form must be completed by the MLRO

SECTION 1 – ACKNOWLEDGEMENT AND REVIEW

Date report received by MLRO:	
Date receipt acknowledged:	

Consideration of disclosure to the National Crime Agency (NCA):

Action taken to review the report:

Outcome of consideration of disclosure:

Are there reasonable grounds for suspecting money laundering activity?

If there are reasonable grounds for suspicion, will a Suspicious Activity Report (SAR) be made to the NCA? (Delete as appropriate)	Yes / No
---	----------

If yes, please complete Section 2. If no, go straight to Section 3.

SECTION 2 – DETAILS OF LIAISON WITH THE NCA

Date of Report:		Reference Number:	
------------------------	--	--------------------------	--

Notice Period:	From:	To:
Note – the NCA has 7 working days starting from the first working day after the consent request is made to refuse continuation of the activity. If no refusal has been received, consent is deemed to have been given and the activity may continue.		
Moratorium Period:	From:	To:
Note – if consent is refused during the notice period, a further 31 days starting with the day on which consent is refused must elapse before the activity may continue. In the absence of any action to restrain the activity by law enforcement during the moratorium period the activity may continue.		

Is consent required from the NCA to any ongoing or imminent transactions which would otherwise be prohibited acts? <i>(Delete as appropriate)</i>	Yes / No
---	----------

Record of consent given by the NCA

Date:		Time:	
--------------	--	--------------	--

SECTION 3 – NON-DISCLOSURE

If there are reasonable grounds to suspect money laundering, but you do not intend to report the matter to the NCA, please set out below the reason(s) for non-disclosure:
Note – include details of any discussions with other officers (e.g. Legal Services) together with their name(s) and the advice given.

SECTION 4 – RECORD OF CONSENT GIVEN BY THE MLRO

Consent given by the MLRO for the employee:	Date:
To proceed with the transaction	
For any prohibited act transactions to proceed	

SECTION 5 – ANY OTHER RELEVANT INFORMATION

Signed: Dated:

Print Name:

THIS REPORT MUST BE RETAINED FOR AT LEAST FIVE YEARS

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PROCEEDS OF CRIME (ANTI-MONEY LAUNDERING) – ARUN DISTRICT COUNCIL'S, AND YOUR OWN PERSONAL, RESPONSIBILITIES

PURPOSE

These notes are important. They are designed to help you familiarise yourself with the legal and regulatory requirements relating to money laundering, as they affect both the organisation and you personally.

WHAT IS MONEY LAUNDERING?

Money laundering is the term used for a number of offences involving the proceeds of crime or terrorist funds. The following acts constitute the act of money laundering:-

- concealing, disguising, converting, transferring or removing criminal property from the UK
- to enter into, or becoming concerned in, an arrangement in which someone knowingly or suspects facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person
- acquiring, using or possessing criminal property.

Although the term 'money laundering' is generally used when describing the activities of organised crime (for which the legislation and regulations were first and foremost introduced), to most people who are likely to come across it or be affected by it, it involves a suspicion that someone they know, or know of, is benefiting financially from dishonest activities.

'Criminal property' is defined very widely in the law relating to money laundering. It includes not only the proceeds of crime committed by somebody else, but also possession of the proceeds of an individual's own crime (for example, the retention of monies from non-payment of income tax). It does not matter how small the amount of money involved is. It also includes the proceeds of crimes that take place abroad.

WHAT LAWS EXIST TO CONTROL MONEY LAUNDERING?

In recent years, new laws have been passed which shift significantly the burden for identifying acts of money laundering away from government agencies and more towards organisations and their employees. They prescribe potentially very heavy penalties, including imprisonment, for those who are convicted of breaking the law. These laws are important and, for those who wish to refer to them, and we hope you will, a list of them appears at the end of these notes, together with a list of useful websites.

WHAT IS THIS ORGANISATION'S POLICY ON MONEY LAUNDERING?

Our policy is to do all we can to prevent, wherever possible, the organisation and its staff being exposed to money laundering, to identify the potential areas where it may occur and to comply with all legal and regulatory requirements, especially with regard to the reporting of actual or suspected cases. We cannot stress too strongly, however, that it is every member of staff's responsibility to be vigilant.

The organisation has nominated Alan Peach (Head of Finance & Property) to be responsible for anti-money laundering measures within the organisation.

WHAT ARE THE MAIN MONEY LAUNDERING OFFENCES?

There are three principal offences – concealing, arranging and acquisition/use/possession.

Concealing is where someone knows, or suspects, a case of money laundering but conceals or disguises its existence. **Arranging** is where someone involves himself or herself in an arrangement to assist in money laundering. **Acquisition** (etc.) is where someone seeks to benefit from money laundering by acquiring, using or possessing the property concerned.

There are also two 'third party' offences – failure to disclose one of the three principal offences and 'tipping-off'. **Tipping off** is where someone informs a person or people who are, or are suspected of being, involved in money laundering, in such a way as to reduce the likelihood of their being investigated, or prejudicing an investigation.

All the money laundering offences may be committed by an organisation or by the individuals working for it.

LEGISLATION AND REGULATIONS RELATING TO MONEY LAUNDERING

The Proceeds of Crime Act 2002, Part 7

The Terrorism Act 2000

The Money Laundering Regulations 2007

PROCEEDS OF CRIME ACT 2002

Money laundering has the objective of concealing the origin of money generated through criminal activity. Legislation has given a higher profile to the need to report suspicions of money laundering. The Proceeds of Crime Act (POCA) 2002 established the main offences relating to money laundering. In summary, these are:-

- concealing, disguising, converting, transferring or removing criminal property from the UK (s.327)

- being concerned in an arrangement which a person knows or suspects facilitates the acquisition, retention use or control of criminal property (s.328)
- acquiring, using or possessing criminal property (s.329).

These apply to all persons in the UK in a personal and professional capacity. Any person involved in any known or suspected money-laundering activity in the UK risks a criminal conviction. Other offences under the POCA include:-

- failure to disclose money-laundering offences
- tipping off a suspect, either directly or indirectly
- doing something that might prejudice an investigation – for example, falsifying a document.

THE TERRORISM ACT 2000

This act made it an offence of money laundering to become concerned in an arrangement relating to the retention or control of property likely to be used for the purposes of terrorism, or resulting from acts of terrorism. All individuals and businesses in the UK have an obligation to report knowledge, reasonable grounds for belief or suspicion about the proceeds from, or finance likely to be used for, terrorism or its laundering, where it relates to information that comes to them in the course of their business or employment

THE MONEY LAUNDERING REGULATIONS 2007

Organisations pursuing relevant business (especially those in the financial services industry regulated by the FSA) are required to appoint a nominated officer and implement internal reporting procedures; train relevant staff in the subject; establish internal procedures with respect to money laundering; obtain, verify and maintain evidence and records of the identity of new clients and transactions undertaken and report their suspicions. In December 2007 the UK Government published the Money Laundering Regulations 2007, which replaced the Money Laundering Regulations 2003.

LOCAL AUTHORITIES

Public service organisations and their staff are subject to the full provisions of the Terrorism Act 2000 and may commit most of the principal offences under the POCA, but are not legally obliged to apply the provisions of the Money Laundering Regulations 2007. However, as responsible public bodies, they should employ policies and procedures which reflect the essence of the UK's anti-terrorist financing and anti-money laundering, regimes. Accordingly this Council will do the following: -

- a) evaluate the prospect of laundered monies being handled by them
- b) determine the appropriate safeguards to be put in place
- c) require every person engaged in treasury management to make themselves aware of their personal and legal responsibilities for money laundering awareness

- d) make all its staff aware of their responsibilities under POCA
- e) appoint a member of staff to whom they can report any suspicions. This person is the Head of Finance & Property
- f) in order to ensure compliance is appropriately managed, this Council will require senior management to give appropriate oversight, analysis and assessment of the risks of clients and work/product types, systems for monitoring compliance with procedures and methods of communicating procedures and other information to personnel
- g) the officer responsible for the creation and monitoring the implementation of a corporate anti-money laundering policy and procedures is the Head of Finance & Property and it shall be a requirement that all services and departments implement this corporate policy and procedures.

PROCEDURES FOR ESTABLISHING IDENTITY/AUTHENTICITY OF LENDERS

It is not a requirement under POCA for local authorities to require identification from every person or organisation it deals with. However, in respect of treasury management transactions, there is a need for due diligence and this will be effected by following the procedures below.

Either:-

The Council does not accept loans from individuals

Or

It is no longer Council policy to accept loans from individuals, although it did in the past (*if applicable - and has a small, immaterial residue of loans still on its books*).

All loans are obtained from the PWLB, other local authorities or from authorised institutions under the Financial Services and Markets Act 2000. This register can be accessed through the FSA website on www.fsa.gov.uk.

When repaying loans, appropriate procedures will be followed to check the bank details of the recipient.

Or (if the Council accepts loans from individuals)

Before accepting loans from individuals, the Council will confirm the identity of the lender.

METHODOLOGIES FOR IDENTIFYING DEPOSIT TAKERS

In the course of its treasury management activities, the Council will only lend money to, or invest with, those counterparties that are on its approved lending list. These will be local authorities, the PWLB, Bank of England and authorised deposit takers under the Financial Services and Markets Act 2000. The FSA register can be accessed through their website on www.fsa.gov.uk.

All transactions will be carried out by CHAPS for making deposits or repaying loans.

WHAT ARE THE IMPLICATIONS FOR THE ORGANISATION AND IT'S STAFF?

The organisation has accepted the responsibility to ensure that those of its staff who are most likely to be exposed to money laundering can make themselves fully aware of the law and, where necessary, are suitably trained. The organisation has also implemented procedures for reporting suspicious transactions and, if necessary, making an appropriate report to the National Criminal Intelligence Service (NCIS).

The consequences for staff of committing an offence are potentially very serious. Whilst it is considered most unlikely that a member of staff would commit one of the three principal offences, the failure to disclose a suspicion of a case of money laundering is a serious offence in itself, and there are only very limited grounds in law for not reporting a suspicion.

Whilst stressing the importance of reporting your suspicions, however, you should understand that failure to do so is only an offence if your suspicion relates, in the event, to an actual crime.

WHAT ARE THE PENALTIES?

Money laundering offences may be tried at a Magistrate's Court or in the Crown Court, depending on the severity of the suspected offence. Trials at the former can attract fines of up to £5,000, up to six months in prison, or both. In a Crown Court, fines are unlimited and sentences from two to 14 years may be handed out.

WHAT SHOULD I DO IF I SUSPECT A CASE OF MONEY LAUNDERING?

You should report the case immediately to Alan Peach, either using a form he will give to you or, if you prefer, in a discussion. Alan Peach will decide whether the transaction is suspicious and whether to make a report to the NCIS. There is no clear definition of what constitutes suspicion – common sense will be needed. If you are considered likely to be exposed to suspicious situations, you will be made aware of these by your senior officer and, where appropriate, training will be provided.

SUMMARY

Robust money laundering procedures are essential if this organisation and its staff are to comply with our responsibilities and legal obligations. It falls to you as a member of the organisation's staff, as well as to the organisation itself, to follow these procedures rigorously.

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Arun District Council

REPORT TO:	Audit & Governance Committee - 3 October 2024
SUBJECT:	Updated Anti-Fraud, Corruption & Bribery Policy
LEAD OFFICER:	Antony Baden – Group Head of Finance and Section 151 Officer
LEAD MEMBER:	Councillor Matt Stanley
WARDS:	All
CORPORATE PRIORITY / POLICY CONTEXT / CORPORATE VISION:	
<p>Arun District Council is committed to the prevention, detection and investigation of fraud and corruption. It is expected that all those who work for, serve or deal with the Council will act in a fair and honest way. Financial resources are essential to delivering all the Council’s corporate vision and priorities and the Anti-Fraud, Corruption & Bribery Policy supports the safeguarding of Council’s resources.</p>	
DIRECTORATE POLICY CONTEXT:	
<p>The Council recognizes that the risk of loss through theft, fraud or corruption, both internal and external, is a part of business life that needs to be managed effectively in support of its corporate objectives. The Anti-Fraud, Corruption & Bribery Policy aims to minimize such losses.</p>	
FINANCIAL SUMMARY:	
<p>There are no direct financial implications associated with this report.</p>	

1. PURPOSE OF REPORT

- 1.1. To present the updated Anti-Fraud, Corruption & Bribery Policy to the Committee.

2. RECOMMENDATIONS

It is recommended that the Committee:

- 2.1. Agrees the proposed amendments and approves the updated Anti-Fraud, Corruption & Bribery Policy for adoption by the Council; and
- 2.2. Delegates authority to the Group Head of Finance & Section 151 Officer to make consequential changes to the Policy in respect of any organisational / legislative changes and minor typographical corrections.

3. EXECUTIVE SUMMARY

- 3.1. The Audit & Governance Committee is the designated body for oversight of the Council’s anti-fraud culture.

The Policy sets out Arun's position in relation to fraud, theft, corruption and bribery. This includes the roles and responsibilities of employees and other parties involved in the running of the Council's operations and its approach to the detection and investigation of incidents of fraud or corruption.

4. DETAIL

- 4.1. The Council's Anti-Fraud, Corruption & Bribery Policy was last updated and approved by Members in 2019. A recent internal audit by the Southern Internal Audit Partnership (SIAP) raised the lack of recent review as an issue.
- 4.2. The Policy has been reviewed and minor updates applied. In line with SIAP comments, the opportunity has also been taken to restructure and better organize the document.
- 4.3. The proposed revised policy is contained in Appendix 1 and the previous policy in Appendix 2.

5. CONSULTATION

- 5.1. The document has been provided to the Corporate Leadership team for comment.

6. OPTIONS / ALTERNATIVES CONSIDERED

- 6.1. The Committee could request further information or changes to the final document prior to its adoption.

7. COMMENTS BY THE GROUP HEAD OF FINANCE AND SECTION 151 OFFICER

- 7.1. Whilst there are no direct financial implications associated with this policy, it is designed to minimize the risk of loss through theft, fraud or corruption from internal and external parties. It cannot be a foolproof safeguard, but the policy plays a key role in the optimizing the Council's resources and the provision of local services.
- 7.2. Adoption of the policy will enable the Group Head of Finance and Section 151 Officer to implement a recommendation from a recent internal audit report on the Council's Anti-Fraud framework, which advised that the policy be revisited and approved by Members.

8. RISK ASSESSMENT CONSIDERATIONS

- 8.1. The risk of fraud is inherent in the Council and all businesses. In order to reduce the risk of such incidents, the Council must have a published policy detailing its position and actions to be taken to prevent, detect and investigate fraud and corruption and all employees and other interested parties made aware of this.

9. COMMENTS OF THE GROUP HEAD OF LAW AND GOVERNANCE & MONITORING OFFICER

- 9.1. The Council could incur financial loss if it fails to implement and cascade adequate policies and procedures to prevent fraud, corruption and bribery as well as keeping abreast of new initiatives reassessing our processes against suggested best practice. By having adequate policies and procedures in place this can support a credible defence against any possible action against the Council.

10.HUMAN RESOURCES IMPACT

- 10.1. There are no impacts.

11.HEALTH & SAFETY IMPACT

- 11.1. There are no impacts.

12.PROPERTY & ESTATES IMPACT

- 12.1. There are no impacts.

13.EQUALITIES IMPACT ASSESSMENT (EIA) / SOCIAL VALUE

- 13.1. There are no impacts.

14.CLIMATE CHANGE & ENVIRONMENTAL IMPACT/SOCIAL VALUE

- 14.1. There are no impacts.

15.CRIME AND DISORDER REDUCTION IMPACT

- 15.1. There are no impacts.

16.HUMAN RIGHTS IMPACT

- 16.1. There are no impacts.

17.FREEDOM OF INFORMATION / DATA PROTECTION CONSIDERATIONS

- 17.1. There are no specific FOI or Data Protection implications.

CONTACT OFFICER:

Name: Stephen Pearse
Job Title: Internal Audit Manager
Contact Number: 01903 737561

BACKGROUND DOCUMENTS:

N/A

Anti-Fraud, Corruption & Bribery Policy

Document owner:	Antony Baden, Group Head of Finance & S151 Officer
Version:	1.1
Date:	31 August 2024
Review date:	31 August 2027

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A. Policy Statement and Strategy

Introduction

- 1.1. Arun District Council is an organisation with £M's of assets, interests and annual transactions. The Council recognises that the risk of loss through theft, fraud or corruption, both internal and external, is a part of business life that needs to be managed effectively in support of its corporate objectives.
- 1.2. In 2017 it was estimated that fraud against local government cost over £7 billion per year. This is a significant loss to the public purse. To reduce these losses Arun District Council is committed to:
- the highest standards of probity in the delivery of its services, ensuring proper stewardship of its funds and assets
 - the prevention of fraud and the promotion of an anti-fraud culture
 - a zero-tolerance attitude to fraud requiring staff and Members to always act honestly and with integrity, and to report all reasonable suspicions of fraud
 - ongoing review of the likelihood of fraud, corruption and bribery risks that the Council faces and proactive improvement in its processes and controls to counter new and existing threats
 - the investigation of all instances of actual, attempted or suspected fraud. The Council will seek to recover any losses and pursue appropriate sanctions against the perpetrators. This may include criminal prosecution, disciplinary action, legal proceedings and professional sanctions.
- 1.3 The Council's strategy adheres to the CIPFA Code of Practice on Managing the Risk of Fraud and Corruption (2014) and links to the five key themes contained within the Local Government Fraud Strategy: Fighting Fraud & Corruption Locally (2020):
- **Govern** – having robust arrangements and executive support to ensure anti-fraud, bribery and corruption measures are embedded throughout the organisation. Having a holistic approach to tackling fraud is part of good governance
 - **Acknowledge** – acknowledging and understanding fraud risks and committing support and resource to tackling fraud in order to maintain a robust anti-fraud response
 - **Prevent** – preventing and detecting more fraud by making better use of information and technology, enhancing fraud controls and processes and developing a more effective anti-fraud culture

- **Pursue** – punishing fraudsters and recovering losses by prioritising the use of civil sanctions, developing capability and capacity to investigate fraudsters and developing a more collaborative and supportive local enforcement response
- **Protect** – protecting against serious and organised crime, protecting individuals from becoming victims of crime and protecting against the harm that fraud can do to the community.

Definitions

1.4. Fraud is defined as any activity where deception is used for personal gain or to cause loss to another. Under the Fraud Act 2006, fraud can be committed in one of three ways:

- **Fraud by false representation** – Examples include providing false information on a grant or other application, staff claiming to be sick when they are in fact fit and well or submitting time sheets or expenses with exaggerated or entirely false hours and/or expenses
- **Fraud by failing to disclose information** – Examples include failing to disclose a financial interest in a company the Council is trading with or failing to disclose a personal relationship with someone who is applying for a job at the Council
- **Fraud by abuse of position** – Examples include a carer who obtains money or gifts by deceiving the person they are caring for, or staff who order goods and services through the Council's accounts for their own use.

While fraud is often seen as a complex financial crime, in its simplest form, fraud is lying. Some people will lie, or withhold information, or generally abuse their position to try to trick someone else into believing something that is not true.

This Policy covers:

Fraud – which for the purposes of this Policy includes:

- an undisclosed theft or misappropriation of an organisation's assets – physical or intellectual
- an intentional false representation of financial information or other records, which induces one or more parties into an action which results in financial loss to the organisation
- an intentional "perversion of truth" or a "false misrepresentation of a matter of fact", which induces another person to "part with some valuable thing belonging to them or to surrender a legal right"
- dishonestly obtaining services from another on the understanding that the benefit has been, or will be paid for.

Fraud includes such acts as criminal deception, forgery, theft, conspiracy, collusion, corruption and falsification.

Theft - dishonestly obtaining property belonging to another with the intention to permanently deprive the other of it.

Corruption/Bribery - which includes the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person to act inappropriately.

B. Standards & Culture

- 2.1. The Council commits to high standards of integrity, honesty and transparency in its operations, contractual arrangements and financial systems and has a range of policies and controls to ensure employees and elected Members are able to maintain these standards and obtain assurance that they are effective.
- 2.2. The Council's Members, employees and other stakeholders are an important element in its stance on fraud and corruption and they are positively encouraged to raise any concerns they may have. They can do this in the knowledge that such concerns will be treated in confidence and properly investigated. Protection is afforded to individuals through the Council's Whistleblowing Policy, which is available on the Council's website and, if necessary, a route other than via a line manager may be used to raise such concerns.
- 2.3. Members of the public are also encouraged to report concerns through routes contained in the Whistleblowing Policy or, if appropriate, through the Council's Complaints Procedure.

Other relevant policies and procedures

- 2.4. In addition to this strategy there are a range of policies and procedures that help reduce the Council's fraud risks. These include:
 - Anti-Bribery Policy
 - Anti-Money Laundering Policy
 - Whistleblowing Policy
 - Employee Code of Conduct
 - Disciplinary Procedure
 - Member Code of Conduct
 - Local Assessment Procedure (Members)
 - Financial Procedure Rules (Regulations)
 - Standing Orders on Contracts and Procurement.

C. Roles and Responsibilities

The Role of Elected Members

- 3.1 Policy decisions within the Council are made by elected Members who are subject to election every four years. All Members are expected to operate within the adopted the Members Code of Conduct detailed in Part 8, Section 1 of the Council's Constitution. Elected Members are required on accepting office to declare that they will observe the Code, which includes the requirement to disclose any 'pecuniary' or 'personal' interests, and to complete the Register of Members Interests within 28 days of election. These matters are specifically brought to the attention of Members during their induction training.
- 3.2 The Council's Constitution sets out:
 - how the Council operates
 - how decisions are made
 - the procedures to be followed to ensure that these are transparent and accountable.

It is divided into 9 Parts which provide the basic rules governing the Council's business.

3.3 The Council expects its Members to lead by example and act with integrity, following the 7 'Nolan' principles, published by the Committee on Standards in Public Life and detailed in Part 8, Section 1 of the Council's Constitution. These are:

- selflessness
- integrity
- objectivity
- accountability
- openness
- honesty
- leadership.

For more details, please see Appendix B.

The Role of the Standards Committee

3.4 The Local Government Act 2000 (amended in 2003) sets out an ethical framework which required the establishment of a Standards Committee. The Council's Standards Committee, established under the Act, has a duty to promote and maintain high standards of conduct by councillors and co-opted members, and to monitor and assist them in observing the Member Code of Conduct.

3.5 The Committee is comprised of 11 Members and 3 independent persons, who are neither Members nor officers of the Council and are also not relatives / close friends of Members / officers. The Chairman of the Committee is appointed annually by Full Council.

