



**WATFORD
BOROUGH
COUNCIL**

AUDIT COMMITTEE

14 September 2023

7.00 pm

Town Hall Annexe, Watford

Contact

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For information about attending meetings please visit the [council's website](#).

Publication date: 6 September 2023

Committee Membership

Councillor M Hofman (Chair)

Councillor K Clarke-Taylor (Vice-Chair)

Councillors L Nembhard, A Khan and C Newstead

Agenda

Part A - Open to the Public

1. **Apologies for Absence/Committee Membership**

2. **Disclosure of Interests (if any)**

3. **Minutes**

The [minutes](#) of the meeting held on 26 July 2023 to be submitted and signed.

4. **Ombudsman's Annual Letter 2023 (Pages 3 - 14)**

5. **RIPA Update (Pages 15 - 43)**

6. **Shared Internal Audit Service Progress report (Pages 44 - 80)**

7. **Introduction of External Auditors for 2023/24 onwards**

8. **Updated Draft Audit Results Report 2020/21 (Pages 81 - 131)**

9. **Statement of Accounts Update**

A verbal update

Part A

Report to: **Audit Committee**

Date of meeting: **Thursday, 14 September 2023**

Report author: **Group Head of Democracy and Governance**

Title: **Ombudsman's Annual Letter 2023**

1.0 Summary

1.1 Every year the Local Government and Social Care Ombudsman publishes statistics of complaints received by him relating to each council in England. Attached at appendices 1 and 2 are the Annual Letter for Watford and statistics of complaints received by the Ombudsman and complaints upheld for the year 1 April 2022 to 31 March 2023.

1.2 Audit Committee is asked to note the report.

2.0 Risks

2.1

Nature of risk	Consequence	Suggested Control Measures	Response (treat, tolerate, terminate or transfer)	Risk Rating (combination of severity and likelihood)
That lessons learned are not followed	Similar findings of fault will lead to reputational damage	Implement any recommendations suggested by the Ombudsman or considered by officers as a result of the complaint	treat	3

3.0 Recommendations

3.1 That the Annual Letter and statistics be noted.

Further information:

Carol Chen

carol.chen@watford.gov.uk

4.0 Detailed proposal

- 4.1 The Local Government and Social Care Ombudsman annually publishes statistics on complaints received and determined from all councils in England. Attached as appendices 1 and 2 is Watford's Annual Letter and statistics for the year 1 April 2022 to 31 March 2023.
- 4.2 As members can see from the statistics the Ombudsman received 9 complaints during the period and resolved 13. The reason for the disparity is that the extra 4 were complaints resolved were received in the previous year. All 9 of this years complaints have been resolved in the same year.
- 4.3 In relation to the resolved complaints only 2 were investigated. Both of which were upheld and findings of maladministration causing injustice were determined. Both these cases related to complaints about delays in investigating noise nuisance complaints. Both were formally reported to cabinet as required under the Local Government and Housing Act 1989. The third complaint that is registered in the statistics as upheld was not investigated as the council admitted fault on receipt of the complaint. This related to the council erroneously cancelling a council taxpayer's direct debit and the long delay in noticing the error.
- 4.4 Of the other matters, 3 related to planning and related to complaints from neighbours about perceived lack of enforcement action or unhappiness with planning decisions relating to neighbouring land. In these the council was found to have dealt with the matters properly. 2 related to complaints about the customer complaints process. 2 related to decisions relating to the housing register and 1 related to burial charges for non-residents. In all cases no investigation was instigated the Ombudsman being satisfied the council had acted properly. In 2 cases (including one related to planning) the complaints were not formally referred as they were deemed premature.
- 4.5 With regard to those complaints which are upheld the council has accepted the remedy suggested by the Ombudsman and lessons have been learned with regard to improving communication and processes to avoid similar situations arising in the future.

5.0 Implications

5.1 Financial

5.1.1 The Shared Director of Finance comments that any payments of compensation suggested to be paid where complaints are upheld are met from the relevant services budget.

5.2 **Legal Issues** (Monitoring Officer)

5.2.1 The Group Head of Democracy and Governance comments that reviewing the Ombudsman's Annual Letter contributes to the overall governance of the council.

5.3 **Equalities, Human Rights and Data Protection**

5.3.1 Having had regard to the council's obligations under s149, it is considered that there are no equalities implications arising from this report.

5.4 **Staffing**

5.4.1 No implications

5.5 **Accommodation**

5.5.1 No implications

5.6 **Community Safety/Crime and Disorder**

5.6.1 No implications

5.7 **Sustainability**

5.7.1 No Implications

Appendices

- Annual Letter 2023
- Watford Statistics 2023

Background papers

No papers were used in the preparation of this report.

19 July 2023

By email

Ms Nolan
Managing Director
Watford Borough Council

Dear Ms Nolan

Annual Review letter 2022-23

I write to you with your annual summary of complaint statistics from the Local Government and Social Care Ombudsman for the year ending 31 March 2023. The information offers valuable insight about your organisation's approach to complaints. As always, I would encourage you to consider it as part of your corporate governance processes. As such, I have sought to share this letter with the Leader of your Council and Chair of the appropriate Scrutiny Committee, to encourage effective ownership and oversight of complaint outcomes, which offer such valuable opportunities to learn and improve.

The end of the reporting year, saw the retirement of Michael King, drawing his tenure as Local Government Ombudsman to a close. I was delighted to be appointed to the role of Interim Ombudsman in April and look forward to working with you and colleagues across the local government sector in the coming months. I will be building on the strong foundations already in place and will continue to focus on promoting improvement through our work.

Complaint statistics

Our statistics focus on three key areas that help to assess your organisation's commitment to putting things right when they go wrong:

Complaints upheld - We uphold complaints when we find fault in an organisation's actions, including where the organisation accepted fault before we investigated. We include the total number of investigations completed to provide important context for the statistic.

Over the past two years, we have reviewed our processes to ensure we do the most we can with the resources we have. One outcome is that we are more selective about the complaints we look at in detail, prioritising where it is in the public interest to investigate. While providing a more sustainable way for us to work, it has meant that changes in uphold rates this year are not solely down to the nature of the cases coming to us. We are less likely to carry out investigations on 'borderline' issues, so we are naturally finding a higher proportion of fault overall.

Our average uphold rate for all investigations has increased this year and you may find that your organisation's uphold rate is higher than previous years. This means that comparing uphold rates with previous years carries a note of caution. Therefore, I recommend comparing this statistic with that of similar organisations, rather than previous years, to better understand your organisation's performance.

Compliance with recommendations - We recommend ways for organisations to put things right when faults have caused injustice and monitor their compliance with our recommendations. Failure to comply is rare and a compliance rate below 100% is a cause for concern.

Satisfactory remedy provided by the authority - In these cases, the organisation upheld the complaint and we were satisfied with how it offered to put things right. We encourage the early resolution of complaints and credit organisations that accept fault and find appropriate ways to put things right.

Finally, we compare the three key annual statistics for your organisation with similar authorities to provide an average marker of performance. We do this for County Councils, District Councils, Metropolitan Boroughs, Unitary Councils, and London Boroughs.

Your annual data, and a copy of this letter, will be uploaded to our interactive map, [Your council's performance](#), on 26 July 2023. This useful tool places all our data and information about councils in one place. You can find the detail of the decisions we have made about your Council, read the public reports we have issued, and view the service improvements your Council has agreed to make as a result of our investigations, as well as previous annual review letters.

Supporting complaint and service improvement

I know that complaints offer organisations a rich source of intelligence and insight that has the potential to be transformational. These insights can indicate a problem with a specific area of service delivery or, more broadly, provide a perspective on an organisation's culture and ability to learn. To realise the potential complaints have to support service improvements, organisations need to have the fundamentals of complaint handling in place. To support you to do so, we have continued our work with the Housing Ombudsman Service to develop a joint complaint handling code that will provide a standard for organisations to work to. We will consult on the code and its implications prior to launch and will be in touch with further details.

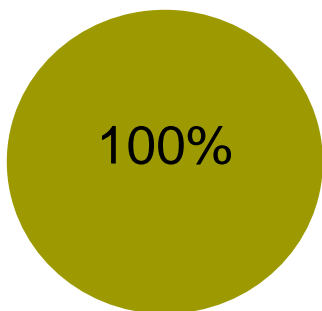
In addition, our successful training programme includes practical interactive workshops that help participants develop their complaint handling skills. We can also offer tailored support and bespoke training to target specific issues your organisation might have identified. We delivered 105 online workshops during the year, reaching more than 1350 people. To find out more visit www.lgo.org.uk/training or get in touch at training@lgo.org.uk.

Yours sincerely,



Paul Najsarek
Interim Local Government and Social Care Ombudsman
Interim Chair, Commission for Local Administration in England

Complaints upheld



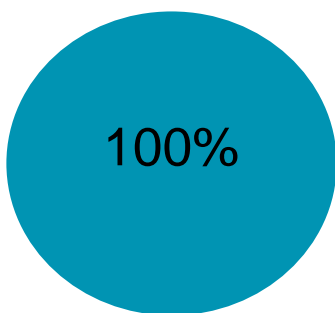
100% of complaints we investigated were upheld.

This compares to an average of **59%** in similar organisations.

3
upheld decisions

Statistics are based on a total of **3** investigations for the period between 1 April 2022 to 31 March 2023

Compliance with Ombudsman recommendations



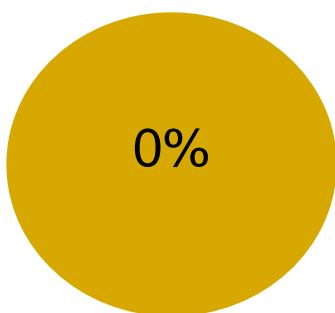
In **100%** of cases we were satisfied the organisation had successfully implemented our recommendations.

This compares to an average of **100%** in similar organisations.

Statistics are based on a total of **3** compliance outcomes for the period between 1 April 2022 to 31 March 2023

- Failure to comply with our recommendations is rare. An organisation with a compliance rate below 100% should scrutinise those complaints where it failed to comply and identify any learning.

Satisfactory remedy provided by the organisation



In **0%** of upheld cases we found the organisation had provided a satisfactory remedy before the complaint reached the Ombudsman.

This compares to an average of **15%** in similar organisations.

0
satisfactory remedy decisions

Statistics are based on a total of **3** upheld decisions for the period between 1 April 2022 to 31 March 2023

Reference	Authority
21012683	Watford Borough Council
21015692	Watford Borough Council
21016585	Watford Borough Council
21018325	Watford Borough Council
21018992	Watford Borough Council
22001527	Watford Borough Council
22004202	Watford Borough Council
22005350	Watford Borough Council
22005584	Watford Borough Council
22012664	Watford Borough Council
22015104	Watford Borough Council
22015260	Watford Borough Council
22017028	Watford Borough Council

Category	Decided
Environmental Services & Public Protection & Regulation	08/06/22
Housing	22/06/22
Environmental Services & Public Protection & Regulation	23/08/22
Housing	06/04/22
Environmental Services & Public Protection & Regulation	11/04/22
Corporate & Other Services	17/05/22
Planning & Development	28/07/22
Planning & Development	25/07/22
Planning & Development	01/08/22
Benefits & Tax	19/01/23
Planning & Development	15/02/23
Benefits & Tax	09/02/23
Corporate & Other Services	29/03/23

Decision	Decision Reason
Upheld	fault & inj
Closed after initial enquiries	Not warranted by alleged fault
Upheld	fault & inj
Closed after initial enquiries	Not warranted by alleged fault
Closed after initial enquiries	Not warranted by alleged fault
Closed after initial enquiries	Not warranted by alleged injustice
Closed after initial enquiries	Not warranted by alleged fault
Referred back for local resolution	Premature Decision - advice given
Closed after initial enquiries	Not warranted by alleged fault
Upheld	Injustice remedied during LGO consideration
Closed after initial enquiries	26B(2) not made in 12 months
Referred back for local resolution	Premature Decision - advice given
Closed after initial enquiries	Not warranted by alleged fault

Remedy

Apology,Financial redress: Avoidable distress/time and trouble,Provide information/advice to person affected

Apology,Financial redress: Avoidable distress/time and trouble,Procedure or policy change/review

Financial redress: Avoidable distress/time and trouble,Provide services to person affected

Service improvement recommendations

The Council has agreed to review how it ensures statutory noise nuisance investigations are being carried out in a timely manner.

**Corporate Policy and Procedures Document
for Covert Surveillance and the use of Covert Human
Intelligence Sources**

Author: Carol Chen, Group Head of Democracy and Governance, ext 8350

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November 2018

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NB:

The Regulation of Investigatory Powers Act 2000 ('RIPA') refers to 'Designated Officers'. For ease of understanding and application within Watford Borough Council, this Corporate Policy & Procedures Document refers to 'Authorising Officers'. Furthermore, such Officers can only act under RIPA if they have been duly certified by the Council's Group Head of Democracy and Governance. For the avoidance of doubt, therefore, all references to duly certified Authorising Officers refer to 'Designated Officers' under RIPA.

A. Introduction and Key Messages

1. This Corporate Policy & Procedures Document is based upon the requirements of The Regulation of Investigatory Powers Act 2000 ('RIPA'), The Protection of Freedoms Act 2012 and Codes of Practice issued by the Home Office pursuant to Section 71 of RIPA. The authoritative position on RIPA is, of course, the Act itself, regulations and the Home Office's Codes of Practice on Covert Surveillance and Covert Human Intelligence Sources. Any officer who is unsure about any aspect of this document should contact, at the earliest possible opportunity, the Council's Group Head of Democracy and Governance, for advice and assistance. The Codes of Practice and guidance can be downloaded from the Home Office web site.
2. This document and the related forms can be found on the Council's Intranet.
3. The Council will maintain, and the Group Head of Democracy and Governance will check, the Corporate Register of all RIPA authorisations, reviews, renewals, cancellations and rejections. It is the responsibility of the relevant Authorising Officer, however, to place all RIPA authorisations, reviews, renewals, cancellations and rejections on the Corporate Register within 1 week of the relevant authorisation, review, renewal, cancellation or rejection.
4. Officers who undertake surveillance or who manage CHIS's and Authorising Officers have the responsibility of reporting to the Group Head of Democracy and Governance any situations where direct surveillance or CHIS activity has been undertaken without having obtained the appropriate authority/warrant within one working day of the event having been brought to their attention. It will be the responsibility of the Group Head of Democracy and Governance to investigate and to report the matter to the Investigatory Powers Commissioner no later than 10 working days from the date the event occurred.
5. RIPA, the Protections of Freedoms Act Regulations, the Codes of Practice and this document are important for the effective and efficient operation of the Council's actions with regard to covert surveillance and Covert Human Intelligence Sources. This document will, therefore, be kept under review by the Group Head of Democracy and Governance. Authorising Officers must bring any suggestions for continuous improvement of this document to the attention of the Group Head of Democracy and Governance at the earliest possible opportunity.
6. If you are in any doubt on RIPA, the Codes of Practice, this document or the related legislative provisions, please consult the Group Head of Democracy and Governance.
7. Local Authorities investigating criminal offences have powers to gain access to communications data – that is, information held by telecommunications or postal service providers about the use of their services by persons who are the subject of criminal investigations. In using such powers, officers must always have regard to the Home Office Guidance –Acquisition and Disclosure of Communication Data Code.
<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachm>

[ent_data/file/757850/Communications Data Code of Practice.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/757850/Communications_Data_Code_of_Practice.pdf) .The Council belongs to NAFN who will obtain such communications data on the provision of appropriate authorisation.

8. The Council has had regard to the Codes of practice produced by the Home Office in preparing this guidance. If any doubt arises, the Home Office Code of practice should be consulted. CHIS and Covert Surveillance Codes of Practice:
<https://www.gov.uk/government/publications/covert-surveillance-and-covert-human-intelligence-sources-codes-of-practice>

In addition further guidance in respect of the judicial approval process and the crime threshold has been issued by the Home Office:-

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/118173/local-authority-england-wales.pdf

B. Borough Council Policy Statement

1. The Council takes seriously its statutory responsibilities under the Regulation of Investigatory Powers Act 2000, and will at all times act in accordance with the law, and take necessary and proportionate action in these types of enforcement matters involving the use of covert surveillance. In that regard, the Group Head of Democracy and Governance, is duly authorised by the Council's Corporate Management Board as the Council's 'Senior Responsible Officer' with responsibility to keep this document up to date and to amend, delete, add or substitute relevant provisions, as necessary.

C. General Information on RIPA

1. The Human Rights Act 1998 (which incorporated the European Convention on Human Rights into UK law) requires the Council, and organisations working on its behalf, to respect the private and family life of the citizen, his/her home and his/her correspondence.
2. This is not an absolute right, but a qualified right. Accordingly, in certain circumstances, the Council, as a Relevant Public Authority under RIPA, may interfere in the citizen's right to privacy mentioned above, if such interference is: -
 - (a) **in accordance with the law;**
 - (a) **necessary** (as defined in this document); **and**
 - (b) **proportionate** (as defined in this document).
3. Local authorities can only authorise the 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 or nicotine inhaling products. Local authorities **cannot** authorise directed surveillance for the purpose of preventing disorder unless this involves a criminal offence(s) punishable (whether on summary conviction or indictment) by a maximum term of at least 6 months' imprisonment. Local authorities are no longer able to orally authorise the use of RIPA techniques. All authorisations must be made in writing and require JP (Magistrates) approval. *(See chapter 4 para 4.42 to 4.47 of the Home Office Covert Surveillance and Property Interference Revised Code of Practice, August 2018).*

Directed surveillance is covert surveillance that is not intrusive and is carried out in relation to a specific investigation or operation in such a manner as is likely to result in the obtaining of private information about any person (other than by way of an immediate response to events or circumstances such that it is not reasonably practicable to seek authorisation under RIPA). *(See chapter E below).*

Local authorities can only use RIPA in relation to their 'core functions' i.e., the 'specific public functions' undertaken by a particular authority in contrast to the 'ordinary functions' undertaken by all authorities (e.g. employment issues). *(See chapter E, section 15, below).*

The internet may be used for intelligence gathering and/or as a surveillance tool. Local authority officers covertly conducting online monitoring or investigations (including Social Media) for the purpose of a specific investigation or operation which is likely to result in the obtaining of private information about a person or group need to consider if authorisation for directed surveillance under RIPA is required, if RIPA applies. *(See chapter E, section 11, below, this includes details of when CHIS authorisation may be needed for online activity)*

4. RIPA provides a statutory mechanism for authorising **covert surveillance** and the use of a '**covert human intelligence source**' ('**CHIS**'). A CHIS is a person used by the Council to establish or maintain a personal or other relationship with another person for the covert purpose of obtaining information (e.g. undercover agents). RIPA seeks to ensure that any interference with an individual's right under the Human Rights Act 1998 is **necessary** and **proportionate**. In doing so, RIPA seeks to ensure both the public interest and the human rights of individuals are suitably balanced.
5. Directly employed Council staff and external agencies working for the Council are covered by RIPA for the time they are working for the Council. All external agencies must, therefore, comply with RIPA and the work carried out by agencies on the Council's behalf must be properly authorised by one of the Council's designated Authorising Officers. Authorising Officers are those whose posts appear in **Appendix 1** to this document and, duly added to or substituted by the Group Head of Democracy and Governance.
6. If the correct RIPA procedures are not followed, evidence may be disallowed by the courts, the matter must be reported by the Group Head of Democracy and Governance to the Investigatory Powers Commissioner, a complaint of maladministration could be

made to the Local Government and Social Care Ombudsman, and/or the Council could be ordered to pay compensation. Such action would, of course, harm the reputation of the Council and will, undoubtedly, be the subject of adverse press and media interest. It is essential, therefore, that all Council staff involved with RIPA comply with this document and any further guidance that may be issued, from time to time, by the Group Head of Democracy and Governance.

7. A flowchart of the procedures to be followed appears at **Appendix 2**.

8. **Necessity and proportionality**

8.1 The authorising officer must believe that the surveillance activities which are being authorised are **necessary for the purpose of preventing or detecting crime, and that the offence being investigated is one either punishable by at least 6 months imprisonment or one related to the underage sale of alcohol, tobacco or nicotine inhaling products**. This is the only statutory ground available for local authorities for the use of covert surveillance. The authorising officer must also believe that the surveillance activities are **proportionate** to what is sought to be achieved by carrying them out. This involves balancing the seriousness of the intrusion into the privacy of the person who is the subject of the operation (or any other person who may be affected) against the need for the surveillance in investigative and operational terms.

8.2 The authorisation will not be proportionate if it is excessive in the overall circumstances of the case. Each action authorised should bring an expected benefit to the investigation or operation and should not be disproportionate or arbitrary. The fact that a suspected offence may be serious will not alone render intrusive actions proportionate.

8.3 The following elements of proportionality should therefore be considered:

- Balancing the size and scope of the proposed activity and the potential intrusion into the subject's personal life against the gravity and extent of the perceived crime or offence;
- Explaining how and why the methods to be adopted will cause the least possible intrusion on the subject and others;
- Considering whether the activity is an appropriate use of RIPA and a reasonable way, having considered all reasonable alternatives, of obtaining the necessary result;
- Evidencing, as far as reasonably practicable, what other methods had been considered and why they were not used

9. Collateral intrusion

Before authorising applications for directed surveillance, the authorising officer should also take into account the risk of obtaining private information about persons who are not the subjects of the surveillance (members of the subject's family for example). This is referred to as collateral intrusion. All applications should include an assessment of the risk of collateral intrusion and details of any measures taken to limit this. The same proportionality tests apply to the likelihood of collateral intrusion as to intrusion into the privacy of the intended subject of the surveillance. The authorising officer must therefore consider fully the proportionality of the proposed actions.

10. Magistrates' Approval

Before any authorisation for directed surveillance can be implemented the authorising officer must obtain the approval of a Justice of the Peace.

D. What RIPA Does and Does Not Do

1. RIPA does:

- Require prior authorisation, from the Council's authorising officer and Magistrate's Court, of directed surveillance.
- Prohibit the Council from carrying out intrusive surveillance.
- Require authorisation of the conduct and use of a CHIS
- Require safeguards for the conduct and use of a CHIS.

2. RIPA does not:

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

3. If the authorising officer or any applicant is in any doubt, s/he should ask the Group Head of Democracy and Governance BEFORE any directed surveillance and/or CHIS is authorised, renewed, cancelled or rejected.

E. Types of Surveillance

1. **'Surveillance'** includes:

- Monitoring, observing or listening to persons, their movements, conversations, or other activities or communications, including online and social media activities.
- Recording any information obtained in the course of authorised surveillance.
- Surveillance, by or with, the assistance of appropriate and approved surveillance device(s).

Surveillance can be overt or covert.

2. **Overt Surveillance**

Most of the surveillance carried out by the Council will be done overtly – there will be nothing secretive, clandestine or hidden about it. In many cases, Officers will be behaving in the same way as a normal member of the public (e.g. in the case of most test purchases), and/or will be going about Council business openly (e.g. the Park Rangers patrolling the Parks).

3. Similarly, surveillance will be overt if the subject has been told it will happen e.g. where a noisemaker is warned (preferably in writing) that noise will be recorded if the noise continues, or where an entertainment licence is issued subject to conditions, and the licensee is told that officers may visit without notice or identifying themselves to the owner/proprietor to check that the conditions are being met.

4. **Covert Surveillance**

Surveillance is covert if, and only if, it is carried out in a manner calculated to ensure that any persons who are subject to the surveillance are unaware that it is or may be taking place. (Section 26(9)(a) of RIPA).

5. RIPA regulates directed surveillance, intrusive surveillance (the Council cannot carry out **intrusive surveillance**) and the use of Covert Human Intelligence Sources (CHIS).

6. **Directed Surveillance**

Directed Surveillance is surveillance which: -

- is covert; and
- is not intrusive surveillance (see definition below – **the Council must not carry out any intrusive surveillance**);

- is not carried out in an immediate response to events which would otherwise make seeking authorisation under RIPA unreasonable, e.g. spotting something suspicious and continuing to observe it; and
- it is undertaken for the purpose of a **specific investigation** or operation in a manner **likely to obtain private information** about an individual (whether or not that person is specifically targeted for purposes of an investigation). (*Section 26(10) of RIPA*).

7. Private information

The 2000 Act states that private information includes any information relating to a person's private or family life. As a result, private information is capable of including any aspect of a person's private or personal relationship with others, such as family and professional or business relationships. Information which is non-private may include publicly available information such as books, newspapers, journals, TV and radio broadcasts, newswires, web sites, mapping imagery, academic articles, conference proceedings, business reports, and more. Such information may also include commercially available data where a fee may be charged, and any data which is available on request or made available at a meeting to a member of the public. Non-private data will also include the attributes of inanimate objects such as the class to which a cargo ship belongs.

Whilst a person may have a reduced expectation of privacy when in a public place, covert surveillance of that person's activities in public may still result in the obtaining of private information. This is likely to be the case where that person has a reasonable expectation of privacy even though acting in public and where a record is being made by the Council of that person's activities for future consideration or analysis. Surveillance of publicly accessible areas of the internet should be treated in a similar way, recognising that there may be an expectation of privacy over information which is on the internet, particularly where accessing information on social media websites. See section 11 below for further guidance about the use of the internet as a surveillance tool.

Example: *Two people holding a conversation on the street or in a bus may have a reasonable expectation of privacy over the contents of that conversation, even though they are associating in public. The contents of such a conversation should therefore still be considered as private information. A directed surveillance authorisation would therefore be appropriate for the Council to record or listen to the conversation as part of a specific investigation or operation.*

Private life considerations are particularly likely to arise if several records are to be analysed together in order to establish, for example, a pattern of behaviour, or if one or more pieces of information (whether or not available in the public domain) are covertly (or in some cases overtly) obtained for the purpose of making a permanent record about a person or for subsequent data processing to generate further information. In such circumstances, the totality of information gleaned may constitute private information

even if individual records do not. Where such conduct includes covert surveillance, a directed surveillance authorisation may be considered appropriate.

***Example:** Council officers wish to drive past a café for the purposes of obtaining a photograph of the exterior. Reconnaissance of this nature is not likely to require a directed surveillance authorisation as no private information about any person is likely to be obtained or recorded. However, if the Council wished to repeat the exercise, for example to establish a pattern of occupancy of the premises by any person, the accumulation of information is likely to result in the obtaining of private information about that person and a directed surveillance authorisation would be required.*

Prolonged surveillance targeted on a single person will undoubtedly result in the obtaining of private information about him/her and others that s/he comes into contact, or associates, with.

Private information may include personal data, such as names, telephone numbers and address details. Where such information is acquired by means of covert surveillance of a person having a reasonable expectation of privacy, a directed surveillance authorisation is appropriate.