3.6 An Assessment Panel has been established with the power to conduct a hearing, take decisions and determine sanctions in relation to an allegation that a member has failed to comply with the Member Code of Conduct where the matter is referred to the Monitoring Officer by way of a complaint.

3.7 The current Local Assessment Procedure, setting out how a complaint against a Councillor is dealt with, was approved by Full Council in 2021 and is subject to regular review.

The Role of Management

3.8 Management has a crucial role to play in the prevention and detection of fraud and irregularities. They are responsible for maintaining an adequate system of internal control and ensuring that resources are properly applied as intended. This includes responsibility for the prevention and detection of fraud and other illegal acts.

3.9 Managers at all levels are responsible for the implementation and communication of this Anti-Fraud, Corruption & Bribery Policy to all staff in their work area. They are also responsible for ensuring employees are aware of the Council's Constitution, Standing Orders and Financial Regulations and that the requirements of each are being met in their everyday business activities. The Council's Code of Corporate Governance shows how the Council is directed and controlled and seeks to ensure high standards of probity.

3.10 Managers are expected to create an environment in which their staff feel able to approach them with any concerns they may have about suspected irregularities. Any

concern about fraud or misconduct must be treated seriously and followed up promptly in accordance with the Council's Constitution or through the Council's Whistleblowing Policy. Failure to observe these procedures may result in the authority being unable to take the appropriate actions or may even constitute a breach of the human rights of those subjected to any investigation.

- 3.11 Managers must ensure that where employees are involved in the operation of financial systems (e.g. payroll, benefits, council tax, etc.) relevant training in the proper procedures to be followed is provided and updated as necessary.
- 3.12 Managers are required under the Council's Financial Regulations to report any suspected irregularity in the exercise of the functions of the Council to the Group Head of Finance, who shall take steps as considered necessary by way of investigation and reporting.

The Role of Employees

- 3.13 The public is entitled to demand the highest standard of conduct from local government officers. Public confidence in an Officer's integrity would be shaken were the least suspicion to arise that s/he could in any way be influenced by improper motives. With this in mind, Officers are bound by the Council's adopted local Employee Officer Code of Conduct. The Code outlines existing laws, regulations and conditions of service, provides guidance to assist employees in their day-to-day work and includes requirements concerning the declaration and registration of personal interests and hospitality and gifts.
- 3.14 S117(1) of the Local Government Act 1972 (disclosure by Officers of interests in contracts) and S117(2) also forbid an Officer under cover of his/her employment to accept any fee whatsoever as reward, other than proper remuneration.
- 3.15 Employees are required to provide a periodic declaration of any financial and non-financial interests or commitments, which may conflict or may be reasonably perceived to conflict with Council's interests. Failure to disclose an interest or the acceptance or offering of an inappropriate reward may result in disciplinary action or criminal liability (in which case the matter will be referred to the police).
- 3.16 All staff should act in accordance with the general principles of public life (see Appendix B).

D. Prevention

Responsibilities of Employees and Their Managers

- 4.1 The Council recognises that a key preventative measure in the fight against fraud and corruption is to take effective steps at the recruitment stage to establish, as far as possible, the previous record of potential employees, in terms of their propriety and integrity. In this regard temporary and agency workers should be treated in the same manner as permanent employees.
- 4.2 Employee recruitment is required, therefore, to be in accordance with procedures laid down by the Council and applied by Human Resources (equivalent checks will be made through employment agencies where appropriate):
 - the Council's Recruitment and Selection Policy (maintained by Human Resources) outlines the procedures to be followed in the recruitment and selection process

- in particular, the Council's application form requires, amongst other things, a minimum of two referees be provided, the disclosure of all relationships with other employees or Members and convictions for criminal offences, including bind-overs and cautions. If successful at interview, candidates are also required to produce evidence of qualifications and work permits, where appropriate. The Local Authorities (Standing Orders) (England) Regulations 2001 prescribe the procedure to be followed in respect of the appointment of Chief Officers and their dismissal in the event of misconduct
- the Council's Employee Code of Conduct requires that where employees are involved in appointments, these should be made on the basis of merit. An employee must not be involved in any appointment where they are related to the applicant or have a close personal relationship with them.

4.3 All employees should be alert to the possibility of fraud and corruption in the workplace. Concerns must be raised in the first instance with their manager, who should notify the Group Head of Finance in accordance with the Council's Constitution or through the Whistleblowing Policy. The Council also has a Complaints Procedure for handling comments, representations, and criticisms of policy and formal complaints.

4.4 All employees are expected to be familiar with and to comply with the Council's Standing Orders and Financial Regulations (as contained in the Constitution) and any other relevant policies and legislation in the conduct of any business transacted on behalf of the Council. New employees receive appropriate induction information, which shall include awareness of the Anti-Fraud, Corruption & Bribery Policy.

4.5 Employees are expected to follow any code of conduct related to their personal professional body and also abide by the Council's Employee Code of Conduct which is referred to in all contracts of employment and can be accessed via Sharepoint.

4.6. The Council has in place a Disciplinary Procedure for all employees which includes a robust investigation procedure.

Responsibilities of Management

4.7. The primary responsibility for the prevention and detection of fraud is with management. They must ensure that they have the appropriate controls in place, that those controls are operating as expected and being complied with. They must ensure that adequate levels of checks are included in working practices, particularly financial. It is important that duties are organised in such a way that no one person can carry out a complete transaction with financial consequences without some form of recorded checking or approval process being built into the system.

4.8. Managers are responsible for following up and escalating any allegation of fraud or corruption received. There is a need to ensure that any investigation process is based on credible evidence or reliable grounds for suspicion and is not misused. Any abuse such as raising unfounded or malicious allegations will be dealt with as a serious matter which may result in disciplinary action.

Contractors, Suppliers and Service Providers

4.9. The Council expects that:

- individuals and partners (e.g. suppliers, contractors) will act towards the Council with integrity and without intentions or actions involving or creating risks of fraud and corruption
- contractors will be able to demonstrate that they have adequate systems of control to ensure the prevention and detection of fraud and corruption in relation to services provided to or for the Council
- all employees or representative of partners or others the Council has dealings with should report any concerns they have through the Fraud Hotline, Whistleblowing Policy or Complaints Procedure.

4.10. The Council will, wherever practicable make it a condition of the contract that:

- (a) the contractor and the contractor's representatives shall familiarise themselves with the Council's Standing Orders on Procurement and Contracts, the Council's Anti-Fraud, Corruption & Bribery Policy and the Council's Whistleblowing Policy
- (b) if any of the contractor's representatives makes a protected disclosure (as defined by relevant law) that representative shall not for that reason be subjected to any detriment or disadvantage by the contractor or anyone acting for them.

Responsibilities of Partnerships and Voluntary Organisations

4.11 All partnerships and joint working arrangements that are in receipt of Council funding or resources are expected to demonstrate appropriate mechanisms for control which ensure the prevention and detection of fraud and corruption.

4.12. Voluntary organisations should be expected to follow the standards set by the Council, including the need to report any concerns over possible fraud and corruption in relation to activities connected with the Council or involving Council funds.

Internal Control System for Financial Administration

4.13. The Council's Constitution which incorporates Contract Standing Orders and Financial Regulations, provides a framework for entering into contracts for the procurement of goods and services. Such contracts are also subject to the procedures and restrictions contained in all relevant statutory provisions.

4.14. The Group Head of Finance (& S151 Officer) has a statutory responsibility under Section 151 of the Local Government Act 1972 to ensure the proper arrangements of the Council's financial affairs and the Council has developed systems of control which underpin Financial Regulations and Financial Procedures and outline the systems, procedures and responsibilities of staff in relation to the Council's financial activity.

4.15. The Council's Information Security and Data Protection policies set out the policy of the Council regarding the security of its computer systems and data, in order to guarantee the confidentiality, integrity and availability of its information and systems. They also set out procedures to ensure that sensitive information is protected from unauthorised disclosure and the accuracy and completeness of that information is safeguarded in accordance with current data protection legislation.

4.16. External exposure to IT fraud and theft via electronic systems is prevented by the deployment of firewall technology, the use of encryption techniques and the separation of access controls.

- 4.17. There is a requirement for all staff to undertake data security training to safeguard data and reduce the risk of data loss to fraud and error.
- 4.18. The existence, appropriateness and effectiveness of these internal controls are independently monitored by the Council's internal audit service, which is provided by the Southern Internal Audit Partnership (SIAP). Additionally, the Council's published Annual Governance Statement includes a review of the effectiveness of controls.
- 4.19. Under section 5 of the Local Government and Housing Act 1989 the Council has to appoint a Monitoring Officer. At Arun this is the Group Head of Law & Governance.
- 4.20. It is the duty of the Monitoring Officer to report potential or actual illegality. Any type of fraud and corruption is illegal and, therefore, the Monitoring Officer will have a key role with the Section 151 officer in uncovering and dealing with allegations or instances of fraud and corruption.

Working with Others

- 4.21. Arrangements are in place and continue to develop to encourage the exchange of information between the Council and other agencies on national and local fraud and corruption activity in relation to local authorities. The Council participates in the National Fraud Initiative through the sharing and matching of mandated data with other public agencies.
- 4.22. With the rapid increase in recent years of frauds perpetrated against a variety of organisations, which usually include fraudsters having multi-identities and addresses, the necessity to liaise between organisations has become paramount, and some of these include:
- Police
 - Other local authorities
 - National Anti-fraud Network (NAFN)
 - Appointed external auditors
 - Other outside agencies.

National Fraud Initiative

- 4.23. Arun District Council participates in the National Fraud Initiative (NFI). This requires public bodies to submit a number of data sets (to the Cabinet Office) for example payroll, council tax and accounts payable (but not limited to these) which is then matched to other data held by public and private sector bodies (e.g. payroll, pensions and benefits). In return, positive matches (e.g. an employee on the payroll also in receipt of other payments from public sector bodies) are provided for investigation.

Training

- 4.24 The Council recognises that the continuing success of its anti-fraud and corruption strategy will depend largely on risk awareness, the effectiveness of training and responsiveness of staff throughout the organisation.
- 4.25 To facilitate this, the Council will provide training, particularly for staff involved in internal control systems, to ensure that their responsibilities and duties in this respect are regularly highlighted and reinforced. General fraud awareness will be made available to all staff.
- 4.26 The likelihood of disciplinary action against staff who ignore such training and guidance is part of the Council's anti-fraud policy.

4.27 The investigation of fraud and corruption will be undertaken by appropriately trained staff – this will generally be through SIAP's Counter Fraud Unit.

E. Detection and Investigation

5.1 All Group Heads and other managers must aim to prevent and detect fraud and corruption. This is achieved by maintaining good control systems within the organisation, and ensuring people work within them. All managers should assess the risk of fraud in their areas and take active steps to mitigate these risks.

5.2 The preventative systems, particularly internal control systems within the Council, have been designed to provide indicators of, and help to deter, any fraudulent activity.

5.3 It is often the alertness of the Council's employees and the public to indicators of fraud and corruption that enables detection to occur and the appropriate action to take place when there is evidence that fraud or corruption may have been committed or is in progress.

5.4. Many frauds are discovered by chance or 'tip-off' and the Council has in place arrangements to enable such information to be properly dealt with.

5.5 As set out in the Financial Regulations and Procedures employees of the Council are required to report all suspected irregularities (except housing and benefit fraud) to the Group Head of Finance who will instigate appropriate investigation either via appropriate internal staff or via the Counter-Fraud Unit of the Southern Internal Audit Partnership. Reporting is an essential element of the anti-fraud and corruption strategy and ensures:

- consistent treatment of information regarding fraud and corruption
- proper investigation by an independent and experienced audit team where appropriate
- the proper implementation of a Fraud Response Plan
- the optimum protection of the Council's interests
- the extent of the Council's exposure to fraud can be measured and monitored.

Any suspected fraud cases regarding council housing, tenancy, etc. should be referred to the specialist Housing Fraud Investigation & Enforcement Officer for investigation. Cases in respect of benefits claims should be referred to the Revenues & Benefits Manager, although any cases relating to housing benefit or Universal Credit will now be referred on to the Department for Work & Pensions (DWP) Single Fraud Investigation Service (SFIS).

5.6 Depending on the nature and the extent of the allegations, the Counter Fraud Unit will normally work closely with managers, HR professionals and other agencies, such as the police, to ensure that all allegations and evidence are properly investigated and reported upon and, where appropriate, maximum recoveries are made for the Council.

5.7 Any information passed on to the SIAP Counter Fraud Unit will be dealt with confidentially and fairly. When total anonymity cannot be absolutely guaranteed, every endeavour will be made not to reveal the names of those who pass on information and to inform such persons when anonymity cannot be maintained.

- 5.8. Managers in conjunction with advice from an HR professional will follow the Council's disciplinary procedures where the outcome of the audit investigation indicates improper behaviour.
- 5.9 The Council will normally inform the police of financial impropriety and expect them to independently investigate and prosecute where appropriate. Referral to the police is decided by the Group Head of Finance and Group Head of Law & Governance with the relevant Director and having taken into account the advice of the Head of Southern Internal Audit Partnership. Referral to the police will not prohibit action under the disciplinary procedure but it may affect its timing - the Monitoring Officer should always be consulted before initiating any disciplinary action when the matter has been referred to the police.
- 5.10 The existence of Criminal Law will act as a deterrent when there are offences in relation to fraud and corruption:
- Fraud Act 2006 and Theft Act 1968/1978 – offences can incur prison sentences and/or fines, where maximum levels will depend upon whether the case is heard in a Magistrates' Court or at Crown Court
 - Bribery Act 2010 - offences carry criminal penalties for individuals and organisations. For individuals, a maximum prison sentence of ten years and/or an unlimited fine can be imposed; for organisations, an unlimited fine can be imposed.
- 5.11 Where the Council has suffered loss, recompense will be sought for any benefit or advantage obtained and the recovery of costs will be sought from individual(s) or organisations responsible for fraud.

F. Conclusion

- 6.1 The Council has in place systems and procedures to assist it in the fight against fraud and corruption. It is determined that these arrangements will keep pace with any future developments, in both preventative and detection techniques regarding fraudulent or corrupt activity that may affect its operation or related responsibilities.
- 6.2 To this end, the Council maintains a continuous overview of such arrangements and, in particular, through its Group Head of Finance, management reviews and independent assessment by SIAP.
- 6.3 This Policy will be subject to a 3-yearly review to ensure its currency or in the event of significant changes in the Council's structure / operations or in relevant legislation.



Anti-Bribery Policy

Policy Statement - Anti Bribery

Bribery is a criminal offence. We do not, and will not, pay bribes or offer improper inducements to anyone for any purpose, nor do we or will we, accept bribes or improper inducements.

To use a third party as a conduit to channel bribes to others is a criminal offence. We do not, and will not, engage indirectly in or otherwise encourage bribery.

We are committed to the prevention, deterrence and detection of bribery. We have zero-tolerance towards bribery. We aim to maintain anti-bribery compliance “business as usual”, rather than as a one-off exercise.

Objective of this policy

This policy provides a coherent and consistent framework to enable the staff and Members of Arun District Council to understand and implement arrangements enabling compliance. In conjunction with related policies and key documents it will also enable employees to identify and effectively report a potential breach.

We require that all personnel, including those permanently employed, temporary agency staff and contractors:-

- act honestly and with integrity at all times and to safeguard the Council’s resources for which they are responsible
- comply with the spirit, as well as the letter, of the laws and regulations of all jurisdictions in which the Council operates, in respect of the lawful and responsible conduct of activities.

Scope of this policy

This policy applies to all of the Council’s activities. For partners, joint ventures and suppliers, we will seek to promote the adoption of policies consistent with the principles set out in this policy.

Within the Council, the responsibility to control the risk of bribery occurring resides at all levels of the organisation. It does not rest solely within assurance functions, but in all business units and corporate functions.

This policy covers all personnel, including all levels and grades, those permanently employed, temporary agency staff, contractors, non-executives, agents, Members (including independent members), volunteers and consultants.

This Council's commitment to action

Arun District Council commits to:-

- setting out a clear anti-bribery policy and keeping it up to date
- making all employees aware of their responsibilities to adhere strictly to this policy at all times
- training all employees so that they can recognise and avoid the use of bribery by themselves and others
- encouraging its employees to be vigilant and to report any suspicions of bribery, providing them with suitable channels of communication and ensuring sensitive information is treated appropriately
- rigorously investigating instances of alleged bribery and assisting police and other appropriate authorities in any resultant prosecution
- taking firm and vigorous action against any individual(s) involved in bribery
- provide information to all employees to report breaches and suspected breaches of this policy
- include appropriate clauses in contracts to prevent bribery.

Bribery

Is an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage.

The Bribery Act 2010

The Act came into force on 1st July 2011.

There are four key offences under the Act:

- bribery of another person (section 1)
- accepting a bribe (section 2)
- bribing a foreign official (section 6)
- failing to prevent bribery (section 7).

The Bribery Act 2010 (http://www.opsi.gov.uk/acts/acts2010/ukpga_20100023_en_1) makes it an offence to offer, promise or give a bribe (Section 1). It also makes it an offence to request, agree to receive, or accept a bribe (Section 2). Section 6 of the Act creates a separate offence of bribing a foreign public official with the intention of obtaining or retaining business or an advantage in the conduct of business.

There is also a corporate offence under Section 7 of failure by a commercial organisation (which will include the Council) to prevent bribery that is intended to obtain or retain business, or an advantage in the conduct of business, for the organisation. An organisation will have a defence to this corporate offence if it can show that it had in place adequate procedures designed to prevent bribery by or of persons associated with the organisation.

Procedures

Whether procedures are adequate will ultimately be a matter for the courts to decide on a case-by-case basis, but it should be ensured that they are robust and effective. Adequate procedures need to be applied proportionately, based on the level of risk of bribery in the Council. However, they should be based upon six recommended principles which are intended to be flexible and outcome focussed (as different sizes and types of organisation will have different circumstances and face different challenges):-

- *Proportionate procedures*
An organisation's procedures to prevent bribery by persons associated with it are proportionate to the bribery risks it faces and to the nature, scale and complexity of the organisation's activities. They are also clear, practical, accessible, effectively implemented and enforced
- *Top level commitment*
The top-level management (be it a board of directors, the owners or any other equivalent body or person) are committed to preventing bribery by persons associated with it. They foster a culture within the organisation in which bribery is never acceptable
- *Risk Assessment*
The organisation assesses the nature and extent of its exposure to potential external and internal risks of bribery on its behalf by persons associated with it. The assessment is periodic, informed and documented. It includes financial risks but also other risks such as reputational damage
- *Due diligence*
The organisation applies due diligence procedures, taking a proportionate and risk based approach, in respect of persons who perform or will perform services for or on behalf of the organisation, in order to mitigate identified bribery risks
- *Communication (including training)*
The organisation seeks to ensure that its bribery prevention policies and procedures are embedded and understood throughout the organisation through internal and external communication, including training that is proportionate to the risks it faces
- *Monitoring and review*
The organisation monitors and reviews procedures designed to prevent bribery by persons associated with it and makes improvements where necessary.

Arun District Council is committed to proportional implementation of these principles.

Penalties

An individual guilty of an offence under sections 1, 2 or 6 is liable:-

- on conviction in a magistrates court, to imprisonment for a maximum term of 12 months, or to a fine not exceeding £5,000, or to both
- on conviction in a crown court, to imprisonment for a maximum term of ten years, or to an unlimited fine, or both.

Organisations are liable for these fines and if guilty of an offence under section 7 are liable to an unlimited fine.

Bribery is not tolerated

It is unacceptable to:-

- give, promise to give, or offer a payment, gift or hospitality with the expectation or hope that a business advantage will be received, or to reward a business advantage already given
- give, promise to give, or offer a payment, gift or hospitality to a government official, agent or representative to "facilitate" or expedite a routine procedure
- accept payment from a third party that you know or suspect is offered with the expectation that it will obtain a business advantage for them
- accept a gift or hospitality from a third party if you know or suspect that it is offered or provided with an expectation that a business advantage will be provided by us in return
- retaliate against or threaten a person who has refused to commit a bribery offence or who has raised concerns under this policy
- engage in activity in breach of this policy.

Facilitation payments

Facilitation payments are not tolerated and are illegal. Facilitation payments are unofficial payments made to public officials in order to secure or expedite actions.

Gifts and hospitality

The Council has a Gifts and Hospitality Policy which is accessible by staff and Members via the HR Zone of the Council's SharePoint area.

In most cases, offers of gifts and hospitality should be tactfully refused. However, the Policy identifies some circumstances where the receiving or giving of reasonable, proportionate gifts and hospitality made in good faith are acceptable, together with the records that must be kept to justify such circumstances and be available for scrutiny.

Public contracts and failure to prevent bribery

Under the Public Contracts Regulations 2015, a company is debarred from competing for public contracts where it is convicted of a corruption offence. However, companies that are convicted of failing to prevent bribery are not automatically barred from participating in tenders for public contracts. The Council has the discretion to exclude organisations convicted of this offence. Under the 2015 Regulations, there is now no set period for debarment and may be removed if a company has demonstrated that it has undertaken a 'self-cleaning' exercise.

The Council's Constitution contains a section on the Prevention of Bribery as part of the Standing Orders for Purchasing, Procurement, Contracts & Disposals (Part 6, Section 4, Para 30). This requires:-

- declaration of gifts and hospitality received
- that all written Council contracts include a Prevention of Bribery clause (and such a clause is included in the Council's standard terms and conditions).

As part of the Council's formal tender processes, certification from the tendering party is required on a non-Collusive Tendering Certificate and this also includes actions that the

Council will take to terminate any contract and recover losses incurred in respect of identified corrupt practices.

Staff responsibilities

The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all those working for the Council or under its control. All staff and Members are required to avoid activity that breaches this policy.

You must:

- ensure that you read, understand and comply with this policy
- raise concerns as soon as possible if you believe or suspect that a conflict with this policy has occurred, or may occur in the future.

As well as the possibility of civil and criminal prosecution, staff that breach this policy may face disciplinary action, which could result in dismissal for gross misconduct.

Raising a concern

The Council is committed to ensuring that all of us have a safe, reliable, and confidential way of reporting any suspicious activity. We want each and every member of staff to know how they can raise concerns.

We all have a responsibility to help detect, prevent and report instances of bribery. If you have a concern regarding a suspected instance of bribery or corruption, please speak up – your information and assistance will help. The sooner you act, the sooner it can be resolved.