8. Similarly, although overt town centre CCTV cameras do not normally require authorisation, if a particular camera is being used for a specific purpose, which involves prolonged surveillance on a particular person, authorisation will be required. The way a person runs his/her business may also reveal information about his or her private life and the private lives of others. *(Also see section 16 below).*

9. **Confidential information**

Special consideration must be given to authorisations that involve confidential personal information. Where such material has been acquired and retained, the matter should be reported to the Group Head of Democracy and Governance so that s/he can inform the Investigatory Powers Commissioner's Office (IPCO) or Inspector during his next inspection and the material made available to him if requested.

Confidential personal information is information held in confidence relating to the physical or mental health or spiritual counselling of a person (whether living or dead) who can be identified from it. Such information, which can include both oral and written communications, is held in confidence if it is held subject to an express or implied undertaking to hold it in confidence or it is subject to a restriction on disclosure or an obligation of confidentiality contained in existing legislation.

Examples include consultations between a health professional and a patient, or information from a patient's medical records.

10. For the avoidance of doubt, only those Officers designated and certified to be 'Authorising Officers' and identified in Appendix 1 for the purpose of RIPA can authorise an application

for 'Directed Surveillance' if, and only if, the RIPA authorisation procedures detailed in this document are followed.

Only the Chief Executive can authorise applications for covert surveillance when knowledge of confidential information is likely to be acquired.

11. Online covert activity

- 11.1 The growth of the internet, and the extent of the information that is now available online, presents new opportunities for Local Authorities to view or gather information which may assist them in preventing or detecting crime or carrying out other statutory functions, as well as in understanding and engaging with the public they serve. It is important that Local Authorities are able to make full and lawful use of this information for their statutory purposes. Much of it can be accessed without the need for RIPA authorisation; use of the internet prior to an investigation should not normally engage privacy considerations. But if the study of an individual's online presence becomes persistent, or where material obtained from any check is to be extracted and recorded and may engage privacy considerations, RIPA authorisations may need to be considered. The following guidance is intended to assist council officers in identifying when such authorisations may be appropriate.
- 11.2 The internet may be used for intelligence gathering and/or as a surveillance tool. Where online monitoring or investigation is conducted covertly for the purpose of a specific investigation or operation and is likely to result in the obtaining of private information about a person or group, an authorisation for directed surveillance should be considered. Where a person acting on behalf of the Council is intending to engage with others online without disclosing his or her identity, a CHIS authorisation may be needed (*paragraphs 4.10 to 4.16 of the Covert Human Intelligence Sources code of practice provide detail on where a CHIS authorisation may be available for online activity*).
- 11.3 In deciding whether online surveillance should be regarded as covert, consideration should be given to the likelihood of the subject(s) knowing that the surveillance is or may be taking place. Use of the internet itself may be considered as adopting a surveillance technique calculated to ensure that the subject is unaware of it, even if no further steps are taken to conceal the activity. Conversely, where the Council has taken reasonable steps to inform the public or particular individuals that the surveillance is or may be taking place, the activity may be regarded as overt and a directed surveillance authorisation will not normally be available.
- 11.4 As set out in paragraph 11.5 below, depending on the nature of the online platform, there may be a reduced expectation of privacy where information relating to a person or group of people is made openly available within the public domain, however in some circumstances privacy implications still apply.

This is because the intention when making such information available was not for it to be used for a covert purpose such as investigative activity. This is regardless of whether a user of a website or social media platform has sought to protect such information by restricting its access by activating privacy settings.

- 11.5 Where information about an individual is placed on a publicly accessible database, for example the telephone directory or Companies House, which is commonly used and known to be accessible to all, they are unlikely to have any reasonable expectation of privacy over the monitoring by the Council of that information. Individuals who post information on social media networks and other websites whose purpose is to communicate messages to a wide audience are also less likely to hold a reasonable expectation of privacy in relation to that information.
- 11.6 Whether the Council interferes with a person's private life includes a consideration of the nature of the public authority's activity in relation to that information. Simple reconnaissance of such sites (i.e. preliminary examination with a view to establishing whether the site or its contents are of interest) is unlikely to interfere with a person's reasonably held expectation of privacy and therefore is not likely to require a directed surveillance authorisation. But where the Council is systematically collecting and recording information about a particular person or group, a directed surveillance authorisation should be considered. These considerations apply regardless of when the information was shared online. *(See section 7 above).*

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

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

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

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

- Whether the investigation or research is directed towards an individual or organisation;
- Whether it is likely to result in obtaining private information about a person or group of people (taking account of the guidance in section 7 above);
- Whether it is likely to involve visiting internet sites to build up an intelligence picture or profile;
- Whether the information obtained will be recorded and retained;
- Whether the information is likely to provide an observer with a pattern of lifestyle;
- Whether the information is being combined with other sources of information or intelligence, which amounts to information relating to a person's private life;
- Whether the investigation or research is part of an ongoing piece of work involving repeated viewing of the subject(s);
- Whether it is likely to involve identifying and recording information about third parties, such as friends and family members of the subject of interest, or information posted by third parties, that may include private information and therefore constitute collateral intrusion into the privacy of these third parties.

11.8 Internet searches carried out by a third party on behalf of the Council, or with the use of a search tool, may still require a directed surveillance authorisation.

Example: *Researchers within a local authority using automated monitoring tools to search for common terminology used online for illegal purposes will not normally require a directed surveillance authorisation. Similarly, general analysis of data by local authorities either directly or through a third party for predictive purposes (e.g. identifying crime hotspots or analysing trends) is not usually directed surveillance. In such cases, the focus on individuals or groups is likely to be sufficiently cursory that it would not meet the definition of surveillance. But officers should be aware of the possibility that the broad thematic research may evolve, and that authorisation may be appropriate at the point where it begins to focus on specific individuals or groups. If specific names or other identifiers of an individual or group are applied to the search or analysis, an authorisation should be considered.*

12. Intrusive Surveillance

This is when it: -

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

Residential premises includes any part of premises which are being occupied or used by any person, however temporarily, for residential purposes or otherwise as living accommodation. It includes hotel accommodation. However, common areas to which a person has access in connection with their use or occupation of accommodation are excluded from the definition of residential premises.

Examples of common areas of residential premises which are excluded would include:

- a communal stairway in a block of flats;
- a hotel reception area or dining room;
- the front garden or driveway of premises readily visible to the public.

A private vehicle is any vehicle which is used primarily for the private purposes of the person who owns it or a person otherwise having the right to use it. This includes, for example, a company car, owned by a leasing company and used for business and pleasure by the employee of a company.

Local authorities are not allowed to carry out intrusive surveillance and therefore no Council officer can authorise a covert surveillance operation if it involves intrusive surveillance as defined above.

13. Where authorisation is not required

Some surveillance activity does not constitute directed surveillance under RIPA and no directed surveillance authorisation can be obtained for such activity. Such activity includes:

- covert surveillance by way of an immediate response to events;
- covert surveillance as part of general observation activities;
- covert surveillance not relating to the statutory grounds specified by RIPA;
- overt use of CCTV
- certain other specific situations (see point 17 below).

14. **Immediate response**

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 RIPA.

Example: An authorisation would not be required where Council officers conceal themselves in order to observe an incident that they happen to come across where a person appears to be in the act of illegally dumping waste.

15. **General observation activities**

The general observation duties of Council officers do not require authorisation under the 2000 Act, whether covert or overt. Such general observation duties frequently form part of the legislative functions of the Council, as opposed to the pre-planned surveillance of a specific person or group of people. General observation duties may include monitoring of publicly accessible areas of the internet in circumstances where it is not part of a specific investigation or operation.

Example 1: Intelligence suggests that a local shopkeeper is openly selling alcohol to underage customers, without any questions being asked. A trained employee or person engaged by the Council is deployed to act as a juvenile in order to make a purchase of alcohol. In these circumstances any relationship, if established at all, is likely to be so limited in regards to the requirements of the Act, that the Council may conclude that a CHIS authorisation is unnecessary. However, if the test purchaser is wearing recording equipment and is not authorised as a CHIS, or an adult is observing, consideration should be given to granting a directed surveillance authorisation.

Example 2: Local authority officers attend a car boot sale where it is suspected that counterfeit goods are being sold, but they are not carrying out surveillance of particular individuals and their intention is, through reactive policing, to identify and tackle offenders. Again this is part of the general duties of the Council and the obtaining of private information is unlikely. A directed surveillance authorisation need not be sought.

16. **Not related to the prevention or detection of crime punishable by 6 months imprisonment or more or related to the underage sale of alcohol, tobacco or nicotine inhaling products.**

In the case of local authorities directed surveillance can only be authorised under RIPA if it is for the purpose of preventing or detecting crime where the offence is punishable by a term of imprisonment of 6 months or more or where it is related to the underage sale of alcohol or tobacco. Covert surveillance for any other general purposes should be conducted under other relevant legislation. A local authority can only use RIPA in relation to its 'core functions' i.e, the 'specific public functions' undertaken by a particular authority in contrast to the 'ordinary functions' undertaken by all authorities (e.g. employment issues).

Example: A Council employee is off work due, he claims, to an injury sustained at work for which he is suing the Council. The employee's manager suspects the employee is exaggerating the seriousness of their injury and that they are, in fact, fit enough to come to work. The manager wishes to place the employee under covert surveillance outside of his normal work environment to establish that he is indeed fit for work and to gather evidence for disciplinary proceedings against the employee for deceiving the Council. Such surveillance, even though likely to result in obtaining private information, does not constitute directed surveillance under RIPA as it does not relate to the Council's core functions. It relates instead to the carrying out of its employment functions which are common to all authorities. In order to undertake surveillance of this nature the Council would need to satisfy itself that it would not be contravening the GDPR and Data Protection Act 2018 and the Council's own employment policies.

17. CCTV

The use of overt CCTV cameras by the council does not normally require an authorisation under RIPA. Members of the public should be made aware that such systems are in use. For example, by virtue of cameras or signage being clearly visible, through the provision of information and by undertaking consultation. Guidance on their operation is provided in the Surveillance Camera Code of Practice issued under the Protection of Freedoms Act 2012 ("the 2012 Act") and overseen by the Surveillance Camera Commissioner. The council should also be aware of the relevant Information Commissioner's code ("In the Picture – A Data Protection Code of Practice for Surveillance Cameras and Personal Information").

The Surveillance Camera code has relevance to overt surveillance camera systems (as defined at s 29(6) of the 2012 Act) and which are operated in public places by the Council. The 2012 Act places a statutory responsibility upon the Council, to have regard to the provisions of the Surveillance Camera code, where surveillance is conducted overtly by means of a surveillance camera system in a public place in England and Wales.

The Surveillance Camera code sets out a framework of good practice that includes existing legal obligations, including the processing of personal data under the Data Protection Act 2018 and the council's duty to adhere to the Human Rights Act 1998.

Example: Overt surveillance equipment, such as town centre CCTV systems, is used to gather information as part of a reactive operation (e.g. to identify individuals who have committed criminal damage after the event). Such use does not amount to covert surveillance as the equipment was overt and not subject to any covert targeting. Use in these circumstances would not require a directed surveillance authorisation.

However, where overt CCTV or other overt surveillance cameras are used in a covert and pre-planned manner as part of a specific investigation or operation, for the surveillance of a specific person or group of people, a directed surveillance authorisation should be considered. Such covert surveillance is likely to result in the obtaining of

private information about a person (namely, a record of their movements and activities) and therefore falls properly within the definition of directed surveillance. The use of the CCTV or other overt surveillance cameras in these circumstances goes beyond their intended use for the general prevention or detection of crime and protection of the public.

Example: *A local police team receive information that an individual suspected of committing thefts from motor vehicles is known to be in a town centre area. A decision is taken to use the town centre CCTV system to conduct surveillance against that individual, such that he remains unaware that there may be any specific interest in him. This targeted, covert use of the overt town centre CCTV system to monitor and/or record that individual's movements should be considered for authorisation as directed surveillance.*

18. Specific situations where authorisation is not available

There are a number of specific situations which do not require an authorisation under RIPA. The specific situations most relevant to the Council are –

- the overt or covert recording of an interview with a member of the public where it is made clear that the interview is entirely voluntary and that the interviewer is a Council officer. In such circumstances, whether the recording equipment is overt or covert, the member of the public knows that they are being interviewed by a Council Officer and that information gleaned through the interview has passed into the possession of the council;
- the covert recording of suspected noise nuisance where the recording is of decibels only or constitutes non-verbal noise (such as music, machinery or an alarm), or the recording of verbal content is made at a level which does not exceed that which can be heard from the street outside or adjoining property with the naked ear. In the latter circumstance, the perpetrator would normally be regarded as having forfeited any claim to privacy.

19. Examples of different types of Surveillance

Type of Surveillance	Examples
<u>Overt</u>	<ul style="list-style-type: none"> - Police Officer on patrol - Signposted Town Centre CCTV cameras (in normal use) - Recording noise coming from outside the premises after the occupier has been warned that this will occur if the noise persists. - Most test purchases (where the officer behaves no differently from a normal member of the public).
<u>Covert</u> but not requiring prior authorisation	<ul style="list-style-type: none"> - CCTV cameras providing general traffic, crime or public safety information.

<p><u>Directed</u> (this is also covert) must be RIPA authorised. This includes relevant online covert activity.</p>	<ul style="list-style-type: none"> - Officers follow an individual or individuals over a period, to establish whether s/he is working when claiming benefit; where the offence they are investigating is punishable by a term of imprisonment of 6 months or more. - Test purchases where the officer has a hidden camera or other recording device to record information which might include information about the private life of a shop-owner, e.g. where s/he is suspected of selling alcohol or tobacco to underage customers.
<p><u>Intrusive</u> – Council cannot do this!</p>	<ul style="list-style-type: none"> - Planting a listening or other device (bug) in a person’s home or in their private vehicle.

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

Who is a CHIS?

1. Someone who establishes or maintains a personal or other relationship for the covert purpose of helping the covert use of the relationship to obtain information. **In normal circumstances the Council will not consider the conduct or use a CHIS. If consideration is given to the conduct or use of a CHIS the Group Head of Democracy and Governance must be consulted first. The Council may seek the assistance of the Police to manage the CHIS**

2. The Council is not required by RIPA to seek or obtain an authorisation just because one is available (see section 80 of RIPA). The use or conduct of a CHIS, however, can be a particularly intrusive and high risk covert technique, requiring dedicated and sufficient resources, oversight and management. Authorisation is therefore advisable where the Council intends to task someone to act as a CHIS, or where it is believed an individual is acting in that capacity and it is intended to obtain information from them accordingly. The Council must ensure that all use or conduct is:
 - necessary and proportionate to the intelligence dividend that it seeks to achieve;
 - in compliance with relevant Articles of the European Convention on Human Rights (ECHR), particularly Articles 6 and 8.

3. RIPA does not apply in circumstances where members of the public volunteer information to the Council as part of their normal civic duties, or to contact numbers set up to receive information.

4. Watford BC does not normally ask informants to gather information on the Councils behalf as this may result in the informant forming a relationship with a subject; which could result in the informant becoming a CHIS.

What must be authorised?

5. The conduct or use of a CHIS requires prior authorisation.

- **Conduct** of a CHIS = Establishing or maintaining a personal or other relationship with a person for the covert purpose of (or is incidental to) obtaining and passing on information.
 - **Use** of a CHIS = Actions inducing, asking or assisting a person to act as a CHIS and the decision to use a CHIS in the first place.
6. **If a CHIS is used the RIPA procedures, detailed in this document, must be followed, including obtaining the approval of a Justice of the Peace.**
 7. **Council Officers, and authorising officers, need to be clear that Online covert activity may also require the conduct and use of a CHIS. (See chapter E, section 11, para 11.2).**

Juvenile Sources

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

Only the Chief Executive or, in his or her absence, the Director of Finance or Monitoring Officer can authorise the use of Juvenile Sources, again such authorisation must be approved by a Justice of the Peace.

Vulnerable Individuals

9. A 'vulnerable individual' is a person who is or may be in need of community care services by reason of mental or other disability, age or illness and who is or may be unable to take care of himself or herself, or unable to protect himself or herself against significant harm or exploitation.
10. A vulnerable individual will only be authorised to act as a source in the most exceptional of circumstances.

Only the Chief Executive or, in his or her absence, the Director of Finance or Monitoring Officer can authorise the use of vulnerable individuals, again such authorisation must be approved by a Justice of the Peace.

Test Purchases

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

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

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

13. Persons who complain about anti-social behaviour, and are asked to keep a diary, will not normally be a CHIS, as they are not required to establish or maintain a relationship for a covert purpose. Recording the level of noise (e.g. the decibel level) will not normally capture private information and, therefore, does not require authorisation.
14. Recording sound (with a DAT recorder) on private premises could constitute intrusive surveillance, unless it is done overtly. For example, it will be possible to record if the noisemaker is warned (preferably in writing) that this will occur if the level of noise continues.

G. Authorising Officer Responsibilities

1. The Group Head of Democracy and Governance will ensure that sufficient numbers of Authorising Officers are duly certified under this policy.
2. It will be the responsibility of Authorising Officers who have been duly certified to ensure their relevant members of staff are suitably trained as 'Applicants' so as to avoid common mistakes appearing on forms for RIPA authorisations.
3. Authorising Officers will also ensure that staff who report to them are familiar with this policy and that they do not undertake or carry out any form of surveillance without first complying with the requirements of this document.
4. Authorising Officers must also pay particular attention to any health and safety issues that may be raised by any proposed surveillance activity. Under no circumstances, should an Authorising Officer approve any RIPA application unless, and until s/he is satisfied that a proper risk assessment has been carried out and the health and safety of Council employees/agents are suitably addressed and/or risks minimised, so far as is possible. If an Authorising Officer is in any doubt, s/he should obtain prior guidance on the same from his/her manager, the Council's Corporate Health & Safety Adviser or the Group Head of Democracy and Governance.
5. Authorising Officers must obtain authorisation from a Justice of the Peace (Magistrate) before any Directed Surveillance, or the conduct or use of a CHIS, can be undertaken.

H. Authorisation Procedures

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

Authorising Officers

2. Forms can only be signed by the Authorising Officers set out in **Appendix 1**.

Only the Chief Executive or, in his or her absence, the Director of Finance or Monitoring Officer can authorise an application for directed surveillance when confidential information is likely to be acquired.

Appendix 1 will be kept up to date by the Group Head of Democracy and Governance, and added to as needs require. If a Chief Officer wishes to add, delete or substitute a post, s/he must refer such request to the Group Head of Democracy and Governance for consideration, as necessary. The Group Head of Democracy and Governance is authorised to add, delete or substitute posts listed in **Appendix 1**.

3. Authorisations under RIPA are separate from delegated authority to act under the Council's Constitution. RIPA authorisations are for specific investigations only, and must be renewed or cancelled once the specific surveillance is complete or about to expire. **The authorisations do not lapse with time!**
4. The Group Head of Democracy and Governance will monitor applications recorded on the central register

Application Forms

5. Only the approved RIPA forms named in this document, and found on the Council's intranet, must be used. Any other forms will be rejected by the Authorising Officer.
6. **Directed Surveillance and use of Covert Human Intelligence forms – See Appendix 3**

Form RIP 1	Application for Authority for Directed Surveillance
Form RIP 2	Renewal of Directed Surveillance Authority
Form RIP 3	Cancellation of Directed Surveillance
Form RIP 4	Review of Directed Surveillance
Form RIP 5	Application for use of Covert Human Intelligence Source
Form RIP 6	Renewal of authorisation for use of Covert Human Intelligence Source
Form RIP 7	Cancellation of Covert Human Intelligence Source
Form RIP 8	Review of use of Covert Human Intelligence Source

Grounds for Authorisation

7. Directed Surveillance (form RIP 1) can be authorised by the Council only on the following ground: -
- 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 or nicotine inhaling products.

Assessing the Application Form

8. Before an Authorising Officer signs a Form, **s/he must:** -
- (a) Have due regard for RIPA, the Home Office Codes of Practice, the Human Rights Act 1998, this Policy and any other guidance issued, from time to time, by the Group Head of Democracy and Governance on such matters;
- (b) Satisfy his/herself that the RIPA authorisation is: -
- (i) **in accordance with the law;**
- (ii) **necessary** in the circumstances of the particular case on the grounds mentioned above; **and**
- (iii) **proportionate** to what it seeks to achieve.
- (c) ‘Proportionate’ means the Authorising Officer must believe that intruding upon someone’s privacy through surveillance is proportionate to the desired outcome taking into account the size of the problem as against the breach of privacy

In assessing whether or not the proposed surveillance is proportionate, the Authorising Officer must be satisfied that the application form demonstrates that every other reasonable means of gathering the information has been considered and explains why the alternative means considered would not be likely to achieve the desired outcome. The Authorising Officer must also be satisfied that the proposed method of surveillance is the least intrusive.

The proportionality test is explained in more detail in Section C paragraph 8.

The Authorising Officer must in each case follow the “five Ws” (i.e, who, what, where, when and why) incorporated into the forms to make clear what is being authorised. They must also explain how and why they are satisfied that the proposed action is both **necessary** and **proportionate**. It is not enough simply to state that it is so – the reasons **why** it is so must be given.

Every question on the application form must be dealt with fully, following the prompts which are now incorporated in the forms.

- (d) Take into account the risk of accidental intrusion into the privacy of persons other than the specified subject of the surveillance (**Collateral Intrusion**). Measures must be taken wherever practicable to avoid or minimise (so far as is possible) collateral intrusion and the matter may be an aspect of determining proportionality;
- (e) Set a date for review of the authorisation and enter it on the Central Register. The Authorising Officer is responsible for ensuring that key dates are adhered to.
- (f) Allocate a Unique Reference Number (URN) for the application as follows: -. Year / Service / Number of Application.
- (g) Seek approval to the authorisation from a Justice of the Peace (Magistrate).
- (h) Ensure that any RIPA Service Register is duly completed, and that a copy of the RIPA Forms (and any review/cancellation of the same) are recorded on the Corporate Central Register, **within 1 week of the relevant authorisation, review, renewal, cancellation or rejection.**

Additional Safeguards when Authorising a CHIS

9. When authorising the conduct or use of a CHIS, the Authorising Officer **must also**: -
- (a) be satisfied that the **conduct** and/or **use** of the CHIS is proportionate to what is sought to be achieved;
 - (b) be satisfied that **appropriate arrangements** are in place for the management and oversight of the CHIS and this must address health and safety issues and any risk to the CHIS arising should their role in the investigation be revealed through a risk assessment;
 - (c) consider the likely degree of intrusion of all those potentially affected;
 - (d) consider any adverse impact on community confidence that may result from the use or conduct or the information obtained; and
 - (e) ensure **records** containing particulars are not available except on a need to know basis.
 - (f) **The requirements of s29(5) RIPA and the Regulation of Investigatory Powers (Source Records) Regulations 2000 (SI:2000/2725) must be considered and applied when authorising the use of a CHIS. Contact the Group Head of Democracy and Governance for advice on the requirements if required.**

Duration

10. The authorisation **must be reviewed in the time stated (which can be any time stated in the application) and cancelled** once it is no longer needed. The 'authorisation' to carry out/conduct the surveillance lasts for a maximum of 3 months (from authorisation) for Directed Surveillance and 12 months (from authorisation) for a CHIS (or 4 months for a juvenile CHIS). However, whether the surveillance is carried out/conducted or not, in the relevant period, does not mean the 'authorisation' is 'spent'. In other words, **the Forms do not expire and remain 'live' until cancelled!** The forms must be reviewed and/or cancelled (once they are no longer required)!
11. Authorisations can be renewed in writing when the maximum period has expired. The Authorising Officer must consider the matter afresh, including taking into account the benefits of the surveillance to date, and any collateral intrusion that has occurred. The Authorising Officer must still be satisfied that the surveillance is still necessary and proportionate.
12. A renewal must be approved by a Justice of the Peace in the same way as an original application.

I. Working With / Through Other Agencies

1. When some other agency has been instructed on behalf of the Council to undertake any action under RIPA, this document and the forms in it must be used (as per normal procedure) and the agency advised or kept informed, as necessary, of the various requirements. They must be made aware explicitly what they are authorised to do.
2. When some other agency (e.g. Police, HMRC, Home Office, etc): -
 - (a) wish to use the Council's resources (e.g. CCTV surveillance systems), that agency must use its own RIPA procedures and, before any officer agrees to allow the Council's resources to be used for the other agency's purposes, s/he must obtain a copy of that agency's RIPA authorisation for the record (a copy of which must be passed to the Group Head of Democracy and Governance for the Central Register) and/or relevant extracts from the same which are sufficient for the purposes of protecting the Council and the use of its resources;
 - (b) wish to use the Council's premises for their own RIPA action, the officer should, normally, co-operate with the same, unless there are security or other good operational or managerial reasons as to why the Council's premises should not be used for the agency's activities. Suitable insurance or other appropriate indemnities may be sought, if necessary, from the other agency for the Council's co-operation in the agent's RIPA operation. In such cases, however, the Council's own RIPA forms should not be used as the Council is only 'assisting' not being 'involved' in the RIPA activity of the external agency.

3. In terms of 2(a), if the Police or other Agency wish to use Council resources for general surveillance, as opposed to specific RIPA operations, an appropriate letter requesting the proposed use, extent of remit, duration, who will be undertaking the general surveillance and the purpose of it must be obtained from the Police or other Agency before any Council resources are made available for the proposed use.
4. **If in doubt, please consult with the Group Head of Democracy and Governance at the earliest opportunity.**

J. Record Management

1. **The Council must keep a detailed record of all authorisations, renewals, cancellations rejections, and errors and a Central Register of all Authorisation Forms will be maintained and will be monitored by the Group Head of Democracy and Governance.**

2. **Records Maintained**

The following documents must be retained by the each Authorising Officer for such purposes.

- a copy of the forms together with any supplementary documentation and notification of the approval given by the Authorising Officer and warrant obtained from the Magistrate; To include the date the authorisation and warrant granted and the name and job title of the authorising officer. A brief description of the investigation and the names of those being surveilled if known
- a record of the period over which the surveillance has taken place;
- the frequency of reviews prescribed by the Authorising Officer;
- a record of the result of each review of the authorisation;
- a copy of any renewal of an authorisation and warrant obtained from the Magistrate, together with the supporting documentation submitted when the renewal was requested;
- the date and time when any instruction was given by the Authorising Officer;
- Date authorisation cancelled
- Date of any refusal to grant and authorisation.
- Any errors (i.e. failures to obtain an authorisation when one was required)

- the Unique Reference Number for the authorisation (URN).
3. Each form will have a URN. The Authorising Officer will issue the relevant URN to Applicants. The cross-referencing of each URN takes place within the forms for inspection purposes. Rejected forms will also have URN's.

Central Register maintained by the Monitoring Officer

4. Authorising Officers must place details of each application on the Central Register, within 1 week of the authorisation, review, renewal, cancellation or rejection. The Group Head of Democracy and Governance will monitor the same and give appropriate guidance, from time to time, or amend this document, as necessary.
5. The Council will retain records for a period of at least five years from the ending of the authorisation. The Investigatory Powers Commissioner (IPC) can inspect the Council's policies and procedures, and individual authorisations.
6. Any errors, that is, failures to obtain authorisation when an authorisation should have been obtained, need to be notified to the Group Head of Democracy and Governance within one working day of it becoming apparent that an error has been made. They should also be logged on the central register. The Group Head of Democracy and Governance will investigate and will no later than 10 working days after the error having become apparent will notify the Investigatory Powers Commissioner.
7. The Group Head of Democracy and Governance will undertake a regular review of all errors and provide advice and guidance on how to avoid continuing occurrences.

Retention and Destruction of Evidence

8. Where evidence gathered from surveillance could be relevant to future or pending court proceedings, it should be retained in accordance with established disclosure requirements for a suitable period, commensurate to any subsequent review. Particular attention should be paid to the Criminal Procedure and Investigations Act 1996 which requires evidence gathered in criminal investigations to be recorded and retained.
9. All private information obtained during the course of a directed surveillance should be maintained securely and only be made available to officers entitled to view it in order to undertake their investigation, or for the purposes of conducting criminal proceedings. Officers handling private information should familiarize themselves with Home Office codes of practice on the handling of such information; See chapter 9 of the Covert Surveillance and Property Interference Code of Practice, and chapter 8 of the Covert Human Intelligence Sources Code of Practice.
<https://www.gov.uk/government/publications/covert-surveillance-and-covert-human-intelligence-sources-codes-of-practice>

K. Concluding Remarks of the Group Head of Democracy and Governance

1. Where there is an interference with the right to respect for private life and family guaranteed under Article 8 of the European Convention on Human Rights, and where there is no other source of lawful authority for the interference, or if it is held not to be necessary or proportionate to the circumstances, the consequences of not obtaining or following the correct authorisation procedure set out in RIPA and this document, may be that the action (and the evidence obtained) will be held to be unlawful by the Courts pursuant to Section 6 of the Human Rights Act 1998.
2. Obtaining an authorisation under RIPA and following this document, will ensure, therefore, that the action is carried out in accordance with the law and subject to stringent safeguards against abuse of anyone's human rights.
3. Authorising Officers must exercise their minds every time they are asked to sign a form. They must never sign or rubber stamp forms without thinking about their personal and the Council's responsibilities.
4. Any boxes not needed on the form(s) must be clearly marked as being 'NOT APPLICABLE', 'N/A' or a line put through the same. Great care must also be taken to ensure accurate information is used and is inserted in the correct boxes. Reasons for any refusal of an application must also be kept on the form and the form retained for future inspections.
5. For further advice and assistance on RIPA, please contact the Council's Group Head of Democracy and Governance (who is also the Council's Monitoring Officer). The Group Head of Democracy and Governance also acts as Senior Responsible Officer (SRO)

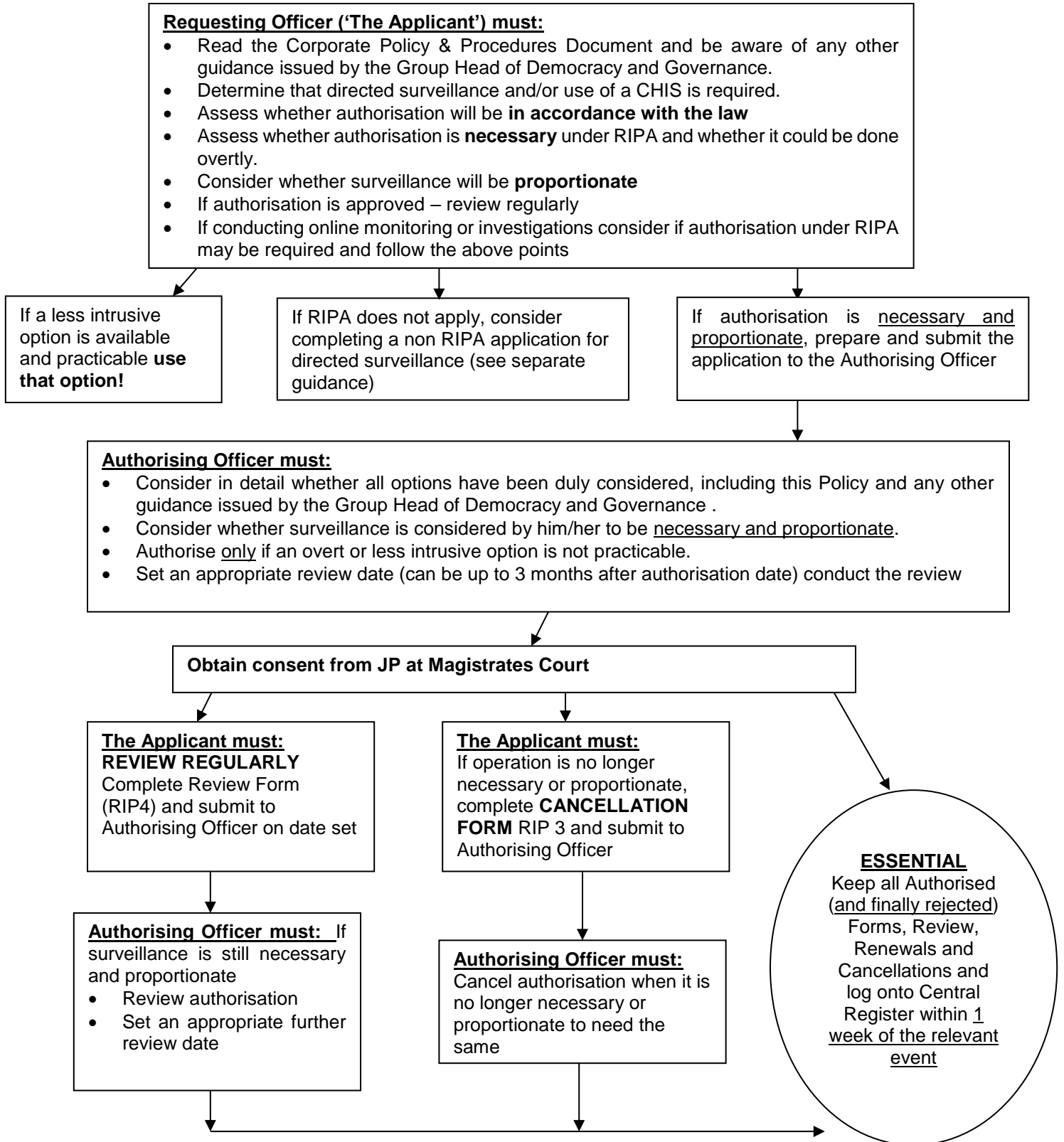
Appendix 1 – List of Authorising Officer Posts

Officer	Service area
Chief Executive; (only where confidential information is likely to be acquired, or where it is proposed to use juveniles or vulnerable persons as covert human intelligence sources)	All
Director Of Finance;	All
Monitoring Officer;	All
Head of Finance;	All
Fraud Manager Shared Services	All
Director of Partnerships	Community Protection
Associate Director Housing and Wellbeing	Community Protection
Business Compliance Officer	Community Protection
Community Protection Manager	Community Protection

IMPORTANT NOTES

- A. Only the Chief Executive and in her absence the Director of Finance or Monitoring Officer is authorised to sign forms relating to Juvenile Sources and Vulnerable Individuals (see paragraph F).
- B. If a Chief Officer wishes to add, delete or substitute a post, s/he must refer such request to the Group Head of Democracy and Governance for consideration, as necessary.
- C. If in doubt, ask the Group Head of Democracy and Governance **BEFORE** any directed surveillance and/or CHIS is authorised, renewed, rejected or cancelled.

**RIPA APPLICATION FOR COVERT DIRECTED SURVEILLANCE (or use of a CHIS)
FLOW CHART**



NB: If in doubt, ask the Group Head of Democracy and Governance BEFORE any directed surveillance, and/or CHIS, application is authorised, renewed, cancelled or rejected.

Part A

Report to: Audit Committee

Date of meeting: Thursday, 14 September 2023

Report author: Group Head of Democracy and Governance

Title: RIPA Update

1.0 Summary

1.1 This Committee is responsible for oversight of the council's use of the Regulation of Investigatory Powers Act (RIPA).

1.2 To note that since the last report in September 2022 the council has not requested any authorisations under the Act.

2.0 Risks

2.1

Nature of risk	Consequence	Suggested Control Measures	Response (treat, tolerate, terminate or transfer)	Risk Rating (combination of severity and likelihood)
Officers fail to apply for RIPA authorisation as required by the Act.	The evidence collected using directed surveillance will be inadmissible and could result in a failure to convict.	Investigating officers are trained in RIPA.	Treat	2

3.0 Recommendations

3.1 The Committee notes that no RIPA authorisations have been made for the financial year 2022/23 or to date.

3.2 To note the updated RIPA Policy 2023 in appendix 1.

Further information:

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4.0 **Detailed proposal**

- 4.1 This Committee oversees the council's use of RIPA. Since restrictions imposed on councils on the use of RIPA by the Protection of Freedoms Act, which limited the ability to undertake directed surveillance to offences where the penalty was six months or more imprisonment or selling alcohol or tobacco to children, and the need to get approval from a magistrate where it was applicable, the council now rarely uses the powers.
- 4.2 No authorisations have been requested for the financial year 2022/23, nor to date.
- 4.3 The RIPA policy document has been reviewed and reference to the OSC Procedure and Guidance document in the Policy has been removed as this has been withdrawn by the Investigatory Powers Commissioner. The 2023 Policy is attached as appendix 1.

5.0 **Implications**

5.1 **Financial**

- 5.1.1 The Shared Director of Finance comments that there are no financial implications in this report.

5.2 **Legal Issues (Monitoring Officer)**

- 5.2.1 The Group Head of Democracy and Governance comments that there are no legal implications in this report.

5.3 **Equalities, Human Rights and Data Protection**

- 5.3.1 It is a requirement of considering any application for authorisation under RIPA to have regard to the human rights of those likely to be subject of the surveillance as well as anyone indirectly affected and any collateral intrusion.
- 5.3.2 There are strict requirements on the handling and storage of any information gleaned as a result of any authorised direct surveillance to prevent unauthorised access.

5.4 **Staffing**

- 5.4.1 Investigating and Authorising Officers have had appropriate training on RIPA.

5.5 **Accommodation**

- 5.5.1 N/A

5.6 **Community Safety/Crime and Disorder**

5.6.1 N/A

5.7 **Sustainability**

5.7.1 N/A

Appendices

- Appendix 1 RIPA Policy 2023

Background papers

No papers were used in the preparation of this report.

CORPORATE POLICY & PROCEDURES DOCUMENT FOR COVERT SURVEILLANCE AND THE USE OF COVERT HUMAN INTELLIGENCE SOURCES

AUTHOR: CAROL CHEN, GROUP HEAD OF DEMOCRACY AND GOVERNANCE, EXT
8350

FIRST PUBLISHED: 2010

REVIEWED 2011

REVIEWED AND UPDATED NOVEMBER 2012

REVIEWED AND UPDATED MARCH 2014

REVIEWED AND UPDATED SEPTEMBER 2014

REVIEWED AND UPDATED MARCH 2016

REVIEWED AND UPDATED MARCH 2018.

REVIEWED AND UPDATED MAY 2018

REVIEWED AND UPDATED JULY 2018

REVIEWED AND UPDATED OCTOBER 2018

REVIEWED AND UPDATED NOVEMBER 2018

REVIEWED AND UPDATED FEBRUARY 2020

REVIEWED AND UPDATED MARCH 2021

REVIEWED AND UPDATED JANUARY 2022

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NB:

The Regulation of Investigatory Powers Act 2000 ('RIPA') refers to 'Designated Officers'. For ease of understanding and application within Watford Borough Council, this Corporate Policy & Procedures Document refers to 'Authorising Officers'. Furthermore, such Officers can only act under RIPA if they have been duly certified by the Council's Group Head of Democracy and Governance. For the avoidance of

doubt, therefore, all references to duly certified Authorising Officers refer to 'Designated Officers' under RIPA.

A. Introduction and Key Messages

1. This Corporate Policy & Procedures Document is based upon the requirements of The Regulation of Investigatory Powers Act 2000 ('RIPA'), The Protection of Freedoms Act 2012 and Codes of Practice issued by the Home Office pursuant to Section 71 of RIPA. The authoritative position on RIPA is, of course, the Act itself, regulations and the Home Office's Codes of Practice on Covert Surveillance and Covert Human Intelligence Sources. Any officer who is unsure about any aspect of this document should contact, at the earliest possible opportunity, the Council's Group Head of Democracy and Governance, for advice and assistance. The Codes of Practice and guidance can be downloaded from the Home Office web site.
2. This document and the related forms can be found on the Council's Intranet.
3. The Council will maintain, and the Group Head of Democracy and Governance will check, the Corporate Register of all RIPA authorisations, reviews, renewals, cancellations and rejections. It is the responsibility of the relevant Authorising Officer, however, to place all RIPA authorisations, reviews, renewals, cancellations and rejections on the Corporate Register within 1 week of the relevant authorisation, review, renewal, cancellation or rejection.
4. Officers who undertake surveillance or who manage CHIS's and Authorising Officers have the responsibility of reporting to the Group Head of Democracy and Governance any situations where direct surveillance or CHIS activity has been undertaken without having obtained the appropriate authority/warrant within one working day of the event having been brought to their attention. It will be the responsibility of the Group Head of Democracy and Governance to investigate and to report the matter to the Investigatory Powers Commissioner no later than 10 working days from the date the event occurred.
5. RIPA, the Protections of Freedoms Act Regulations, the Codes of Practice and this document are important for the effective and efficient operation of the Council's actions with regard to covert surveillance and Covert Human Intelligence Sources. This document will, therefore, be kept under review by the Group Head of Democracy and Governance. Authorising Officers must bring any suggestions for continuous improvement of this document to the attention of the Group Head of Democracy and Governance at the earliest possible opportunity.
6. If you are in any doubt on RIPA, the Codes of Practice, this document or the related legislative provisions, please consult the Group Head of Democracy and Governance.
7. Local Authorities investigating criminal offences have powers to gain access to communications data – that is, information held by telecommunications or postal

service providers about the use of their services by persons who are the subject of criminal investigations. In using such powers, officers must always have regard to the Home Office Guidance –Acquisition and Disclosure of Communication Data Code. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/757850/Communications_Data_Code_of_Practice.pdf .The Council belongs to NAFN who will obtain such communications data on the provision of appropriate authorisation.

8. The Council has had regard to the Codes of practice produced by the Home Office in preparing this guidance. If any doubt arises, the Home Office Code of practice should be consulted.

CHIS and Covert Surveillance Codes of Practice:

<https://www.gov.uk/government/publications/covert-surveillance-and-covert-human-intelligence-sources-codes-of-practice>

In addition further guidance in respect of the judicial approval process and the crime threshold has been issued by the Home Office:-

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/118173/local-authority-england-wales.pdf

B. Borough Council Policy Statement

1. The Council takes seriously its statutory responsibilities under the Regulation of Investigatory Powers Act 2000, and will at all times act in accordance with the law, and take necessary and proportionate action in these types of enforcement matters involving the use of covert surveillance. In that regard, the Group Head of Democracy and Governance, is duly authorised by the Council’s Corporate Management Board as the Council’s ‘Senior Responsible Officer’ with responsibility to keep this document up to date and to amend, delete, add or substitute relevant provisions, as necessary.

C. General Information on RIPA

1. The Human Rights Act 1998 (which incorporated the European Convention on Human Rights into UK law) requires the Council, and organisations working on its behalf, to respect the private and family life of the citizen, his/her home and his/her correspondence.

2. This is not an absolute right, but a qualified right. Accordingly, in certain circumstances, the Council, as a Relevant Public Authority under RIPA, may interfere in the citizen's right to privacy mentioned above, if such interference is: -

(a) **in accordance with the law;**

(a) **necessary** (as defined in this document); **and**

(b) **proportionate** (as defined in this document).

3. Local authorities can only authorise the 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 or nicotine inhaling products. Local authorities **cannot** authorise directed surveillance for the purpose of preventing disorder unless this involves a criminal offence(s) punishable (whether on summary conviction or indictment) by a maximum term of at least 6 months' imprisonment. Local authorities are no longer able to orally authorise the use of RIPA techniques. All authorisations must be made in writing and require JP (Magistrates) approval. *(See chapter 4 para 4.42 to 4.47 of the Home Office Covert Surveillance and Property Interference Revised Code of Practice, August 2018).*

Directed surveillance is covert surveillance that is not intrusive and is carried out in relation to a specific investigation or operation in such a manner as is likely to result in the obtaining of private information about any person (other than by way of an immediate response to events or circumstances such that it is not reasonably practicable to seek authorisation under RIPA). *(See chapter E below).*

Local authorities can only use RIPA in relation to their 'core functions' i.e. the 'specific public functions' undertaken by a particular authority in contrast to the 'ordinary functions' undertaken by all authorities (e.g. employment issues). *(See chapter E, section 15, below).*

The internet may be used for intelligence gathering and/or as a surveillance tool. Local authority officers covertly conducting online monitoring or investigations (including Social Media) for the purpose of a specific investigation or operation which is likely to result in the obtaining of private information about a person or group need to consider if authorisation for directed surveillance under RIPA is required, if RIPA applies.

(See chapter E, section 11, below, this includes details of when CHIS authorisation may be needed for online activity)

4. RIPA provides a statutory mechanism for authorising **covert surveillance** and the use of a '**covert human intelligence source**' ('**CHIS**'). A CHIS is a person used by the Council to establish or maintain a personal or other relationship with another person for the covert purpose of obtaining information (e.g. undercover agents). RIPA seeks to ensure that any interference with an individual's right under the Human Rights Act 1998 is **necessary** and **proportionate**. In doing so, RIPA seeks to ensure both the public interest and the human rights of individuals are suitably balanced.

5. Directly employed Council staff and external agencies working for the Council are covered by RIPA for the time they are working for the Council. All external agencies must, therefore, comply with RIPA and the work carried out by agencies on the Council's behalf must be properly authorised by one of the Council's designated Authorising Officers. Authorising Officers are those whose posts appear in **Appendix 1** to this document and, duly added to or substituted by the Group Head of Democracy and Governance.
6. If the correct RIPA procedures are not followed, evidence may be disallowed by the courts, the matter must be reported by the Group Head of Democracy and Governance to the Investigatory Powers Commissioner, a complaint of maladministration could be made to the Local Government and Social Care Ombudsman, and/or the Council could be ordered to pay compensation. Such action would, of course, harm the reputation of the Council and will, undoubtedly, be the subject of adverse press and media interest. It is essential, therefore, that all Council staff involved with RIPA comply with this document and any further guidance that may be issued, from time to time, by the Group Head of Democracy and Governance.
7. A flowchart of the procedures to be followed appears at **Appendix 2**.
8. **Necessity and proportionality**
 - 8.1 The authorising officer must believe that the surveillance activities which are being authorised are **necessary for the purpose of preventing or detecting crime, and that the offence being investigated is one either punishable by at least 6 months imprisonment or one related to the underage sale of alcohol, tobacco or nicotine inhaling products**. This is the only statutory ground available for local authorities for the use of covert surveillance. The authorising officer must also believe that the surveillance activities are **proportionate** to what is sought to be achieved by carrying them out. This involves balancing the seriousness of the intrusion into the privacy of the person who is the subject of the operation (or any other person who may be affected) against the need for the surveillance in investigative and operational terms.
 - 8.2 The authorisation will not be proportionate if it is excessive in the overall circumstances of the case. Each action authorised should bring an expected benefit to the investigation or operation and should not be disproportionate or arbitrary. The fact that a suspected offence may be serious will not alone render intrusive actions proportionate.
 - 8.3 The following elements of proportionality should therefore be considered:
 - Balancing the size and scope of the proposed activity and the potential intrusion into the subject's personal life against the gravity and extent of the perceived crime or offence;

- Explaining how and why the methods to be adopted will cause the least possible intrusion on the subject and others;
- Considering whether the activity is an appropriate use of RIPA and a reasonable way, having considered all reasonable alternatives, of obtaining the necessary result;
- Evidencing, as far as reasonably practicable, what other methods had been considered and why they were not used

9. Collateral intrusion

Before authorising applications for directed surveillance, the authorising officer should also take into account the risk of obtaining private information about persons who are not the subjects of the surveillance (members of the subject’s family for example). This is referred to as collateral intrusion. All applications should include an assessment of the risk of collateral intrusion and details of any measures taken to limit this. The same proportionality tests apply to the likelihood of collateral intrusion as to intrusion into the privacy of the intended subject of the surveillance. The authorising officer must therefore consider fully the proportionality of the proposed actions.

10. Magistrates Approval

Before any authorisation for directed surveillance can be implemented the authorising officer must obtain the approval of a Justice of the Peace.

D. What RIPA Does and Does Not Do

1. RIPA does:

- Require prior authorisation, from the Council’s authorising officer and Magistrate’s Court, of directed surveillance.
- Prohibit the Council from carrying out intrusive surveillance.
- Require authorisation of the conduct and use of a CHIS
- Require safeguards for the conduct and use of a CHIS.

2. RIPA does not:

- Prejudice or dis-apply any existing powers available to the Council to obtain information by any means not involving conduct that may be authorised under RIPA. For example, it does not affect the

Council's current powers to obtain information via the DVLA or to get information from the Land Registry as to the ownership of a property.

3. If the authorising officer or any applicant is in any doubt, s/he should ask the Group Head of Democracy and Governance BEFORE any directed surveillance and/or CHIS is authorised, renewed, cancelled or rejected.

E. Types of Surveillance

1. **'Surveillance'** includes:

- Monitoring, observing or listening to persons, their movements, conversations, or other activities or communications, including online and social media activities.
- Recording any information obtained in the course of authorised surveillance.
- Surveillance, by or with, the assistance of appropriate and approved surveillance device(s).

Surveillance can be overt or covert.

2. **Overt Surveillance**

Most of the surveillance carried out by the Council will be done overtly – there will be nothing secretive, clandestine or hidden about it. In many cases, Officers will be behaving in the same way as a normal member of the public (e.g. in the case of most test purchases), and/or will be going about Council business openly (e.g. the Park Rangers patrolling the Parks).

3. Similarly, surveillance will be overt if the subject has been told it will happen e.g. where a noisemaker is warned (preferably in writing) that noise will be recorded if the noise continues, or where an entertainment licence is issued subject to conditions, and the licensee is told that officers may visit without notice or identifying themselves to the owner/proprietor to check that the conditions are being met.

4. **Covert Surveillance**

Surveillance is covert if, and only if, it is carried out in a manner calculated to ensure that any persons who are subject to the surveillance are unaware that it is or may be taking place. (Section 26(9)(a) of RIPA).

5. RIPA regulates directed surveillance, intrusive surveillance (the Council cannot carry out **intrusive surveillance**) and the use of Covert Human Intelligence Sources (CHIS).

6. Directed Surveillance

Directed Surveillance is surveillance which: -

- is covert; and
- is not intrusive surveillance (see definition below – **the Council must not carry out any intrusive surveillance**);
- is not carried out in an immediate response to events which would otherwise make seeking authorisation under RIPA unreasonable, e.g. spotting something suspicious and continuing to observe it; and
- it is undertaken for the purpose of a **specific investigation** or operation in a manner **likely to obtain private information** about an individual (whether or not that person is specifically targeted for purposes of an investigation). (*Section 26(10) of RIPA*).

7. Private information

The 2000 Act states that private information includes any information relating to a person's private or family life. As a result, private information is capable of including any aspect of a person's private or personal relationship with others, such as family and professional or business relationships. Information which is non-private may include publicly available information such as books, newspapers, journals, TV and radio broadcasts, newswires, web sites, mapping imagery, academic articles, conference proceedings, business reports, and more. Such information may also include commercially available data where a fee may be charged, and any data which is available on request or made available at a meeting to a member of the public. Non-private data will also include the attributes of inanimate objects such as the class to which a cargo ship belongs.

Whilst a person may have a reduced expectation of privacy when in a public place, covert surveillance of that person's activities in public may still result in the obtaining of private information. This is likely to be the case where that person has a reasonable expectation of privacy even though acting in public and where a record is being made by the Council of that person's activities for future consideration or analysis. Surveillance of publicly accessible areas of the internet should be treated in a similar way, recognising that there may be an expectation of privacy over information which is on the internet, particularly where accessing information on social media websites. See section 11 below for further guidance about the use of the internet as a surveillance tool.

Example: Two people holding a conversation on the street or in a bus may have a reasonable expectation of privacy over the contents of that conversation, even though they are associating in public. The contents of such a conversation should therefore still be considered as private information. A directed surveillance authorisation would therefore be appropriate for the Council to record or listen to the conversation as part of a specific investigation or operation.

Private life considerations are particularly likely to arise if several records are to be analysed together in order to establish, for example, a pattern of behaviour, or if one or more pieces of information (whether or not available in the public domain) are covertly (or in some cases overtly) obtained for the purpose of making a permanent record about a person or for subsequent data processing to generate further information. In such circumstances, the totality of information gleaned may constitute private information even if individual records do not. Where such conduct includes covert surveillance, a directed surveillance authorisation may be considered appropriate.

Example: Council officers wish to drive past a café for the purposes of obtaining a photograph of the exterior. Reconnaissance of this nature is not likely to require a directed surveillance authorisation as no private information about any person is likely to be obtained or recorded. However, if the Council wished to repeat the exercise, for example to establish a pattern of occupancy of the premises by any person, the accumulation of information is likely to result in the obtaining of private information about that person and a directed surveillance authorisation would be required.

Prolonged surveillance targeted on a single person will undoubtedly result in the obtaining of private information about him/her and others that s/he comes into contact, or associates, with.

Private information may include personal data, such as names, telephone numbers and address details. Where such information is acquired by means of covert surveillance of a person having a reasonable expectation of privacy, a directed surveillance authorisation is appropriate.

8. Similarly, although overt town centre CCTV cameras do not normally require authorisation, if a particular camera is being used for a specific purpose, which involves prolonged surveillance on a particular person, authorisation will be required. The way a person runs his/her business may also reveal information about his or her private life and the private lives of others. (Also see section 16 below).

9. **Confidential information**

Special consideration must be given to authorisations that involve confidential personal information. Where such material has been acquired and retained, the matter should be reported to the Group Head of Democracy and Governance so that s/he can inform the Investigatory Powers Commissioner's Office (IPCO) or Inspector during his next inspection and the material made available to him if requested.

Confidential personal information is information held in confidence relating to the physical or mental health or spiritual counselling of a person (whether living or dead) who can be identified from it. Such information, which can include both oral and written communications, is held in confidence if it is held subject to an express or implied undertaking to hold it in confidence or it is subject to a restriction on disclosure or an obligation of confidentiality contained in existing legislation.