There are multiple channels to help you raise concerns. Please refer to the Council's published Confidential Reporting ("Whistleblowing") Policy and determine your favoured course of action. Preferably the disclosure will be made and resolved internally (e.g. to your Group Head or the internal audit service provider). However, alternative methods of raising concerns, where internal disclosure proves inappropriate, are contained in the Policy. Raising concerns in these ways may be more likely to be considered reasonable than making disclosures publicly (e.g. to the media).

Concerns can be anonymous. In the event that an incident of bribery, corruption, or wrongdoing is reported, we will act as soon as possible to evaluate the situation. We have clearly defined procedures for investigating fraud, misconduct and non-compliance issues and these will be followed in any investigation of this kind. This is easier and quicker if concerns raised are not anonymous.

Staff who refuse to accept or offer a bribe, or those who raise concerns or report wrongdoing can understandably be worried about the repercussions. We aim to encourage openness and will support anyone who raises a genuine concern in good faith under this policy, even if they turn out to be mistaken.

We are committed to ensuring nobody suffers detrimental treatment through refusing to take part in bribery or corruption, or because of reporting a concern in good faith.

If you have any questions about these procedures, please contact Internal Audit:-

extension 37561

<mailto:internal.audit@arun.gov.uk>

Other relevant policies

Other relevant policies and documents may be found on the Council's SharePoint area or website. These include:-

- Anti-Fraud, Corruption and Bribery Policy
- Proceeds of Crime (Anti-Money Laundering) Policy
- Whistleblowing Policy
- Gifts and Hospitality Policy (Human Resources)
- Constitution – Part 6, Section 3 Financial Procedure Rules, 4.3 – Preventing Fraud and Corruption
- Constitution – Part 6, Section 4 Standing Orders, 30 – Prevention of Bribery

**The Committee on Standards in Public Life – The 7 ‘Nolan’ Principles
as set out in Part 8, Section 1 of the Council’s Constitution**

The principles of public life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, NDPBs, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.



Appendix 2

Anti-Fraud, Corruption & Bribery Policy

Internal Audit Manager

October 2019

Arun District Council

Anti-Fraud, Corruption & Bribery Policy

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1 INTRODUCTION

1.1 Strategy

1.1.1 The Council recognises that the risk of loss through theft, fraud or corruption, both internal and external, is a part of business life that needs to be managed effectively in support of the Council's corporate objectives.

1.1.2 The Council is committed to the prevention, deterrence, detection and investigation of fraud, corruption and bribery. By means of the implementation and operation of effective processes and controls, it aims to:-

- review the nature and likelihood of the fraud, corruption and bribery risks that the Council faces
- reduce the likelihood of such events occurring
- ensure any such events are promptly and effectively detected and investigated
- reduce to a minimum the losses incurred by the Council
- proactively improve processes and controls to counter new and existing threats
- raise the awareness of Officers and Members in this area
- promote a culture of honesty and propriety.

1.1.3 This Policy document has been developed by the Council to set out for Members, employees, the general public and other organisations the Council's policy and approach to fraud, corruption and bribery risk management and the processes and responsibilities involved in its counter-fraud framework.

1.2 The Aim of the Policy

1.2.1 Arun District Council is committed to working in partnership to secure a better quality of life for all. This Anti-Fraud, Corruption and Bribery Policy sets out the Council's commitment to help achieve this. It defines the corporate framework for the prevention, detection and investigation processes and actions to be taken in response to:-

- fraud
- obtaining property or services by deception
- bribery or corruption.

1.2.2 The Policy should be read in conjunction with the Council's Code of Corporate Governance (published on the Council's website) which sets out the systems and frameworks by which the Council is directed and controlled, much of which seeks to ensure high standards of probity.

1.3 Definitions

This Policy covers:-

1.3.1 Fraud - which, for the purposes of this Policy includes:-

- an undisclosed theft or misappropriation of an organisation's assets – physical or intellectual.

- an intentional false representation of financial information or other records, which induces one or more parties into an action which results in financial loss to the organisation.
- an intentional “perversion of truth” or a “false misrepresentation of a matter of fact”, which induces another person to “part with some valuable thing belonging to them or to surrender a legal right”.

Fraud includes such acts as criminal deception, forgery, theft, conspiracy, collusion, corruption, and falsification.

1.3.2 Obtaining property or services by deception - this will cover any deception (whether deliberate or reckless) by words or conduct to dishonestly obtain:-

- property belonging to another with the intention to permanently deprive the other of it
- services from another on the understanding that the benefit has been, or will be, paid for.

1.3.3 Corruption/Bribery - which includes the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person.

2 PREVENTION

2.1 The Role of Elected Members

2.1.1 Policy decisions within the Council are made by elected Members who are subject to election every four years. All Members are expected to operate within the adopted Members’ Code of Conduct detailed in Part 8, Section 2 of the Council’s Constitution. The latest version of the Code was adopted by the Council in November 2017. This was also adopted by most Town and Parish Councils within the District, although a small number have continued with their own Code of Conduct). Elected Members are required on accepting office to declare that they will observe the Code, which includes the requirement to disclose any ‘pecuniary’ or ‘personal’ interests, and to complete the Register of Members Interests within 28 days of election. These matters are specifically brought to the attention of Members during their induction training.

2.1.2 The Council’s Constitution sets out:-

- how the Council operates
- how decisions are made
- the procedures to be followed to ensure that these are transparent and accountable.

It is divided into 9 Parts which provide the basic rules governing the Council’s business.

2.1.3 The Council expects its Members to lead by example and act with integrity, following the 7 ‘Nolan’ principles, published by the Committee on Standards in Public Life and detailed in Part 8, Section 1 of the Council’s Constitution. These are:-

- selflessness

- integrity
- objectivity
- accountability
- openness
- honesty
- leadership.

For more details please see Appendix B.

2.2 The Role of the Standards Committee

- 2.2.1 The Local Government Act 2000 sets out an ethical framework which required the establishment of a Standards Committee. The Council's Standards Committee, established under the Act, has a duty to promote and maintain high standards of conduct by councillors and co-opted members, and to monitor and assist them in observing the Members' Code of Conduct.
- 2.2.2 The Committee is comprised of 9 Members (to include no more than one Member of the Cabinet) and 2 independent persons, who are neither Members nor officers of the Council and are also not relatives / close friends of Members / officers. The Chairman of the Committee is appointed annually by Full Council.
- 2.2.3 An Assessment Panel has been established with the power to conduct a hearing, take decisions and determine sanctions in relation to an allegation that a member has failed to comply with the Members' Code of Conduct where the matter is referred to the Monitoring Officer by way of a complaint.
- 2.2.4 The revised Local Assessment Procedure, setting out how a complaint against a Councillor is dealt with, was approved by Full Council in November 2017, with some further changes agreed in March 2018. This Procedure applies to all Arun District Councillors and Town/Parish Councillors within the Arun District.

2.3 The Role of the Head of the Paid Service

- 2.3.1 The Local Government and Housing Act 1989 requires that each local authority appoint a Head of the Paid Service.
- 2.3.2 The Head of the Paid Service (Chief Executive) is responsible for preparing reports relating to the organisation of the authority's staff, staffing needs and co-ordination of the way in which the authority's functions are discharged.

2.4 The Role of the Monitoring Officer

- 2.4.1 The Local Government and Housing Act 1989 requires that each local authority appoint a Monitoring Officer. The Council's Monitoring Officer (Group Head of Council Advice & Monitoring Officer) has a key role in promoting and maintaining high standards of conduct within the authority. The Monitoring Officer advises Members of new legislative or procedural requirements and will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity issues.

- 2.4.2 The Monitoring Officer is responsible for ensuring lawfulness and fairness of decision making. After consulting the Head of the Paid Service and Chief Finance Officer, the Monitoring Officer will report to the Full Council or to the Executive in relation to an executive function if it is considered that any proposal, decision or omission has given rise to maladministration.
- 2.4.3 The Monitoring Officer may not be the Head of the Paid Service or Chief Finance Officer, and must act in accordance with the Protocol on Member/Officer Relations set out in Part 8, Section 4 and his/her delegated responsibilities/powers as defined in Part 4 of the Council's Constitution.

2.5 The Role of the Chief Financial Officer

- 2.5.1 The Group Head of Corporate Support is the Council's Chief Financial Officer and is the employee who, by virtue of Section 151 of the Local Government Act 1972, is responsible for the administration of the financial affairs of the Council.
- 2.5.2 The Accounts and Audit Regulations 2015 require that accounting systems determined by the responsible financial officer be observed. They also require accounts and supporting records of the Council to be maintained in accordance with proper practices and kept up to date. These Regulations include explicit requirements for authorities to be responsible for their financial management and system of internal control (Regulation 3); and a requirement for authorities to undertake an effective internal audit, taking into account public sector internal auditing standards or guidance (Regulation 5).
- 2.5.3 These requirements mean, in particular, that any employee with responsibility for financial transactions must ensure that they have control systems which (as a minimum):-
- ensure that financial transactions are promptly and accurately recorded
 - enable the prevention and detection of inaccuracies and fraud, and the reconstitution of any lost records
 - ensure that risk is appropriately managed.

2.6 The Role of Internal Audit

- 2.6.1 The legal basis for Internal Audit is contained within Regulation 5 of the Accounts and Audit Regulations 2015.
- 2.6.2 The Internal Audit Manager shall be notified of all cases of suspected irregularity, except housing and benefit fraud investigations, and should investigate as necessary, in accordance with the Council's Constitution and Financial Regulations. The Council now has a specialist Housing Fraud Investigator and investigation into housing benefit fraud will now be handled by the DWP's Single Fraud Investigation Services (SFIS), although the Council is still responsible for investigating fraud relating to its local Council Tax Reduction Scheme (CTRS).
- 2.6.3 Internal Audit provide independent assurance that management has put in place proper arrangements for the governance of their affairs and the stewardship of the resources at their disposal in order to safeguard the Authority from losses due to inefficient administration, irregularity and fraud.

- 2.6.4 Internal Audit will advise the Group Head of Corporate Support on the soundness, adequacy and application of internal controls in relation to all financial systems and provide management with assurance and advice on their financial and operational systems and controls. This includes recommendations for changes in controls and procedures and advice on the development of any new systems or initiatives to reduce the risk of fraud and irregularity.
- 2.6.5 The requirement for external review of the Council's accounts is established under the Local Audit & Accountability Act 2014 (LAAA) and the Council's external auditor also considers the Council's arrangements for combating fraud and corruption on an annual basis. Internal Audit carries out an ongoing review of the Council's systems assessing the adequacy of control arrangements.

2.7 The Role of Management

- 2.7.1 Management has a crucial role to play in the prevention and detection of fraud and irregularities. They are responsible for maintaining an adequate system of internal control and ensuring that resources are properly applied as intended. This includes responsibility for the prevention and detection of fraud and other illegal acts.
- 2.7.2 Managers at all levels are responsible for the implementation and communication of this Anti-Fraud, Corruption and Bribery Policy to all staff in their work area. They are also responsible for ensuring employees are aware of the Council's Constitution, Standing Orders and Financial Regulations and that the requirements of each are being met in their everyday business activities. The Council's Code of Corporate Governance explains how the Council is directed and controlled and seeks to ensure high standards of probity.
- 2.7.3 Managers are expected to create an environment in which their staff feel able to approach them with any concerns they may have about suspected irregularities. Any concern about fraud or misconduct must be treated seriously and followed up promptly in accordance with the Council's Constitution or through the Council's Confidential Reporting (Whistleblowing) Policy. Failure to observe these procedures may result in the authority being unable to take the appropriate actions, or may even constitute a breach of the human rights of those subjected to any investigation.
- 2.7.4 Managers must ensure that where employees are responsible for cash handling or are involved in the operation of financial systems (e.g. payroll, benefits, council tax, etc.) relevant training in the proper procedures to be followed is provided and updated as necessary.
- 2.7.5 Managers are required under the Council's Financial Regulations to report any suspected irregularity in the exercise of the functions of the Council to the Internal Audit Manager, who shall take steps as considered necessary by way of investigation and report.

2.8 The Role of Employees

- 2.8.1 The public is entitled to demand the highest standard of conduct from local government officers. Public confidence in an Officer's integrity would be shaken were the least suspicion to arise that s/he could in any way be influenced by improper motives. With this in mind, Officers are bound by the Council's adopted local Officers' Code of Conduct. The Code outlines existing laws, regulations and conditions of service, provides guidance to assist employees in their day to day work and includes detailed requirements concerning the declaration and registration of personal interests and hospitality and gifts.
- 2.8.2 S117(1) of the Local Government Act 1972 (disclosure by Officers of interests in contracts) and S117(2) also forbid an Officer under cover of his/her employment to accept any fee whatsoever as reward, other than proper remuneration.
- 2.8.3 Employees are also bound by the Statement of Particulars of Employment, issued to all new employees, which contains details of the Officers' Code of Conduct, political restrictions in relation to certain posts which prevent Officers from also becoming Members, the use of confidential information and personal information under the General Data Protection Regulation/Data Protection Act 2018.
- 2.8.4 All employees should be alert to the possibility of fraud and corruption in the workplace. Concerns must be raised in the first instance with their manager, who should notify the Internal Audit Manager in accordance with the Council's Constitution or through the Council's Confidential Reporting Policy which includes a procedure for "whistleblowing". The Council also has a Complaints Procedure for handling comments, representations, and criticisms of policy and formal complaints.
- 2.8.5 All employees are made aware of the Council's Constitution and are expected to follow the Council's Standing Orders and Financial Regulations and any other relevant policies and legislation in the conduct of any business transacted on behalf of the Council. New employees receive appropriate induction information/training, which shall include awareness of the Anti-Fraud, Corruption and Bribery Policy.
- 2.8.6 All staff should act in accordance with the general principles of public life (see section 2.1.3 above).

2.9 The Role of External Agencies

- 2.9.1 Internal Audit will keep under review procedures and arrangements to develop and encourage the exchange of information on national and local fraud and corruption activity in relation to local authorities, with external agencies such as:-
- external audit (currently provided by Ernst & Young LLP)
 - national and local liaison groups (e.g. Cabinet Office, National Anti-Fraud Network, CIPFA Better Governance Forum, Sussex Audit Group)
 - the Police.

2.10 The Procurement of Goods and Services

2.10.1 The Council's Constitution, which incorporates Contract Standing Orders and Financial Regulations, provides a framework for entering into contracts for the procurement of goods and services. Such contracts are also subject to the procedures and restrictions contained in all relevant statutory provisions.

2.11 Information Security

2.11.1 The Council's Information Security Policy sets out the policy of the Council regarding the security of its computer systems and to guarantee the confidentiality, integrity and availability of District Council information and systems. It also sets out procedures to ensure that sensitive information is protected from unauthorised disclosure and the accuracy and completeness of that information is safeguarded.

2.11.2 The Acceptable Usage Agreement describes what is acceptable and what is unacceptable in terms of use of Council systems including the Internet and e-mail system.

2.11.3 The Officers' Code of Conduct and Statement of Particulars of Employment also includes provisions concerning access to information, confidentiality and the use of passwords.

2.12 Recruitment and Selection Procedures

2.12.1 The Council's Recruitment and Selection Policy (maintained by Human Resources) outlines the procedures to be followed in the recruitment and selection process.

2.12.2 In particular, the Council's application form requires, amongst other things, a minimum of two referees be provided, the disclosure of all relationships with other employees or Members and convictions for criminal offences, including bind-overs and cautions. If successful at interview, candidates are also required to produce evidence of qualifications and work permits, where appropriate. The Local Authorities (Standing Orders) (England) Regulations 2001 prescribe the procedure to be followed in respect of the appointment of Chief Officers and their dismissal in the event of misconduct.

2.12.3 The Council's Officers' Code of Conduct requires that where employees are involved in appointments, these should be made on the basis of merit. An employee must not be involved in any appointment where they are related to the applicant or have a close personal relationship with them.

3 DETERRENCE

3.1 Referral to Police and Prosecution

3.1.1 Where fraud is suspected, consideration should be given to referring the case to the Police for subsequent prosecution. The decision to involve the Police should be made by the relevant Director, in conjunction with the Internal Audit Manager,

and will depend on how significant the suspected fraud is and the resources available to present a case to the Police. The involvement of the Group Head of Corporate Support is recommended and, in particularly serious cases, the Chief Executive should be consulted.

3.2 Discipline and Dismissal of Staff

3.2.1 Breach of the Officers' Code of Conduct and, in some cases, the Statement of Particulars of Employment is a disciplinary matter. Disciplinary action may therefore be taken in addition to, or instead of, criminal proceedings, depending on the circumstances of each case, in accordance with the Council's laid down policies, after consultation with the relevant Director/Group Head, the Internal Audit Manager and the Group Head of Corporate Support (who has responsibility for Human Resources and whose involvement is necessary to ensure compliance with the authority's disciplinary code). In particularly serious cases the Chief Executive should be consulted.

3.3 The Local Government and Social Care Ombudsman

3.3.1 Complaints of corporate maladministration may be investigated by the Local Government and Social Care Ombudsman (who is part of the Commission for Local Administration in England), within the parameters of the Local Government Act 1974.

3.4 Criminal Law

3.4.1 The existence of the Criminal Law will always act as a deterrent where there are a number of offences, particularly in relation to fraud and corruption.

3.4.2 The Bribery Act 2010 came into force on 1st July 2011, replacing the previous outdated legislation:-

- the Public Bodies Corrupt Practices Act 1889
- the Prevention of Corruption Act 1906
- the Prevention of Corruption Act 1916.

3.4.3 This Act significantly enhances the existing UK laws on corruption and has created four key criminal offences:-

- bribery of another person (section 1)
- accepting a bribe (section 2)
- bribing a foreign official (section 6)
- failing to prevent bribery (section 7).

The offences carry criminal penalties for individuals and organisations. For individuals, a maximum prison sentence of ten years and/or an unlimited fine can be imposed; for organisations, an unlimited fine can be imposed.

A more detailed document on the Council's policy in respect to the Bribery Act 2010 is attached as Appendix A to this document.

3.5 Civil Law

- 3.5.1 In certain cases, there may also be liability in tort which will act as a deterrent.
- 3.5.2 Where there is a deliberate and dishonest abuse of power by an official who knew that the claimant would suffer loss and was subjectively reckless as regards that outcome, they may be liable in tort for the civil wrong of misfeasance (or misconduct) in public office.
- 3.5.3 Also, a person who has received information in confidence is not allowed to take improper advantage of it. To do so would result in potential liability for breach of confidence.
- 3.5.4 Remedies for actionable damage in tort can comprise injunctions and/or compensatory damages.

4 DETECTION AND INVESTIGATION

4.1 Internal Control Systems

The internal control systems within the Council have been designed to prevent or identify any fraudulent activity. It is however, often the vigilance of employees and members of the public that enables detection to occur and appropriate actions to be taken when there is evidence that fraud or corruption have been committed or are likely to take place.

4.1.1 *Complaints Procedure*

The Council's Complaints Procedure provides a mechanism for handling comments, representations and criticisms of policy. It also includes formal complaints concerning, for example:-

- failure to comply with a statutory or legal obligation
- dissatisfaction with a service
- maladministration
- allegations of financial impropriety
- misconduct of Councillors.

All complaints will be dealt with impartially, objectively and professionally without fear of adverse treatment against the individual making the complaint.

Information concerning the Council's Complaints Procedure is available on the Council's website and within its Publication Scheme.

4.1.2 *Confidential Reporting Policy (Whistleblowing)*

The Council's Confidential Reporting Policy provides a secure and confidential framework within which to raise concerns in accordance with the Public Interest Disclosure Act 1998. Employees and contractors working for the Council on Council premises are encouraged to raise concerns if they believe one or more of the following has occurred, is in the process of occurring or is likely to occur:-

- a criminal offence

- a miscarriage of justice
- maladministration, misconduct or malpractice
- endangering of an individual's health and safety
- damage to the environment
- concerns about conduct of officers/members
- possible fraud and corruption
- harassment or victimisation
- improper or unauthorised use of public or other funds
- sexual or physical abuse of clients or other unethical conduct
- a failure to comply with a statutory or legal obligation
- deliberate concealment of any of the above.

All concerns will be treated in confidence and every effort will be made not to reveal the complainant's identity. Statutory protection will be given to employees and contractors who register concerns under the Public Interest Disclosure Act 1998. If an individual feels they have been disadvantaged by making a disclosure under the Act, they may bring a claim to an employment tribunal.

All staff will be made aware of the Confidential Reporting Policy and provisions of the Public Interest Disclosure Act as part of their induction training. Contractors are made aware of the Confidential Reporting Policy and provisions of the Public Interest Disclosure Act via their contract documentation. Details of the above are also available to contractors and members of the public on the Council's website.

It is essential that all suspected irregularities be properly reported in accordance with Financial Regulations or the Council's Confidential Reporting Policy or Complaints Procedure.

4.1.3 *Members' Code of Conduct*

A latest version of the Members Code of Conduct was adopted by the Council in November 2017, in line with the requirements of the Localism Act 2011.

The Members' Code of Conduct sets out the standards of conduct to be expected from a Member. If a Member becomes aware of any fraud or corruption by another Member which he/she reasonably believes involves a failure to comply with the Code he/she must make a written allegation to the Council's Monitoring Officer as soon as is practicable.

4.1.4 *Officers' Code Conduct*

The Council's Officers' Code of Conduct sets out the standards of conduct to be expected from an officer. Employees are also bound by the Statement of Particulars of Employment. Breach of the Officers' Code of Conduct and, in some cases, the Statement of Particulars of Employment, is a disciplinary matter. Criminal or civil sanctions could also apply. A complaint of maladministration to the Local Government and Social Care Ombudsman could also be made.

4.1.5 *The Council's Constitution*

The Council is obliged to have a constitution by virtue of section 37 of the Local Government Act 2000. The organisational structure and the rules by which the Council operates are set out in the Constitution. It contains the basic rules governing the Council's business, how it operates, how decisions are made and the procedures to be followed to ensure these are transparent and accountable.

4.1.6 *The Standards Committee*

The Council's Standards Committee has a duty to promote and maintain high standards of conduct by Members and co-opted Members. The Council has established an Assessment Panel with the power to conduct a hearing, take decisions and determine sanctions in relation to an allegation that a member has failed to comply with the Members' Code of Conduct where the matter is referred to the Monitoring Officer by way of a complaint.

The Local Assessment Procedure adopted by the Council in November 2017 and updated in March 2019 sets out how complaints made under the Members' Code of Conduct are dealt with and the sanctions available to the Assessment Panel.

4.1.7 *Risk Management*

In addition to the structural and organisational arrangements identified in the Council's Code of Corporate Governance, the Council has established a Governance & Risk Group. This Group, in consultation with the Council's insurers, has produced a Risk Management Strategy/framework. This has been adopted by Full Council and a Strategic Risk Register (updated on an annual basis) and Service area Operational Risk Registers established.