Examples include consultations between a health professional and a patient, or information from a patient's medical records.

10. For the avoidance of doubt, only those Officers designated and certified to be 'Authorising Officers' and identified in Appendix 1 for the purpose of RIPA can authorise an application for 'Directed Surveillance' if, and only if, the RIPA authorisation procedures detailed in this document are followed.

Only the Chief Executive can authorise applications for covert surveillance when knowledge of confidential information is likely to be acquired.

11. Online covert activity

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

11.2 The internet may be used for intelligence gathering and/or as a surveillance tool. Where online monitoring or investigation is conducted covertly for the purpose of a specific investigation or operation and is likely to result in the obtaining of private information about a person or group, an authorisation for directed surveillance should be considered.

Where a person acting on behalf of the Council is intending to engage with others online without disclosing his or her identity, a CHIS authorisation may be needed (*paragraphs 4.10 to 4.16 of the Covert Human Intelligence Sources code*

of practice provide detail on where a CHIS authorisation may be available for online activity).

- 11.3 In deciding whether online surveillance should be regarded as covert, consideration should be given to the likelihood of the subject(s) knowing that the surveillance is or may be taking place. Use of the internet itself may be considered as adopting a surveillance technique calculated to ensure that the subject is unaware of it, even if no further steps are taken to conceal the activity. Conversely, where the Council has taken reasonable steps to inform the public or particular individuals that the surveillance is or may be taking place, the activity may be regarded as overt and a directed surveillance authorisation will not normally be available.
- 11.4 As set out in paragraph 11.5 below, depending on the nature of the online platform, there may be a reduced expectation of privacy where information relating to a person or group of people is made openly available within the public domain, however in some circumstances privacy implications still apply. This is because the intention when making such information available was not for it to be used for a covert purpose such as investigative activity. This is regardless of whether a user of a website or social media platform has sought to protect such information by restricting its access by activating privacy settings.
- 11.5 Where information about an individual is placed on a publicly accessible database, for example the telephone directory or Companies House, which is commonly used and known to be accessible to all, they are unlikely to have any reasonable expectation of privacy over the monitoring by the Council of that information. Individuals who post information on social media networks and other websites whose purpose is to communicate messages to a wide audience are also less likely to hold a reasonable expectation of privacy in relation to that information.
- 11.6 Whether the Council interferes with a person's private life includes a consideration of the nature of the public authority's activity in relation to that information. Simple reconnaissance of such sites (i.e. preliminary examination with a view to establishing whether the site or its contents are of interest) is unlikely to interfere with a person's reasonably held expectation of privacy and therefore is not likely to require a directed surveillance authorisation. But where the Council is systematically collecting and recording information about a particular person or group, a directed surveillance authorisation should be

considered. These considerations apply regardless of when the information was shared online. (See section 7 above).

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

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

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

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

- Whether the investigation or research is directed towards an individual or organisation;
- Whether it is likely to result in obtaining private information about a person or group of people (taking account of the guidance in section 7 above);
- Whether it is likely to involve visiting internet sites to build up an intelligence picture or profile;
- Whether the information obtained will be recorded and retained;
- Whether the information is likely to provide an observer with a pattern of lifestyle;
- Whether the information is being combined with other sources of information or intelligence, which amounts to information relating to a person's private life;
- Whether the investigation or research is part of an ongoing piece of work involving repeated viewing of the subject(s);

- Whether it is likely to involve identifying and recording information about third parties, such as friends and family members of the subject of interest, or information posted by third parties, that may include private information and therefore constitute collateral intrusion into the privacy of these third parties.

11.8 Internet searches carried out by a third party on behalf of the Council, or with the use of a search tool, may still require a directed surveillance authorisation.

***Example:** Researchers within a local authority using automated monitoring tools to search for common terminology used online for illegal purposes will not normally require a directed surveillance authorisation. Similarly, general analysis of data by local authorities either directly or through a third party for predictive purposes (e.g. identifying crime hotspots or analysing trends) is not usually directed surveillance. In such cases, the focus on individuals or groups is likely to be sufficiently cursory that it would not meet the definition of surveillance. But officers should be aware of the possibility that the broad thematic research may evolve, and that authorisation may be appropriate at the point where it begins to focus on specific individuals or groups. If specific names or other identifiers of an individual or group are applied to the search or analysis, an authorisation should be considered.*

12. Intrusive Surveillance

This is when it: -

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

Residential premises includes any part of premises which are being occupied or used by any person, however temporarily, for residential purposes or otherwise as living accommodation. It includes hotel accommodation. However, common areas to which a person has access in connection with their use or occupation of accommodation are excluded from the definition of residential premises.

Examples of common areas of residential premises which are excluded would include:

- a communal stairway in a block of flats;

- a hotel reception area or dining room;
- the front garden or driveway of premises readily visible to the public.

A private vehicle is any vehicle which is used primarily for the private purposes of the person who owns it or a person otherwise having the right to use it. This includes, for example, a company car, owned by a leasing company and used for business and pleasure by the employee of a company.

Local authorities are not allowed to carry out intrusive surveillance and therefore no Council officer can authorise a covert surveillance operation if it involves intrusive surveillance as defined above.

13. **Where authorisation is not required**

Some surveillance activity does not constitute directed surveillance under RIPA and no directed surveillance authorisation can be obtained for such activity. Such activity includes:

- covert surveillance by way of an immediate response to events;
- covert surveillance as part of general observation activities;
- covert surveillance not relating to the statutory grounds specified by RIPA;
- overt use of CCTV
- certain other specific situations (see point 17 below).

14. **Immediate response**

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 RIPA.

***Example:** An authorisation would not be required where Council officers conceal themselves in order to observe an incident that they happen to come across where a person appears to be in the act of illegally dumping waste.*

15. **General observation activities**

The general observation duties of Council officers do not require authorisation under the 2000 Act, whether covert or overt. Such general observation duties frequently form part of the legislative functions of the Council, as opposed to the pre-planned surveillance of a specific person or group of people. General observation duties may include monitoring of publicly accessible areas of the internet in circumstances where it is not part of a specific investigation or operation.

Example 1: Intelligence suggests that a local shopkeeper is openly selling alcohol to underage customers, without any questions being asked. A trained employee or person engaged by the Council is deployed to act as a juvenile in order to make a purchase of alcohol. In these circumstances any relationship, if established at all, is likely to be so limited in regards to the requirements of the Act, that the Council may conclude that a CHIS authorisation is unnecessary. However, if the test purchaser is wearing recording equipment and is not authorised as a CHIS, or an adult is observing, consideration should be given to granting a directed surveillance authorisation.

Example 2: Local authority officers attend a car boot sale where it is suspected that counterfeit goods are being sold, but they are not carrying out surveillance of particular individuals and their intention is, through reactive policing, to identify and tackle offenders. Again this is part of the general duties of the Council and the obtaining of private information is unlikely. A directed surveillance authorisation need not be sought.

16. **Not related to the prevention or detection of crime punishable by 6 months imprisonment or more or related to the underage sale of alcohol, tobacco or nicotine inhaling products.**

In the case of local authorities directed surveillance can only be authorised under RIPA if it is for the purpose of preventing or detecting crime where the offence is punishable by a term of imprisonment of 6 months or more or where it is related to the underage sale of alcohol or tobacco. Covert surveillance for any other general purposes should be conducted under other relevant legislation. A local authority can only use RIPA in relation to its 'core functions' i.e, the 'specific public functions' undertaken by a particular authority in contrast to the 'ordinary functions' undertaken by all authorities (e.g. employment issues).

Example: A Council employee is off work due, he claims, to an injury sustained at work for which he is suing the Council. The employee's manager suspects the employee is exaggerating the seriousness of their injury and that they are, in fact, fit enough to come to work. The manager wishes to place the employee under covert surveillance outside of his normal work environment to establish that he is indeed fit for work and to gather evidence for disciplinary proceedings against the employee for deceiving the Council. Such surveillance, even though likely to result in obtaining private information, does not constitute directed surveillance under RIPA as it does not relate to the Council's core functions. It relates instead to the carrying out of its employment functions which are common to all authorities. In order to undertake surveillance of this nature the Council

would need to satisfy itself that it would not be contravening the GDPR and Data Protection Act 2018 and the Council's own employment policies.

17. **CCTV**

The use of overt CCTV cameras by the council does not normally require an authorisation under RIPA. Members of the public should be made aware that such systems are in use. For example, by virtue of cameras or signage being clearly visible, through the provision of information and by undertaking consultation. Guidance on their operation is provided in the Surveillance Camera Code of Practice issued under the Protection of Freedoms Act 2012 ("the 2012 Act") and overseen by the Surveillance Camera Commissioner. The council should also be aware of the relevant Information Commissioner's code ("In the Picture – A Data Protection Code of Practice for Surveillance Cameras and Personal Information").

The Surveillance Camera code has relevance to overt surveillance camera systems (as defined at s 29(6) of the 2012 Act) and which are operated in public places by the Council. The 2012 Act places a statutory responsibility upon the Council, to have regard to the provisions of the Surveillance Camera code, where surveillance is conducted overtly by means of a surveillance camera system in a public place in England and Wales.

The Surveillance Camera code sets out a framework of good practice that includes existing legal obligations, including the processing of personal data under the Data Protection Act 2018 and the council's duty to adhere to the Human Rights Act 1998.

Example: *Overt surveillance equipment, such as town centre CCTV systems, is used to gather information as part of a reactive operation (e.g. to identify individuals who have committed criminal damage after the event). Such use does not amount to covert surveillance as the equipment was overt and not subject to any covert targeting. Use in these circumstances would not require a directed surveillance authorisation.*

However, where overt CCTV or other overt surveillance cameras are used in a covert and pre-planned manner as part of a specific investigation or operation, for the surveillance of a specific person or group of people, a directed surveillance authorisation should be considered. Such covert surveillance is likely to result in the obtaining of private information about a person (namely, a record of their movements and activities) and therefore falls properly within the definition of directed surveillance. The use of the CCTV or other overt surveillance cameras in these circumstances goes beyond their intended use for the general prevention or detection of crime and protection of the public.

Example: A local police team receive information that an individual suspected of committing thefts from motor vehicles is known to be in a town centre area. A decision is taken to use the town centre CCTV system to conduct surveillance against that individual, such that he remains unaware that there may be any specific interest in him. This targeted, covert use of the overt town centre CCTV system to monitor and/or record that individual's movements should be considered for authorisation as directed surveillance.

18. **Specific situations where authorisation is not available**

There are a number of specific situations which do not require an authorisation under RIPA. The specific situations most relevant to the Council are –

- the overt or covert recording of an interview with a member of the public where it is made clear that the interview is entirely voluntary and that the interviewer is a Council officer. In such circumstances, whether the recording equipment is overt or covert, the member of the public knows that they are being interviewed by a Council Officer and that information gleaned through the interview has passed into the possession of the council;
- the covert recording of suspected noise nuisance where the recording is of decibels only or constitutes non-verbal noise (such as music, machinery or an alarm), or the recording of verbal content is made at a level which does not exceed that which can be heard from the street outside or adjoining property with the naked ear. In the latter circumstance, the perpetrator would normally be regarded as having forfeited any claim to privacy.

19. **Examples of different types of Surveillance**

Type of Surveillance	Examples
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<u>Overt</u>	<ul style="list-style-type: none"> - Police Officer on patrol - Signposted Town Centre CCTV cameras (in normal use) - Recording noise coming from outside the premises after the occupier has been warned that this will occur if the noise persists. - Most test purchases (where the officer behaves no differently from a normal member of the public).
<u>Covert</u> but not requiring prior authorisation	<ul style="list-style-type: none"> - CCTV cameras providing general traffic, crime or public safety information.
<u>Directed</u> (this is also covert) must be RIPA authorised. This includes relevant online covert activity.	<ul style="list-style-type: none"> - Officers follow an individual or individuals over a period, to establish whether s/he is working when claiming benefit; where the offence they are investigating is punishable by a term of imprisonment of 6 months or more. - Test purchases where the officer has a hidden camera or other recording device to record information which might include information about the private life of a shop-owner, e.g. where s/he is suspected of selling alcohol or tobacco to underage customers.
<u>Intrusive</u> – Council cannot do this!	<ul style="list-style-type: none"> - Planting a listening or other device (bug) in a person's home or in their private vehicle.

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

Who is a CHIS?

1. Someone who establishes or maintains a personal or other relationship for the covert purpose of helping the covert use of the relationship to obtain information. **In normal circumstances the Council will not consider the conduct or use a CHIS. If consideration is given to the conduct or use of a CHIS the Group Head of Democracy and Governance must be consulted first. The Council may seek the assistance of the Police to manage the CHIS**

2. The Council is not required by RIPA to seek or obtain an authorisation just because one is available (see section 80 of RIPA). The use or conduct of a CHIS, however, can be a particularly intrusive and high risk covert technique, requiring dedicated and sufficient resources, oversight and management. Authorisation is therefore advisable where the Council intends to task someone to act as a CHIS, or where it is believed an individual is

acting in that capacity and it is intended to obtain information from them accordingly.

The Council must ensure that all use or conduct is:

- necessary and proportionate to the intelligence dividend that it seeks to achieve;
 - in compliance with relevant Articles of the European Convention on Human Rights (ECHR), particularly Articles 6 and 8.
3. RIPA does not apply in circumstances where members of the public volunteer information to the Council as part of their normal civic duties, or to contact numbers set up to receive information.
 4. Watford BC does not normally ask informants to gather information on the Councils behalf as this may result in the informant forming a relationship with a subject; which could result in the informant becoming a CHIS.

What must be authorised?

5. The conduct or use of a CHIS requires prior authorisation.
 - **Conduct** of a CHIS = Establishing or maintaining a personal or other relationship with a person for the covert purpose of (or is incidental to) obtaining and passing on information.
 - **Use** of a CHIS = Actions inducing, asking or assisting a person to act as a CHIS and the decision to use a CHIS in the first place.
6. **If a CHIS is used the RIPA procedures, detailed in this document, must be followed, including obtaining the approval of a Justice of the Peace.**
7. **Council Officers, and authorising officers, need to be clear that Online covert activity may also require the conduct and use of a CHIS. (See chapter E, section 11, para 11.2).**

Juvenile Sources

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

Only the Chief Executive or, in his or her absence, the Director of Finance or Monitoring Officer can authorise the use of Juvenile Sources, again such authorisation must be approved by a Justice of the Peace.

Vulnerable Individuals

9. A 'vulnerable individual' is a person who is or may be in need of community care services by reason of mental or other disability, age or illness and who is or may be unable to take

care of himself or herself, or unable to protect himself or herself against significant harm or exploitation.

10. A vulnerable individual will only be authorised to act as a source in the most exceptional of circumstances.

Only the Chief Executive or, in his or her absence, the Director of Finance or Monitoring Officer can authorise the use of vulnerable individuals, again such authorisation must be approved by a Justice of the Peace.

Test Purchases

11. Carrying out test purchases will not (as highlighted above) require the purchaser to establish a relationship with the supplier with the covert purpose of obtaining information and, therefore, the purchaser will not normally be a CHIS. For example, authorisation would not normally be required for test purchases carried out in the ordinary course of business (e.g. walking into a shop and purchasing a product over the counter).
12. By contrast, developing a relationship with a person in the shop, to obtain information about the seller's suppliers of an illegal product (e.g. illegally imported products) will require authorisation as a CHIS. Similarly, using mobile hidden recording devices or CCTV cameras to record what is going on in the shop will require authorisation as directed surveillance. A combined authorisation can be given for a CHIS and also directed surveillance.

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

13. Persons who complain about anti-social behaviour, and are asked to keep a diary, will not normally be a CHIS, as they are not required to establish or maintain a relationship for a covert purpose. Recording the level of noise (e.g. the decibel level) will not normally capture private information and, therefore, does not require authorisation.
14. Recording sound (with a DAT recorder) on private premises could constitute intrusive surveillance, unless it is done overtly. For example, it will be possible to record if the noisemaker is warned (preferably in writing) that this will occur if the level of noise continues.

G. Authorising Officer Responsibilities

1. The Group Head of Democracy and Governance will ensure that sufficient numbers of Authorising Officers are duly certified under this policy.

2. It will be the responsibility of Authorising Officers who have been duly certified to ensure their relevant members of staff are suitably trained as 'Applicants' so as to avoid common mistakes appearing on forms for RIPA authorisations.
3. Authorising Officers will also ensure that staff who report to them are familiar with this policy and that they do not undertake or carry out any form of surveillance without first complying with the requirements of this document.
4. Authorising Officers must also pay particular attention to any health and safety issues that may be raised by any proposed surveillance activity. Under no circumstances, should an Authorising Officer approve any RIPA application unless, and until s/he is satisfied that a proper risk assessment has been carried out and the health and safety of Council employees/agents are suitably addressed and/or risks minimised, so far as is possible. If an Authorising Officer is in any doubt, s/he should obtain prior guidance on the same from his/her manager, the Council's Corporate Health & Safety Adviser or the Group Head of Democracy and Governance.
5. Authorising Officers must obtain authorisation from a Justice of the Peace (Magistrate) before any Directed Surveillance, or the conduct or use of a CHIS, can be undertaken.

H. Authorisation Procedures

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

Authorising Officers

2. Forms can only be signed by the Authorising Officers set out in **Appendix 1**.

Only the Chief Executive or, in his or her absence, the Director of Finance or Monitoring Officer can authorise an application for directed surveillance when confidential information is likely to be acquired.

Appendix 1 will be kept up to date by the Group Head of Democracy and Governance, and added to as needs require. If a Chief Officer wishes to add, delete or substitute a post, s/he must refer such request to the Group Head of Democracy and Governance for consideration, as necessary. The Group Head of Democracy and Governance is authorised to add, delete or substitute posts listed in **Appendix 1**.

3. Authorisations under RIPA are separate from delegated authority to act under the Council's Constitution. RIPA authorisations are for specific investigations only, and must be renewed or cancelled once the specific surveillance is complete or about to expire. **The authorisations do not lapse with time!**
4. The Group Head of Democracy and Governance will monitor applications recorded on the central register

Application Forms

5. Only the approved RIPA forms named in this document, and found on the Council's intranet, must be used. Any other forms will be rejected by the Authorising Officer.

6. **Directed Surveillance and use of Covert Human Intelligence forms – See Appendix 3**

Form RIP 1	Application for Authority for Directed Surveillance
Form RIP 2	Renewal of Directed Surveillance Authority
Form RIP 3	Cancellation of Directed Surveillance
Form RIP 4	Review of Directed Surveillance
Form RIP 5	Application for use of Covert Human Intelligence Source
Form RIP 6	Renewal of authorisation for use of Covert Human Intelligence Source
Form RIP 7	Cancellation of Covert Human Intelligence Source
Form RIP 8	Review of use of Covert Human Intelligence Source

Grounds for Authorisation

7. Directed Surveillance (form RIP 1) can be authorised by the Council only on the following ground: -
 - 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 or nicotine inhaling products.

Assessing the Application Form

8. Before an Authorising Officer signs a Form, **s/he must:** -

- (a) Have due regard for RIPA, the Home Office Codes of Practice, the Human Rights Act 1998, this Policy and any other guidance issued, from time to time, by the Group Head of Democracy and Governance on such matters;
- (b) Satisfy his/herself that the RIPA authorisation is: -
 - (i) **in accordance with the law**;
 - (ii) **necessary** in the circumstances of the particular case on the grounds mentioned above; **and**
 - (iii) **proportionate** to what it seeks to achieve.
- (c) 'Proportionate' means the Authorising Officer must believe that intruding upon someone's privacy through surveillance is proportionate to the desired outcome taking into account the size of the problem as against the breach of privacy

In assessing whether or not the proposed surveillance is proportionate, the Authorising Officer must be satisfied that the application form demonstrates that every other reasonable means of gathering the information has been considered and explains why the alternative means considered would not be likely to achieve the desired outcome. The Authorising Officer must also be satisfied that the proposed method of surveillance is the least intrusive.

The proportionality test is explained in more detail in Section C paragraph 8.

The Authorising Officer must in each case follow the "five Ws" (i.e, who, what, where, when and why) incorporated into the forms to make clear what is being authorised. They must also explain how and why they are satisfied that the proposed action is both **necessary** and **proportionate**. It is not enough simply to state that it is so – the reasons **why** it is so must be given.

Every question on the application form must be dealt with fully, following the prompts which are now incorporated in the forms.

- (d) Take into account the risk of accidental intrusion into the privacy of persons other than the specified subject of the surveillance (**Collateral Intrusion**). Measures must be taken wherever practicable to avoid or minimise (so far as is possible) collateral intrusion and the matter may be an aspect of determining proportionality;
- (e) Set a date for review of the authorisation and enter it on the Central Register. The Authorising Officer is responsible for ensuring that key dates are adhered to.
- (f) Allocate a Unique Reference Number (URN) for the application as follows: -. Year / Service / Number of Application.

- (g) Seek approval to the authorisation from a Justice of the Peace (Magistrate).
- (h) Ensure that any RIPA Service Register is duly completed, and that a copy of the RIPA Forms (and any review/cancellation of the same) are recorded on the Corporate Central Register, **within 1 week of the relevant authorisation, review, renewal, cancellation or rejection.**

Additional Safeguards when Authorising a CHIS

9. When authorising the conduct or use of a CHIS, the Authorising Officer **must also:** -
- (a) be satisfied that the **conduct** and/or **use** of the CHIS is proportionate to what is sought to be achieved;
 - (b) be satisfied that **appropriate arrangements** are in place for the management and oversight of the CHIS and this must address health and safety issues and any risk to the CHIS arising should their role in the investigation be revealed through a risk assessment;
 - (c) consider the likely degree of intrusion of all those potentially affected;
 - (d) consider any adverse impact on community confidence that may result from the use or conduct or the information obtained; and
 - (e) ensure **records** containing particulars are not available except on a need to know basis.
 - (f) **The requirements of s29(5) RIPA and the Regulation of Investigatory Powers (Source Records) Regulations 2000 (SI:2000/2725) must be considered and applied when authorising the use of a CHIS. Contact the Group Head of Democracy and Governance for advice on the requirements if required.**

Duration

10. The authorisation **must be reviewed in the time stated (which can be any time stated in the application) and cancelled** once it is no longer needed. The 'authorisation' to carry out/conduct the surveillance lasts for a maximum of 3 months (from authorisation) for Directed Surveillance and 12 months (from authorisation) for a CHIS (or 4 months for a juvenile CHIS). However, whether the surveillance is carried out/conducted or not, in the relevant period, does not mean the 'authorisation' is 'spent'. In other words, **the Forms do not expire and remain 'live' until cancelled!** The forms must be reviewed and/or cancelled (once they are no longer required)!
11. Authorisations can be renewed in writing when the maximum period has expired. The Authorising Officer must consider the matter afresh, including taking into account the benefits of the surveillance to date, and any collateral intrusion that has occurred. The Authorising Officer must still be satisfied that the surveillance is still necessary and proportionate.

12. A renewal must be approved by a Justice of the Peace in the same way as an original application.

I. Working With / Through Other Agencies

1. When some other agency has been instructed on behalf of the Council to undertake any action under RIPA, this document and the forms in it must be used (as per normal procedure) and the agency advised or kept informed, as necessary, of the various requirements. They must be made aware explicitly what they are authorised to do.
2. When some other agency (e.g. Police, HMRC, Home Office, etc): -
 - (a) wish to use the Council's resources (e.g. CCTV surveillance systems), that agency must use its own RIPA procedures and, before any officer agrees to allow the Council's resources to be used for the other agency's purposes, s/he must obtain a copy of that agency's RIPA authorisation for the record (a copy of which must be passed to the Group Head of Democracy and Governance for the Central Register) and/or relevant extracts from the same which are sufficient for the purposes of protecting the Council and the use of its resources;
 - (b) wish to use the Council's premises for their own RIPA action, the officer should, normally, co-operate with the same, unless there are security or other good operational or managerial reasons as to why the Council's premises should not be used for the agency's activities. Suitable insurance or other appropriate indemnities may be sought, if necessary, from the other agency for the Council's co-operation in the agent's RIPA operation. In such cases, however, the Council's own RIPA forms should not be used as the Council is only 'assisting' not being 'involved' in the RIPA activity of the external agency.
3. In terms of 2(a), if the Police or other Agency wish to use Council resources for general surveillance, as opposed to specific RIPA operations, an appropriate letter requesting the proposed use, extent of remit, duration, who will be undertaking the general surveillance and the purpose of it must be obtained from the Police or other Agency before any Council resources are made available for the proposed use.
4. **If in doubt, please consult with the Group Head of Democracy and Governance at the earliest opportunity.**

J. Record Management

1. **The Council must keep a detailed record of all authorisations, renewals, cancellations rejections, and errors and a Central Register of all Authorisation Forms will be maintained and will be monitored by the Group Head of Democracy and Governance.**

2. **Records Maintained**

The following documents must be retained by the each Authorising Officer for such purposes.

- a copy of the forms together with any supplementary documentation and notification of the approval given by the Authorising Officer and warrant obtained from the Magistrate; To include the date the authorisation and warrant granted and the name and job title of the authorising officer. A brief description of the investigation and the names of those being surveilled if known
- a record of the period over which the surveillance has taken place;
- the frequency of reviews prescribed by the Authorising Officer;
- a record of the result of each review of the authorisation;
- a copy of any renewal of an authorisation and warrant obtained from the Magistrate, together with the supporting documentation submitted when the renewal was requested;
- the date and time when any instruction was given by the Authorising Officer;
- Date authorisation cancelled
- Date of any refusal to grant and authorisation.
- Any errors (i.e. failures to obtain an authorisation when one was required)
- the Unique Reference Number for the authorisation (URN).

3. Each form will have a URN. The Authorising Officer will issue the relevant URN to Applicants. The cross-referencing of each URN takes place within the forms for inspection purposes. Rejected forms will also have URN's.

Central Register maintained by the Monitoring Officer

4. Authorising Officers must place details of each application on the Central Register, within 1 week of the authorisation, review, renewal, cancellation or rejection. The Group Head

of Democracy and Governance will monitor the same and give appropriate guidance, from time to time, or amend this document, as necessary.

5. The Council will retain records for a period of at least five years from the ending of the authorisation. The Investigatory Powers Commissioner (IPC) can inspect the Council's policies and procedures, and individual authorisations.
6. Any errors, that is, failures to obtain authorisation when an authorisation should have been obtained, need to be notified to the Group Head of Democracy and Governance within one working day of it becoming apparent that an error has been made. They should also be logged on the central register. The Group Head of Democracy and Governance will investigate and will no later than 10 working days after the error having become apparent will notify the Investigatory Powers Commissioner.
7. The Group Head of Democracy and Governance will undertake a regular review of all errors and provide advice and guidance on how to avoid continuing occurrences.

Retention and Destruction of Evidence

8. Where evidence gathered from surveillance could be relevant to future or pending court proceedings, it should be retained in accordance with established disclosure requirements for a suitable period, commensurate to any subsequent review. Particular attention should be paid to the Criminal Procedure and Investigations Act 1996 which requires evidence gathered in criminal investigations to be recorded and retained.
9. All private information obtained during the course of a directed surveillance should be maintained securely and only be made available to officers entitled to view it in order to undertake their investigation, or for the purposes of conducting criminal proceedings. Officers handling private information should familiarize themselves with Home Office codes of practice on the handling of such information; See chapter 9 of the Covert Surveillance and Property Interference Code of Practice, and chapter 8 of the Covert Human Intelligence Sources Code of Practice.
<https://www.gov.uk/government/publications/covert-surveillance-and-covert-human-intelligence-sources-codes-of-practice>

K. Concluding Remarks of the Group Head of Democracy and Governance

1. Where there is an interference with the right to respect for private life and family guaranteed under Article 8 of the European Convention on Human Rights, and where there is no other source of lawful authority for the interference, or if it is held not to be necessary or proportionate to the circumstances, the consequences of not obtaining or following the correct authorisation procedure set out in RIPA and this document, may be that the action (and the evidence obtained) will be held to be unlawful by the Courts pursuant to Section 6 of the Human Rights Act 1998.
2. Obtaining an authorisation under RIPA and following this document, will ensure, therefore, that the action is carried out in accordance with the law and subject to stringent safeguards against abuse of anyone's human rights.
3. Authorising Officers must exercise their minds every time they are asked to sign a form. They must never sign or rubber stamp forms without thinking about their personal and the Council's responsibilities.
4. Any boxes not needed on the form(s) must be clearly marked as being 'NOT APPLICABLE', 'N/A' or a line put through the same. Great care must also be taken to ensure accurate information is used and is inserted in the correct boxes. Reasons for any refusal of an application must also be kept on the form and the form retained for future inspections.
5. For further advice and assistance on RIPA, please contact the Council's Group Head of Democracy and Governance (who is also the Council's Monitoring Officer). The Group Head of Democracy and Governance also acts as Senior Responsible Officer (SRO)

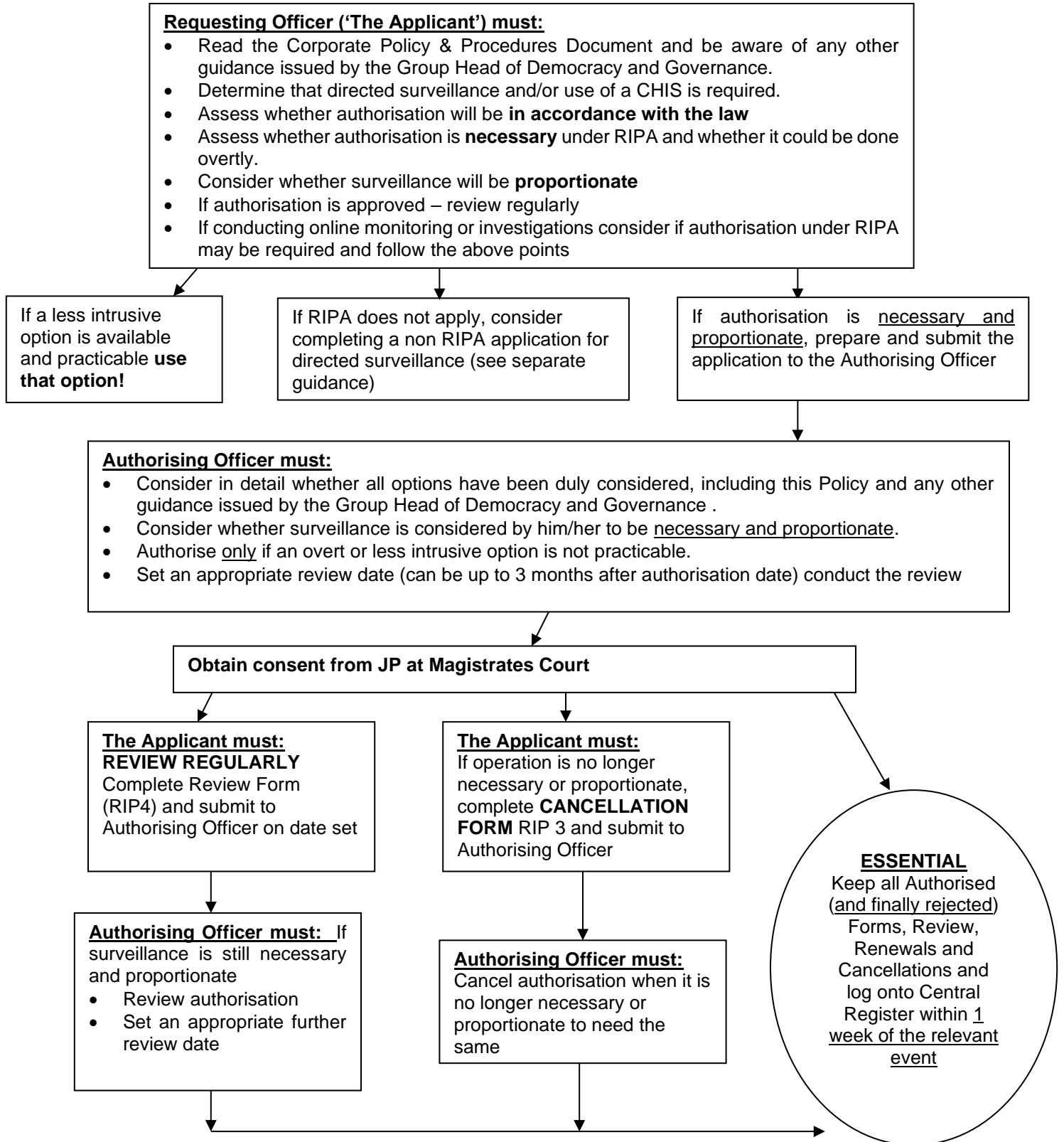
Appendix 1 – List of Authorising Officer Posts

Officer	Service area
Chief Executive; (only where confidential information is likely to be acquired, or where it is proposed to use juveniles or vulnerable persons as covert human intelligence sources)	All
Director Of Finance;	All
Monitoring Officer;	All
Head of Finance;	All
Fraud Manager Shared Services	All
Executive Head Strategy & Initiatives (Sustainability and Culture)	Community Protection
Associate Director Housing and Wellbeing	Community Protection
Business Compliance Officer	Community Protection
Community Protection Manager	Community Protection

IMPORTANT NOTES

- A. Only the Chief Executive and in her absence the Director of Finance or Monitoring Officer is authorised to sign forms relating to Juvenile Sources and Vulnerable Individuals (see paragraph F).
- B. If a Chief Officer wishes to add, delete or substitute a post, s/he must refer such request to the Group Head of Democracy and Governance for consideration, as necessary.
- C. If in doubt, ask the Group Head of Democracy and Governance **BEFORE** any directed surveillance and/or CHIS is authorised, renewed, rejected or cancelled.

**RIPA APPLICATION FOR COVERT DIRECTED SURVEILLANCE (or use of a CHIS)
FLOW CHART**



NB: If in doubt, ask the Group Head of Democracy and Governance BEFORE any directed surveillance, and/or CHIS, application is authorised, renewed, cancelled or rejected.



Watford Borough Council
Audit Committee Progress Report
14 September 2023

Recommendation

Members are recommended to:

- Note the Internal Audit Progress Report for the period to 1 September 2023
- Approve amendments to the Audit Plan as at 1 September 2023
- Agree the change to the implementation date for two recommendations (paragraph 2.5) for the reasons set out in Appendix C
- Agree removal of implemented audit recommendations set out in Appendix C
- Note the implementation status of high priority recommendations.

Contents

- 1 Introduction and Background
 - 1.1 Purpose
 - 1.2 Background

- 2 Audit Plan Update
 - 2.1 Delivery of Internal Audit Plan and Key Audit Findings
 - 2.3 Status of Internal Audit Recommendations
 - 2.9 Proposed Internal Audit Plan Amendments
 - 2.10 Performance Management

Appendices

- A Progress against the 2023/24 Internal Audit Plan
- B 2023/24 Internal Audit Plan Projected Start Dates
- C Progress against Outstanding Internal Audit Recommendations
- D Assurance and Priority Levels

1. Introduction and Background

Purpose of Report

1.1 This report details:

- a) Progress made by the Shared Internal Audit Service (SIAS) in delivering the Council's Annual Internal Audit Plan for 2023/24 as at 1 September 2023.
- b) Proposed amendments to the approved 2023/24 Internal Annual Audit Plan.
- c) Implementation status of all outstanding previously agreed internal audit recommendations from 2020/21 onwards.
- d) An update on performance management information as at 1 September 2023.

Background

- 1.2 The work of internal audit is required to be reported to a Member Body so that the Council has an opportunity to review and monitor an essential component of corporate governance and gain assurance that its internal audit provision is fulfilling its statutory obligations. It is considered good practice that progress reports also include proposed amendments to the agreed annual audit plan.
- 1.3 The 2023/24 Annual Audit Plan was approved by Audit Committee on 9 March 2023.
- 1.4 The Audit Committee receives periodic updates on progress against the Annual Audit Plan from SIAS, the most recent of which was brought to this Committee on 26 July 2023.

2. Audit Plan Update

Delivery of Audit Plan and Key Audit Findings

- 2.1 As at 1 September 2023, 27% of the 2023/24 Audit Plan days had been delivered for the combined Watford Borough Council and Shared Services audit plans (excludes 'To Be Allocated' days). Appendix A provides a status update on each individual deliverable within the audit plan.
- 2.2 The following 2022/23 reports have been finalised since July 2023 Audit Committee:

Audit Title	Date of Issue	Assurance Level	Number and Priority of Recommendations
Payroll	Jul '23	Reasonable	One medium Three low
Fixed Asset Register	Sep '23	Reasonable	Two low

No 2023/24 reports have yet been finalised. The Revenues and Benefits system parameter testing review is currently at draft report stage.

Status of Audit Recommendations

- 2.3 Audit Committee Members will be aware that a Final Audit Report is issued when it has been agreed by management and includes an agreement to implement the recommendations made. It is SIAS's responsibility to bring to Members' attention the implementation status of all audit recommendations. It is the responsibility of officers to implement recommendations by the agreed date.
- 2.4 The table below summarises progress in implementation of all outstanding internal audit recommendations as at 1 September 2023, with full details in Appendix C:

Year	Recommendations made No.	Implemented	Not yet due	Outstanding & a request made for extended time, or no update received	Percentage implemented %
2020/21	28	27	0	1	96%
2021/22	37	34	3	0	92%
2022/23	32	17	3	12	53%

- 2.5 Since 26 July 2023 Audit Committee, extension to implementation dates have been requested by action owners for two recommendations as follows:
- One from the 2022/23 Financial Reconciliations audit, with a revised target date of 30 November 2023 (was 31 August 2023), and
 - One from the 2022/23 Trees audit, with a revised target date of 30 September 2023 (was 31 July 2023).
- 2.6 In respect of the following five recommendations, no progress update was received from the action owner:
- One from the 2020/21 Debtors audit (target date - 31 December 2023),
 - Two from the 2022/23 Council Tax audit (target dates - 30 September 2023 and 31 March 2024), and
 - Two from the 2022/23 NDR audit (target dates - 31 March 2024).
- 2.7 In respect of the six recommendations from the Museum audit, at the July meeting of Audit Committee, members requested that the Associate Director of Environment provides a separate written update to members ahead of the September Audit Committee on the impact of the Museum relocation on the audit actions. We understand that a separate report may be tabled at the September Audit Committee. The details of this report have not been included in Appendix C.
- 2.8 No new high priority recommendations have been made since July 2023 Audit Committee.

Proposed Audit Plan Amendments

- 2.9 In consultation with the Head of Finance and Chief Accountant, the scope of the Main Accounting – Assurance Mapping review has now been defined and the audit renamed to more clearly align with the agreed approach. This work will be delivered in conjunction with the Key Financial Controls Testing review in October.

Performance Management

- 2.10 To help the Committee assess the current situation in terms of progress against the projects in the 2023/24 Audit Plan, we have provided an analysis of agreed start dates at Appendix B. These dates have been agreed with management and resources allocated.
- 2.11 Annual performance indicators and associated targets were approved by the SIAS Board in March 2023. Actual performance for Watford Borough Council against the targets that can be monitored for 2023/24 is shown in the table below.

Performance Indicator	Annual Target	Profiled Target to 1 September 2023	Actual to 1 September 2023
1. Planned Days – percentage of actual billable days against planned chargeable days completed (excludes unused contingency)	95%	30% (67 / 227 days)	27% (62 / 227 days)
2. Planned Projects – percentage of actual completed projects to draft report stage against planned completed projects by 31 st March 2024	90%	18% (3 out of 17 projects to draft)	6% (1 out of 17 projects to draft)
3. Planned Projects – percentage of actual completed projects to Final report stage against planned completed projects by the production of the HoA Annual Report	100%	n/a	n/a New Indicator – first measurement will be May 2024 (Currently 0/17 delivered to final report)
4. Client Satisfaction – percentage of client satisfaction questionnaires returned at 'satisfactory overall' level (minimum of 39/65 overall)	95%	100%	100% (Based on 2 received in 23/24)

Performance Indicator	Annual Target	Profiled Target to 1 September 2023	Actual to 1 September 2023
5. Number of High Priority Audit Recommendations Agreed	95%	95%	N/A (No high priority recommendations made)

2.12 In respect of delivery of Planned Projects, performance is behind the profiled target as it was anticipated that the Project Management (Town Hall Quarter) and Operational Buildings Compliance Follow Up audits would have been completed in time for the September audit committee reporting cycle. However, due to delays in getting these reviews underway, at the time of writing this report, both are currently in fieldwork. Draft reports are now expected to be issued by mid-September.

2.13 In addition, the performance targets listed below are annual in nature. Performance against these targets will be reported on in the 2023/24 Head of Assurance’s Annual Report:

- **6. Annual Plan** – prepared in time to present to the March meeting of each Audit Committee. If there is no March meeting, then the plan should be prepared for the first meeting of the financial year.
- **7. Head of Assurance’s Annual Report** – presented at the Audit Committee’s first meeting of the civic year.

APPENDIX A - PROGRESS AGAINST THE 2023/24 AUDIT PLAN AT 1 SEPTEMBER 2023

2023/24 SIAS Audit Plan

AUDITABLE AREA	LEVEL OF ASSURANCE	RECS				AUDIT PLAN DAYS	LEAD AUDITOR ASSIGNED	BILLABLE DAYS COMPLETED	STATUS/COMMENT
		C	H	M	L				
Key Financial Systems									
Benefits (Shared Services Plan)						10	No	0	Not Yet Allocated
Debt Recovery (Shared Services Plan)						12	No	0	Not Yet Allocated
Key Financial Controls Testing (Shared Services Plan)						10	BDO	1	In Planning
Main Accounting / Creditors – Control Risk Assessment (Shared Services Plan)						10	SIAS	1	In Planning
Payroll (Shared Services Plan)						10	No	0	Not Yet Allocated
Parameters Testing (Shared Services Plan)						3	SIAS	3	Draft Report Issued
Operational Audits									
Agency Staffing (Shared Services Plan)						12	SIAS	2	Terms of Reference Issued
Asset Management System Data						10	BDO	0	Not Yet Allocated
Croxley Business Park						15	BDO	0	Allocated
Operational Buildings Compliance Follow Up						6	BDO	4	In Fieldwork
Performance Management & Data Quality						12	SIAS	0.5	In Planning
Play Safety Inspections Follow Up						5	Yes	4	In Fieldwork
Risk Management						8	SIAS	6	In Fieldwork

APPENDIX A - PROGRESS AGAINST THE 2023/24 AUDIT PLAN AT 1 SEPTEMBER 2023

AUDITABLE AREA	LEVEL OF ASSURANCE	RECS				AUDIT PLAN DAYS	LEAD AUDITOR ASSIGNED	BILLABLE DAYS COMPLETED	STATUS/COMMENT
		C	H	M	L				
Shared Services						15	BDO	0	Allocated
Grant Certifications						3	No	0	Not Yet Allocated
Contract Management, Project Management & Procurement									
Project Management – Town Hall Quarter						12	BDO	10	In Fieldwork
IT Audits									
IT Operations (Shared Services Plan)						15	BDO	5	In Fieldwork
Cyber Security (Shared Services Plan)						15	BDO	0	Allocated
Follow Ups									
Follow up of Audit Recommendations						8	Yes	4	Through Year
To Be Allocated									
Unused Contingency (Shared Services Plan)						0	N/A	0	N/A
Strategic Support									
Audit Committee						8	Yes	4	Through Year
2024/25 Audit Planning						5	Yes	0	Due quarter 4
Head of Internal Audit Opinion 2022/23						3	Yes	3	Complete

APPENDIX A - PROGRESS AGAINST THE 2023/24 AUDIT PLAN AT 1 SEPTEMBER 2023

AUDITABLE AREA	LEVEL OF ASSURANCE	RECS				AUDIT PLAN DAYS	LEAD AUDITOR ASSIGNED	BILLABLE DAYS COMPLETED	STATUS/COMMENT
		C	H	M	L				
Monitoring & Client Meetings						8	Yes	3	Through Year
SIAS Development						3	Yes	3	Complete
Completion of 2022/23 audits									
Time required to complete work commenced in 2022/23 (4 days Shared Services Plan; 5 days WBC)						9	Yes	8.5	In Progress
WBC PLAN TOTAL						126		46.5	
SHARED SERVICES PLAN TOTAL						101		15.5	
COMBINED TOTAL PLAN DAYS						227		62	

Key to recommendation priority levels: C = Critical; H = High; M = Medium; L = Low / Advisory.

APPENDIX B – AUDIT START DATES 2023/24

Apr	May	June	July	August	September
Project Management – Town Hall Quarter In Fieldwork	Parameters Testing (Shared Services Plan) Draft Report Issued	IT Operations (Shared Services Plan) In Fieldwork	Agency Staffing (Shared Services Plan) Terms of Reference Issued		Debt Recovery (Shared Services Plan)
Operational Buildings Compliance Follow Up In Fieldwork		Risk Management In Fieldwork	Play Safety Inspections Follow Up In Fieldwork		Performance Management / Data Quality In Planning
					Shared Services

October	November	December	January	February	March
Key Financial Controls Testing (Shared Services Plan) In Planning	Benefits (Shared Services Plan)	Payroll (Shared Services Plan)	Cyber Security (Shared Services Plan)		

APPENDIX B – AUDIT START DATES 2023/24

Main Accounting / Creditors – Control Risk Assessment (Shared Services Plan) In Planning **			Croxley Business Park		
Asset Management System					

** Start date moved from August to October, see section 2.9

APPENDIX C – PROGRESS AGAINST OUTSTANDING INTERNAL AUDIT RECOMMENDATIONS AT SEPTEMBER 2023

Debtors 2020/21 Final report issued June 2021							
Ref No.	Recommendation	Priority	Action to Date	Responsibility	Deadline	Resolved * or ✓	Revised Deadline
03	Consideration should be given to an annual review of debtor accounts to identify duplicate or dormant for deletion or deactivation.	Low	<p>Position – July 2021 We will speak to Finance about the best way of doing this.</p> <p>Position – September 2021 A complete review of the entire Sundry Debtor service has recently been commenced and this will be included as part of the review.</p> <p>Position – November 2021 No update received.</p> <p>Position – February 2022 No update received.</p> <p>Position – July 2022 To date we have not been able to resource this review as we have had to prioritise Grant work and more recently the Council Tax Energy Rebates. We will pick up this project towards the end of the calendar year once the Energy rebate work is completed.</p> <p>Position – August 2022 No update received – target date not yet reached.</p> <p>Update received September 2022 but after reporting deadline for September 2022 Audit Committee: Finance are going to run and extract this data from the Finance System which Revs & Bens will then check. It may be completed before 30 October 2022; it really depends on how many are on the list.</p> <p>Position – November 2022</p>	Recovery Team Leader, Revenues Manager and Finance.	31 August 2021	*	<p>31 October 2021</p> <p>31 October 2022</p> <p>31 December 2022</p> <p>30 June 2023</p> <p>31 December 2023</p>

APPENDIX C – PROGRESS AGAINST OUTSTANDING INTERNAL AUDIT RECOMMENDATIONS AT SEPTEMBER 2023

Debtors 2020/21 Final report issued June 2021							
Ref No.	Recommendation	Priority	Action to Date	Responsibility	Deadline	Resolved * or ✓	Revised Deadline
			<p>The lists were provided by Finance mid-September, but work has not yet commenced as the entire Revs and Bens Service was delivering the Energy Fuel Rebate payments. Work will commence on the lists, week commencing 14.11.22.</p> <p>Position – February 2023 Revs and Bens have not had the capacity to carry out this work yet as resource has diverted to Energy Fuel Rebate schemes and resource has been very low due to long term staff sickness. Revs and Bens will take ownership of checking duplicate customer account and deleting those where we are certain there is no current billing rule. Finance and the individual services will need to take responsibility for deleting or de-activating old accounts. We will remind them of this requirement.</p> <p>Position – July 2023 The list has been generated and there are 2252 accounts to check. Each one must be checked individually before it can be decided if the duplicate entry can be deleted. Work has commenced on the checking / deletion. We are allocating a little resource to this each week as BAU work is extremely high currently so it will take some time to check all 2,000 accounts.</p> <p>Position – September 2023 No update received from the action owner.</p>				

APPENDIX C – PROGRESS AGAINST OUTSTANDING INTERNAL AUDIT RECOMMENDATIONS AT SEPTEMBER 2023

Audit Plan 2021/22

Safeguarding 2021/22							
Final report issued April 2022							
Ref No.	Recommendation	Priority	Action to Date	Responsibility	Deadline	Resolved * or ✓	Revised Deadline
01	<p>When temporary staff members are being appointed, the Council should ensure that necessary safeguarding checks have been completed prior to the employee starting work, and that appropriate records are maintained.</p> <p>If there is an expected delay to such checks being performed, a decision should be recorded to delay the start date until completed</p>	High	<p>HR Management will remind Comensura of the pre-employment checks required by Watford prior to someone starting.</p> <p>HR will carry out spot checks of temporary staff and ask Comensura [or any other provider] to provide evidence of the checks undertaken at least annually.</p> <p>HR will ensure the specification for a future agency partner includes all requirements for pre-employment checks to be undertaken and the checking process to be in place to ensure compliance.</p> <p>Recruiting Managers across the council will be reminded of the need to ensure all compliance documentation is received prior to commencement of staff in post and the different requirements if agency staff come through Comensura or direct through agency to the council.</p> <p>Position – July 2022 Comensura have been reminded of the pre-employment checks required. Their booking system has the requirement for a DBS check as a pre-requisite. The tender specification for the current tender process for future agency partner has included the requirement for DBS checks to be carried out. HRBPs have reminded managers of the compliance documentation required and this will be raised as new bookings are made.</p> <p>Position – August 2022</p>	HR Operations Lead	<p>1 June 2022</p> <p>1 April 2023</p> <p>When required.</p> <p>1 June 2022</p>	<p>✓</p> <p>*</p> <p>✓</p> <p>✓</p>	<p>1 June 2023 30 Sept 2023</p>

APPENDIX C – PROGRESS AGAINST OUTSTANDING INTERNAL AUDIT RECOMMENDATIONS AT SEPTEMBER 2023

Safeguarding 2021/22							
Final report issued April 2022							
Ref No.	Recommendation	Priority	Action to Date	Responsibility	Deadline	Resolved * or ✓	Revised Deadline
			<p>All recommendations are complete except the one action in progress (spot checks) This has a due date of 1 April 2023.</p> <p>Position – November 2022 The position regarding spot checks will be taken up with Hays (the new contractor/agency partner who commence their contract with the Council on 05 December 2022).</p> <p>Position – February 2023 Hays took up the contractor/agency partner in December 2022. Spot checks will be carried out after 6 months of the contract running when sufficient appointments for spot checking have been made.</p> <p>Position – July 2023 The issue of spot checks is on the agenda for the contractor meeting to be held on 20 July 2023. Spot checks to be completed by 30 September 2023.</p> <p>Position – September 2023 Hayes have been asked to provide the information relating to spot checks and it is expected to be received by 15 September 2023.</p>				

APPENDIX C – PROGRESS AGAINST OUTSTANDING INTERNAL AUDIT RECOMMENDATIONS AT SEPTEMBER 2023

Cyber Security 2021/22 Final report issued April 2022							
Ref No.	Recommendation	Priority	Action to Date	Responsibility	Deadline	Resolved * or ✓	Revised Deadline
01	<p>1.1 Management should ensure that appropriate monitoring controls are in place for the password monitoring and management activities. These should include but not be limited to the following:</p> <ul style="list-style-type: none"> • brute-forcing of account passwords including password spraying, • login attempts from unexpected geographic areas, • unexpected account lockouts • password database for the deny list hashes, • other unusual behaviour from users. <p>1.2 The above proposed controls, once in place, should be actively reported upon, through the periodic cyber security reports, to the senior management.</p>	Medium	<p>01 Mar 2022 the Azure AD Password Protection was implemented. Users will not be able to change passwords to weak passwords nor known passwords nor passwords from our Ban List of passwords.</p> <p>1.1 – requires a third-party tool and associated funding would be required. The implementation of the password protection for Azure AD lowers the risk.</p> <p>1.2 - this would be dependent on the ability to fund with a third-party tool – 1.1.</p> <p>Position – July 2022 Third party tools currently being reviewed and costed. Item not yet due.</p> <p>Position – August 2022 1.1 - Third party tools have been evaluated and Netwrix has been selected as the preferred tool.</p> <p>1.2 – Netwrix had demonstrated the tool in detail and a 30-day trial to test the system further is available.</p> <p>1.3 – Quotation for 1- and 3-year option has been provided.</p> <ul style="list-style-type: none"> • 1-year option - £7,806 • 3-year option - £16,483 <p>1.4 – Implementation of the tool will be dependent on the ability to fund the third-party tool, this will require an approval by ITSG for an additional spend. A paper to review this recommendation and request any growth in budget 2022.</p>	Associate Director of ICT and Shared Services	31 March 2023	*	31 March 2024

APPENDIX C – PROGRESS AGAINST OUTSTANDING INTERNAL AUDIT RECOMMENDATIONS AT SEPTEMBER 2023

Cyber Security 2021/22 Final report issued April 2022							
Ref No.	Recommendation	Priority	Action to Date	Responsibility	Deadline	Resolved * or ✓	Revised Deadline
			Position – November 2022 1.1 – Due to the audit, which was performed by DLUHC, the scope of the security posture has extended. The grant to address the sections of the new recommendations within the scope has been successfully secured. 1.2 – The evaluation of the third-party tool has been extended, due to the new requirements within the scope presented post the DLUHC audit. 1.3 The new proposed completion dates recommended by DLUHC is end of Q4 March 2024. Position – February 2023 In progress. Produce options and costs continue to be reviewed and costed against all recommendations included within the DLUHC cyber grant budget. Position – July 2023 1.1 – All available options offered by a number of vendors have been evaluated. The decision has been made to utilise the DLUHC grant and to expand on the existing CSOC provision from Exponential-e to meet the requirements of the recommendation. 1.2 The quotation has been provided from Exponential-e to expand the CSOC offering. This has been approved and the project is now moving to the procurement phase. The procurement should be completed by the end of October 2023. Position – September 2023				

APPENDIX C – PROGRESS AGAINST OUTSTANDING INTERNAL AUDIT RECOMMENDATIONS AT SEPTEMBER 2023

Cyber Security 2021/22 Final report issued April 2022							
Ref No.	Recommendation	Priority	Action to Date	Responsibility	Deadline	Resolved * or ✓	Revised Deadline
			1.1 The procurement to expand the CSOC offering is completed, duration of the contract is set for 24 months. 1.2 – The on prem virtual deployment is currently in progress, deadline to implement the solution is set for end of October 2023.				
03	Management should conduct regular monthly vulnerability scans across the entire IT estate including endpoint, to identify and mitigate vulnerabilities including software flaws, missing patches, misconfigurations and malwares.	Low	This would require additional budget and would need a growth item approved, as there are licence implications for the Qualys scanner. Position – July 2022 Extension of current third-party tools currently being reviewed and costed. Item not yet due. Position – August 2022 1.1- Third party Qualys had introduced a new module which will enable the management of remote devices through the cloud. 1.2 – Both options are currently being evaluated and costed. Decision made will be based on cost, functionality, and management. Position – November 2022 1.1 – Due to the allocation of a new Account Manager at Qualys and the changes within the licensing structure, Qualys are currently reviewing the proposed quotation to align the requirements with the new licensing structure. 1.2 – Workshop with Qualys has been scheduled to discuss the new proposed licensing structure and the modules which are required to enable the	Associate Director of ICT and Shared Services	31 March 2023	*	30 June 2023 30 November 2023

APPENDIX C – PROGRESS AGAINST OUTSTANDING INTERNAL AUDIT RECOMMENDATIONS AT SEPTEMBER 2023

Cyber Security 2021/22 Final report issued April 2022							
Ref No.	Recommendation	Priority	Action to Date	Responsibility	Deadline	Resolved * or ✓	Revised Deadline
			management of the devices remotely through the cloud and not relaying on the VPN. Position – February 2023 Remains in progress, however Associate Director of ICT and Shared services requests an extension of 3 months. This is due to <ul style="list-style-type: none"> a. Qualys licencing for public sector has recently changed. Awaiting updated quotations. b. In terms of funding, a recent grant award from DLUHC will cover this item. Therefore, no requirement for additional growth within the ICT service budget. Position – July 2023 1.1 The quotation from Qualys has been provided to extend the service to include the endpoint vulnerability scanning. This has been handed over to the desktop support team, who are currently reviewing the offering. Position – September 2023 1.1 The revenue budget is currently being reviewed by the Director of Partnerships in absence of the Associate Director of ICT and Shared Services.				