4.2 External Control Systems

4.2.1 *The Local Government and Social Care Ombudsman*

Complaints of maladministration in respect of the Council acting corporately can be referred to the Local Government and Social Care Ombudsman. Complaints can be made by members of the public following completion of the Council's Complaints Procedure if the complainant remains concerned) who claim to have suffered injustice as a result of maladministration. The Ombudsman can make recommendations to the Council to take remedial action which can involve a financial remedy or other measures to be undertaken by the Council.

4.2.2 *Statutory Framework*

The Council as a statutory corporation may only perform those functions allowed by or under statute. The Council must comply with the mandatory and directory requirements of statute and any other constraints inherent in the statutory framework.

4.2.3 *Judicial control*

The Council is a creation of statute and may only work within its statutory confines. Decisions may only be taken by those Members' bodies or Officers authorised to do so by the Council. Stepping outside the statutory constraints, acting without due authority or reaching decisions in a legally unreasonable way can lead to judicial intervention through judicial review.

However, the Localism Act 2011 introduced a new general power of competence. Under the provision, a local authority has the power to do anything that individuals generally of full legal capacity may do.

4.2.4 *Appellate Jurisdiction*

Many of the Council's regulatory functions are subject to review, through the appellate processes. Many licensing functions may be reviewed by the Magistrates' Courts and planning decisions may be reviewed through the Planning Inspectorate. Some decisions, for example relating to housing, are subjected to internal review as well as external appeal.

4.2.5 *External Inspectorates*

The Council's external auditors (Ernst & Young LLP) have wide-ranging powers to review the Council's activities.

In addition, there are a number of Service-specific inspectorates, including:-

- the Department for Work and Pensions - benefits administration
- the Planning Inspectorate
- the Regulator of Social Housing
- the Investigatory Powers Commissioner's Office - application of the Regulation of Investigatory Powers Act 2000 (as amended) and Investigatory Powers Act 2016
- the Information Commissioner's Office – application of the General Data Protection Regulation/Data Protection Act 2018 and the Freedom of Information Act 2000.

4.2.6 *Professional Bodies*

Many members of staff holding professional qualifications are subject to regulation by their professional bodies, for example solicitors, auditors, accountants and town planners. Statute can make the membership of such bodies a pre-requisite to the holding of a particular post, for example that of the Chief Financial Officer.

4.2.7 *Council-Owned Companies*

In the event the Council chooses to set up and operate a company under its 'ownership' (e.g. for trading purposes), governance arrangements will be agreed by Members e.g. in the form of a Shareholder Agreement. As part of this, the Council's responsibilities for the prevention and investigation of fraud will be clearly documented.

4.3 Investigation

4.3.1 It is the responsibility of the Internal Audit Manager to ensure that arrangements are made whereby all irregularities reported are properly investigated in accordance with the requirements of the Human Rights Act 1998.

4.3.2 Depending on the nature of an allegation, the Internal Audit Manager will normally work closely with the Director/Group Head/Line Manager concerned to ensure that all allegations are thoroughly investigated and reported on.

4.3.3 An overview of the actions to be taken are contained in Internal Audit's Fraud Response Plan, published on the Council's website.

4.4 Regulation of Investigatory Powers Act

4.4.1 The Regulation of Investigatory Powers Act 2000 (RIPA), as amended, regulates the way in which public authorities can use their investigatory powers. Its purpose is to ensure that those powers are used in accordance with an individual's human rights as defined in the provisions of the Human Rights Act 1998. RIPA is concerned with the use of covert surveillance, and where an officer is proposing to undertake covert surveillance, proper authorisation under RIPA must be obtained before the investigation begins. Failure to do so will render the evidence obtained inadmissible. The Council has in place suitable forms for the authorisation, review, renewal and cancellation of, the use or conduct of directed covert surveillance or the use of a covert human intelligence source. Guidance regarding the use of such surveillance is also available on the Council's Intranet or from the Internal Audit Manager.

4.4.2 As a result of the Protection of Freedoms Act 2012, RIPA authorisations must now be approved by a JP, requiring adequate evidence that they are necessary, proportionate and meet the criminal offence threshold applied by the Act. (For further details, see the Council's Corporate Policy & Procedures Document on the Regulation of Investigatory Powers Act 2000).

4.5 Investigatory Powers Act 2016

4.5.1 The acquisition of communications data is now covered by the Investigatory Powers Act (previously having been part of RIPA legislation). Local authority requests for subscriber, traffic or service data must be progressed via the Single Point of Contact (SPoC) service provided by the National Anti-Fraud Network (NAFN). Subject to necessity, proportionality and meeting the appropriate criminal offence threshold applied by the Act, requests via NAFN will require approval (from June 2019) from the Office for Communications Data Authorisations (OCDA). (For further details, see the Council's Corporate Policy

& Procedures Document on the Regulation of Investigatory Powers Act 2000, including updates in respect of the IPA).

5 CONCLUSION

5.1 Culture

- 5.1.1 The Council will ensure that any allegations received will be taken seriously and investigated in an appropriate manner, subject to the requirements of the Human Rights Act 1998.
- 5.1.2 The Council has in place procedures to assist it in dealing with fraud and corruption when it occurs. It will maintain a continuous review of these arrangements to keep abreast of developments in fraudulent and corrupt practices in order to protect its interests.
- 5.1.3 An annual review of this Policy will take place to ensure its continued relevance and to ensure it reflects any changes in legislation.
- 5.1.4 The Audit & Governance Committee is the designated body for the oversight of the Council's anti-fraud culture. An annual report on Counter-Fraud activity within the Council is presented to them, along with details of any significant fraud investigations conducted by Internal Audit.

5.2 Initiatives and Reporting

- 5.2.1 In June 2013 the National Fraud Authority estimated that fraud costs the UK over £52 billion a year. It estimated that the loss in the public sector was £20.6 billion, with £2.1 billion of this specific to local government. In the public sector, every pound lost through fraud directly affects citizens by increasing national and local taxation or threatening the provision of local services
- 5.2.2 The current financial climate has increased the likelihood of fraud being perpetrated against the Council.
- 5.2.3 The Government has announced its commitment to the reduction of fraud in the public sector and has launched a number of pilot schemes, together with the publication of various guidance notes from the DCLG and associated bodies, such as the National Fraud Authority. These are now combined in the 'Fighting Fraud & Corruption Locally – The Local Government Fraud Strategy' document issued by the CIPFA Counter-Fraud Centre in 2016. Key areas of potential fraud risk identified relating to local authorities include:-
 - housing tenancy fraud
 - procurement fraud
 - payroll and recruitment fraud
 - Council Tax fraud
 - Blue Badge Scheme misuse
 - pension fraud
 - benefit fraud
 - grant fraud
 - electoral fraud.

In accordance with the Strategy statement at section 1.1 above, the Council will keep these areas and initiatives under review and implement/improve processes and controls to manage the risks involved.

- 5.2.4 The Council provides statistical information to CIPFA on fraud cases identified and this information is then used as part of their annual Fraud & Corruption Tracker Report. Annual information is also published on the Council's website to meet the requirements of the Local Government Transparency Code.
- 5.2.5 The Council is also a mandatory participant in the National Fraud Initiative (NFI), operated through the Cabinet Office. This is a data matching exercise that involves comparing records held by one body against other computer records held by the same or another body to see how far they match. Computerised data matching allows potentially fraudulent claims and payments to be identified. Where a match is found it indicates that there is an inconsistency that requires further investigation. No assumption can be made as to whether there is fraud, error or other explanation until an investigation is carried out by the originating organisation. The use of data in this way is permitted under the General Data Protection Regulation/Data Protection Act 2018.



Anti-Bribery Policy

Policy Statement - Anti Bribery

Bribery is a criminal offence. We do not, and will not, pay bribes or offer improper inducements to anyone for any purpose, nor do we or will we, accept bribes or improper inducements.

To use a third party as a conduit to channel bribes to others is a criminal offence. We do not, and will not, engage indirectly in or otherwise encourage bribery.

We are committed to the prevention, deterrence and detection of bribery. We have zero-tolerance towards bribery. We aim to maintain anti-bribery compliance “business as usual”, rather than as a one-off exercise.

Objective of this policy

This policy provides a coherent and consistent framework to enable the staff and Members of Arun District Council to understand and implement arrangements enabling compliance. In conjunction with related policies and key documents it will also enable employees to identify and effectively report a potential breach.

We require that all personnel, including those permanently employed, temporary agency staff and contractors:-

- act honestly and with integrity at all times and to safeguard the Council’s resources for which they are responsible
- comply with the spirit, as well as the letter, of the laws and regulations of all jurisdictions in which the Council operates, in respect of the lawful and responsible conduct of activities.

Scope of this policy

This policy applies to all of the Council’s activities. For partners, joint ventures and suppliers, we will seek to promote the adoption of policies consistent with the principles set out in this policy.

Within the Council, the responsibility to control the risk of bribery occurring resides at all levels of the organisation. It does not rest solely within assurance functions, but in all business units and corporate functions.

This policy covers all personnel, including all levels and grades, those permanently employed, temporary agency staff, contractors, non-executives, agents, Members (including independent members), volunteers and consultants.

This Council's commitment to action

Arun District Council commits to:-

- setting out a clear anti-bribery policy and keeping it up to date
- making all employees aware of their responsibilities to adhere strictly to this policy at all times
- training all employees so that they can recognise and avoid the use of bribery by themselves and others
- encouraging its employees to be vigilant and to report any suspicions of bribery, providing them with suitable channels of communication and ensuring sensitive information is treated appropriately
- rigorously investigating instances of alleged bribery and assisting police and other appropriate authorities in any resultant prosecution
- taking firm and vigorous action against any individual(s) involved in bribery
- provide information to all employees to report breaches and suspected breaches of this policy
- include appropriate clauses in contracts to prevent bribery.

Bribery

Is an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage.

The Bribery Act 2010

The Act came into force on 1st July 2011.

There are four key offences under the Act:

- bribery of another person (section 1)
- accepting a bribe (section 2)
- bribing a foreign official (section 6)
- failing to prevent bribery (section 7).

The Bribery Act 2010 (http://www.opsi.gov.uk/acts/acts2010/ukpga_20100023_en_1) makes it an offence to offer, promise or give a bribe (Section 1). It also makes it an offence to request, agree to receive, or accept a bribe (Section 2). Section 6 of the Act creates a separate offence of bribing a foreign public official with the intention of obtaining or retaining business or an advantage in the conduct of business.

There is also a corporate offence under Section 7 of failure by a commercial organisation (which will include the Council) to prevent bribery that is intended to obtain or retain business, or an advantage in the conduct of business, for the organisation. An organisation will have a defence to this corporate offence if it can show that it had in place adequate procedures designed to prevent bribery by or of persons associated with the organisation.

Procedures

Whether procedures are adequate will ultimately be a matter for the courts to decide on a case-by-case basis, but it should be ensured that they are robust and effective. Adequate procedures need to be applied proportionately, based on the level of risk of bribery in the Council. However, they should be based upon six recommended principals which are intended to be flexible and outcome focussed (as different sizes and types of organisation will have different circumstances and face different challenges):-

- *Proportionate procedures*
An organisation's procedures to prevent bribery by persons associated with it are proportionate to the bribery risks it faces and to the nature, scale and complexity of the organisation's activities. They are also clear, practical, accessible, effectively implemented and enforced
- *Top level commitment*
The top-level management (be it a board of directors, the owners or any other equivalent body or person) are committed to preventing bribery by persons associated with it. They foster a culture within the organisation in which bribery is never acceptable
- *Risk Assessment*
The organisation assesses the nature and extent of its exposure to potential external and internal risks of bribery on its behalf by persons associated with it. The assessment is periodic, informed and documented. It includes financial risks but also other risks such as reputational damage
- *Due diligence*
The organisation applies due diligence procedures, taking a proportionate and risk based approach, in respect of persons who perform or will perform services for or on behalf of the organisation, in order to mitigate identified bribery risks
- *Communication (including training)*
The organisation seeks to ensure that its bribery prevention policies and procedures are embedded and understood throughout the organisation through internal and external communication, including training that is proportionate to the risks it faces
- *Monitoring and review*
The organisation monitors and reviews procedures designed to prevent bribery by persons associated with it and makes improvements where necessary.

Arun District Council is committed to proportional implementation of these principles.

Penalties

An individual guilty of an offence under sections 1, 2 or 6 is liable:-

- on conviction in a magistrates court, to imprisonment for a maximum term of 12 months, or to a fine not exceeding £5,000, or to both
- on conviction in a crown court, to imprisonment for a maximum term of ten years, or to an unlimited fine, or both.

Organisations are liable for these fines and if guilty of an offence under section 7 are liable to an unlimited fine.

Bribery is not tolerated

It is unacceptable to:-

- give, promise to give, or offer a payment, gift or hospitality with the expectation or hope that a business advantage will be received, or to reward a business advantage already given
- give, promise to give, or offer a payment, gift or hospitality to a government official, agent or representative to "facilitate" or expedite a routine procedure
- accept payment from a third party that you know or suspect is offered with the expectation that it will obtain a business advantage for them
- accept a gift or hospitality from a third party if you know or suspect that it is offered or provided with an expectation that a business advantage will be provided by us in return
- retaliate against or threaten a person who has refused to commit a bribery offence or who has raised concerns under this policy
- engage in activity in breach of this policy.

Facilitation payments

Facilitation payments are not tolerated and are illegal. Facilitation payments are unofficial payments made to public officials in order to secure or expedite actions.

Gifts and hospitality

The Council has a Gifts and Hospitality Policy which is accessible by staff and Members via the Human Resources area of the Council's Intranet.

In most cases, offers of gifts and hospitality should be tactfully refused. However, the Policy identifies some circumstances where the receiving or giving of reasonable, proportionate gifts and hospitality made in good faith are acceptable, together with the records that must be kept to justify such circumstances and be available for scrutiny.

Public contracts and failure to prevent bribery

Under the Public Contracts Regulations 2015 (which gives effect to EU law in the UK), a company is debarred from competing for public contracts where it is convicted of a corruption offence. However, companies that are convicted of failing to prevent bribery are not automatically barred from participating in tenders for public contracts. The Council has the discretion to exclude organisations convicted of this offence. Under the 2015 Regulations, there is now no set period for debarment and may be removed if a company has demonstrated that it has undertaken a 'self-cleaning' exercise.

The Council's Constitution contains a section on the Prevention of Bribery as part of the Standing Orders for Purchasing, Procurement, Contracts & Disposals (Part 6, Section 6, Para 31). This requires:-

- declaration of gifts and hospitality received
- that all written Council contracts include a Prevention of Bribery clause (and such a clause is included in the Council's standard terms and conditions).

As part of the Council's formal tender processes, certification from the tendering party is required on a non-Collusive Tendering Certificate and this also includes actions that the Council will take to terminate any contract and recover losses incurred in respect of identified corrupt practices.

Staff responsibilities

The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all those working for the Council or under its control. All staff and Members are required to avoid activity that breaches this policy.

You must:

- ensure that you read, understand and comply with this policy
- raise concerns as soon as possible if you believe or suspect that a conflict with this policy has occurred, or may occur in the future.

As well as the possibility of civil and criminal prosecution, staff that breach this policy may face disciplinary action, which could result in dismissal for gross misconduct.

Raising a concern

The Council is committed to ensuring that all of us have a safe, reliable, and confidential way of reporting any suspicious activity. We want each and every member of staff to know how they can raise concerns.

We all have a responsibility to help detect, prevent and report instances of bribery. If you have a concern regarding a suspected instance of bribery or corruption, please speak up – your information and assistance will help. The sooner you act, the sooner it can be resolved.

There are multiple channels to help you raise concerns. Please refer to the Council's published Confidential Reporting ("Whistleblowing") Policy and determine your favoured course of action. Preferably the disclosure will be made and resolved internally (e.g. to your Group Head, or the Internal Audit Manager). However, alternative methods of raising concerns, where internal disclosure proves inappropriate, are contained in the Policy. Raising concerns in these ways may be more likely to be considered reasonable than making disclosures publicly (e.g. to the media).

Concerns can be anonymous. In the event that an incident of bribery, corruption, or wrongdoing is reported, we will act as soon as possible to evaluate the situation. We have clearly defined procedures for investigating fraud, misconduct and non-compliance issues and these will be followed in any investigation of this kind. This is easier and quicker if concerns raised are not anonymous.

Staff who refuse to accept or offer a bribe, or those who raise concerns or report wrongdoing can understandably be worried about the repercussions. We aim to encourage openness and will support anyone who raises a genuine concern in good faith under this policy, even if they turn out to be mistaken.

We are committed to ensuring nobody suffers detrimental treatment through refusing to take part in bribery or corruption, or because of reporting a concern in good faith.

If you have any questions about these procedures, please contact Internal Audit:-
extensions 37559/37561
<mailto:internal.audit@arun.gov.uk>

Other relevant policies

Other relevant policies and documents may be found on the Council's Intranet or website.
These include:-

- Anti-Fraud, Corruption and Bribery Policy
- Proceeds of Crime (Anti-Money Laundering) Policy
- Whistleblowing Policy
- Gifts and Hospitality Policy (Human Resources)
- Fraud Response Plan (Internal Audit)
- Constitution – Part 6, Section 5 Financial Procedure Rules, 4.3 – Preventing Fraud and Corruption
- Constitution – Part 6, Section 6 Standing Orders, 31 – Prevention of Bribery

**The Committee on Standards in Public Life – The 7 ‘Nolan’ Principles
as set out in Part 8, Section 1 of the Council’s Constitution**

The principles of public life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, NDPBs, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

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Arun District Council

REPORT TO:	Audit & Governance Committee
SUBJECT:	Regulation of Investigatory Powers Act (RIPA) – Review of Policy and Procedures
LEAD OFFICER:	Daniel Bainbridge, Group Head of Law & Governance
LEAD MEMBER:	Councillor Matt Stanley
WARDS:	All
CORPORATE PRIORITY / POLICY CONTEXT / CORPORATE VISION: The correct governance and operational decision-making in relation to the use of this legislation supports the effective delivery of all services and priorities.	
DIRECTORATE POLICY CONTEXT: Responsibility for the oversight of the RIPA process sits within the Law & Governance group in the Growth directorate.	
FINANCIAL SUMMARY: There are no financial implications associated with this report.	

1. PURPOSE OF REPORT

- 1.1 To report to the Committee on the outcome of the Investigatory Powers Commissioner’s inspection of the Council and to bring forward a revised set of policy, procedure and guidance documents as a result of the Commissioner’s recommendations.

2. RECOMMENDATIONS

It is recommended that the Audit and Governance Committee approves the revisions to the ‘Corporate RIPA Policy & Procedures’ and ‘Guidance on the Use of Social Media in Investigations’ and that the revised Policy is adopted by the Council.

3. EXECUTIVE SUMMARY

- 3.1 The Regulation of Investigatory Powers Act 2000 (RIPA) governs the acquisition and disclosure of communications data and the use of covert surveillance by local authorities.
- 3.2 The Council must have in place a policy governing its use of RIPA powers, and a set of procedures detailing how officers will implement its policy as part of investigations.

4. DETAIL

- 4.1 RIPA governs the acquisition and disclosure of communications data and the use of covert surveillance by local authorities. There are three processes available to local authorities under RIPA: the acquisition and disclosure of

communications data; directed surveillance; and covert human intelligence sources ('CHIS').

- 4.2 The Act sets out the procedures that the Council must follow if it wishes to use directed surveillance techniques or acquire communications data in order to support core function activities. The information obtained as a result of such operations can later be relied upon in court proceedings provided the Act is complied with.
- 4.3 The Home Office Code for Covert Surveillance and Property Interference recommends that elected Members, whilst not involved in making decisions or specific authorisations for the local authority to use its powers under the Act, should review the Council's use of the legislation and provide approval to its policies.
- 4.4 At its meeting on 19 February 2024, the Committee received a report setting out that the Council had not used these powers in the period from 1 January 2023 to 31 December 2024. There has been no use of the powers in the period from 1 January 2024 to the date of publication of this report.
- 4.5 There are different thresholds that need to be met before any surveillance can be undertaken. In the case of Directed Surveillance or the use of Covert Human Intelligence Sources (CHIS) an offence has to be punishable by a custodial sentence of 6 months or more. In the case of Communications Data an offence has to be punishable by a custodial sentence of 12 months or more (e.g. offences relating to counterfeit goods which carry a maximum penalty of 10 years in prison).
- 4.6 Where the above criteria are met, local authorities can make an application for the acquisition and disclosure of communications data (such as telephone billing information or subscriber details) or directed surveillance (covert surveillance of individuals in public places); and the use of a CHIS (such as the deployment of undercover officers).
- 4.7 The Act and its Codes of Practice set out the procedures that local authorities must follow when undertaking surveillance. These include approval by Authorised Council Officers for Directed Surveillance / CHIS applications to show that the proposed use of the powers is "necessary and proportionate".
- 4.8 The Council is required to have a Senior Responsible Officer (SRO) to maintain oversight of the RIPA arrangements, procedures and operations. The Group Head of Law & Governance performs this function and is responsible for the integrity of the Council's process for managing the requirements under RIPA.
- 4.9 The Investigatory Powers Commissioner's Office (IPCO) is responsible for the judicial oversight of the use of covert surveillance by public authorities throughout the United Kingdom and for inspecting local authorities periodically to examine their use of these powers.

IPCO Inspection

- 4.8 On 13 March 2023 the Council was the subject of its periodic inspection by IPCO, with the process facilitated by the Group Head of Law & Governance. The inspection took place over the course of one day, and the Investigatory Powers Commissioner's inspection letter is attached as Appendix 1.
- 4.9 The Commissioner's report provided positive conclusion and comments regarding both the Council's policy and procedures, and the way in which the use of RIPA is governed at the Council. The Commissioner made a number of recommendations for changes to the Council's Policy and guidance in order to ensure they are up to date, together with other recommendations as set out in the table below.