Audit Plan 2022/23

Watford Museum 2022/23							
Final report issued October 2022							
Ref No.	Recommendation	Priority	Action to Date	Responsibility	Deadline	Resolved * or ✓	Revised Deadline
01	<p>We recommend that the statement of purpose for the Watford Museum provides a clear link and reference to the Council's cultural strategy.</p> <p>We also recommend that the existing delegated authority arrangements are reviewed to ensure that they are sufficiently clear, with a local scheme of delegation created where sub-delegations are in place (for example responsibilities assigned from the Group Head or Head of Service to the Museum Curator).</p>	Medium	<p>The statement of purpose will be developed as the forward plan is revised and to align with the ambitions for the Town Hall Quarter and to link to the cultural strategy.</p> <p>Position – November 2022 Being planned.</p> <p>Position – February 2023 Being planned, resources allocated and work commencing in April 23 to align with Town Hall Quarter Programme and ACE requirements.</p> <p>Position – July 2023 Work is underway on shaping a vision and governance for the museum. As the museum is moving location Arts Council England have informed WBC that it cannot submit for accreditation this year and will likely move to provisional accreditation whilst the museum is closed for redevelopment. Once the museum is located in the Town Hall we will be invited to submit. NOTE this is usual process for a museum capital project. The plans and policies required can still be developed and implemented in readiness for submission.</p> <p>Position – September 2023 Update to be included in a separate report from the Associate Director of Environment.</p> <p>Museum Governance will be reviewed as part of the process of developing the Arts Council</p>	Associate Director of Environment	<p>30 April 2023 (Subject to Arts Council Submission date)</p> <p>30 April 2023</p>	<p>*</p> <p>*</p>	<p>Mid-late 2024</p> <p>Mid-late 2024</p>

APPENDIX C – PROGRESS AGAINST OUTSTANDING INTERNAL AUDIT RECOMMENDATIONS AT SEPTEMBER 2023

Watford Museum 2022/23 Final report issued October 2022							
Ref No.	Recommendation	Priority	Action to Date	Responsibility	Deadline	Resolved * or ✓	Revised Deadline
			<p>Position – February 2023 Being planned, resources allocated and work commencing in April 23 to align with Town Hall Quarter Programme and ACE requirements.</p> <p>Position – July 2023 Work is underway on shaping a vision and governance for the museum. As the museum is moving location Arts Council England have informed WBC that it cannot submit for accreditation this year and will likely remain on provisional accreditation whilst the museum is closed for redevelopment. Once the museum is located in the Town Hall we will be invited to submit. NOTE this is usual process for a museum capital project. The plans and policies required can still be developed and implemented in readiness for submission.</p> <p>Position – September 2023 Update to be included in a separate report from the Associate Director of Environment.</p>				
02	<p>We recommend that all documents or policies are fully completed or subject to review and update prior to the end of the financial year, with policies passed to the Executive for approval.</p> <p>We also recommend that a log is kept of all policies, including the last and the next review dates, to ensure that they are reviewed in a timely manner in future years.</p>	Medium	<p>Arts Council re accreditation is due for submission in April 2023 at the earliest. (The Arts Council will inform us when they require us to submit). A project will be created using EPMO protocols to oversee delivery and approval of the forward plan and policies, linked to the Museum Project and THQ programme boards and revised governance. Some policies are in development already.</p> <p>Monitoring of policies will be brought into service delivery and as a KPI or service plan output.</p>	Associate Director of Environment	30 April 2023 (Subject to Arts Council Submission date)	*	Mid-late 2024

APPENDIX C – PROGRESS AGAINST OUTSTANDING INTERNAL AUDIT RECOMMENDATIONS AT SEPTEMBER 2023

Watford Museum 2022/23 Final report issued October 2022							
Ref No.	Recommendation	Priority	Action to Date	Responsibility	Deadline	Resolved * or ✓	Revised Deadline
			<p>Position – November 2022 Being planned.</p> <p>Position – February 2023 Being planned, resources allocated and work commencing in April 23 to align with Town Hall Quarter Programme and ACE requirements.</p> <p>Position – July 2023 Work is underway on shaping a vision and governance for the museum. As the museum is moving location Arts Council England have informed WBC that it cannot submit for accreditation this year and will likely remain on provisional accreditation whilst the museum is closed for redevelopment. Once the museum is located in the Town Hall we will be invited to submit. NOTE this is usual process for a museum capital project. The plans and policies required can still be developed and implemented in readiness for submission.</p> <p>Position – September 2023 Update to be included in a separate report from the Associate Director of Environment.</p>				
03	The current investigation of the one item identified as missing should be concluded at the earliest opportunity, with further advice on required actions being sought if the item cannot be located.	Medium	<p>Complete investigation.</p> <p>Position – November 2022 On hold due to staff absence, deadline will be met.</p> <p>Position – February 2023 Due to staff absence this has been on hold. To be completed by 1st May 2023.</p>		31 December 2023		1 September 2023

APPENDIX C – PROGRESS AGAINST OUTSTANDING INTERNAL AUDIT RECOMMENDATIONS AT SEPTEMBER 2023

Watford Museum 2022/23 Final report issued October 2022							
Ref No.	Recommendation	Priority	Action to Date	Responsibility	Deadline	Resolved * or ✓	Revised Deadline
			<p>Position – July 2023 Draft report received and under review.</p> <p>Position – September 2023 Update to be included in a separate report from the Associate Director of Environment.</p>				
04	<p>We recommend that all staff are reminded of what paperwork needs to be completed for loans including the log which would summarise what items were currently on loan.</p> <p>We also recommend that policies are updated to reflect the approval delegation authorities included within the constitution.</p>	Medium	<p>Staff training on loans process to be implemented. Develop log of loans and regularly monitor.</p> <p>Position – November 2022 On hold due to staff absence, deadline will be met.</p> <p>Position – February 2023 Due to staff absence this has been on hold. To be completed by 1st May 2023.</p> <p>Position – July 2023 Diarised - being undertaken as part of refresh Documentation Procedural manual.</p> <p>Position – September 2023 Update to be included in a separate report from the Associate Director of Environment.</p> <p>See action against recommendation 1.</p> <p>Position – November 2022 Being planned.</p> <p>Position – February 2023 Being planned, resources allocated and work commencing in April 23 to align with Town Hall Quarter Programme and ACE requirements.</p>	Curator	31 December 2023	<p>*</p> <p>*</p>	<p>30 September 2023</p> <p>Mid-late 2024</p>

APPENDIX C – PROGRESS AGAINST OUTSTANDING INTERNAL AUDIT RECOMMENDATIONS AT SEPTEMBER 2023

Watford Museum 2022/23 Final report issued October 2022							
Ref No.	Recommendation	Priority	Action to Date	Responsibility	Deadline	Resolved * or ✓	Revised Deadline
	Finally, consideration should be given to clarifying within the constitution the value and time thresholds above which loans of objects are required to be authorised, and below this value the local delegation that has been agreed.		<p>Position – July 2023 See action against recommendation 1.</p> <p>Position – September 2023 Update to be included in a separate report from the Associate Director of Environment.</p> <p>See action against recommendation 1.</p> <p>Position – November 2022 Being planned.</p> <p>Position – February 2023 Being planned, resources allocated and work commencing in April 23 to align with Town Hall Quarter Programme and ACE requirements. Constitution has had an interim update to reflect this.</p> <p>Position – July 2023 See action against recommendation 1.</p> <p>Position – September 2023 Update to be included in a separate report from the Associate Director of Environment.</p>			*	Mid-late 2024
05	<p>We recommend that an action plan is put in place to support the identification, control and monitoring of remaining key actions in respect of the accreditation preparation. This should include the actions required, target dates and action owners.</p> <p>The above action plan should also include the recommendations made in this report and progress should be</p>	Medium	<p>See actions against recommendations 2 and 3.</p> <p>Position – November 2022 Being planned.</p> <p>Position – February 2023 This is now part of the Museum Project board to oversee.</p> <p>Position – July 2023</p>	Associate Director of Environment		*	Mid-late 2024

APPENDIX C – PROGRESS AGAINST OUTSTANDING INTERNAL AUDIT RECOMMENDATIONS AT SEPTEMBER 2023

Watford Museum 2022/23							
Final report issued October 2022							
Ref No.	Recommendation	Priority	Action to Date	Responsibility	Deadline	Resolved * or ✓	Revised Deadline
	monitored by Senior Managers on a monthly basis.		<p>This is now part of the Museum Project board to oversee so consider this complete.</p> <p>Position – September 2023 Update to be included in a separate report from the Associate Director of Environment.</p>				
06	<p>We recommend that advice is sought from the Council's insurers as to the frequency of review of valuations. Upon completion of any future revaluations, this should also support a review of the existing levels of insurance.</p> <p>Upon the above clarity being obtained, the required frequencies (or process for determining review periods) should be incorporated into the relevant policies and procedures.</p>	Low	<p>Follow recommendation and link to action against recommendation 2.</p> <p>Response from Zurich Commercial Insurance: Our Fine Arts team in Zurich Commercial usually work to a valuation every 3 years, however we would be comfortable with valuations every 5 years. That said I would always apply a flexible common-sense approach to the 5-year average guide. If for instance you know some items are subject to rapid increases in value then obviously, I would look to revalue every 3 years, whereas you may have some other items that don't move much at all in value and these items you could push out to say 7 years and everything else falls in between.</p> <p>Naturally the onus is on the council to prove the value of an item in the event of a loss, and this is always made harder after the event if the item is stolen or destroyed with no recent valuations to hand.</p> <p>Position – November 2022 Existing valuations being reviewed by staff and considering commissioning new valuations.</p> <p>Position – February 2023</p>	Curator	1 May 2023	*	1 Sept 2023

APPENDIX C – PROGRESS AGAINST OUTSTANDING INTERNAL AUDIT RECOMMENDATIONS AT SEPTEMBER 2023

Watford Museum 2022/23							
Final report issued October 2022							
Ref No.	Recommendation	Priority	Action to Date	Responsibility	Deadline	Resolved * or ✓	Revised Deadline
			<p>Due to staff absence this has been on hold. Quotes for valuation to be obtained by 1st May 2023.</p> <p>Position – July 2023 Quotes received from Bonhams, clarification from insurance team confirmed and orders placed for valuation.</p> <p>Position – September 2023 Update to be included in a separate report from the Associate Director of Environment.</p>				

Financial Reconciliations 2022/23							
Final report issued April 2023							
Ref No.	Recommendation	Priority	Action to Date	Responsibility	Deadline	Resolved * or ✓	Revised Deadline
01	We recommend that the reconciliation procedure notes detail the responsible owner as well as the next review date to ensure they remain up-to-date and relevant.	Low	<p>The process notes do name the author of the note; however, we will add a next review date and responsible person. We will introduce a front sheet on each reconciliation to provide all details recommended.</p> <p>Position – July 2023 Process notes are in the process of being updated – on target for completion by deadline.</p> <p>Position – September 2023 Process note updates are continuing but progress is slower than anticipated due to work pressures. Completion is expected by 30th November 2023.</p>	Chief Accountant	31 August 2023	*	30 November 2023

APPENDIX C – PROGRESS AGAINST OUTSTANDING INTERNAL AUDIT RECOMMENDATIONS AT SEPTEMBER 2023

Cyber Security 2022/23 Final report issued April 2023							
Ref No.	Recommendation	Priority	Action to Date	Responsibility	Deadline	Resolved * or ✓	Revised Deadline
01	<p>Management should review and assess the current cyber security training platform and put arrangements in place so that training completion can be recorded, reported and monitored on an on going basis.</p> <p>Arrangements should be put in place for ensuring that the cyber security training is completed by all members of staff, as required, which could include:</p> <ul style="list-style-type: none"> Identifying specific staff members who are required to complete the training and working with their line managers to ensure completion. Ensuring regular, top-down communication to increase awareness of the training. <p>Requiring completion of the e-learning before issuing new devices to individuals or as part of performance and progression reviews.</p>	Medium	<p>We will review the current cyber security training platform. The current platform is used for all mandatory training for staff.</p> <p>We will review the viability of users not receiving their device until they have completed their cyber-related mandatory training.</p> <p>Position – July 2023</p> <p>1.1 – A review of alternative training platforms has been conducted and a demo of the products has been provided by the vendors.</p> <p>1.2 - Each product comes at a cost and budget implications are being considered.</p> <p>1.3 - The management of training completion by staff is currently being carried out by HR and members of staff are being notified by email when they are due to complete each training module.</p> <p>1.4 – Starters, Movers, Leaver’s process is currently being updated to ensure that joiners complete the Cyber Security Modules as part of the probation period as per HR Probationary Policy.</p> <p>Position – September 2023</p> <p>1.4 – The Starters, Movers, Leaver’s process has been updated to reflect the completion of the cyber security module as per the requirement of the HR Probation Policy.</p>	Associate Director of ICT and Shared Services	31 December 2023		

APPENDIX C – PROGRESS AGAINST OUTSTANDING INTERNAL AUDIT RECOMMENDATIONS AT SEPTEMBER 2023

Treasury 2022/23 Final report issued April 2023							
Ref No.	Recommendation	Priority	Action to Date	Responsibility	Deadline	Resolved * or ✓	Revised Deadline
01	<p>1) The Councils should develop an ESG policy, which ensures that investments are made in consideration with the Councils climate change, environmental and governance policies. The policy should emphasise that the Council seeks to be a responsible investor and consider ESG risks as an important overlay to the investment process, thereby improving future sustainability of investments. Once incorporated, ESG risks should also be included in under the Risk Management section of the Treasury Management Practices document for consistency.</p> <p>2) The policy should also explain that the Councils will not knowingly invest directly in businesses whose activities and practices pose a risk of serious harm to individuals or groups, or whose activities are inconsistent with the Council’s mission and values.</p> <p>3) The policy should outline the conditions where investments should not be made with certain organisations, which have material links to:</p> <ul style="list-style-type: none"> • Human rights abuse (e.g., child labour, political oppression) • Environmentally harmful activities (e.g., pollutants, destruction of habitat, fossil fuels) 	Medium	<p>An ESG Policy will be developed for both Councils during 2023/24 for approval alongside the 2024/25 Treasury Management Strategy Statements.</p> <p>Position – July 2023 Guidance has been provided by our Treasury Management providers and we are on target to include an ESG policy within the 2024/25 Treasury Management Strategy Statements.</p> <p>Position – September 2023 We remain on track to include an ESG Policy in the Draft Treasury Management Strategy Statements for 2024/25 which will be presented to Audit Committees in November and December.</p>	Head of Finance	30 November 2023		

APPENDIX C – PROGRESS AGAINST OUTSTANDING INTERNAL AUDIT RECOMMENDATIONS AT SEPTEMBER 2023

Treasury 2022/23							
Final report issued April 2023							
Ref No.	Recommendation	Priority	Action to Date	Responsibility	Deadline	Resolved * or ✓	Revised Deadline
	<ul style="list-style-type: none"> Socially harmful activities (e.g., tobacco, gambling). 						

Council Tax 2022/23							
Final report issued May 2023							
Ref No.	Recommendation	Priority	Action to Date	Responsibility	Deadline	Resolved * or ✓	Revised Deadline
01	<p>TRDC should ensure that a review of debt outstanding is conducted, and decisions taken regarding whether or not to proceed for write-offs.</p> <p>Subsequently, write-offs should be conducted at regular intervals going forward.</p> <p>The 'How and Why to put a write off code on a Council Tax Account' procedure should include version control to ensure that it is reviewed periodically.</p>	Medium	<p>A review of all outstanding debt will be completed during 2023/24.</p> <p>All outstanding write-offs have been cleared since this report was written and on-going write-offs will be reviewed once a quarter.</p> <p>Agreed. Our quality team will get a version control sheet added.</p> <p>Position – July 2023 The review of all debt is underway, and this will include looking at debts suitable for write-off.</p> <p>The write-offs for Q1 are being prepared.</p> <p>Version control has been added to all procedures.</p> <p>Position – September 2023 No update received from the action owner.</p>	Revenues Manager/Data Performance Manager	31 March 2024		
04	The Council should document the processes relating to backdated discounts and exemptions to ensure that consistent actions are undertaken by staff and these refunds are	Low	<p>Agreed.</p> <p>Position – July 2023 The document for backdating an SPD has been documented. We will incorporate the approach for all the other types of discount and</p>	Revenues Manager/Data Performance Manager	30 June 2023	*	30 Sept 2023

APPENDIX C – PROGRESS AGAINST OUTSTANDING INTERNAL AUDIT RECOMMENDATIONS AT SEPTEMBER 2023

Council Tax 2022/23 Final report issued May 2023							
Ref No.	Recommendation	Priority	Action to Date	Responsibility	Deadline	Resolved * or ✓	Revised Deadline
	appropriately reviewed and approved prior to payment.		exemptions so that it the guidance is held in once process. Position – September 2023 No update received from the action owner.				

NDR 2022/23 Final report issued May 2023							
Ref No.	Recommendation	Priority	Action to Date	Responsibility	Deadline	Resolved * or ✓	Revised Deadline
01	<p>We recommend that:</p> <ul style="list-style-type: none"> • Actions are taken to address the issue preventing the production of the monthly 'default arrangement list' and (subject to the issue being successfully resolved), arrangements are put in place for Senior Officers to check that these are being actioned appropriately. • As an interim measure, Revenues Officers should be reminded to diarise arrangements to enable checks to be conducted to confirm arrangements are being complied with. 	Medium	<p>The default arrangements list is working and being run. During 2022/23 much of the BAU recovery work slipped due to the service having to process energy and business grants (CARF). During 2023/24 all recovery work will be reviewed, and this will include a review of arrangements that have defaulted.</p> <p>Position – July 2023 Review is currently underway.</p> <p>Position – September 2023 No update received from the action owner.</p>	Revenues Manager	31 March 2024		
02	We recommend that:	Medium	The 7-day list is working and being run. During 2022/23 much of the BAU recovery work slipped due to the service having to process energy and business grants (CARF). During	Revenues Manager	31 March 2024		

APPENDIX C – PROGRESS AGAINST OUTSTANDING INTERNAL AUDIT RECOMMENDATIONS AT SEPTEMBER 2023

NDR 2022/23							
Final report issued May 2023							
Ref No.	Recommendation	Priority	Action to Date	Responsibility	Deadline	Resolved * or ✓	Revised Deadline
	<ul style="list-style-type: none"> Seven-day lists are produced and actioned at regular interval (e.g. monthly). Arrangements are put in place for Senior Officers to check that these are being actioned appropriately. 		<p>2023/24 all recovery work will be reviewed, and this will include a review of arrangements that have defaulted.</p> <p>Position – July 2023 Review is currently underway.</p> <p>Position – September 2023 No update received from the action owner.</p>				

Tree Management 2022/23							
Final report issued June 2023							
Ref No.	Recommendation	Priority	Action to Date	Responsibility	Deadline	Resolved * or ✓	Revised Deadline
01	We recommend the 10% check of tree works that have been completed by Veolia are formally recorded on a written report or on Ezytreev. This is to ensure Veolia can provide suitable assurance the correct works have been completed and the same trees are not included in the next round of checks.	Medium	<p>Tree Manager to find out whether Ezytreev has the functionality to record checks and if not will create a separate template to record these.</p> <p>Position – July 2023 In progress with Tree Manager.</p> <p>Position – September 2023 Tree Manager records on Aver as Ezytreev does not have functionality.</p>	Tree Manager, Veolia	31 July 2023	✓	
03	We recommend for resilience purposes; back-up resource is trained in tree management activities to provide cover in the event of capacity gaps.	Low	Veolia are currently recruiting for a new apprentice which will hopefully be in post later this year. Existing Veolia staff are able to provide cover during short absences of a Tree Manager including John Priestley, Horticultural Development Manager and Nick Graham,	Tree Manager, Veolia	Apprentice September 2023 External resources as required		

APPENDIX C – PROGRESS AGAINST OUTSTANDING INTERNAL AUDIT RECOMMENDATIONS AT SEPTEMBER 2023

Tree Management 2022/23 Final report issued June 2023							
Ref No.	Recommendation	Priority	Action to Date	Responsibility	Deadline	Resolved * or ✓	Revised Deadline
			<p>Contract Manager Parks, Open Spaces and Street Cleansing, who both have good arboricultural knowledge. External resources will be utilised if required, such as through Maydencroft who have recently provided cover during recruitment of a Tree Manager and are still assisting with Planning matters and handover to the new Tree Manager.</p> <p>Position – July 2023 Apprentice position is currently being advertised and applications are being received. Maydencroft are due to continue providing support with Planning matters until the end of August 2023 to ensure a smooth handover.</p> <p>Position – September 2023 Apprentices are being interviewed w/c 4 September 2023.</p>				
04	We recommend the Council undertakes system training to enhance monitoring activities. This is to ensure the Council can provide their own independent assurance that inspections and works have been completed and logged in a timely manner.	Low	<p>Training on the Ezytreev system will be arranged for relevant Watford Borough Council officers in order to carry out enhanced monitoring.</p> <p>Position – July 2023 Training has been requested, awaiting a date.</p> <p>Position – September 2023 Training completed on 15 August 2023.</p>	Contract Manager (Parks and Streets), Watford Borough Council	31 July 2023	✓	
05	We conducted sample testing of six trees to ascertain when they were last inspected, what the inspection results were, whether the tree required remedial works and if required, what actions were taken. We found remedial work for one tree was not completed as the tree was outside of	Low	<p>Tree Manager to run a report for all outstanding works in order to review progress and programme in if required.</p> <p>This will include a report for each ward to review the 3 yearly survey recommended works that are required to be carried out within 3, 6 or 12 months. A report will also be</p>	Tree Manager, Veolia	31 July 2023		30 Sept 2023

APPENDIX C – PROGRESS AGAINST OUTSTANDING INTERNAL AUDIT RECOMMENDATIONS AT SEPTEMBER 2023

Tree Management 2022/23							
Final report issued June 2023							
Ref No.	Recommendation	Priority	Action to Date	Responsibility	Deadline	Resolved * or ✓	Revised Deadline
	the ward that was part of the survey, and the Tree Manager had also not been in post.		<p>produced and reviewed for any ad hoc works that fall outside of these surveys.</p> <p>Position – July 2023 In progress with Tree Manager.</p> <p>Position – September 2023 A cycle of 3 yearly surveys are underway and recommended works are being programmed in and carried out according to level of priority. Ad hoc reactive works appear up to date but Tree Manager will request a report from Ezytreev to ensure recommendations logged by previous Tree Managers have all been captured.</p>				

Payroll 2022/23							
Final report issued June 2023							
Ref No.	Recommendation	Priority	Action to Date	Responsibility	Deadline	Resolved * or ✓	Revised Deadline
01	We recommend that managers are reminded to inform HR if any starter information changes, including start date.	Low	<p>On this occasion, the manager of the service area agreed an earlier start date with the employee, after the contract had been sent out but without informing HR. This resulted in an underpayment that was rectified and the right date entered onto the iTrent system.</p> <p>HR will remind managers that HR need to be informed if an earlier or later start date is subsequently agreed.</p> <p>Position – September 2023</p>	HR Operations Lead	Implemented	✓	

APPENDIX C – PROGRESS AGAINST OUTSTANDING INTERNAL AUDIT RECOMMENDATIONS AT SEPTEMBER 2023

Payroll 2022/23 Final report issued June 2023							
Ref No.	Recommendation	Priority	Action to Date	Responsibility	Deadline	Resolved * or ✓	Revised Deadline
			Implemented				
02	We recommend that officers should annotate the starter form to confirm that it has been input by one officer and checked by a different officer.	Low	<p>The Payroll preview forms are reviewed by the first and second officer and MHR are annotated to note changes to payroll in the month and to review any discrepancies.</p> <p>Cross checking, and annotation, is therefore undertaken at pay preview as well as at the time of inputting and discrepancies are picked up before final sign off. Payments cannot be made until all relevant information is obtained and inputted.</p> <p>Position – September 2023 Implemented</p>		Implemented	✓	
03	<p>We recommend that all additional payments are reviewed to ensure that an end date is included. This should be for the period the additional payment is required (e.g. six months).</p> <p>Furthermore, approvals for additional payments should be received before the extra duties or additional work is undertaken. Full explanation of the reasons for the additional payment should be recorded and retained on file.</p>	Medium	<p>These occasions relate to instances where backpay has been applied, i.e. the officer has already been undertaking the duties and managers have agreed the earlier commencement date for the duties and payment to be applied.</p> <p>HR are already ensuring that end dates (where applicable) are included on all forms and that explanations for the additional payment is recorded and retained. However, it is not always possible to ensure approval for the additional duties is received prior to the duties being carried out, especially when managers agree that a backpay situation has occurred. In all situations of additional payment, HR are already ensuring no payment is made until there is approval.</p> <p>Position – September 2023 Implemented</p>	HR Operations Lead	Implemented	✓	

APPENDIX C – PROGRESS AGAINST OUTSTANDING INTERNAL AUDIT RECOMMENDATIONS AT SEPTEMBER 2023

Corporate Governance 2022/23 Final report issued July 2023							
Ref No.	Recommendation	Priority	Action to Date	Responsibility	Deadline	Resolved * or ✓	Revised Deadline
01	<p>The Terms of References for the Management Boards should be reviewed to ensure they meet good practice standards by including the following information:</p> <ol style="list-style-type: none"> 1) Purpose 2) Frequency of meetings 3) Quorum 4) Review date and approving body. 	Low	<p>The report will be considered at our Corporate Management Board with a view to deciding whether to implement this recommendation.</p> <p>Position – September 2023 Considered at CMB on 1 August 2023 agreed to review CMB and Strategic Group terms of reference in April 2024.</p>	Group Head of Democracy and Governance	31 August 2023	✓	

APPENDIX D – ASSURANCE AND PRIORITY LEVEL DEFINITIONS

Audit Opinions	
Assurance Level	Definition
Assurance Reviews	
Substantial	A sound system of governance, risk management and control exist, with internal controls operating effectively and being consistently applied to support the achievement of objectives in the area audited.
Reasonable	There is a generally sound system of governance, risk management and control in place. Some issues, non-compliance or scope for improvement were identified which may put at risk the achievement of objectives in the area audited.
Limited	Significant gaps, weaknesses or non-compliance were identified. Improvement is required to the system of governance, risk management and control to effectively manage risks to the achievement of objectives in the area audited.
No	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.
Not Assessed	This opinion is used in relation to consultancy or embedded assurance activities, where the nature of the work is to provide support and advice to management and is not of a sufficient depth to provide an opinion on the adequacy of governance or internal control arrangements. Recommendations will however be made where required to support system or process improvements.
Grant / Funding Certification Reviews	
Unqualified	No material matters have been identified in relation the eligibility, accounting and expenditure associated with the funding received that would cause SIAS to believe that the related funding conditions have not been met.
Qualified	Except for the matters identified within the audit report, the eligibility, accounting and expenditure associated with the funding received meets the requirements of the funding conditions.
Disclaimer Opinion	Based on the limitations indicated within the report, SIAS are unable to provide an opinion in relation to the Council's compliance with the eligibility, accounting and expenditure requirements contained within the funding conditions.
Adverse Opinion	Based on the significance of the matters included within the report, the Council have not complied with the funding conditions associated with the funding received.
Recommendation Priority Levels	
Priority Level	Definition
Corporate	Critical Audit findings which, in the present state, represent a serious risk to the organisation as a whole, i.e. reputation, financial resources and / or compliance with regulations. Management action to implement the appropriate controls is required immediately.
Service	High Audit findings indicate a serious weakness or breakdown in control environment, which, if untreated by management intervention, is highly likely to put achievement of core service objectives at risk. Remedial action is required urgently.
	Medium Audit findings which, if not treated by appropriate management action, are likely to put achievement of some of the core service objectives at risk. Remedial action is required in a timely manner.
	Low Audit findings indicate opportunities to implement good or best practice, which, if adopted, will enhance the control environment. The appropriate solution should be implemented as soon as is practically possible.

Watford Borough Council Draft Audit results report

Year ended 31 March 2021
05 September 2023

05 September 2023



Watford Borough Council
Town Hall
Watford
WD17 3EX

Dear Audit Committee Members

2020-21 Audit results report

We are pleased to attach our [updated](#) audit results report, summarising the status of our audit for the forthcoming meeting of the Audit Committee. We will update the Audit Committee at its meeting scheduled for [14 September 2023](#) on further progress to that date and explain the remaining steps to the issue of our final opinion.

Subject to concluding the outstanding matters listed in our report, we confirm that we expect to issue an unqualified audit opinion on the financial statements. We also have no matters to report on your arrangements to secure economy, efficiency and effectiveness in your use of resources. Each year sees further enhancements to the level of audit challenge and the quality of evidence required to achieve the robust professional scepticism that society expects. We thank the management team for supporting this process.

This report is intended solely for the information and use of the Audit Committee, other members of the Council and senior management. It is not intended to be and should not be used by anyone other than these specified parties.

We welcome the opportunity to discuss the contents of this report with you at the Audit Committee meeting on [14 September 2023](#).

Yours faithfully

Maria Grindley

Partner

For and on behalf of Ernst & Young LLP

Encl

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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 April 2018)" 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 Committee and management of Watford Borough Council in accordance with the statement of responsibilities. Our work has been undertaken so that we might state to the Audit Committee, and management of Watford Borough 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 Committee and management of Watford Borough 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.



01 Executive summary

Executive summary

Scope update

Changes in materiality

In our Audit Committee Planning Report, we provided you with an overview of our audit scope and approach for the audit of the financial statements. We updated our planning materiality assessment using the revised draft 20/21 financial statements received on 27 July 2023 and have also reconsidered our risk assessment. Based on our planning materiality measure of 2% of gross expenditure on provision of services and performance materiality at 50% of planning materiality:

Materiality	Audit Plan	Final
Planning	£1.732m	£1.869m
Performance	£0.866m	£0.934m
Reporting	£87k	£93k

Changes to reporting timescales

As a result of COVID-19, new regulations, the Accounts and Audit (Coronavirus)(Amendment) Regulations 2021 No 263, have been published and came into force on 31 March 2021. This announced a change to publication date for final, audited accounts from 31 July to 30 September 2021 for all relevant authorities.

Information Produced by the Entity (IPE): We identified an increased risk around the completeness, accuracy, and appropriateness of information produced by the entity due to the inability of the audit team to verify original documents or re-run reports on-site from the Authority's systems. We undertook the following to address this risk:

- Used the screen sharing function of Microsoft Teams to evidence re-running of reports used to generate the IPE we audited; and
- Agree IPE to scanned documents or other system screenshots.

Additional EY consultation requirements concerning the impact on auditor reports because of Covid-19.

The impact of the Covid-19 pandemic increased the risks to the material accuracy of financial statements and disclosures. To ensure we are providing the right assurances to the Authority and its stakeholders the firm has introduced a rigorous risk assessed consultation process for all auditor reports to ensure that they include the appropriate narrative.

Triennial Valuation

In March 2023, the triennial valuation as at March 2022 for Hertfordshire County Council Pension Fund was finalised. This counts as new information available for any open accounts and therefore following the receipt of the final triennial valuation for 2022, account preparers need to consider whether there is a material difference to the information used in the roll forward and whether amendments need to be made to the 2020/21 accounts under Section 3.8 of the CIPFA Code of Practice. Audit teams were also be required to consider this information when reviewing their testing of those judgments and estimates. We have provided an update at section 2.

Executive summary

Status of the audit

Our audit work in respect of the Council opinion is well progressed.

We have completed the majority of our testing based on the first of the 20/21 draft financial statements. We are currently updating our risk assessment and procedures based on the revised draft financial statements received on 27 July 2023.

There have been delays in getting the required information to us mainly due to management's capacity as same individuals are working on risk and complex areas. Whilst we recognise that there are good reasons for this we will include this in our post-audit wash up discussion with officers to ensure we can have a smoother audit process in the coming year.

Details of each outstanding item, actions required to resolve and responsibility is included in Appendix B.

Auditor responsibilities under the new Code of Audit Practice 2020

Our audit work in respect of the Council opinion is well progressed.

We have completed the majority of our testing based on the first of the 20/21 draft financial statements. We are currently updating our risk assessment and procedures based on the revised draft financial statements received on 27 July 2023.

There have been delays in getting the required information to us mainly due to management's capacity as same individuals are working on risk and complex areas. Whilst we recognise that there are good reasons for this we will include this in our post-audit wash up discussion with officers to ensure we can have a smoother audit process in the coming year.

Details of each outstanding item, actions required to resolve and responsibility is included in Appendix B.

Status of the audit - Value for Money

We have previously reported to the Committee the changes in the arrangements to the VFM for 2020/21.

We are currently completing our risk assessment work and assessing the Council against the three sub-criteria. This includes arranging meetings with senior officers to understand in detail the arrangements in place. As at the date of this report we are not reporting any significant weakness in arrangements.

Executive summary

Auditor responsibilities under the new Code of Audit Practice 2020

Under the Code of Audit Practice 2020 we are still required to consider whether the Council has put in place 'proper arrangements' to secure economy, efficiency and effectiveness on its use of resources. The 2020 Code requires the auditor to design their work to provide them with sufficient assurance to enable them to report to the Council a commentary against specified reporting criteria (see below) on the arrangements the Council has in place to secure value for money through economic, efficient and effective use of its resources for the relevant period.

The specified reporting criteria are:

- Financial sustainability
How the Council plans and manages its resources to ensure it can continue to deliver its services;
- Governance
How the Council ensures that it makes informed decisions and properly manages its risks; and
- Improving economy, efficiency and effectiveness:
How the Council uses information about its costs and performance to improve the way it manages and delivers its services.

Status of the audit - Value for Money

We have previously reported to the Committee the changes in the arrangements to the VFM for 2020/21.

We are currently completing our risk assessment work and assessing the Council against the three sub-criteria. This includes arranging meetings with senior officers to understand in detail the arrangements in place. As at the date of this report we are not reporting any significant weakness in arrangements.



Executive summary

Audit differences

We identified an uncorrected misstatement greater than our reporting threshold of £866k. This relates to the decrease in investment in Watford Health Campus amounting to £1,749k. We will update the audit differences based on the revised 20/21 draft financial statements as we complete the outstanding work.

There have been a number of presentational and disclosure amendments which we have identified and to be corrected by management.

See Section 4 of this report for further details of the mis-statements.

Other reporting issues

We have reviewed the information presented in the Annual Governance Statement for consistency with our knowledge of the Council, subject to final review. As at writing, we have no issues to report.

[We are normally required to perform the procedures required by the National Audit Office \(NAO\) on the Whole of Government Accounts submission. Given the delay in the certification of the audit we may not need to complete the WGA procedures for 2020/21 as the national submission deadline has now passed.](#)

We have no other matters to report.

Executive summary

Areas of audit focus

In our Audit Plan we identified a number of key areas of focus for our audit of the financial report of Watford Borough Council. This report sets out our observations and status in relation to these areas, including our views on areas which might be conservative and areas where there is potential risk and exposure. Our consideration of these matters and others identified during the period is summarised within the "Areas of Audit Focus" section of this report and summarised below.

Audit findings and status: Fraud/Significant risk: Incorrect Accounting for Manual Accruals - Risk of fraud in expenditure recognition

- ▶ To date we have identified no evidence of incorrect accounting for manual accruals. Our work on journal entry testing and accounting estimates are still on-going at the date of writing this report.
- ▶ Our work on manual accruals testing is substantially complete with one outstanding evidence from management and subject to review. We have identified a reclassification error between short-term to long-term liabilities amounting to £180k.

Audit findings and status: Fraud risk: Misstatements due to fraud or error

- ▶ We have not identified any issues to date, but work is ongoing at the time of writing this report.

Audit findings and status: Fraud/Significant risk: Incorrect accounting for income from investment and leasehold properties - risk of fraud in revenue and expenditure recognition

- ▶ This work is complete and subject to review. As at the date of this report we have found no instances of incorrect accounting for income from investment and leasehold properties.

Audit findings and status: Fraud risk: Inappropriate capitalisation of revenue expenditure

- ▶ [We are currently updating our procedures based on the revised PPE and REFCUS working papers provided by the management.](#)

Audit findings and status: Significant risk: Valuation of Other Land and Buildings in Plant Property and Equipment, Investment Properties, and surplus assets

- ▶ Our work on this area is substantially complete subject to review and updates based on the revised 20/21 draft financial statements.

Audit findings and status: Inherent risk: Valuation of Pension Fund Assets and Liabilities

- ▶ This work is complete and subject to review. We identified a misstatement relating to increase of pension liability from 20/21 Hertfordshire pension fund audit amounting to £271k.

Audit findings and status: Inherent risk: Accounting for Covid-19 related Government Grants

- ▶ This work is complete and subject to review. We have not identified any misstatements in our testing.

Executive summary

Areas of audit focus

Audit findings and status: Inherent risk: Going Concern compliance with ISA570

- ▶ We have reviewed the going concern assessment prepared by management for Watford Borough Council up to March 2024 and we consider the Council to be able to continue as a going concern to that date. However the going concern assessment is required to cover at least 12 months after the audit signing date, which is expected to be [31 October 2023](#). The going concern assessment will therefore have to be extended by management for our review.

Audit findings and status: Inherent risk: Incorrect classification of fixed assets (L&B, IP and surplus assets)

- ▶ [We are waiting for the reconciliation between the fixed asset register and Note 21 Property, Plant and Equipment per revised 20/21 draft financial statements to complete our testing.](#)

Audit findings and status: Inherent risk: lack of prudence in compliance in estimation of Minimum Revenue Provision (MRP)

- MRP is charged one year in arrears. The MRP charged in 20/21 is based on unfunded capital expenditure in 2019-20 and before. Due to the delay in completion of the 2019-20 audit this area of audit is to be started.

We request that you review these and other matters set out in this report to ensure:

- ▶ There are no residual further considerations or matters that could impact these issues;
- ▶ You concur with the resolution of the issue; and
- ▶ There are no further significant issues you are aware of to be considered before the financial report is finalised.

There are no matters, other than those reported by management or disclosed in this report, which we believe should be brought to the attention of the Audit Committee or Management.

Control observations

We have not identified any control deficiencies as at writing of the report.

Independence

In our Audit Plan presented at the 28 July 2022 Audit Committee meeting we did not identify any independence issues.

Please refer to Section 9 for our update on Independence.



02 Areas of audit focus



Areas of audit focus

Significant risk

Incorrect accounting for manual accruals - risk of fraud in expenditure recognition*

What is the risk?

Under ISA 240 there is a presumed risk that revenue may be misstated due to improper revenue recognition. In the public sector, this requirement is modified by Practice Note 10, issued by the Financial Reporting Council, which states that auditors should also consider the risk that material misstatements may occur by the manipulation of expenditure recognition.

In considering how the risk of management override may present itself, we conclude that this is primarily through management taking action to override controls and manipulate in year financial transactions that impact the financial position.

A key way of improving the revenue position is through inappropriate timing or measurement of estimates, manual accruals around the year end being a typical estimate that could be affected.

What judgements are we focused on?

Correctness of recognition of manual accruals within accounting periods.

What did we do?

We focused on our journals testing strategy around the year-end period, with a particular focus on those manual entries that impact expenditure.

Where there was any management estimation or assumptions involved in the calculation of year end accruals we ensured that the rationale provided by management was appropriate and clearly documented on file via minutes of conversations held by management.

In addition to the focused review of manual accruals, our work was part of a suite of mandatory procedures performed regardless of specifically identified fraud risks. This included:

- ▶ Testing the appropriateness of journal entries recorded in the general ledger and other adjustments made in the preparation of the financial statements;
- ▶ Assessing accounting estimates for evidence of management bias; and
- ▶ Evaluating the business rationale for significant unusual transactions.

To support our work on mandatory procedures, we utilised our data analytics capabilities to assist with our work, including carrying out testing on the income and expenditure accounts and journal entry testing.

What are our conclusions?

To date we have identified no evidence of incorrect accounting for manual accruals. Our work on journal entry testing and accounting estimates are still ongoing at the date of writing this report.

Our work on manual accruals testing is substantially complete and subject to review. We have identified a reclassification error between short-term to long-term liabilities amounting to £180k.



Areas of audit focus

Significant risk (cont'd)

Misstatements due to fraud or error*

What is the risk?

The financial statements as a whole are not free of material misstatements whether caused by fraud or error.

As identified in ISA (UK) 240, management is in a unique position to perpetrate fraud because of its ability to manipulate accounting records directly or indirectly and prepare fraudulent financial statements by overriding controls that otherwise appear to be operating effectively. We identify and respond to this fraud risk on every audit engagement.

What judgements are we focused on?

Correctness and appropriateness of journals recorded in the general ledger and other adjustments including accounting estimates.

What are our conclusions?

To date we have identified no evidence of misstatement due to fraud or error. Our work on journal entry testing and accounting estimates are still on-going at the date of writing this report.

What did we do?

- ▶ Identified fraud risks during the planning stages.
- ▶ Inquired of management about risks of fraud and the controls put in place to address those risks.
- ▶ Understood the oversight given by those charged with governance of management's processes over fraud.
- ▶ Considered the effectiveness of management's controls designed to address the risk of fraud.
- ▶ Performed mandatory procedures regardless of specifically identified fraud risks, including:
 - Tested the appropriateness of journal entries recorded in the general ledger and other adjustments made in the preparation of the financial statements
 - Assessing accounting estimates for evidence of management bias, and
 - Evaluating the business rationale for significant unusual transactions.

We utilised our data analytics capabilities to assist with our work.



Areas of audit focus

Significant risk (cont'd)

Incorrect accounting for income from investment and leasehold properties - risk of fraud in revenue and expenditure recognition*

What is the risk?

Under ISA 240 there is a presumed risk that revenue may be misstated due to improper revenue recognition. In the public sector, this requirement is modified by Practice Note 10, issued by the Financial Reporting Council, which states that auditors should also consider the risk that material misstatements may occur by the manipulation of expenditure recognition.

In considering how the risk of management override may present itself, we conclude that this is primarily through management taking action to override controls and manipulate in year financial transactions that impact the financial position.

A key way of improving the revenue position is through the inappropriate recognition of Investment property rental income from the properties held by the council and from leasehold properties.

What judgements are we focused on?

We focused on allocating income from investment and leasehold properties to correct accounting periods

What did we do?

We reviewed a sample of investment property and leasehold property income at a lower testing threshold to confirm it is appropriately accounted for,

What are our conclusions?

We have undertaken sample testing on investment property and leasehold property income using a lower testing threshold. We have not identified any issues to date, but work is subject to review.



Areas of audit focus

Significant risk (cont'd)

Inappropriate capitalisation of revenue expenditure*

What is the risk?

Under ISA 240 there is a presumed risk that revenue may be misstated due to improper revenue recognition. In the public sector, this requirement is modified by Practice Note 10 issued by the Financial Reporting Council, which states that auditors should also consider the risk that material misstatements may occur by the manipulation of expenditure recognition.

We have identified an opportunity and incentive to capitalise expenditure under the accounting framework, to remove it from the general fund. In arriving at this conclusion we have considered the continuing pressure on the revenue budget and the financial value of its annual capital programme which is many times out materiality level.

This could then result in funding of that expenditure, that should properly be defined as revenue, through inappropriate sources such as capital receipts, capital grants, or borrowing.

What judgements are we focused on?

How management decides on appropriate capitalisation of revenue expenditure, including consideration of REFCUS.

What did we do?

We have:

- ▶ Tested PPE additions, and REFCUS, to ensure that the expenditure incurred and capitalised is clearly capital in nature or appropriate to be treated as REFCUS.
- ▶ Identified and understood the basis for any significant journals transferring expenditure from revenue to capital codes on the general ledger at the end of the year.

We utilised our data analytics capabilities to assist with our work, including journal entry testing. We assessed journal entries more generally for evidence of management bias and evaluate for business rationale.

What are our conclusions?

We focused our testing on property, plant and equipment capital additions and also Revenue Expenditure Financed from Capital Under Statute (REFCUS) capital additions.

We are currently updating our testing of capital additions and REFCUS based on the revised working papers provided by the management. As at the date of this report we have found no instances of inappropriate capitalisation of revenue expenditure.



Areas of audit focus

Significant risk (cont'd)

Valuation of land and buildings in Plant, Property and Equipment, Investment Property and Surplus Assets

What is the risk?

The fair value of land and buildings, investment properties, and surplus assets, represent a significant balance in the Council's accounts and is subject to valuation changes and impairment reviews. In addition land and buildings are also subject to depreciation charges. Management is required to make material judgemental inputs and apply estimation techniques to calculate the year-end balances recorded in the balance sheet.

As one of the largest accounting estimates on the balance sheet and one dependent on a high degree of subjectivity, and also in light of a number of material misstatements relating to property valuations identified in the PY19-20 audit, we have continued to associate a significant risk to the valuation of land & buildings in the 2020/21 audit.

What judgements are we focused on?

We focused on aspects of the land and buildings valuation which could have a material impact on the financial statements, primarily:

- harder to value assets - such as assets which are valued on a depreciated replacement cost basis;
- the assumptions and estimates used to calculate the valuation; and
- changes to the basis for valuing the assets.

What are our conclusions?

We have received the draft memo from EY Real Estate specialists and are satisfied that the assets reviewed are materially correct. We note however that land and buildings in plant, property and equipment are valued one year in arrears, and we will perform additional work to confirm that PPE valuations are correctly indexed to reflect the year-end 31 March 2021 date in the revised 20/21 draft financial statements.

What did we do?

We have:

- Considered the work performed by the Council's valuers Avison Young, including the scope and timing of the work performed on valuations and a comparison of valuation findings with market trends and Land Registry data; data and assumptions used by the valuers; and qualifications and expertise;
- Reviewed that procedures are applied by the Council to any roll forward valuations from 01 April 2020 to the year end 31 March 2021 for operational PPE;
- Considered the annual cycle of valuations to ensure that assets have been valued within a 5 year rolling programme as required by the Code for PPE and annually for Investment Properties. We also considered if there are any specific changes to assets that have occurred and that these have been communicated to the valuer;
- Reviewed any assets not subject to valuation in 2020/21 to confirm that the remaining asset base is not materially misstated. We have considered changes to useful economic lives as a result of the most recent valuation;
- Tested accounting entries to ensure they have been correctly processed in the financial statements; and
- Reviewed valuer reports and findings, which determined our specialist EY valuer was required to review of methodologies, data and assumptions.



Areas of audit focus

Other areas of audit focus

We have identified other areas of the audit, that have not been classified as significant risks, but are still important when considering the risks of material misstatement to the financial statements and disclosures and therefore may be matters that we report on

What is the risk/area of focus?

Valuation of defined benefit pension scheme

The Local Authority Accounting Code of Practice and IAS19 require the Council to make extensive disclosures within its financial statements regarding its membership of the Local Government Pension Scheme administered by Hertfordshire County Council.

Watford Borough Council's pension fund assets and liabilities are material estimated balances and the Code requires that the liability be disclosed on the Council's balance sheet. At 31 March 2021 the net liability was valued at [£55.079m](#).

The information disclosed is based on the IAS 19 report issued to the Council by the actuary to the Pension Fund.

Accounting for this scheme involves significant estimation and judgement and therefore management engages an actuary to undertake the calculations on their behalf. ISAs (UK and Ireland) 500 and 540 require us to undertake procedures on the use of management experts and the assumptions underlying fair value estimates.

Accounting for Covid-19 related grant funding

The Council has received a significant level of government funding in relation to Covid-19. Whilst there is no change in the CIPFA Code or accounting standard (IFRS 15) in respect of accounting for grant funding, the emergency nature of some of the grants received and in some cases the lack of clarity on any associated restrictions and conditions, means that the Council will need to apply a greater degree of assessment and judgement to determine the appropriate accounting treatment in the 2020/21 statements.

What did we do?

We have:

- ▶ Liaised with the auditors of Hertfordshire County Council Pension Fund, to obtain assurances over the information supplied to the actuary in relation to Watford Borough Council;
- ▶ Assessed the work of the Pension Fund actuary (Hymans Robertson) including the assumptions they have used; and
- ▶ Reviewed and tested the accounting entries and disclosures made within Watford Borough Council's financial statements in relation to IAS19.
- ▶ [Considered the results of the 2022 Triennial Valuation Report and assessed any impact it has in the pension liability balance.](#)

We have completed our work in this area and identified a misstatement relating to understatement of pension liability from 20/21 Hertfordshire pension fund audit amounting to £271k. This work is under review.

We considered the Council's judgement on material grants received in relation to whether it is acting as:

- ▶ An Agent, where it has determined that it is acting as an intermediary; or
- ▶ A Principal, where the Council has determined that it is acting on its own behalf.

We have completed our work in this area and have no matters to raise. This work is under review.



Areas of audit focus

Other areas of audit focus (continued)

We have identified other areas of the audit, that have not been classified as significant risks, but are still important when considering the risks of material misstatement to the financial statements and disclosures and therefore may be matters that we report on

What is the risk/area of focus?

Going Concern Compliance with ISA 570

There is a presumption that the Council will continue as a going concern for the foreseeable future. However, the Council is required to carry out a going concern assessment that is proportionate to the risks it faces. In light of the continued impact of Covid-19 on the Council's day to day finances, its annual budget, its cashflow and its medium term financial strategy, there is a need for the Council to ensure its going concern assessment is thorough and appropriately comprehensive.

The Council is then required to ensure that its going concern disclosure within the statement of accounts adequately reflects its going concern assessment and in particular highlights any uncertainties it has identified.

In addition, the auditing standard in relation to going concern (ISA570) has been revised with effect for the 2020/21 accounts audit.

What did we do?

We have:

- ▶ Challenged management's identification of events or conditions impacting going concern.
- ▶ Tested management's resulting assessment of going concern by evaluating supporting evidence (including consideration of the risk of management bias).
- ▶ Reviewed the Council's cashflow forecast covering the foreseeable future, to ensure that it has sufficient liquidity to continue to operate as a going concern.
- ▶ Undertook a 'stand back' review to consider all of the evidence obtained, whether corroborative or contradictory, when we draw our conclusions on going concern.
- ▶ Challenged the disclosure made in the accounts in respect of going concern and any material uncertainties.

We have reviewed the going concern assessment prepared by management for Watford Borough Council up to March 2024 and we consider the Council to be able to continue as a going concern to that date. However the going concern assessment is required to cover at least 12 months after the audit signing date, which is expected to be **31 October 2023**. The going concern assessment will therefore have to be extended by management for our review.