IPCO REPORT REQUIREMENT	ADC ACTION	STATUS
Review RIPA Policy to ensure it reflects current ADC structure and legal requirements	SRO to review Policy and Audit & Governance Committee to consider and adopt revised policy	Considered at this meeting
Include pseudo-RIPA process of authorisation within RIPA Policy	To be introduced in the revised RIPA Policy to be considered by the Audit & Governance Committee	Considered at this meeting
Review and revise RIPA Policy to correctly reflect retention periods for authorisations and associated case files	SRO to review Policy and Audit & Governance Committee to consider and adopt revised policy	Considered at this meeting
Review RIPA Social Media Guidance and reduce in length	SRO to review Guidance and Audit & Governance Committee to consider and adopt revised policy	Considered at this meeting
Annual update to Elected Members on ADC use of RIPA powers	Annual update to be presented to the Audit & Governance Committee	Completed 19 February 2024
Senior Responsible Officer to review storage and auditable booking of	Senior Responsible Officer to undertake checks with Group Heads and service managers responsible for surveillance devices	Completed July 2023

surveillance devices		
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4.10 Attached at Appendix 2 is the existing ‘Corporate Policy and Procedures Document on The Regulation of Investigatory Powers Act 2000’. This has been renamed as ‘Corporate RIPA Policy & Procedures’ for simplicity and ease of understanding. The version at Appendix 2 shows tracked changes that reflect the Commissioner’s recommendations in respect of the Council’s structure, ‘pseudo-RIPA activities’, and retention periods for documentation.

4.11 Attached at Appendix 3 is the existing ‘Guidance on the Use of Social Media in Investigations’ with tracked changes showing proposed amendments that reflect the Commissioner’s recommendation:

“The RIPA social media guidance is similarly detailed and there is a danger that the core message may be lost in the detail; it is therefore suggested that this be reviewed and reduced in length. Councils often find it helpful to circulate key messages about viewing information online and how this might engage RIPA, linking the supporting social media guidance.”

4.12 Both documents are presented to the Committee for consideration and the revisions are recommended for adoption.

5. CONSULTATION

5.1 Consultation was not required in relation to this report.

6. OPTIONS / ALTERNATIVES CONSIDERED

6.1 The recommendations of the Commissioner should be implemented by the Council and no alternative option exists in this regard.

7. COMMENTS BY THE GROUP HEAD OF FINANCE/SECTION 151 OFFICER

7.1 There are no direct legal implications arising from this report.

8. RISK ASSESSMENT CONSIDERATIONS

8.1 Adoption of an up-to-date and lawful policy supports sound criminal investigative techniques and ensures that the Council’s investigations and prosecutions are beyond legal challenge where covert surveillance techniques are utilised.

9. COMMENTS OF THE GROUP HEAD OF LAW AND GOVERNANCE & MONITORING OFFICER

9.1 The legislative background is set out within the body of this report. Local authorities are inspected by IPCO on a periodic basis – usually every three years. It is important, as set out in paragraph 8.1, that the Council’s policy, procedures and guidance documents are updated in line with the

Commissioner's recommendations in order that evidence obtained through the use of covert surveillance cannot be challenged as part of any legal proceedings, and to protect the rights of individuals when those techniques are being employed.

10. HUMAN RESOURCES IMPACT

10.1 There are no human resources implications.

11. HEALTH & SAFETY IMPACT

11.1 There are no such implications associated with this report.

12. PROPERTY & ESTATES IMPACT

12.1 There are no such implications associated with this report.

13. EQUALITIES IMPACT ASSESSMENT (EIA) / SOCIAL VALUE

13.1 There are no such implications associated with this report.

14. CLIMATE CHANGE & ENVIRONMENTAL IMPACT/SOCIAL VALUE

14.1 There are no such implications associated with this report.

15. CRIME AND DISORDER REDUCTION IMPACT

15.1 There are no such implications associated with this report.

16. HUMAN RIGHTS IMPACT

16.1 There are no such implications associated with this report.

17. FREEDOM OF INFORMATION / DATA PROTECTION CONSIDERATIONS

17.1 There are no such implications associated with this report.

CONTACT OFFICER:

Name: Daniel Bainbridge

Job Title: Group Head of Law & Governance

Contact Number: 01903 737607

BACKGROUND DOCUMENTS: None

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Investigatory Powers
Commissioner's Office

PO Box 29105, London, SW1V 1ZU

Mr James Hassett
Chief Executive
Arun District Council
By email

17th March 2023

Dear Mr Hassett,

IPCO Surveillance and CHIS Inspection of Arun 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.

On the 13 March 2023 your Council was the subject of an inspection by [REDACTED], who examined your use of powers under Part II of the Regulation of Investigatory Powers Act 2000 (RIPA) in relation to directed surveillance and Covert Human Intelligence Sources (CHIS). This process was facilitated by the Senior Responsible Officer (SRO) for RIPA matters, Daniel Bainbridge - Group Head of Law & Governance.

Arun District Council was last inspected just over three years ago during December 2019, which resulted in a single recommendation concerning the need to provide RIPA training to key personnel. It was therefore pleasing to hear that refresher training was recently delivered to a wide range of personnel, including you in your capacity as a potential Authorising Officer for Juvenile/Vulnerable sources. I hope you and your colleagues found this an informative experience and feel you are equipped with the knowledge required should you need to use RIPA powers.

I understand that it is a matter of years since Arun District Council last chose to use RIPA surveillance or CHIS powers. You may be interested to know that this is consistent with the picture of use that we see among other local authorities of a similar size. Nonetheless, it is important that the capability is there should you need it. I understand that the SRO Mr. Bainbridge has been in post since 2022. As such, [REDACTED] took a pragmatic view of the inspection with a greater focus on what your Council should be seeking to achieve in future months, which has resulted in a range of suggested actions that are detailed below.

In respect of the Council's RIPA and RIPA related Social Media guidance, Mr. Bainbridge confirmed that structural adjustments that have taken place within the Council during recent years will necessitate the policy to be redrafted, having been last updated in 2019. The policy is a well written and detailed document which will require very little adjustment (other than to update the duration of juvenile authorisations). The 2019 inspection report suggested that the Council might like to consider a section concerning 'non-RIPA' - a term which is used to describe when surveillance may be required, but the statutory requirements cannot be fulfilled. In such circumstances a pseudo-RIPA process of authorisation should be followed, giving consideration to the same themes of necessity and proportionality, albeit a magistrate's approval cannot be sought.

The RIPA social media guidance is similarly detailed and there is a danger that the core message may be lost in the detail; it is therefore suggested that this be reviewed and reduced in length. Councils often find it helpful to circulate key messages about viewing information online and how this might engage RIPA, linking the supporting social media guidance.

Policy revisions provide an ideal opportunity for re-engagement with Council Members concerning the use (or potential use) of RIPA powers and the structures in place for managing this. Paragraph 4.47 of the 2018 Covert Surveillance and Property Interference Code of Practice requires that Elected Members be provided with a regular (at least annual) update on the use of RIPA powers and to approve the Council's policy, likely to go through your Audit and Governance Committee. Mr. Bainbridge was unsure if this responsibility has been fulfilled, but committed to ensuring the required update is provided regularly.

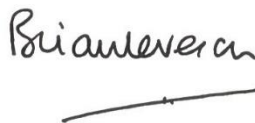
During 2018 the CHIS and Covert Surveillance Codes of Practice were updated to reflect new guidance concerning the safeguarding of data generated as a result of RIPA authorised activity (it should be noted that the CHIS Code has been superseded by a more recent version in December 2022). Your RIPA policy currently states that the Central Record of authorisations is retained for a minimum period of three years. It is important that when entries on the Central Record are reviewed for potential deletion, a review is completed of corresponding case files. Mr. Bainbridge suggested that a retention period of 6 years would be more reflective of the approach taken to investigative material, and it may be helpful to address this matter in the redrafted RIPA policy. [REDACTED] was provided with copies of the Central Record for the last three years, which confirmed that no activity has been undertaken and thus no proactive review of material is required, unless you were to discover that RIPA material is routinely being stored elsewhere – a matter upon which you will wish to assure yourself.

Finally, the management of surveillance devices was discussed, specifically those that are only used for RIPA purposes, rather than equipment such as mobile CCTV which can be used for a range of purposes. Mr. Bainbridge has undertaken to complete a brief check across the Council to ensure that any devices are stored securely and subject to an auditable booking process.

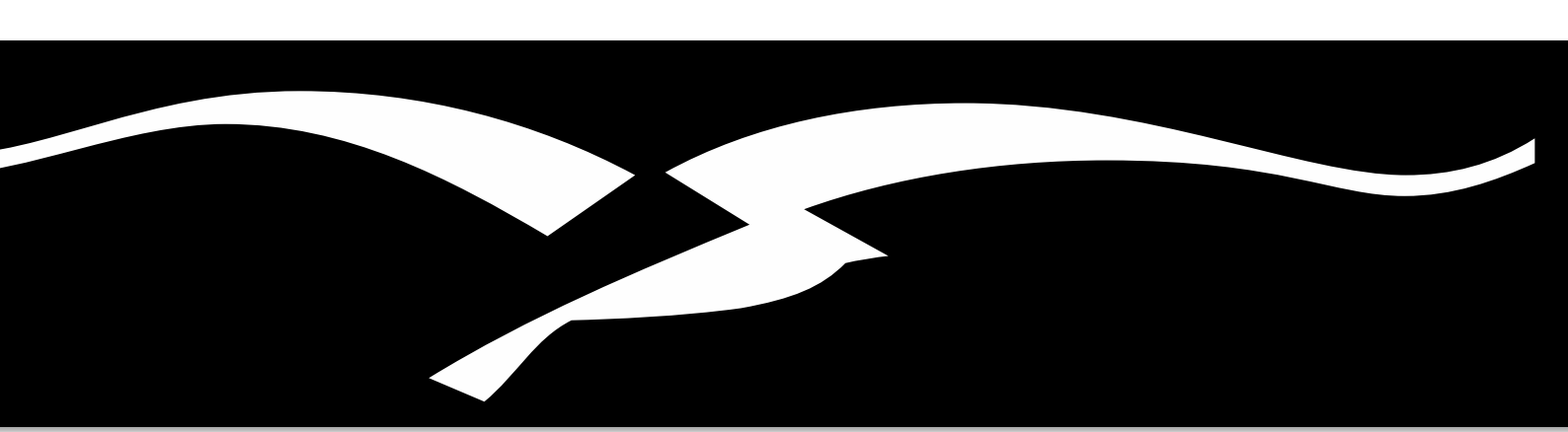
I hope that you and your colleagues have found the inspection process helpful in focusing on maintaining compliance and readiness to use RIPA powers. [REDACTED] wanted me to comment that Mr. Bainbridge has a good level of knowledge about RIPA and appears well equipped to implement any required changes.

If you require any further assistance or wish to provide feedback, my Office is available to you; otherwise I would ask you to respond to this letter within two months of receipt, providing an update against the suggested actions.

Yours sincerely,



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



Corporate RIPA Policy And
Procedures ~~Document~~

On

The Regulation Of Investigatory
Powers Act 2000 (RIPA) ~~(as amended,
including changes from the Investigatory Powers
Act 2016)~~

Version:	December 2019 (post IPCO inspection) <u>October 2024</u>
Document Owners:	Internal Audit Manager <u>Group Head of Law and Governance</u>
Approved By:	Corporate Management Team <u>Audit & Governance Committee</u>

1.0 Introduction

- 1.1 This Corporate Policy and Procedures ~~Document~~ is based upon the requirements of the Regulation of Investigatory Powers Act 2000 (RIPA), as amended by:-
- a number of Statutory Instruments
 - the Protection of Freedoms Act 2012
 - the Investigatory Powers Act 2016 (as further amended by the Data Retention and Acquisition Regulations 2018)
- and the revised Home Office Codes of Practice on:-
- Covert Surveillance and Property Interference
 - Covert Human Intelligence Sources (CHIS)
 - Acquisition and Disclosure of Communications Data.
- 1.2 RIPA and this document are important for the efficient and effective operation of the Council's actions with regard to covert surveillance, covert human intelligence sources and the acquisition / disclosure of communications data. This policy and procedures document will be reviewed by the Council's ~~Internal Audit Manager~~ Group Head of Law & Governance and the Audit & Governance Committee ~~annually~~ every three years. Where references are made to RIPA throughout this document, then this should also include IPA (in relation to communications data).
- 1.3 All staff directly employed by ~~Arun District Council (ADC)~~ the Council and external agencies working for the Council are covered by the Act for the time they are working for the Council. Therefore, all external agencies must comply with RIPA and any relevant actions carried out by such agencies on the Council's behalf must be properly authorised by one of the Council's designated Authorised Officers. The Authorised Officers are those whose names and job titles appear in Appendix E.
- 1.4 If the correct procedures are not followed, or all required authorisations are not obtained, then evidence gathered may be deemed inadmissible for enforcement or other purposes and activities may be unlawful, leaving the Council open to regulatory or legal action. It is therefore vitally important that all Officers involved in work to which RIPA may apply are fully conversant with the requirements of the Act and the Codes of Practice.
- 1.5 Officers do, ~~however,~~ on occasion need to use covert surveillance and / or obtain communications data to carry out statutory and non-statutory functions. In order to ensure this is undertaken in a fair and lawful way, and in accordance with ~~the~~ Human Rights legislation, ~~the Arun District Council~~ is committed to complying with ~~the Regulations of Investigatory Powers Act 2000 (RIPA), as amended~~. Therefore, covert surveillance and the obtaining of communications data will only take place if the Officer responsible for management of the investigation has obtained the necessary authorisation within the Council ~~by~~ from the Chief Executive, Group Head of Law & Governance ~~Council Advice & Monitoring~~ or an appropriate Authorising Officer.

- 1.6 From 1 November 2012, the Protection of Freedoms Act 2012 imposes additional restrictions on the activities that can be subject to directed surveillance and also requires that all such RIPA activities are subject to judicial approval, before commencement. The Investigatory Powers Act replaces the RIPA powers for communications data and, from June 2019, requires that any such requests be independently authorised by the Office for Communications Data Authorisations (OCDA).
- 1.7 The Council will comply with ~~the all~~ Codes of Practice issued by the Secretary of State and has established procedures by which the powers can be authorised, detailed later in this document. Links to the Home Office Codes of Practice can be found on the Council's ~~SharePoint intranet under Internal Audit / RIPA~~. Appropriate standard forms have also been provided by the Home Office (listed in Appendix D) and these are available to relevant Officers via the Council's ~~SharePoint intranet~~.
- 1.8 The Council aims to ensure that relevant staff understand the scope of RIPA in relation to their area of work. All staff whose jobs are likely to involve surveillance work will undertake training on ~~RIPA the Act~~ and its implications. This training should enable these staff to understand the procedures and safeguards, and to minimise the risk that staff will attempt to undertake investigations using methods incompatible with the requirements of RIPA.
- 1.9 Careful consideration must always be given to alternative, legal methods of gathering information before seeking authorisation under RIPA. This is to ensure that the use of surveillance is an effective way of obtaining evidence and that the Council is able to demonstrate that RIPA use is both necessary and a proportionate response to the circumstances of each case.
- 1.10 The Investigatory Powers Commissioner has previously advised that all public authorities empowered to use RIPA should have in place a corporate policy on the use of social media in investigations - while social networking sites may be accessed as part of investigations, there must be corporate direction and oversight. This must include consideration of whether such activities constitute covert directed surveillance or the use of a covert human intelligence source as defined within RIPA and which must therefore be conducted in line with this policy. A separate 'Guidance on the Use of Social Media in Investigations' document provides further information in this regard.
- 1.11 RIPA requires that a central retrievable register be held by the Council and is regularly updated whenever an authorisation is granted, reviewed or cancelled. This record shall be kept by the ~~Internal Audit Manager Group Head of Law & Governance~~ and shall be available to the relevant Commissioner or an Inspector from the Investigatory Powers Commissioner's Office (IPCO), ~~which assumed responsibility from the former Office of Surveillance Commissioners (OSC) in September 2017,~~ upon request. The central register will be reviewed at three monthly intervals, to ensure compliance with this Policy and to promulgate examples of best practice. These records should be retained for 3 years following the end of an authorisation and be available for review at the next triennial inspection by the Investigatory Powers Commissioner's Office. Once the inspection has been completed, historic records reviewed may be destroyed.

- 1.12 As part of the review process, the ~~Internal Audit Manager Group~~ [Head of Law & Governance](#) will periodically request confirmation from Service area senior management that they:-
- (and their staff) are aware of current RIPA legislation and processes
 - have authorised and registered any RIPA use, in accordance with this Policy
 - have not undertaken any activities covered by RIPA (as contained in this Policy and the appropriate Home Office Codes of Practice) without the necessary authorisation and judicial approval.
- 1.13 In addition, each Service area shall keep a record of authorisations and / or use of a source. Service ~~departments~~ [areas](#) may keep their copies of the authorisations for longer where they may be required for a future prosecution or other legal intervention - however, they must destroy their copies as soon as they are no longer required.
- 1.14 There is no provision within the Act which prevents material obtained from one properly authorised source being used in other investigations. The Council will, however, ensure that arrangements are in place for the handling, storage and destruction of material obtained through this avenue. Authorising Officers must ensure compliance with the data protection requirements and the Council's Data Protection Policy in relation to the handling and storage of material.

2.0 Explanation of the Act and Codes of Practice

- 2.1 ~~The Regulation of Investigatory Powers Act 2000 (RIPA), as amended,~~ is concerned with the regulation of surveillance by ~~the public authorities, such as Arun District Council,~~ in the conduct of ~~their~~ [its](#) legitimate business. Surveillance is part of modern life but had not previously been the subject of formal statutory control. The 2010 guidance from the Home Office, and the further restrictions / requirements for judicial approval of RIPA use contained in the Protection of Freedoms Act 2012, take into account public unease over adverse publicity regarding the apparent misuse of the powers by a minority of ~~L~~ [local A](#)uthorities to deal with seemingly trivial matters. The latest legislation and codes of practice provide much clearer guidance as to when the use of surveillance is appropriate and when it is not.
- 2.2 RIPA was enacted to regularise the situation and to ensure that, when conducting surveillance, public authorities have regard to the Human Rights Act 1998 and Article 8 of the European Convention of Human Rights (the right to a private and family life) regulated by RIPA.
- 2.3 Part 4 of the Act provides for independent judicial oversight of powers where necessary. It also established a Tribunal as a means of redress for those who wish to complain about the use of the powers. The Act also provides [se](#) for the Secretary of State to issue Codes of Practice covering the use of the powers covered by the Act.
- 2.4 The Secretary of State has issued revised Codes of Practice (as noted in

section 1.1 above) and guidance on the changes from the Protection of Freedoms Act 2012 and the Investigatory Powers Act 2016, which should be given careful consideration by all Officers involved in RIPA-related activities.

2.5 ~~The Investigatory Powers Commissioner's Office (IPCO)~~ keeps under review the performance of functions relating to covert surveillance and makes periodic inspections for these purposes. ~~The OSC (now IPCO)~~ periodically publishes a Procedures and Guidance document on the oversight arrangements for covert surveillance and property interference conducted by public authorities.

2.6 ~~Arun District Council is defined as an authority to which RIPA applies by virtue of Section 1 of the Local Government Act 1999.~~ The forms of surveillance that ~~ADC the Council~~ is entitled to authorise are:-

- covert directed surveillance
- the use of covert human intelligence sources (informants), known as CHIS

~~from 1 November 2012,~~ any such RIPA activity to be conducted by the Council must also have judicial approval before commencement

- the acquisition and disclosure of communications data

~~from 1 November 2018,~~ a serious crime threshold will be applied and ~~from June 2019~~ applications will require independent authorisation from the Office for Communications Data Authorisations (OCDA).

2.7 Covert Directed Surveillance

2.7.1 Covert Directed Surveillance means surveillance which is carried out in such a way that the person(s) subject to it is unaware that it is or may be taking place.

2.7.2 It is essentially covert surveillance in places other than residential premises or private vehicles – surveillance in these is termed 'intrusive' and cannot be conducted by local authorities under the RIPA framework.

2.7.3 Surveillance is directed if it is:-

- covert, but not intrusive;
- undertaken for the purposes of a specific investigation; and
- conducted in such a way as to obtain private information about a person other than by way of an immediate response to events or circumstances.

2.7.4 ~~As a result of~~ Under the Protection of Freedoms Act, ~~from 1 November 2012~~ Directed Surveillance authorisations will have a crime threshold applied:-

- local authorities can only authorise use of directed surveillance under RIPA to prevent or detect criminal offences that are either punishable, whether on summary conviction or indictment, by a maximum term of at least 6 months' imprisonment or are related to the underage sale of alcohol and tobacco
- local authorities cannot authorise directed surveillance for the

purpose of preventing disorder, unless this involves such a criminal offence

- this will continue to allow the use of directed surveillance in more serious cases, as long as the requirements for necessity, proportionality and prior JP approval have been met. Examples of this could include more serious criminal damage, dangerous waste dumping and serious or serial benefit fraud
- a local authority may not now authorise the use of directed surveillance under RIPA to investigate disorder that does not involve criminal offences or to investigate low-level offences which may include, for example, littering, dog control and fly-posting
- at the start of an investigation, officers will need to satisfy themselves and the JP that what they are investigating is a criminal offence. If, during the investigation, it becomes clear that the activity being investigated does not constitute a criminal offence or that it would be a less serious offence that does not meet the threshold, the use of directed surveillance should cease. If a directed surveillance authorisation is already in force it should be cancelled
- while local authorities will no longer be able to use directed surveillance in some cases where it was previously authorised, this does not mean it will not be possible to investigate these areas with a view to stopping offending behaviour. The RIPA Code of Practice on covert surveillance makes it clear that routine patrols, observation at trouble 'hotspots', immediate response to events and overt use of CCTV are all techniques that do not require RIPA authorisation
- the manner in which evidence is collected should be considered as to whether it may be considered 'routine'. If there is any doubt as to whether RIPA applies to activities being proposed, then advice should be sought from the Council's Legal Services or Internal Audit areas.

- [2.7.5 If a case does not meet the criminal threshold required by the Protection of Freedoms Act 2012, the Requesting Officer will nevertheless complete a form \(available from the Group Head of Law & Governance\) setting out which alternative non-covert \(overt\) surveillance techniques may or will be used in that operation, which will assess the investigation against the same principles of necessity and proportionality.](#)

2.8 Covert Human Intelligence Source (CHIS)

2.8.1 A person is a Covert Human Intelligence Source (CHIS) if they establish or maintain a relationship with another person in order to:-

- covertly obtain information;
- provide access to information to a third party; or
- covertly disclose information obtained by the use of such a relationship and the other person is unaware that the purpose of the relationship is one of the above.

2.9 Communications Data

Communications Data means any traffic or any information that is being or has been sent by a telecommunications system or postal system, together with information about the use of the system made by any person e.g. e-mails, letters, telephone calls (now covered by the Investigatory Powers Act 2016).

2.10 General Observations

2.10.1 It is important to distinguish between the types of surveillance and information gathering regulated by RIPA, and normal general observation in the course of discharging the Council's functions. It is acknowledged that low-level activity will not actually be regulated under the provisions of RIPA. The Covert Surveillance Code of Practice gives the following examples of this kind of general observation:-

- patrolling to prevent crime and disorder
- visiting of premises by Officers as part of their enforcement function

2.10.2 Even when this might involve using binoculars or cameras, the Code states that this sort of activity is general observation as it does not involve the "systematic surveillance of an individual".

3.0 Human Rights and RIPA

3.1 The Human Rights Act 1998 requires the Council, and any organisation working on its behalf, to respect a person's private and family life, their home and correspondence (pursuant to article 8 of the European Convention on Human Rights).

3.2 The Convention qualifies this right so that in certain circumstances the Council may interfere in that person's right if that interference is:-

- in accordance with the law;
- necessary; and
- proportionate.

3.3 RIPA provides a statutory mechanism for the authorising of covert surveillance, the use of a Covert Human Intelligence Source (CHIS) and the acquisition of communications data. It also permits Public Authorities to compel telecommunications and postal companies to obtain and release communications data to them. This can take place only in certain circumstances. As the Convention seeks to ensure that any interference with a person's rights under Article 8 is necessary and proportionate, RIPA seeks to ensure that the human rights of individuals and the public interest are balanced and this has been strengthened by the Protection of Freedoms Act 2012.

3.4 Surveillance is an intrusion into the privacy of the citizen. [The Arun District Council](#) will not undertake surveillance unless it is:-

- i. necessary;
- ii. proportionate; and
- iii. properly authorised (both by an Authorising Officer and a JP, following

judicial review).

3.5 Where there are alternate legal means of obtaining the information, which is less intrusive on the rights of the citizen, we will always take that alternative course rather than undertake surveillance.

3.6 Surveillance will always therefore be conducted within the constraints of the authorisation. It will cease when the evidence sought has been obtained, or when it becomes clear that the evidence is not going to be obtained by further surveillance. At this point the authorisation should be cancelled.

3.7 All Officers of ~~ADC~~ the Council involved in applying for, authorising or undertaking surveillance will undertake this in line with the requirements set out in RIPA (as amended) and the Codes of Practice.

3.8 Covert surveillance which is properly authorised will, as long as it is carried out in accordance with the terms of the authorisation, be legitimate. The authorisation would provide a defence to any challenge under the Human Rights Act.

3.9 Confidential Information

3.9.1 ~~RIPA~~ The 2000 Act does not provide any special protection for “confidential information”. Nevertheless, particular care should be taken in cases where the subject of the investigation might reasonably expect a high level of privacy, or where confidential information is involved. Confidential information consists of matters subject to legal privilege, confidential personal information (medical or religious / spiritual information) or confidential journalistic material. For example, extra care should be given where, through the use of surveillance, it would be possible to acquire knowledge of discussions between a minister of religion and an individual relating to the latter’s spiritual welfare, or where matters of medical or journalistic confidentiality or legal privilege may be involved.

3.9.2 In cases where, through the use of surveillance, it is likely that knowledge of confidential information will be acquired, the use of surveillance is subject to a higher level of authorisation. Only the Chief Executive can authorise any application where confidential information is likely to be acquired.

4.0 The General Data Protection Regulation (~~GDPR~~) / Data Protection Act 2018 (~~DPA~~) and RIPA

4.1 The ~~EU’s~~ General Data Protection Regulation (GDPR) ~~and the Data Protection Act 2018 have replaced the UK’s Data Protection Act 1998 in order that data protection law is generally identical across the EU. The GDPR~~ contains a set of 6 principles, which state that personal data, which includes personal data from covert surveillance techniques must be:-

- processed lawfully, fairly and in a transparent manner (‘lawfulness and transparency’);

- collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes *('purpose limitation');
- adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed ('data minimisation');
- accurate and, where necessary, kept up to date ('accuracy');
- stored for no longer than is necessary ('storage limitation');
- kept secure and protected from unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures ('integrity and confidentiality').

4.2 All authorisations, notebooks, logs and other ancillary documentation will be retained for a period of three years and will be made available for any appropriate management or regulatory inspection.

5.0 Surveillance - What Is It?

5.1 Surveillance includes:-

- monitoring, observing, listening to persons, watching or following their movements, listening to their conversations, and other such activities or communications
- recording anything mentioned in the course of authorised surveillance
- surveillance by or with the assistance of appropriate surveillance devices.

5.2 Overt or Covert Surveillance?

5.2.1 Overt

Most of the surveillance carried out by the Council will be conducted overtly. There will be nothing secretive, clandestine or hidden about it. In many cases Officers will be behaving in the same way as members of the public and will be going about Council business openly e.g. inspecting food premises, undertaking site visits, home visits for benefit claims / reviews.

5.2.2 Covert Surveillance

Covert surveillance is carried out in a manner intended to ensure the person(s) subject to the surveillance is unaware that it is taking place (Section 26 (9)(a) of RIPA). It is not classed as necessary or proportionate if there is reasonably available overt means of finding out the information. There are two types of covert surveillance:-

- Directed
- Intrusive.

5.2.3 Directed Covert Surveillance

This is surveillance that is:-

- i. covert; and

- ii. non-intrusive.

5.2.4 Immediate Response Surveillance

Covert surveillance that is likely to reveal private information about a person but is carried out by way of an immediate response to events, such that it is not reasonably practicable to obtain an authorisation under the ~~2000~~-Act, would not require a directed surveillance authorisation. The ~~2000~~-Act is not intended to prevent law enforcement officers fulfilling their legislative functions.

5.2.5 Surveillance on Business Premises

The fact that covert surveillance takes place in a business premises does not mean it cannot result in the obtaining of private information about a person. The way a person conducts their business can also reveal information about their private life and others e.g. family members.

5.2.6 CCTV

CCTV cameras do not normally require authorisation. If the camera is used for a specific purpose which involves surveillance on a particular individual, authorisation will be required.

5.2.7 Aerial Covert Surveillance

Where surveillance using unmanned aircraft (colloquially known as 'drones') is planned the Home Office Code [of Practice](#) requires that consideration should be made to determine whether a surveillance authorisation is appropriate. In considering whether the surveillance should be regarded as covert, account should be taken of the reduced visibility of a craft or device at altitude.

5.3 Intrusive Surveillance

5.3.1 Directed surveillance is non-intrusive. Intrusive surveillance takes place when it is:-

- i. covert;
- ii. relates to residential premises and private vehicles; and
- iii. involves the presence of a person in the premises / vehicle.

5.3.2 Surveillance equipment mounted outside the premises will not be intrusive, unless the device consistently provides information of the same quality and detail as might be expected if it were in the premises / vehicle.

5.3.3 Intrusive surveillance can only be carried out by the Police and other law enforcement agencies.

6.0 Covert Human Intelligence Source (CHIS)

6.1 Definition

A CHIS is someone who establishes or maintains a personal or other relationship with a person for the covert purposes of helping the Council by:-

- covertly using such a relationship to obtain information or to provide access to any information to another person
- covertly disclosing information obtained by use of such a relationship or as a consequence of the existence of such a relationship.

The relationship will be for a covert purpose only if it is conducted in a manner that is calculated to ensure that one of the parties to the relationship is unaware of the purpose.

6.2 Information from the Public

6.2.1 Where members of the public volunteer information or provide it through a contact number set up to receive such information e.g.:-

- benefit fraud hotline
 - neighbour complaining of possible planning permission breach,
- RIPA will not apply (as long as no covert relationship is established under the provisions of section 6.1 above).

6.2.2 Determining the status of an individual or organisation providing information is a matter of judgement by the public authority. Public authorities should avoid inducing individuals to engage in the conduct of a CHIS either expressly or implicitly without obtaining a CHIS authorisation. If there is any doubt as to whether RIPA applies to activities being proposed, then advice ~~should~~ must be sought from the Council's Legal Services ~~team~~ Internal Audit areas.

6.3 What Must Be Authorised

6.3.1 Use

The use of a CHIS involves any action on behalf of a public authority to induce, ask or assist a person to engage in the conduct of a CHIS, or to obtain information by means of the conduct of a CHIS.

6.3.2 Conduct

The conduct of a CHIS is any conduct that falls within the definition of a CHIS above.

6.3.3 Handlers and Controllers

Public authorities should ensure that arrangements are in place for the proper oversight and management of CHIS, including appointing individual officers as defined in section 29(5)(a) and (b) of the ~~2000~~ Act for each CHIS.

The person referred to in section 29(5)(a) of the ~~2000~~-Act (the “handler”) will have day to day responsibility for:-

- dealing with the CHIS on behalf of the authority concerned;
- directing the day to day activities of the CHIS;
- recording the information supplied by the CHIS; and
- monitoring the CHIS’s security and welfare.

The handler of a CHIS will usually be of a rank or position below that of the authorising officer.

The person referred to in section 29(5)(b) of the ~~2000~~-Act (the “controller”) will normally be responsible for the management and supervision of the “handler” and general oversight of the use of the CHIS.

6.3.4 Authorisation

Prior authorisation will be required by an Authorising Officer and, ~~from 1 November 2012, from~~ a MagistrateJP. An authorisation will be required covering:-

- Use - the steps taken by a public authority in relation to the use of a CHIS, including asking or assisting a person to act as a CHIS and the decision to use a CHIS in the first place
- Conduct – the steps taken by the CHIS on behalf, or at the request, of a public authority.

Most CHIS authorisations will be for both use and conduct. Care should be taken to ensure that the CHIS is clear on what is / is not authorised at any given time and that all the CHIS’s activities are properly risk assessed.

6.4 Special Circumstances

6.4.1 Juveniles (Under 18) and Vulnerable Individuals

There are special safeguards with regard to the use of such individuals. On no occasion can a child under 16 years of age be authorised to give information against his or her parents or any person who has parental responsibility for him / her. Only the Chief Executive (or a designated Director, acting as the Head of Paid Service in his-their absence) is duly authorised to use such vulnerable individuals as there are onerous requirements for such authorisations.

6.5 Test Purchase of Sales to Juveniles

6.5.1 Test purchases may be used by the authority to establish whether juveniles are sold goods illegally (only law enforcement officers should be attempting such transactions for the sale of drugs or stolen items).

6.5.2 When a young person, pursuant to an arrangement with an officer of a public authority, carries out a test purchase at a shop, he is unlikely to

be construed as a CHIS on a single transaction but this would change if the juvenile revisits the same establishment in a way that encourages familiarity.

6.5.3 If covert recording equipment is worn by the test purchaser an authorisation for directed surveillance must be obtained and such authorisation must identify the premises involved. If recording is not performed, but an adult is present to witness the test purchase and ensure the safety of the juvenile, then an authorisation is not required. In all cases a prior risk assessment is essential in relation to a young person.

6.5.4 When conducting covert test purchase operations at more than one establishment, premises may be combined into a single authorisation provided that each is identified at the outset and the intelligence is sufficient to prevent 'fishing trips'. Necessity, proportionality and collateral intrusion must be addressed in relation to each of the premises. It is unlikely that authorisations will be considered proportionate without demonstration that overt methods have been attempted and failed.

6.6 Mobile Hidden Recording Devices or CCTV

6.6.1 If these devices are to be used to record what is going on in a shop or premises, this will require authorisation as it is directed surveillance.

6.6.2 Where an operation involves both the use of a CHIS and directed surveillance, separate authorisations must be documented and approved in accordance with this Policy.

6.7 Anti-Social Behaviour

Persons who complain about anti-social behaviour and are asked to keep a diary of the incidents that occur will not normally be a CHIS. This is because they are not being asked to establish or maintain a relationship for covert purposes. However, if they are commissioned to act as an 'agent' on behalf of the authority then consideration should be given to an authorisation depending upon the crime threshold involved.

6.8 Noise Recording

Recording noise e.g. decibel levels, does not normally record private information and therefore does not require authorisation. Especially sensitive recording devices might be capable of intrusive surveillance, and there is a limit to how long after any notice is served whereby recordings can be said to be made overtly.

7.0 Joint / 3rd Party Investigations and Use of [ADC Council](#) Equipment

7.1 Where the Council undertakes joint surveillance operations or allows its equipment to be utilised by outside agencies such as the Police, copies of

these authorisations must be obtained and placed on the central file.

- 7.2 The same criteria for the use of covert surveillance and covert human intelligence sources apply in relation to joint investigations or equipment usage. It is therefore vital that the relevant Officers who undertake external liaison are fully aware of the requirements of RIPA when involved in decisions in relation to joint investigations or the proposed use of the Council's equipment for surveillance purposes.
- 7.3 Where the Council is requested to take action based upon evidence obtained by a [thirdrd](#) party under the provisions of RIPA (e.g. licencing action requested by the Police), copies of these authorisations must be obtained and placed on the central file.

8.0 Acquisition of Communications Data

- 8.1 The Investigatory Powers Act 2016 ~~now~~ covers the powers granted in respect of the acquisition of communications data from telecommunications and postal companies, which the [2016](#) Act terms Telecommunications Operators (TO's) – formerly known as Communication Service Providers (CSP's) under RIPA. The only basis upon which the Council can request this data is for the purpose of preventing or detecting crime or of preventing disorder.
- 8.2 ~~From November 2018, t~~The Investigatory Powers Act 2016 places further restrictions and local authorities may only acquire event (traffic or service) data where the crime can be defined as a serious crime; otherwise only subscriber data may be obtained. Serious crime means:-
- an offence for which an adult is capable of being sentenced to one year or more in prison;
 - an offence committed by a body corporate
 - any offence involving violence, resulting in a substantial financial gain or involving conduct by a large group of persons in pursuit of a common goal;
 - any offence which involves the sending of a communication or breach of privacy; or
 - an offence which involves, as an integral part of it, the sending of a communication or a breach of a person's privacy.
- 8.3 In the event an application for communications data is required, the National Anti-Fraud Network (NAFN) will be consulted to ensure that the correct form(s) are completed and that the required information is provided, in accordance with the process in sections 8.4-8.5 below.
- 8.4 Acquisition of communications data ~~under the Act~~ involves the following roles within a relevant public authority:-
- the applicant
 - the Approved Rank ('made aware') officer
 - the single point of contact
 - the senior responsible officer.

- 8.4.1 The applicant is a person involved in conducting an investigation or operation for a relevant public authority who makes an application for the acquisition of communications data. The applicant completes an application, setting out for consideration by the Approved Rank officer, the necessity and proportionality of a specific requirement for acquiring communications data.
- 8.4.2 The Approved Rank ('made aware') officer is a person holding a prescribed office (Service Manager or above) in a relevant public authority who considers the application to confirm that it is necessary and proportionate in the specific circumstances. (For [ADGthe Council](#), the list of such officers is contained in Appendix E).
- 8.4.3 The single point of contact (SPoC) is either an accredited individual or a group of accredited individuals trained to facilitate lawful acquisition of communications data and effective co-operation between a public authority and TO's. To become accredited an individual must complete a course of training appropriate for the role of a SPoC and have been issued a SPoC Personal Identification Number (PIN). Details of all accredited individuals are available to TO's for authentication purposes. (For local authorities including [ADGthe Council](#), this role must be undertaken externally by the NAFN SPoC service, who will liaise with the Approved Rank officer to ensure that any requests are appropriate and meet current legal requirements).
- 8.4.4 Within every relevant public authority a senior responsible officer must be responsible for the integrity of the process in place within the public authority to acquire communications data, compliance with the Act and Code of Practice. (Within [ADGthe Council](#), this role is undertaken by the Group Head of [Law & Governance Council Advice & Monitoring](#)).
- 8.4.5 It should be noted that it is now a criminal offence under [Section 11](#) of the [2016](#) Act if an applicant inappropriately requests data in a 'wilful or reckless' manner.
- 8.5 NAFN has a published procedure for Councils to request communications data:-
- access to the NAFN system will be required for the applicant to enter the request using the on-line forms provided
 - the Approved Rank officer will also require access to the NAFN system to confirm that they have been 'made aware' of the request, that it is necessary and proportionate and in line with the legislation
 - the SPoC (NAFN) will consider the request and may require clarification or re-work by the Council
 - if NAFN agree the request is appropriate, they will forward it to the Office for Communications Data Authorisations (OCDA) for authorisation (there is no longer a need for Magistrate approval for

such requests)

- the OCDA can approve the request, reject it or pass it back for re-work / re-submission via NAFN
- if approved, NAFN will make the request to the Telecommunications Operator and provide the data to the Council once received.

9.0 Duties and Responsibilities of the Authorising Officer

9.1 Officers who are able to give RIPA authorisations will be of a sufficiently senior level within the Council and will have received appropriate training to do so. These Authorised Officers will be named within the Council's published policy at Appendix E.

9.2 The Authorising Officer must not be directly engaged in the investigation and cannot be responsible for authorising investigations into their own activities.

9.3 The Authorising Officer shall not grant authorisation for the carrying out of any activity governed by RIPA unless they believe it is necessary and proportionate.

9.4 Necessity

9.4.1 The action is necessary for one of the reasons specified in Act. The Council is only authorised to use RIPA, subject to the additional restrictions applied by the protection of Freedoms Act 2012 (see section 2.7.4 above):--

- for the purpose of preventing or detecting crime – directed surveillance under Section 28(3)(b) of the Act
- for the purpose of preventing or detecting crime or of preventing disorder – use of a CHIS under Section 29(3)(b) or the Act or the acquisition of communications data under Section 22(2)(b) of the Act.

9.5 Collateral Intrusion

9.5.1 Before authorising surveillance, the Authorising Officer should also take into account the risk of intrusion into the privacy of persons other than those who are directly subjects of the investigation or operation. Measures should be taken, wherever practicable, to avoid or minimise unnecessary intrusion into the lives of those not directly connected with the investigation or operation.

9.5.2 An application for an authorisation should include an assessment of the risk of any collateral intrusion. The Authorising Officer should take this into account when considering the proportionality of the surveillance.

9.5.3 Any person granting or applying for an authorisation will also need to be aware of particular sensitivities in the local community where the surveillance is taking place.

9.6 Proportionality

9.6.1 The authorised surveillance must be proportionate to what the investigating officer is seeking to achieve. Do not use a sledgehammer to crack a nut. The following elements of proportionality should therefore be considered:-

- i. balancing the size and scope of the proposed activity against the gravity and extent of the perceived crime or offence;
- ii. explaining how and why the methods to be adopted will cause the least possible intrusion on the subject and others;
- iii. 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;
- iv. evidencing, as far as reasonably practicable, what other methods had been considered and why they were not implemented.

9.7 Reasons for Authorisation

9.7.1 As detailed in Sections 2.7.4 and 9.4.1 above, ~~from 1 November 2012~~ local authorities can only authorise RIPA use in respect of criminal offences that are punishable by a maximum term of at least 6 months' imprisonment or are related to the underage sale of alcohol or tobacco. This may be required:-

- i. in the context of enforcement actions such as prosecutions and appropriate legal proceedings, such as injunctions, possession proceedings and Anti-Social Behaviour Orders (e.g. relating to Housing Benefit fraud, harassment of tenants, breach of Planning regulations, licensing, environmental legislation)
- ii. for operations involving test purchases
- iii. in the context of personnel matters where the nature of the activity e.g. theft or fraud, is expected to lead to future legal proceedings. (Where the matter would be of a purely disciplinary nature, rather than criminal where the ~~6-month~~6-month tariff would be applicable, RIPA would not apply and normal business processes to gather information would be justified).

9.7.2 The Authorising Officer should ensure that there is justification as to why surveillance is necessary and what has been done so far to obtain the information. RIPA authorisation should not be seen as an alternative to attempting other methods of obtaining the information.

9.8 Insurance and Health & Safety

9.8.1 A risk assessment will be required prior to an authorisation for the use of a CHIS or a juvenile (e.g. for test purchases) and it is good practice to do so for other RIPA activity, to ensure compliance with the Health & Safety at Work Act 1974.

9.9 Authorising Officer's Reasoning

9.9.1 It is important that the Authorising Officer records their thought processes and comments on why they are authorising or refusing the request.

9.10 Time Limits and Reviews

9.10.1 The Act provides that authorisations are for 3 months for Directed Surveillance and 12 months for a CHIS (unless a juvenile CHIS which is for 4 months). If it is expected an operation will be completed quickly then a review should be held so that authorisation can be cancelled at the earliest opportunity.

9.11 Authorisation Flowchart

9.11.1 A flowchart in Appendix B sets out the steps an Authorising Officer must take in dealing with a request for authorisation.

10.0 Duties and Responsibilities of Officers Seeking Authorisation

10.1 It is important to be able to distinguish between Directed and Non-Directed Surveillance.

10.1.1 Directed examples are:-

- town centre CCTV to track an individual when the individual is unaware and where this is pre-planned use of the CCTV system for this purpose
- monitoring of individuals to ascertain if they are living together for benefit fraud.

10.1.2 Non-Directed examples are:-

- general observation activities, where the surveillance is not of particular individuals and the intention is to identify and tackle offenders on a reactive basis e.g. standing on a street corner to monitor private hire vehicles plying for hire illegally
- CCTV overt or incidental surveillance
- overt investigations, where a Benefit Officer undertakes a home visit to make enquiries.

10.1.3 Surveillance equipment can be installed, or a CHIS used, for a legitimate purpose only where sufficient evidence exists and has been documented to warrant the exercise, and it can be demonstrated that surveillance is the least intrusive means of meeting that purpose and proportionate to what you are seeking to achieve.

10.1.4 You must ensure you have thoroughly examined all the reasonable alternatives, such as overt surveillance, interview, changing your method of working or security. You must record in writing your considerations and why you have concluded that RIPA authorisation is

required. Your application must be made in writing. It must be submitted to an appropriate Authorising Officer (see Appendix E).

10.1.5 Written authorisations for covert surveillance will be valid for 3 months from the date the authorisation is approved by a Magistrate but will be subject to review within that period to establish whether the authorisation should continue for the entire period.

10.1.6 You should ensure that when considering carrying out covert surveillance it is carefully planned so that the necessary consultations regarding risk assessments, insurance and Health & Safety, availability of officers and equipment can be carried out.

10.2 Operational Considerations - Data Protection

10.2.1 During a covert operation, recorded material or information collected should be stored and transported securely.

10.2.2 Relevant details of the RIPA operation and outcome must be recorded on the appropriate forms covering review, renewal and / or cancellation. This should:-

- record the date and times (if at all) that surveillance took place and the order to cease the activity was made
- the reason for cancellation
- ensure that surveillance equipment has been removed and returned
- provide directions for the management of the product
- ensure that detail of property interfered with, or persons subjected to surveillance, is properly recorded
- record the value of the surveillance or interference (i.e. whether the objectives as set in the authorisation were met).

10.2.3 The Home Office Code of Practice requires that Authorising officers, through their relevant Data Controller, must ensure compliance with the appropriate data protection requirements under the Data Protection Act 2018 and any relevant internal arrangements produced by individual authorities relating to the handling and storage of material. This will cover the dissemination, copying, storage and destruction of private information obtained by the Council.

10.2.4 Under the General Data Protection Regulation / Data Protection Act 2018, evidence should only be retained for as long as necessary and access to it will be restricted to those Officers concerned with the investigation and enforcement.

10.2.5 The Authorising Officer, in consultation with the Council's Group Head of Council Advice & Monitoring, decides whether to allow requests for access to the information by third parties, including Council Officers. Dissemination and/or copying of information obtained should be kept to a minimum.

10.2.6 Access will normally be allowed to prescribed parties, including law

enforcement agencies, prosecution agencies, legal representatives and those individuals subject to the surveillance (unless disclosure would prejudice any criminal enquiries or proceedings).

10.3 Equipment

10.3.1 Officers involved in any investigation under RIPA must ensure that equipment used for the gathering of evidence (e.g. CCTV, digital cameras) is of a suitable quality for such evidence to be admissible in Court and that it is collected and secured in accordance with PACE requirements.

10.3.2 Surveillance equipment should be stored securely, with limited access rights, and an inventory held. A deployment record should also be maintained of any use in covert activities and these records will be subject to audit / inspection.

10.4 Criminal or Disciplinary Matters

10.4.1 Once a covert operation results in confirmation of an individual under surveillance as having committed a criminal or disciplinary offence, that individual must be informed of this as promptly as is reasonably practicable, in order to ensure their right to a fair trial or hearing within a reasonable time in accordance with the Human Rights Act.

10.4.2 In a situation where it is considered that a matter gives rise to a potential criminal offence, any interview with the suspect must be carried out under caution and conducted by a suitably trained Officer, or where appropriate the Police must be involved immediately to ensure that evidential procedures and the requirements of current legislation are observed i.e. Police and Criminal Evidence Act 1984 (PACE).

10.4.3 Officers should seek advice from the Legal Services section on these issues if they are unsure as to how to proceed.

10.4.4 Under no circumstances should any covert surveillance operation be given backdated authorisation after it has commenced.

10.5 Authorisation Flowchart

10.5.1 A flowchart in Appendix A sets out the steps an Officer seeking authorisation must take.

11.0 Sources Under 16 and 18 Years of Age

11.1 The RIPA (Juveniles) Order 2000 prohibits the authorisation for the conduct or use of a source if:

- (a) the source is under the age of 16; and
- (b) the relationship to which the conduct or use would relate is between the source and his / her parent or any person who has parental responsibility for him / her.

11.2 Where a source is under 16 the arrangements referred to in Section 29 (2)(c) of the Act must be such that there is at all times a person holding an office, rank or position who has responsibility for ensuring that an appropriate adult is present at meetings to which this applies. This applies to all meetings between any person representing the investigating authority and the source, while the source remains under the age of 16.

11.2.1 An appropriate adult is defined as:-

- (a) the parent or guardian of the source;
- (b) any other person who has for the time being assumed responsibility for his / her welfare; or
- (c) where no person falling within paragraph (a) or (b) is available, any responsible person aged 18 or over who is neither a member of nor employed by any relevant investigating authority.

11.3 Authorisation of the Source

11.3.1 Only the Chief Executive (or a designated Director, acting as the Head of Paid Service in his-their absence) can act as the Authorising Officer where the source is a juvenile.

11.3.2 Any authorisation may not be granted where the source is under 18 at the time of authorisation unless:-

- i. the Authorising Officer has made a risk assessment, and in the case of a renewal updated the risk assessment; sufficient to demonstrate;
- ii. the nature and magnitude of the risk of physical injury to the source arising out of the conduct detailed in the authorisation;
- iii. the nature and magnitude of any risk of psychological distress to the source as a result of carrying out the authorised conduct has been identified and evaluated.

11.3.3 The Authorising Officer must have considered the risk assessment and satisfy himself that any risk identified has been properly explained to and understood by the source.

11.3.4 The Authorising Officer must decide whether the relationship to which the conduct or use would relate is between the source and relative, guardian or person who for the time being has assumed parental responsibility for the source's welfare and has given particular consideration as to whether the authorisation is justified in light of the facts.

11.4 Duration of the Authorisation

11.4.1 The authorisation of the use of a source under the age of eighteen at the time of authorisation or renewal will be for four months from the date of authorisation (and should be managed via reviews at least monthly).

12.0 Judicial Approval

12.1 ~~From 1 November 2012, t~~The Protection of Freedoms Act requires that approval of local authority authorisations under RIPA must be obtained from a Justice of the Peace (JP). Authorisations and notices can only be given effect once an order approving the use has been granted by a JP. This will also apply to renewals of existing authorisations.

12.2 This ~~e-new~~ judicial approval mechanism is in addition to the existing authorisation processes under the relevant parts of RIPA. The flowchart at Appendix C outlines the procedure for applying for judicial approval. The application must be made by the authority that has granted the authorisation.

12.2.1 Following approval by the Authorising Officer / Designated Person, the first stage of the process is for the ~~Council local authority~~ to contact Her Majesty's Courts and Tribunals Service (HMCTS) administration team at the magistrates' court to arrange a hearing. This will be undertaken by the Legal Services team.

12.2.2 The ~~Council local authority~~ will provide the JP with a copy of the original RIPA authorisation or notice and the supporting documents setting out the case. This forms the basis of the application to the JP and **should contain all information that is relied upon.**

12.2.3 The original RIPA authorisation or notice should be shown to the JP but will be retained by the ~~Council local authority~~ so that it is available for inspection by the Commissioners' offices and in the event of any legal challenge or investigation.

12.2.4 In addition, the ~~Council local authority~~ will provide the JP Magistrate with a partially completed judicial application / order form:-

- for directed surveillance / CHIS, this form is held on the Council's SharePoint intranet under Internal Audit / RIPA.

12.2.5 The order section of the form will be completed by the JP and will be the official record of the JP's decision. The local authority will need to obtain judicial approval for all initial RIPA authorisations / applications and renewals and the ~~Council local authority~~ will need to retain a copy of the judicial application / order form after it has been signed by the JP. There is no requirement for the JP to consider either cancellations or internal reviews.

12.3 Arranging a Hearing

12.3.1 HMCTS will be the first point of contact for the ~~Council local authority~~ when seeking a JP approval. The ~~Council local authority~~ will inform HMCTS administration as soon as possible to request a hearing.

12.3.2 On the rare occasions where out-of-hours access to a JP is required, then it will be for the ~~Council local authority~~ to make local arrangements with the relevant HMCTS legal staff. In these cases, the ~~Council local~~

~~authority~~ will need to provide two partially completed judicial application / order forms so that one can be retained by the JP. The ~~Council local authority~~ should provide the court with a copy of the signed judicial application / order from the next working day.

12.3.3 Where renewals are timetabled to fall outside of court hours, it is the ~~Council's local authority's~~ responsibility to ensure that the renewal is completed ahead of the deadline. Out-of-hours procedures are for emergencies only and should not be used because a renewal has not been processed in time.

~~12.3.4 The Council's Legal Services area will be able to provide the necessary contact information / advice on the relevant Magistrates' Court / HMCTS administration area.~~

12.4 Attending a Hearing

12.4.1 The hearing is a 'legal proceeding' and therefore local authority officers need to be formally designated to appear, be sworn in and present evidence or provide information as required by the JP.

12.4.2 The hearing will be in private and heard by a single JP who will read and consider the RIPA authorisation or notice and the judicial application / order form. He / she may have questions to clarify points or require additional reassurance on particular matters.

12.4.3 ~~Local authorities~~ The Council will want to must consider in advance who is best able to answer the JP's questions on the policy and practice of conducting covert operations and detail of the case itself. It is envisaged that the Authorising Officer or case investigator will be able to fulfil this role. They will know the most about the investigation and will have determined that use of a covert technique is required in order to progress a particular case.

12.4.4 The Council's ~~'s Constitution will~~ Legal Services team will appoint a suitably-qualified solicitor or barrister designate certain officers who ~~is~~ are able to appear and attend at a Magistrate' Court on behalf of the Council under Section 223 of the Local Government Act 1972 and will therefore be able to present RIPA cases to JP's.

~~12.4.5 Although it is not envisaged that legally trained personnel will be required to make the case to the JP, the Council's Legal Services section will responsible for maintaining the Council's Constitution to ensure that there is an appropriate pool of Officers available to attend a hearing and to provide legal advice and support, as required.~~

12.5 Decision

12.5.1 The JP will consider whether he or she is satisfied that there are reasonable grounds for believing that the authorisation or notice is necessary and proportionate. They must also be satisfied that the person granting the authority within the Council is appropriate and that

it has been made in accordance with applicable legislation.

12.5.2 The forms and supporting papers must by themselves make the case. It is not sufficient for the local authority to provide oral evidence where this is not reflected or supported in the papers provided, although the JP may receive and note additional / clarifying information received in the course of the hearing.

12.5.3 If more information is required to determine whether the authorisation or notice has met the tests then the JP will refuse the authorisation.

12.5.4 The JP will record his / her decision on the order section of the judicial application / order form. HMCTS will retain a copy of the [Council's local authority](#) RIPA authorisation or notice and the judicial application / order form.

12.6 Outcomes

The JP may decide to:-

- Approve the grant or renewal of an authorisation or notice:-
 - the grant or renewal will then take effect and the local authority may proceed to use the technique in that particular case
- Refuse to approve the grant or renewal of an authorisation or notice:-
 - the RIPA authorisation or notice will not take effect and the local authority may not use the technique in that case.
 - the local authority may wish to consider the reasons for a refusal (e.g. a technical error in the form which may be remedied without going through an internal authorisation process again) and reapply for judicial approval once this has been rectified
- Refuse to approve the grant or renewal and quash the authorisation or notice:-
 - the court must not exercise its power to quash the authorisation or notice unless the applicant has had at least 2 business days from the date of the refusal to make representations.

13.0 Maintenance of Records of Authorisations, Renewals, Cancellations and Notices

13.1 The following documents must be retained by the [Group Head of Law & Governance Internal Audit Manager](#) on a central file:-

- i. a copy of any authorisation form, together with any supporting documents
- ii. a copy of any review and renewal forms, together with any supporting documents
- iii. a copy of any cancellation form together, with any supporting documents
- iv. a copy of any notice or authorisation in respect of communications data
- v. ~~(from 1 November 2012)~~ for any authorisation or renewal a copy of the approval from the Magistrate's Court following judicial review.

- 13.2 Each form will have a Unique Reference Number (URN) which will be issued by the [Group Head of Law & Governance](#)~~Internal Audit Manager~~. This includes rejected applications.
- 13.3 Authorising Officers **MUST** forward a copy of each form to the [Internal Audit Manager](#)~~Group Head of Law & Governance~~ within 1 week of the authorisation, review, renewal, cancellation or rejection.
- 13.4 The Council will retain records when it is necessary to do so. Records will in the first instance be retained for a period of 3 years from the end of an authorisation so that ~~the Investigatory Powers Commissioner's Office~~[IPCO](#) can review the Council's policy and procedures, and individuals' authorisations.

14.0 Training Records

- 14.1 All Officers who are to authorise applications will be provided with appropriate training by the Council. A central record of this training will be maintained by ~~the Internal Audit Manager~~ [the Group Head of Law & Governance](#) and this, and the list of Authorising Officers, updated to reflect changes in personnel.

15.0 Internal Review of the use of RIPA

- 15.1 Within every relevant public authority it is considered good practice for a senior responsible officer to be made responsible for:-
- the integrity of the process in place within the public authority for the management of CHIS;
 - compliance with Part II of the Act and with the Codes;
 - 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 IPCO Inspectors when they conduct their inspections, where applicable; and
 - where necessary, oversight of the implementation of post-inspection action plans approved by the relevant oversight Commissioner.
- 15.2 Within ~~local authorities~~[the Council](#), the ~~s~~Senior ~~r~~Responsible ~~e~~Officer ~~should usually be~~ is a member of the ~~corporate leadership team~~[Corporate Leadership Team](#) and ~~is~~~~should be~~ responsible for ensuring that all Authorising Officers are of an appropriate standard in light of any recommendations in the inspection reports prepared by ~~the Investigatory Powers Commissioner's Office~~[IPCO](#). Where an inspection report highlights concerns about the standards of Authorising Officers, this individual will be responsible for ensuring that the concerns are addressed. The responsible officer for ~~Arun District~~[the Council](#) is the ~~Internal Audit Manager~~[Group Head of Law & Governance](#).

16.0 Member Review of the use of RIPA

- 16.1 In order to comply with the latest codes of practice issued by the Home Office, ~~an annual~~ quarterly report on the Council's use of RIPA legislation, including the number of applications authorised and a brief outline of the reasons for authorisation during the last quarteryear, will be presented to the Audit & Governance Committee. ~~At the end of each municipal year a further report covering the whole year will be presented to the Audit & Governance Committee.~~

Appendix A

AUTHORISATION FLOWCHART - REQUESTING OFFICER

Prior to Authorisation the Requesting Officer must:-

Refer to the Corporate Policy and Procedure [Document](#)



Decide if directed surveillance or a CHIS is required



Assess if authorisation is in accordance with the law



Is it necessary or can it be undertaken overtly



Is it proportionate - "sledgehammer to crack a nut" test



If a less unobtrusive option is available, use that



Authorisation

Prepare and submit an approval form to Authorising Officer



Judicial Approval

In liaison with the Authorising Officer and / or Legal Services, obtain JP approval

After Authorisation / Judicial Approval the Requesting Officer must:-

Review

Undertake periodic progress reviews with the Authorising Officer



Renew

If a renewal is required, complete an appropriate application and submit to Authorising Officer for authorisation and further judicial approval



Cancellation

If the authorisation is not to be renewed or at any time the surveillance becomes unnecessary / the offence being investigated ceases to meet the crime threshold, immediately complete a cancellation form and submit to Authorising Officer

Appendix B

AUTHORISATION FLOWCHART - AUTHORISING OFFICER

Prior to Authorisation the Authorising Officer must:-

Read the Corporate Policy and Procedure [Document](#)



Consider in detail whether all options have been considered.



Consider whether the surveillance or a CHIS is necessary and proportionate – consider collateral intrusion and the risk assessment for use of a CHIS or juvenile



Assess if authorisation is in accordance with the law



ONLY authorise if overt or less intrusive option is not appropriate



Judicial Approval

In liaison with the Authorising Officer and / or Legal Services, obtain JP approval

After Authorisation / Judicial Approval the Authorising Officer must:-

Review

Set a review date(s) and undertake periodic progress reviews with the Requesting Officer



Renew

If a renewal is required, authorise an appropriate application progress for further judicial approval



Cancellation

If the authorisation is not to be renewed or at any time the surveillance becomes unnecessary / the offence being investigated ceases to meet the crime threshold, immediately complete a cancellation

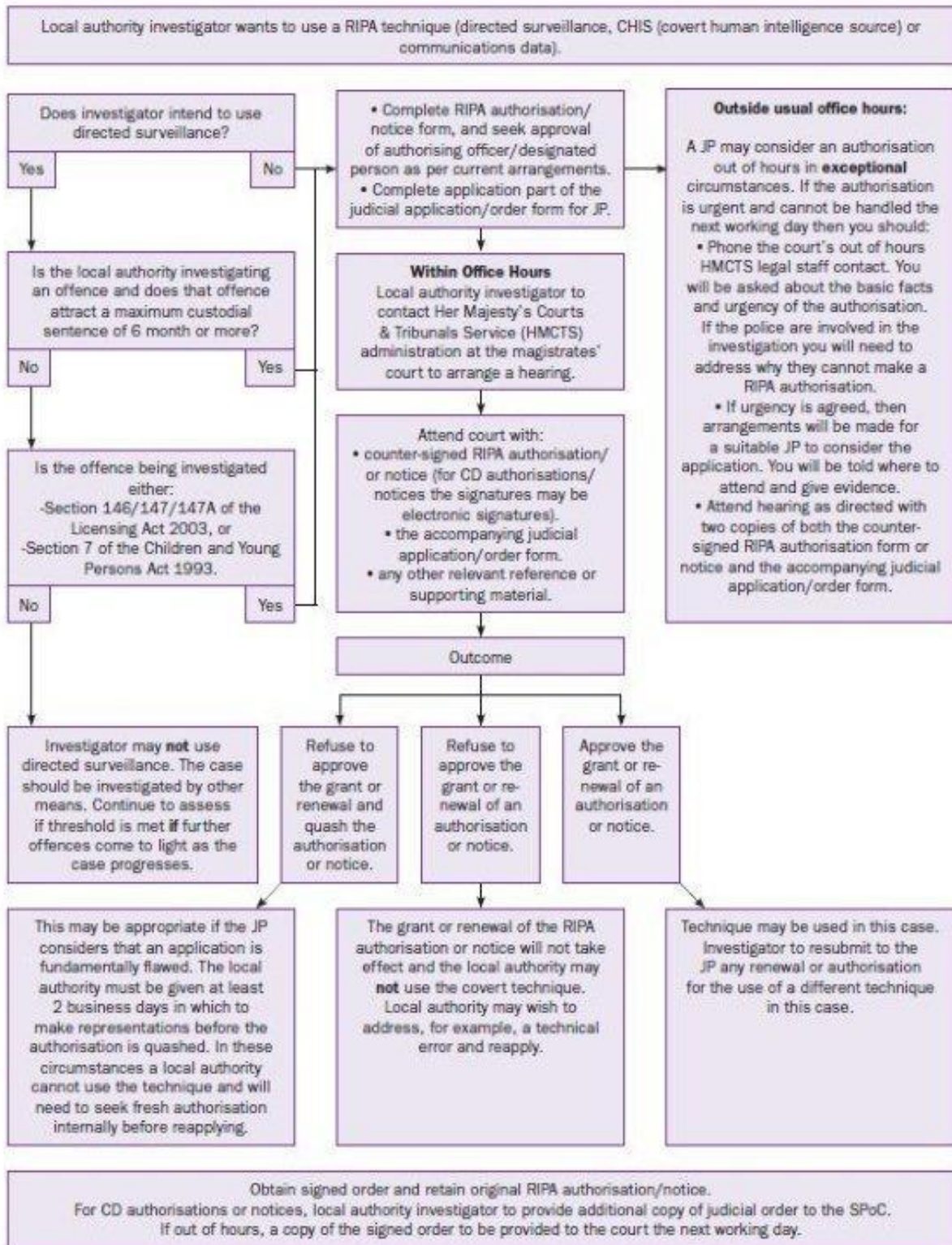


Paperwork

Ensure you send all authorisations, renewals, reviews, cancellations, any rejected requests and all relevant judicial approval papers (successful or unsuccessful) to the [Internal Audit Manager](#) [Group Head of Law & Governance](#) within 7 days of the relevant event.

Appendix C

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



Source: Home Office guidance to local authorities in England and Wales on the judicial approval process for RIPA and the crime threshold for directed surveillance (October 2012)
NB – from 2019, CD (communications data) authorisations follow a different process – see section 8

Appendix D

APPLICATION FORMS

Only approved forms **MUST** be used. The latest versions of these forms can be found on the Council's SharePoint under Internal Audit / RIPA or in the case of Forms 9 to 11 direct from the [Group Head of Law & Governance](#) ~~Internal Audit Manager~~

Directed Surveillance

Form 1	Application for Authorisation to Carry Out Directed Surveillance
Form 2	Application for Renewal of a Directed Surveillance Authorisation
Form 3	Review of a Directed Surveillance Authorisation
Form 4	Cancellation of a Directed Surveillance Authorisation

Covert Human Intelligence Source (CHIS)

Form 5	Application for Authorisation of the Conduct or Use of a Covert Human Intelligence Source (CHIS)
Form 6	Application for Renewal of a Covert Human Intelligence Source (CHIS) Authorisation
Form 7	Review of a Covert Human Intelligence Source (CHIS) Authorisation
Form 8	Cancellation of a Covert Human Intelligence Source (CHIS) Authorisation

Acquisition of Communications Data

Form 9	Application for Communications Data
Form 10	Authorisation Under Section 22 (3) Requiring Communications Data to be Obtained and Disclosed
Form 11	Notice Under Section 22 (4) Requiring Communications Data to be Obtained and Disclosed

Judicial Approval

Application for judicial approval for authorisation to obtain or disclose communications data, to use a covert human intelligence source or to conduct directed surveillance

Appendix E

In view of the significance of the restrictions / requirements for judicial approval of RIPA use contained in the Protection of Freedoms Act 2012, the members of the Council's Corporate Management Team will act as Authorising Officers for future RIPA applications:-

AUTHORISING OFFICERS

Chief Executive (Head of Paid Service)	Nigel Lynn
Director of Services	Philippa Dart
Director of Place	Karl Roberts

All authorisations of Covert Human Intelligence Source (CHIS) and Juvenile and Vulnerable Individuals **MUST** be authorised by the Chief Executive (or a designated Director, acting as the Head of Paid Service in his absence). Likewise any authorisations in respect of investigations into members of staff must be undertaken by the Group Head of ~~Corporate Support~~Organisational Development or in ~~his~~their absence the Chief Executive.

Similarly, for communications data under IPA only designated officers are registered with NAFN as Approved Rank ('made aware') officers:-

APPROVED RANK OFFICERS

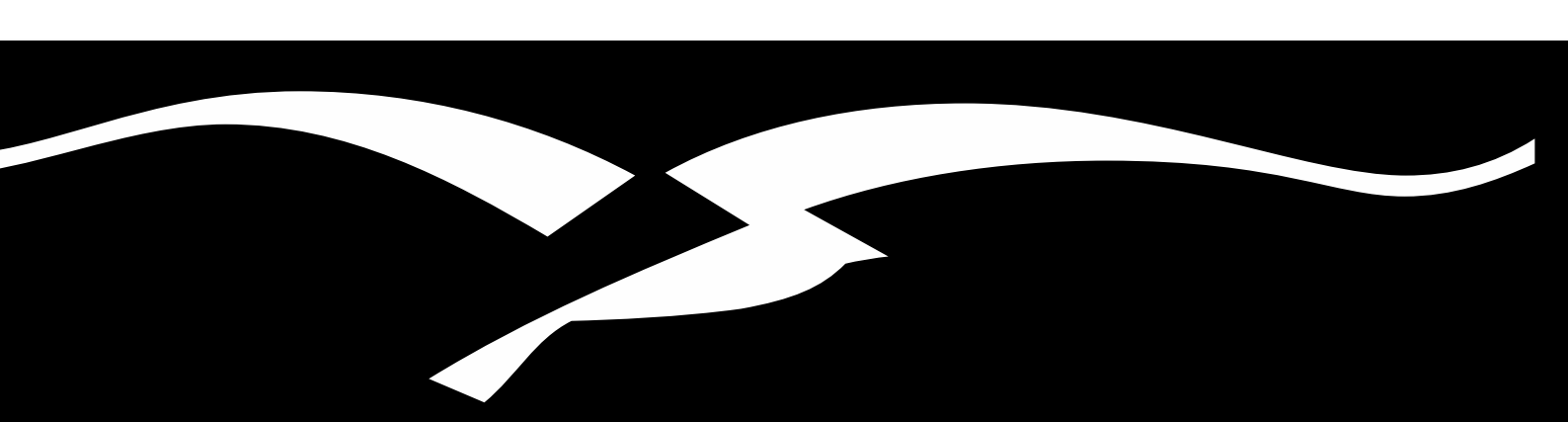
Chief Executive (Head of Paid Service)	Nigel Lynn <u>Dawn Hudd</u>
Director of Services <u>Environment & Communities</u> ———Philippa Dart	_____
Director of Place <u>Growth</u>	Karl Roberts
Group Head of Council Advice & Monitoring Officer ——Liz Fletcher	
Group Head of Law & Governance _____ (Monitoring Officer) Daniel Bainbridge	
Group Head of Technical Services _____	<u>Nat Slade</u>
Internal Audit Manager _____	<u>Stephen Pearse</u>

Note:-

- The ~~Group Head of Council Advice & Monitoring~~ Group Head of Law & Governance, and/or the Legal Services Manager or any member of the Legal Services team will provide legal advice and review officer authorisations, as appropriate.

- The ~~Internal Audit Manager~~ Group Head of Law & Governance will maintain the central register and policy, monitor compliance with the Council's RIPA / IPA processes and provide the appropriate oversight reports required for the Council's Audit & Governance Committee.

-



Guidance on the Use of Social Media in Investigations

Version:	August 2022 October 2024
Document Owners:	Group Head of Law & Governance Council Advice & Monitoring (RIPA Senior Responsible Officer) Internal Audit Manager
Approved By:	Audit & Governance Committee Corporate Management Team

Background

The Council has an [adopted](#) approved Corporate Policy and Procedures [document](#) on the Regulation of Investigatory Powers Act 2000 (RIPA) ([“the Policy”](#)). [The Policy sets out the legislative basis, definitions and the Council’s procedures for authorising directed surveillance and the use of Covert Human Intelligence Sources under RIPA. The Policy also explains that the Council has produced a separate guide to the use of Social Media in investigations, and this document provides guidance to officers on how Social Media may and may not be used as part of an investigation, and the risks associated with the use of Social Media. For all relevant bodies, RIPA arrangements and use fall under the oversight of the Investigatory Powers Commissioner’s Office \(IPCO\), which assumed responsibility from the former Office of Surveillance Commissioners \(OSC\) in September 2017, and the Council may be subject to a periodic inspection to ensure that it complies with legislation and guidance.](#)

~~Results and themes from inspections undertaken have been included in past Annual Report of the Chief Surveillance Commissioner to the Prime Minister and to the Scottish Ministers. In the reports for both 2013-14 and 2014-15, comment was raised on the use of social networks in investigations.~~

In respect of Social Networks the 2013-14 report stated:-

- ~~○ “This is now a deeply embedded means of communication between people and one that public authorities can exploit for investigative purposes.”~~
- ~~○ “Although there remains a significant debate as to how anything made publicly available in this medium can be considered private, my Commissioners remain of the view that the repeat viewing of individual ‘open source’ sites for the purpose of intelligence gathering and data collation should be considered within the context of the protection that RIPA affords to such activity.”~~
- ~~○ “I strongly advise all public authorities empowered to use RIPA to have in place a corporate policy on the use of social media in investigations.”~~

The 2014-15 report reaffirmed this:-

- ~~○ “Public authorities now make use of the wide availability of details about individuals, groups or locations that are provided on social networking sites and a myriad of other means of open communication between people using the Internet and their mobile communication devices.”~~
- ~~○ I repeat my view that just because this material is out in the open, does not render it fair game. The Surveillance Commissioners have provided guidance that certain activities will require authorisation under RIPA and this includes repetitive viewing of what are deemed to be ‘open source’ sites for the purpose of intelligence gathering and data collation.”~~
- ~~○ “My inspections have continued to find instances where social networking sites have been accessed, albeit with the right intentions for an investigative approach, without any corporate direction, oversight or regulation.”~~
- ~~○ “This is a matter that every Senior Responsible Officer should ensure is addressed, lest activity is being undertaken that ought to be authorised, to ensure that the right to privacy and matters of collateral intrusion have been adequately considered and staff~~

~~are not placed at risk by their actions and to ensure that ensuing prosecutions are based upon admissible evidence.”~~

~~In August 2018, the Home Office issued its Revised Code of Practice covering Covert Surveillance and Property Interference and this now includes a section on ‘online covert activity’.~~

This ~~corporate~~ guidance ~~document~~ has been developed to ~~cover~~ support the Council in this regard. For the purposes of this document, public domain or ‘open source’ information is defined as any Internet resource that is open and available to anyone.

This guidance must always be read in conjunction with the Policy.

While activity involving the use of social networks in an investigation may be deemed to be surveillance, within the meaning of RIPA (S.48(2)), not all will require a RIPA authorisation (or qualify for the protection offered through RIPA compliance). Depending upon the circumstances, the IPCO and the Home Office have advised that such activity could be classed as Covert Directed Surveillance or the use of a Confidential Human Intelligence Source (CHIS) on a case by case basis

1. Social Media and the Internet

Any officer considering internet / social media investigation of individuals must first consider the detailed guidance provided in the codes of practice and consult with their service manager and the RIPA Co-ordinating Officer.

1.1 The Internet can be a powerful tool supporting Council investigations – websites and social media allow ready access to information. As a public body, the Council needs to balance the power of the internet with our obligations to remain within the law.

1.2 Basic Principles

While it is possible to obtain significant information about individuals without leaving the office, the same principles apply as would in the case of information we might gather by following, photographing or filming individuals. Officers should view the internet in the same way as they would view information received directly from a complainant, a witness or a suspect in ‘the real world’.

1.2.1 Initial Google Searches

A Google search for an individual may be thought of as an initial ‘drive-by’ observation in an investigation. It is broadly equivalent to an officer responding to an initial complaint or tip-off and visiting a particular location to establish ‘the lay of the land’. It doesn’t gather significant, detailed or private information, but

it is a starting point that allows us to decide if more detailed and directed investigation is required and / or possible.

An initial Google (or similar) search is not covert or directed surveillance and is unlikely to require RIPA authorisation.

Details of any such searches and their results should, however, be recorded in any notes or records of a given case.

1.2.2 Detailed Google Searches

While initial Google search results are equivalent to an initial drive-by in a case, if this is continued covertly and becomes a focussed search, likely to result in the obtaining of private information about a person or group the activity becomes 'directed' within the definition of Directed Surveillance. RIPA Council guidance.

A shift into the definition of Directed Surveillance is significantly more likely when an initial google search produces social media links for a person under investigation.

1.2.3 Social Media Information

An initial look on social media platforms such as Facebook, LinkedIn, Twitter and others can usually be viewed in the same way as an initial google search: that is, an officer is looking to see if a particular person has an online presence—the officer is simply looking to see if there are any resources that might provide lines of enquiry in future, more detailed, investigation.

However, returning to look at / into a person's online presence in more detail in order to monitor it or extract information relevant to an investigation is likely to require authorisation and advice must be taken on whether authorisation is required before proceeding.

Anyone cultivating an online relationship with an investigation subject (for example, a 'friend request' or similar) is likely to be moving into the scope of CHIS investigations, and advice must be taken on whether authorisation is required before proceeding.

General RIPA Information

The IPCO (ex-OSC) guidance is that:-

~~"The Internet is a surveillance device as defined by RIPA section 48(1). Surveillance is covert 'if, and only if' it is conducted in a manner that is calculated to ensure that persons who are subject to the surveillance are unaware that it is, or may be, taking place.' Knowing that something is happening is not the same as an awareness that it is or may be taking place."~~

~~While activity involving the use of social networks in an investigation may be deemed to be surveillance, within the meaning of RIPA (S.48(2)), not all will require a RIPA authorisation (or qualify for the protection offered through RIPA compliance). Depending upon the circumstances, the IPCO and the Home Office have advised that such activity could be classed as Covert Directed Surveillance or the use of a Confidential Human Intelligence Source (CHIS) on a case by case basis:-~~

- ~~● Covert Directed Surveillance means surveillance which is carried out in such a way that the person(s) subject to it is unaware that it is or may be taking place. As a result of the Protection of Freedoms Act, from 1 November 2012 Directed Surveillance authorisations will have a crime threshold applied whereby local authorities can only authorise use of directed surveillance under RIPA to prevent or detect criminal offences that are either punishable, whether on summary conviction or indictment, by a maximum term of at least 6 months' imprisonment or are related to the underage sale of alcohol and tobacco.~~
- ~~● A person is a Covert Human Intelligence Source (CHIS) if they establish or maintain a relationship with another person in order to:-
 - ~~— covertly obtain information;~~
 - ~~— provide access to information to a third party; or~~
 - ~~— covertly disclose information obtained by the use of such a relationship and the other person is unaware that the purpose of the relationship is one of the above.~~~~

~~RIPA use now not only requires the internal approval of an Authorising Officer but also that of a magistrate. However, RIPA is permissive legislation, so failure to obtain appropriate authorisation does not render surveillance automatically unlawful. It could however lead to any evidence obtained being deemed inadmissible and/or civil action taken against the Council / Officers for breach of the subject's right to privacy under Article 8 of the European Convention on Human Rights.~~

~~The Convention qualifies this right so that in certain circumstances the Council may interfere in that person's right if that interference is:-~~

- ~~● in accordance with the law;~~
- ~~● necessary; and~~
- ~~● proportionate.~~

~~Investigation with Service areas which could potentially access social media for intelligence / information gathering in the course of their duties indicates that in most cases the actions being investigated would not meet the crime threshold. Guidance received is that where a proposed investigation does not relate to an activity that meets the above crime threshold for obtaining protection under RIPA, the Council should~~

~~follow the same processes for assessment, evidencing necessity / proportionality and internal Authorising Officer review (although without the involvement of a Magistrate), in order to provide a documented trail as a defence in the event of subsequent litigation.~~

~~**RIPA is a complex piece of legislation. Reference should be made to the more detailed information, including explanations of necessity and proportionality, contained in the Council's RIPA policy, available via the intranet / Sharepoint.2.**~~

Council Guidance

2.1 From the above, the Council's agreed guidance is that social networking is an acceptable tool which may be used in investigations / research. An investigation may be required e.g. where a post on social media is perceived as inappropriate (e.g. it is derogatory, insulting or damaging to the reputation of the Council, members of staff / Members or external parties) and brought to the attention of management by a member of staff or the public. However, such use must be subject to adequate consideration and authorisation(s) which will depend upon the activity being undertaken:-

- 2.1 ~~B~~rowsing (monitoring) 3rd party posts on social networking sites / feeds (e.g. Facebook ,Twitter, etc.) solely for the purposes of identifying comments (positive or negative) about the Council and its activities (as is also undertaken for newspapers) is a research activity and should need no additional RIPA consideration.
- 2.2 ~~C~~asual (one-off) examination of public posts on social networks as part of investigations undertaken is allowable with no additional RIPA consideration.
- 2.3 ~~R~~epetitive examination / monitoring of public posts as part of an investigation must be subject to assessment and may be classed as Directed Surveillance as defined by RIPA.
- 2.4 examination / use of any ostensibly 'private' mechanisms on social networks (e.g. as a 'friend' on Facebook, use of 'private' messaging facilities on Twitter, etc.):
 - within an existing relationship where the parties are known to each other, but information that is freely obtained is used or passed on to an appropriate area for use in an investigation.
 - through a new relationship set up in an open manner (i.e. in the name of the Council).

Must be subject to assessment and may be classed as either Directed Surveillance or the use of a CHIS under RIPA.

- 2.5 In any circumstances:-
 - where a relationship is set up in a 'covert' manner specifically to obtain information
 - a person known to the subject becomes a 'friend', etc. specifically for the purposes of the investigation
 - a person becomes a 'friend', etc. in a false or misleading name
 - where a dialogue is entered into in order to elicit information for the investigation with the subject remaining unaware (as this may be classed as entrapment)

Consideration MUST be given to obtaining appropriate authority under RIPA and this must consider whether it constitutes Directed Surveillance or the use of a CHIS.

2.6 On a case by case basis, consideration must be given to whether the investigation is into an activity that will require full RIPA authorisation (including Magistrate approval), or to follow a similar process for internal authorisation only, and appropriate documentation raised.

2.7 Under no circumstances should an investigating officer encourage inappropriate, fraudulent or criminal behaviour in order to provoke a response as part of the use of social networking facilities in ANY of the circumstances described above.

3. **Corroborating Evidence**

3.1 In using information obtained from the Internet / social networks, it must be recognised that the 'open source' environment is by nature insecure. Information obtained cannot be assumed to be fact and should therefore be subject to separate confirmation. Ideally, additional corroborating evidence should be obtained from a more robust source.

3.2 As part of the investigation, consideration must also be given to the circumstances of the case and whether the information is, in fact, demonstrating inappropriate activity. (For example, Facebook postings could suggest that a 'sick' employee is engaging in activity that is inconsistent with their condition – however, without additional medical advice, or independent examination, this cannot be assumed as being the case). While such information may be introduced into investigative / disciplinary proceedings as potential evidence, it cannot on its own be deemed to be proof in support of an accusation.

4. **Other Considerations**

4.1 When considering the use of social networks in the conduct of an investigation, there may be a requirement for a risk assessment to be undertaken. This should include any Officers involved in the investigation (and potentially,

members of the public if information has been provided by them). Considerations should include:-

- o whether the identity of the provider of 'private' information could become apparent to the subject of the investigation
- o whether the activity involves the use of a CHIS.

~~**Further information on these requirements is contained in the Council's RIPA policy, available via the intranet / Sharepoint.**~~

~~**4.2**~~ In order to ensure that rights are respected, the General Data Protection Regulation / Data Protection Act 2018 must also be complied with.

~~**4.3**~~ Any investigation must be conducted, documented and evidence obtained / secured following proper Council procedures and meeting any appropriate legislative requirements.

~~**4.4**~~ Where the subject of online surveillance is (or includes) an employee then the Information Commissioner's Office (ICO) Employment Practices Code (part 3) will apply. This requires an impact assessment to be done before the surveillance is undertaken to consider, amongst other things, necessity, proportionality and collateral intrusion.

~~The Council's Internet & E-Mail Acceptable Usage Agreement (issued to all staff) covers the expected behaviours the Council requires in respect of the use of corporate information systems and advises that inappropriate use could lead to disciplinary action. It should be noted that it also contains the following statement:-~~

~~*Where personal social media accounts are used by employees (e.g. Facebook, Twitter, etc.), whether at approved times during the business day or in non-work time, the Council expects the same usage standards to apply particularly with regard to statements or comments regarding the Council, its employees or its Members, which may be read by members of the public or other staff.*~~

~~In the event it is brought to the attention of management that these standards have not been applied, the Council may investigate the matter in line with appropriate corporate policies. Should an investigation involving an employee result in disciplinary action, then it is important that the correct disciplinary procedures are followed. Should there be subsequent referral to a tribunal, then the key factor in any disciplinary situation is for the employer to have acted fairly and "within the range of reasonable responses". It will not be enough for an employer to simply argue that the employee has breached its social media policy. A tribunal will look at the wider circumstances and many competing factors when deciding on the reasonableness of a disciplinary decision.~~

~~**Advice To Officers**~~

~~As noted elsewhere in this guidance document, there remain some grey areas over the legitimate use of social networking in investigations and the IPCO themselves have recognised that "there is a fine line between general observation, systematic~~

~~observation and research.” There is also the additional consideration as to whether an activity will meet the requirements for RIPA authorisation / the protection it offers or whether it must be conducted outside of this.~~

If an Officer is considering the use of social networking for such activity, or is uncertain as to how to proceed, then further advice on the guidance and the potential RIPA requirements may be obtained from:-

- RIPA Authorising Officers (~~the members of the Corporate Management Team~~[listed within the Policy](#))
- Group Head of [Law & Governance, Council Advice & Monitoring](#)
- [Internal Audit Manager.](#)

Associated Documents

This guidance is linked to a number of other Council documents which are available to staff via the Council’s website and/or intranet (Sharepoint) site:-

- Corporate Policy and Procedures Document on the Regulation of Investigatory Powers Act 2000 (RIPA)
- Social Media Guidance for Councillors
- Social Media Policy & Guidance
- Internet & E-Mail Acceptable Usage Agreement
- Disciplinary Procedure.

Further information

- Further information on RIPA and the Home Office Codes of Practice may be obtained from the GOV.UK website:-
<https://www.gov.uk/government/publications/regulation-of-investigatory-powers-act-2000-ripa>
<https://www.gov.uk/government/collections/ripa-codes>
- Further information on the IPCO may be obtained from the Investigatory Powers Commissioner’s Office website:-
<https://www.ipco.org.uk/>
- Further information on Human Resources activity (including use in recruitment, disciplinary / grievance aspects, etc.) may be obtained from the ACAS website, covering Social Media in the Workplace:-
<http://www.acas.org.uk/index.aspx?articleid=3375>
- Further information on the ICO Employment Practices Code may be obtained from the Information Commissioner’s Office website:-
https://ico.org.uk/media/for-organisations/documents/1064/the_employment_practices_code.pdf

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AUDIT & GOVERNANCE COMMITTEE WORK PROGRAMME – 2024/2025

Date of Meeting: 3 October 2024		
Subject	Lead Officer / Member	Comments
External Audit		
Audit Update	Ernst & Young	Covering audits of 2022/23 and 2023/24 Accounts TBC
Internal Audit		
Progress Against the Audit Plan	Southern Internal Audit Partnership	
Treasury Management		
Treasury Management Interim Report	Senior Accountant (Treasury Management)	
Governance Framework		
Updates to Corporate Risk Register	Finance & Risk Manager	
Updated Anti-Fraud, Corruption & Bribery Policy	Group Head of Finance	
Updated Anti-Money Laundering Policy	Group Head of Finance	
Other Items		
Regulation of Investigatory Powers Act (RIPA) Policy and Guidance	Group Head of Law & Governance	
Work Programme		
To agree the rolling work programme for 2024/25		

Date of Meeting: 3 December 2024		
Subject	Lead Officer / Member	Comments
Statement of Accounts		
Annual Statement of Accounts 2022/23 and Letter of Representation	Group Head of Finance	TBC
External Audit		
Audit Results Report	Ernst & Young	Covering the audit of the 2022/23 Accounts TBC
Treasury Management		

**AUDIT & GOVERNANCE COMMITTEE
WORK PROGRAMME – 2024/2025**

Treasury Management Mid-Year Report	Senior Accountant (Treasury Management)	Recommendations for approval by Full Council
Internal Audit		
Progress Against the Audit Plan	Southern Internal Audit Partnership	
Governance Framework		
Updated Risk Management Framework	Finance & Risk Manager	
Updates to Corporate Risk Register	Finance & Risk Manager	
Other Items		
Annual update on the Council's use of powers under the Regulation of Investigatory Powers Act 2000 (RIPA)	Group Head of Law & Governance	
Review Of The Partnerships Register	Group Head of Organisational Excellence	
Counter-Fraud Resourcing Update	Group Head of Finance	In response to Committee query at the July meeting
Work Programme		
To agree the rolling work programme for 2024/25		Updates, etc.

Date of Meeting: 27 February 2025		
Subject	Lead Officer / Member	Comments
Statement of Accounts		
Annual Statement of Accounts 2023/24 and Letter of Representation	Group Head of Finance	TBC
Final Annual Governance Statement 2023/24	Group Head of Finance	TBC
Accounting Policies 2024/25	Group Head of Finance	If CIPFA advise of any changed requirements, then an update will be provided at the next meeting
External Audit		
Auditor's Annual Report	Ernst & Young	Covering the audit of the 2023/24 Accounts TBC

**AUDIT & GOVERNANCE COMMITTEE
WORK PROGRAMME – 2024/2025**

Audit Results Report	Ernst & Young	Covering the audit of the 2023/24 Accounts TBC
Treasury Management		
Treasury Management Strategy Statement and Annual Investment Strategy	Senior Accountant (Treasury Management)	For approval by Full Council (19 Mar 2025)
Internal Audit		
Internal Audit Charter	Southern Internal Audit Partnership	
Annual Internal Audit Plan 2025/26	Southern Internal Audit Partnership	
Progress Against the Audit Plan	Southern Internal Audit Partnership	
Governance Framework		
Updates to Corporate Risk Register	Finance & Risk Manager	
Other Items		
Annual update on the Council's use of powers under the Regulation of Investigatory Powers Act 2000 (RIPA)	Group Head of Law & Governance	
Work Programme		
To agree the rolling work programme for 2025/26		

February meeting has to be timed so that Treasury Management Strategy can be approved by Full Council before 31 March each year

Date of Meeting: xx July 2025 (TBC)		
Subject	Lead Officer / Member	Comments
Statement of Accounts		
Draft Annual Governance Statement 2024/25	Group Head of Finance	Draft version to be considered by Committee (final version will be presented with the Annual Accounts)
External Audit		
Response to E&Y on annual assurance letter regarding governance arrangements	Committee Chair	Letter sent to external audit by Chair
Governance Framework		

**AUDIT & GOVERNANCE COMMITTEE
WORK PROGRAMME – 2024/2025**

Updates to Corporate Risk Register	Finance & Risk Manager	
Treasury Management		
Treasury Management Annual Report 2024/25	Senior Accountant (Treasury Management)	Recommendations for approval by Full Council
Internal Audit		
Annual Internal Audit Report & Opinion 2024-2025	Southern Internal Audit Partnership	
Other Items		
Progress update on housing tenancy fraud	Neighbourhood Services Manager	Annual update as requested by the Committee
Counter-Fraud Report 2024/25	Group Head of Finance	
Work Programme		
To agree the rolling work programme for 2025/26		

Other items to be considered in Work Programme:-

Independent Members' Remuneration Panel

- Recruitment / appointments
- Proposals for / progress of review
- Report on review / proposals for change to be passed by A&GC to Full Council

Relevant policy reviews, updates, etc.