Incorrect classification of fixed assets (L&B, IP and surplus assets)

In the PY19/20 audit we have noted a number of misclassifications of assets between L&B subclasses, and also between L&B, IP, and surplus assets. Therefore in the CY20/21 audit there is an inherent risk for the misclassification of fixed assets.

As at the date of this report our work is still in progress in respect of the following:

- ▶ perform a substantive approach on L&B (PPE), IP and surplus asset, including test for existence, in-year additions and disposals, and also valuations of these assets. As part of our work we also reviewed the correct classification of these assets into L&B, IP, and surplus assets.
- ▶ perform a high level review of asset names within the fixed asset register to test for the reasonableness of their classification into the various asset subclasses.

We are waiting for the reconciliation between the fixed asset register and Note 21 Property, Plant and Equipment per revised 20/21 draft financial statements to complete our testing.



Areas of audit focus

Other areas of audit focus (continued)

We have identified other areas of the audit, that have not been classified as significant risks, but are still important when considering the risks of material misstatement to the financial statements and disclosures and therefore may be matters that we report on

What is the risk/area of focus?

Lack of prudence in estimation of Minimum Revenue Provision (MRP)

In the PY 19/20 audit, we have noted that management has not included MRP as part of its capital financing requirements (CFR) calculations. We have also identified a control deficiency in relation to the Council's capital financing requirement (CFR) and minimum revenue provision (MRP) record keeping as they were not able to produce a breakdown of its £32.4 million outstanding CFR on an asset by asset basis.

Management has later agreed to amend the accounts to include a provision of £83,000; while we accept that the Council has complied with its statutory duty to make a revenue provision it considers to be prudent, in our view the MRP is aggressive as it would take the Council 384 years to cover its capital financing requirement of £32.4 million at that level of provision. In the PY we have therefore recommend the Council reconsiders whether its current MRP policy leads to prudent provision.

In addition to the issues identified in the PY, in the CY there is additional CFR for the material new Croxley Park finance lease that is likely to have a large impact on MRP calculations. In the CY 20/21 audit therefore included management's estimation of the MRP as an area of audit focus to confirm that a prudent level of MRP is provided for.

What did we do?

MRP is charged one year in arrears. The MRP charged in 20/21 is based on unfunded capital expenditure in 2019-20 and before. Due to the delay in completion of the 2019-20 audit this area of audit is to be started.

As at the date of this report our work on this area is to be started in respect of the following:

- ▶ we will review the breakdown of the Council's capital financing requirement on an asset by asset basis.
- ▶ we will then form our own estimate of the MRP in accordance to the Prudential Code and compare this against the Council's own estimate.
- ▶ we will also involve our EY technical expert to assist with this MRP calculation.



03 Audit report



Audit report

Draft audit report 20-21

Draft audit report - To follow on completion of the audit

Our opinion on the financial statements

▶ To follow

▶ To follow



04 Audit differences





Audit differences

In the normal course of any audit, we identify misstatements between amounts we believe should be recorded in the financial statements and the disclosures and amounts actually recorded. These differences are classified as “known” or “judgemental”. Known differences represent items that can be accurately quantified and relate to a definite set of facts or circumstances. Judgemental differences generally involve estimation and relate to facts or circumstances that are uncertain or open to interpretation.

Summary of adjusted/unadjusted differences

We highlight the misstatement greater than our reporting thresholds of £866k that have been identified during the course of our audit. We will provide an update at the Audit Committee meeting on and a final position at the conclusion of the audit.

Uncorrected Mis-Statements:

Investments in Watford Health Campus should have been reduced by £1,749k due to the repayment of principal during the year.




There have been a number of presentational and disclosure amendments which we have identified and will be corrected by management.



Audit differences

Summary of unadjusted differences

In addition we highlight the following misstatements to the financial statements and/or disclosures which were not corrected by management. We request that this uncorrected misstatements be corrected or a rationale as to why they are not corrected be considered and approved by the **Audit Committee** and provided within the Letter of Representation:

Uncorrected misstatements 31 March 2021 (£000) 	 Effect on the current period:	 Balance Sheet (Decrease)/Increase			
	Comprehensive income and expenditure statement Debit/(Credit)	Assets current Debit/ (Credit)	Assets non current Debit/ (Credit)	Liabilities current Debit/ (Credit)	Liabilities non- current Debit/ (Credit)
Error					
Known differences:					
▶ Decrease in investments in Watford Health Campus due to the repayment of principal during the year	1,749		(1,749)		
Balance sheet totals	11,004	125,675	548,055	(45,813)	(303,574)
Income effect of uncorrected misstatements (before tax)	1,749				
Cumulative effect of uncorrected misstatements before turnaround effect	1,749				
Turnaround effect of PY uncorrected misstatement - NB these are below our tolerable error so not reported here.	-				
Cumulative effect of uncorrected misstatements, after turnaround effect	1,749				



05

Value for money



Value for money

The Council's responsibilities for value for money (VFM)

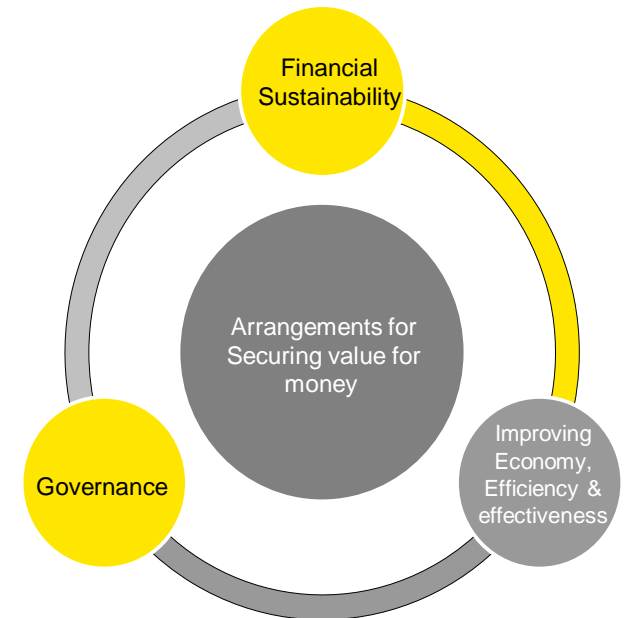
The Council is required to maintain an effective system of internal control that supports the achievement of its policies, aims and objectives while safeguarding and securing value for money from the public funds and other resources at its disposal.

As part of the material published with its financial statements, the Council is required to bring together commentary on its governance framework and how this has operated during the period in a governance statement. In preparing its governance statement, the Council tailors the content to reflect its own individual circumstances, consistent with the requirements of the relevant accounting and reporting framework and having regard to any guidance issued in support of that framework. This includes a requirement to provide commentary on its arrangements for securing value for money from their use of resources.

Risk assessment

We have previously reported to the Committee the changes in the arrangements to the VFM for 2020/21.

We are currently completing our risk assessment work and assessing the Council against the three sub-criteria. This includes arranging meetings with senior officers to understand in detail the arrangements in place. As at the date of this report we are not reporting any significant weakness in arrangements.





06 Other reporting issues

Other reporting issues

Consistency of other information published with the financial statements, including the Annual Governance Statement

We must give an opinion on the consistency of the financial and non-financial information in the Statement of Accounts 2020/21 with the audited financial statements.

We must also review the Annual Governance Statement for completeness of disclosures, consistency with other information from our work, and whether it complies with relevant guidance.

Financial information in the Statement of Accounts 2020/21 and published with the financial statements was consistent with the audited financial statements.

We have reviewed the information presented in the Annual Governance Statement for consistency with our knowledge of the Council, subject to review. As at writing, we have no issues to report.

Whole of Government Accounts

Alongside our work on the financial statements, we also review and report to the National Audit Office on your Whole of Government Accounts return. The extent of our review, and the nature of our report, is specified by the National Audit Office.

Our work on procedures required by the National Audit Office (NAO) on the Whole of Government Accounts (WGA) submission is subject to review. As at writing, we have no issues to report.

We have no other matters to report as at writing of the report. [We are yet to update our work on the WGA based on the revised draft financial statements.](#)

Other reporting issues

Other powers and duties

We have a duty under the Local Audit and Accountability Act 2014 to consider whether to report on any matter that comes to our attention in the course of the audit, either for the Authority to consider it or to bring it to the attention of the public (i.e. “a report in the public interest”).

We did not identify any issues which required us to issue a report in the public interest.

Other matters

As required by ISA (UK&I) 260 and other ISAs specifying communication requirements, we must tell you significant findings from the audit and other matters if they are significant to your oversight of the Watford Borough Council’s financial reporting process. They include the following:

- Significant qualitative aspects of accounting practices including accounting policies, accounting estimates and financial statement disclosures;
- Any significant difficulties encountered during the audit;
- Any significant matters arising from the audit that were discussed with management;
- Written representations we have requested;
- Expected modifications to the audit report;
- Any other matters significant to overseeing the financial reporting process;
- Related parties;
- External confirmations;
- Going concern;
- Consideration of laws and regulations; and
- Group audits

As at the date of this report we have nothing that we need to bring to the attention of the Audit Committee in respect of Other Matters.



07

Assessment of the control environment



Assessment of Control Environment

Financial controls

As part of our audit of the financial statements, we obtained an understanding of internal control sufficient to plan our audit and determine the nature, timing and extent of testing performed.

Although our audit was not designed to express an opinion on the effectiveness of internal control, we are required to communicate to you significant deficiencies in internal control including group-wide or at components.

We have not identified any control deficiencies as at writing of the report.



08 Data analytics



Management Override of Controls

What is the risk?

In line with ISA 240 we are required to test the appropriateness of journal entries recorded in the general ledger and other adjustments made in the preparation of the financial statements.

What judgements are we focused on?

We review journals by certain risk based criteria to focus on higher risk transactions, such as journals posted around the year-end, those relating to overstatement of payable accruals at yearend, those relating to income recognition from investment and leasehold properties and those relating to inappropriate capitalisation of revenue expenditure.

The purpose of this approach is to provide a more effective, risk focused approach to auditing journal entries, minimising the burden of compliance on management by minimising randomly selected samples.

What did we do?

We obtained general ledger journal data for the period and have used our analysers to identify characteristics typically associated with inappropriate journal entries or adjustments, and journals entries that are subject to a higher risk of management override.

We then performed tests on the journals identified to determine if they were appropriate and reasonable.

What are our conclusions?

At the date of writing this report our journal entry testing is ongoing; we will conclude on the testing and report any material findings.



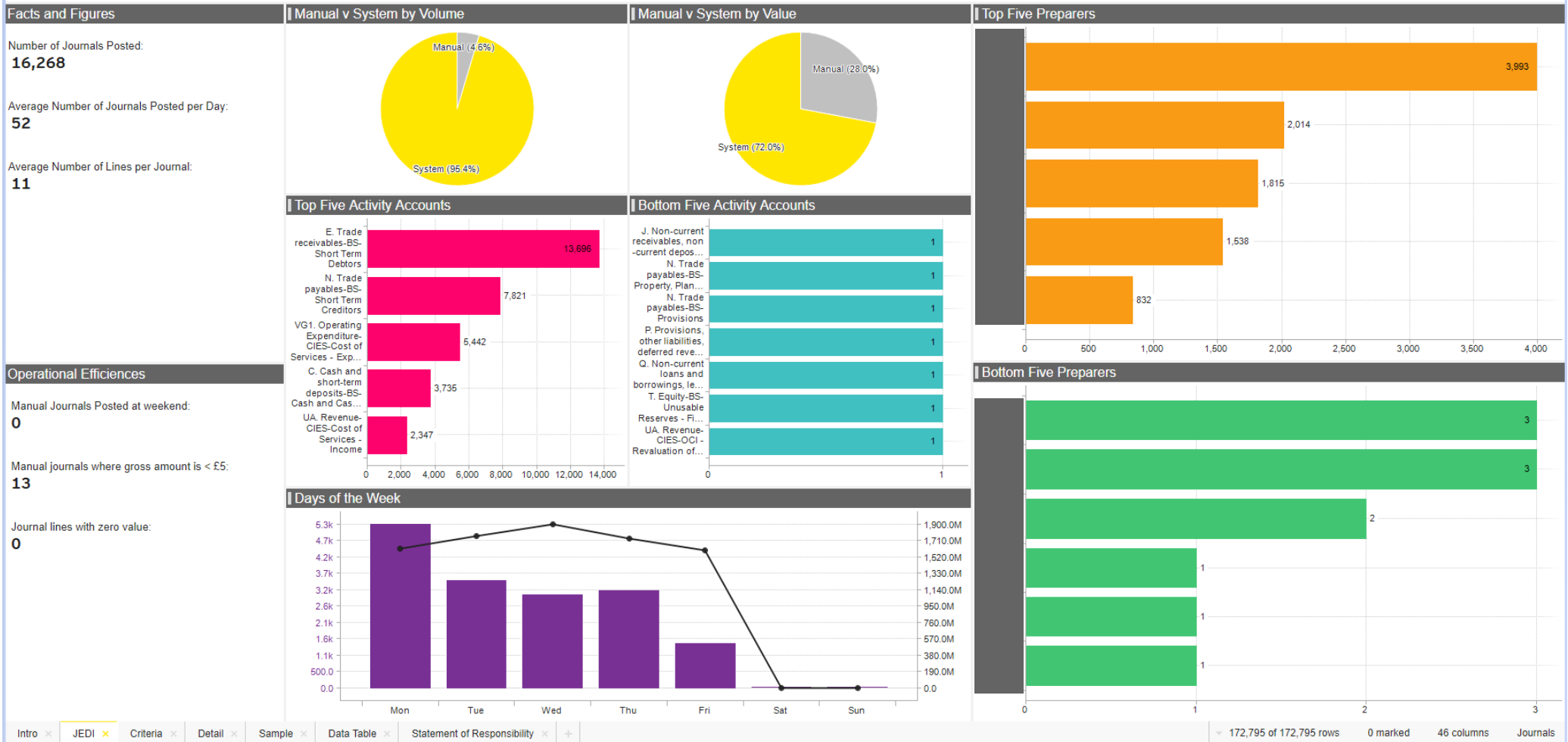
Data Analytics

Journal Entry Data Insights

Watford Borough Council 31 March 2021

The graphic outlined below summarises the journal population for 2020/21. We isolated a sub set of journals for further investigation and obtained supporting evidence to verify the posting of these transactions included in our data subset.

EY Helix - GLASS: Journal Entry Data Insights - Watford Borough Council - 31/03/2021



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09

Independence

Relationships, services and related threats and safeguards

The FRC Ethical Standard requires that we provide details of all relationships between Ernst & Young (EY) and the Council, and its directors and senior management and its affiliates, including all services provided by us and our network to your company, its directors and senior management and its affiliates, and other services provided to other known connected parties that we consider may reasonably be thought to bear on the our integrity or objectivity, including those that could compromise independence and the related safeguards that are in place and why they address the threats.

There are no relationships from 1 April 2020 to the date of this report, which we consider may reasonably be thought to bear on our independence and objectivity.

Services provided by Ernst & Young

The next page includes a summary of the fees that you have paid to us in the year ended 31 March 2021 in line with the disclosures set out in FRC Ethical Standard and in statute. Full details of the services that we have provided are shown below. Further detail of all fees has been provided to the Audit Committee.

As at the date of this report, there are no future services which have been contracted and no written proposal to provide non-audit services has been submitted.

We confirm there are no changes in our assessment of independence since our confirmation in our audit planning board report dated 28 July 2022.

We complied with the APB Ethical Standards. In our professional judgement the firm is independent and the objectivity of the audit engagement partner and audit staff has not been compromised within the meaning of regulatory and professional requirements.

We consider that our independence in this context is a matter that should be reviewed by both you and ourselves. It is therefore important that you and your Audit Committee consider the facts of which you are aware and come to a view. If you wish to discuss any matters concerning our independence, we will be pleased to do so at the forthcoming meeting of the Audit Committee on [14 September 2023](#).

We confirm we do not plan to undertake non-audit work outside of the Statement of responsibilities of auditors and audited bodies as issued by the Public Sector Audit Appointments Ltd . We will apply the necessary safeguards in our completion of this work should we be required to complete any.

Confirmation and analysis of Audit fees

Description	Final Fee 2020/21 £	Planned Fee 2020/21 £	Final Fee 2019/20 £
Total Audit Fee - Code work	TBC	71,440	66,355
Housing Benefits	TBC	TBC	TBC
Proposed increase to the scale fee due to changes in work required to address professional and regulatory requirements and scope associated with risk. (Note 1) Scale fee variation - Covid-19 and Going Concern considerations, addressing significant risk on PPE valuation, additional work on grants and VFM conclusion (Note 2)	TBC	TBC	119,442
Total Audit Fees	Notes 1 & 2	TBC	185,797

All fees exclude VAT

Note 1 - The proposed increase reflects the increased risk and complexity facing all public sector bodies, adjusted for our knowledge and risk assessment for this Authority as well as the changes and incremental increase in regulatory standards. The proposed increase in the baseline fee is relatively consistent with other councils of a similar size, risk profile and complexity that EY audits.

Note 2 - The impact of Covid-19 on the audit, the updated requirements on VFM conclusion, group requirements, use of experts for the work on valuation of PPE additional work on grants and the work on going concern will all impact the work that is required to be done. As we near the conclusion of the audit, we will be in a position to quantify the impact of these additional procedures and where we propose a variation to the Authority's scale fee. We note the significant additional procedures as a result of the incorrect treatment of Grants and the subsequent materiality re-assessment and additional testing required.

On both points, we will continue to discuss and share with you our assessment of the audit fees required to safeguard audit quality and our professional standards.

All fees are subject to final review and agreement by PSAA Ltd

Other communications

EY Transparency Report 2022

Ernst & Young (EY) has policies and procedures that instil professional values as part of firm culture and ensure that the highest standards of objectivity, independence and integrity are maintained.

Details of the key policies and processes in place within EY for maintaining objectivity and independence can be found in our annual Transparency Report which the firm is required to publish by law. The most recent version of this Report is for the year end 30 June 2022:

[EY UK 2022 Transparency Report | EY UK](#)







10 Appendices

Appendix A

Required communications with the Audit Committee

There are certain communications that we must provide to the Audit Committees of UK entities. We have detailed these here together with a reference of when and where they were covered:

		 Our Reporting to you
Required communications	 What is reported?	  When and where
Terms of engagement	Confirmation by the Audit Committee of acceptance of terms of engagement as written in the engagement letter signed by both parties.	The statement of responsibilities serves as the formal terms of engagement between the PSAA's appointed auditors and audited bodies
Our responsibilities	Reminder of our responsibilities as set out in the engagement letter.	Audit planning report presented at the 28 July 2022 Audit Committee meeting
Planning and audit approach	Communication of the planned scope and timing of the audit, any limitations and the significant risks identified. When communicating key audit matters this includes the most significant risks of material misstatement (whether or not due to fraud) including those that have the greatest effect on the overall audit strategy, the allocation of resources in the audit and directing the efforts of the engagement team.	Audit planning report presented at the 28 July 2022 Audit Committee meeting
Significant findings from the audit	<ul style="list-style-type: none"> ▶ Our view about the significant qualitative aspects of accounting practices including accounting policies, accounting estimates and financial statement disclosures ▶ Significant difficulties, if any, encountered during the audit ▶ Significant matters, if any, arising from the audit that were discussed with management ▶ Written representations that we are seeking ▶ Expected modifications to the audit report ▶ Other matters if any, significant to the oversight of the financial reporting process 	Audit planning report presented at the 28 July 2022 Audit Committee meeting

Appendix A

Our Reporting to you

Required communications	What is reported?	When and where
Going concern	Events or conditions identified that may cast significant doubt on the entity's ability to continue as a going concern, including: <ul style="list-style-type: none"> ▶ Whether the events or conditions constitute a material uncertainty related to going concern ▶ Whether the use of the going concern assumption is appropriate in the preparation and presentation of the financial statements ▶ The appropriateness of related disclosures in the financial statements 	Draft Audit results report presented at the 26 July 2023 and 14 September 2023 Audit Committee meeting
Misstatements	<ul style="list-style-type: none"> ▶ Uncorrected misstatements and their effect on our audit opinion, unless prohibited by law or regulation ▶ The effect of uncorrected misstatements related to prior periods ▶ A request that any uncorrected misstatement be corrected ▶ Material misstatements corrected by management 	Draft Audit results report presented at the 26 July 2023 and 14 September 2023 Audit Committee meeting
Subsequent events	<ul style="list-style-type: none"> ▶ Enquiry of the Audit Committee where appropriate regarding whether any subsequent events have occurred that might affect the financial statements. 	Draft Audit results report presented at the 26 July 2023 and 14 September 2023 Audit Committee meeting

Appendix A

		Our Reporting to you
Required communications	What is reported?	When and where
Fraud	<ul style="list-style-type: none"> ▶ Enquiries of the Audit Committee to determine whether they have knowledge of any actual, suspected or alleged fraud affecting the entity ▶ Any fraud that we have identified or information we have obtained that indicates that a fraud may exist ▶ Unless all of those charged with governance are involved in managing the entity, any identified or suspected fraud involving: <ul style="list-style-type: none"> a. Management; b. Employees who have significant roles in internal control; or c. Others where the fraud results in a material misstatement in the financial statements. ▶ The nature, timing and extent of audit procedures necessary to complete the audit when fraud involving management is suspected ▶ Any other matters related to fraud, relevant to Audit Committee responsibility. 	Draft Audit results report presented at the 26 July 2023 and 14 September 2023 Audit Committee meeting
Related parties	<p>Significant matters arising during the audit in connection with the entity's related parties including, when applicable:</p> <ul style="list-style-type: none"> ▶ Non-disclosure by management ▶ Inappropriate authorisation and approval of transactions ▶ Disagreement over disclosures ▶ Non-compliance with laws and regulations ▶ Difficulty in identifying the party that ultimately controls the entity 	Draft Audit results report presented at the 26 July 2023 and 14 September 2023 Audit Committee meeting
Independence	<p>Communication of all significant facts and matters that bear on EY's, and all individuals involved in the audit, objectivity and independence.</p> <p>Communication of key elements of the audit engagement partner's consideration of independence and objectivity such as:</p> <ul style="list-style-type: none"> ▶ The principal threats ▶ Safeguards adopted and their effectiveness ▶ An overall assessment of threats and safeguards ▶ Information about the general policies and process within the firm to maintain objectivity and independence 	Draft Audit results report presented at the 26 July 2023 and 14 September 2023 Audit Committee meeting

Appendix A

		Our Reporting to you
Required communications	What is reported?	When and where
	<p>Communications whenever significant judgements are made about threats to objectivity and independence and the appropriateness of safeguards put in place.</p> <p>For public interest entities and listed companies, communication of minimum requirements as detailed in the FRC Revised Ethical Standard 2019:</p> <ul style="list-style-type: none"> ▶ Relationships between EY, the company and senior management, its affiliates and its connected parties ▶ Services provided by EY that may reasonably bear on the auditors' objectivity and independence ▶ Related safeguards ▶ Fees charged by EY analysed into appropriate categories such as statutory audit fees, tax advisory fees, other non-audit service fees ▶ A statement of compliance with the Ethical Standard, including any non-EY firms or external experts used in the audit ▶ Details of any inconsistencies between the Ethical Standard and Group's policy for the provision of non-audit services, and any apparent breach of that policy ▶ Where EY has determined it is appropriate to apply more restrictive rules than permitted under the Ethical Standard ▶ The Audit Committee should also be provided an opportunity to discuss matters affecting auditor independence 	
External confirmations	<ul style="list-style-type: none"> ▶ Management's refusal for us to request confirmations ▶ Inability to obtain relevant and reliable audit evidence from other procedures. 	Draft Audit results report presented at the 26 July 2023 and 14 September 2023 Audit Committee meeting
Consideration of laws and regulations	<ul style="list-style-type: none"> ▶ Subject to compliance with applicable regulations, matters involving identified or suspected non-compliance with laws and regulations, other than those which are clearly inconsequential and the implications thereof. Instances of suspected non-compliance may also include those that are brought to our attention that are expected to occur imminently or for which there is reason to believe that they may occur ▶ Enquiry of the Audit Committee into possible instances of non-compliance with laws and regulations that may have a material effect on the financial statements and that the Audit Committee may be aware of 	Draft Audit results report presented at the 26 July 2023 and 14 September 2023 Audit Committee meeting

Appendix A




Our Reporting to you

Required communications	What is reported?	When and where
Significant deficiencies in internal controls identified during the audit	<ul style="list-style-type: none"> ▶ Significant deficiencies in internal controls identified during the audit. 	Draft Audit results report presented at the 26 July 2023 and 14 September 2023 Audit Committee meeting
Group Audits	<ul style="list-style-type: none"> ▶ An overview of the type of work to be performed on the financial information of the components ▶ An overview of the nature of the group audit team's planned involvement in the work to be performed by the component auditors on the financial information of significant components ▶ Instances where the group audit team's evaluation of the work of a component auditor gave rise to a concern about the quality of that auditor's work ▶ Any limitations on the group audit, for example, where the group engagement team's access to information may have been restricted ▶ Fraud or suspected fraud involving group management, component management, employees who have significant roles in group-wide controls or others where the fraud resulted in a material misstatement of the group financial statements. 	Draft Audit results report presented at the 26 July 2023 and 14 September 2023 Audit Committee meeting
Written representations we are requesting from management and/or those charged with governance	<ul style="list-style-type: none"> ▶ Written representations we are requesting from management and/or those charged with governance 	Draft Audit results report presented at the 26 July 2023 and 14 September 2023 Audit Committee meeting
Material inconsistencies or misstatements of fact identified in other information which management has refused to revise	<ul style="list-style-type: none"> ▶ Material inconsistencies or misstatements of fact identified in other information which management has refused to revise 	Draft Audit results report presented at the 26 July 2023 and 14 September 2023 Audit Committee meeting
Auditors report	<ul style="list-style-type: none"> ▶ Key audit matters that we will include in our auditor's report ▶ Any circumstances identified that affect the form and content of our auditor's report 	Draft Audit results report presented at the 26 July 2023 and 14 September 2023 Audit Committee meeting
VFM Commentary	<ul style="list-style-type: none"> ▶ Report the findings from our VFM review in the Auditor's Annual Report 	Auditor's Annual Report presented within 3 months from the date of the audit opinion

Appendix B

Outstanding matters

The following items relating to the completion of our audit procedures are outstanding at the date of the release of this report:

Item 	Actions to resolve 	Responsibility 
Significant Risks and Other Areas of Focus	Completion of the work detailed in the Significant Risks and Other Areas of Focus included within this report	EY, management, internal and external specialists
Update of Audit Procedures	Update of procedures based on the revised draft 20/21 financial statements.	EY and management
Final Statement of Accounts 20/21	Review of the Annual Report and associated support for final accounts E.g. Incorporation of EY review comments on disclosure notes	EY and management
Value for Money (VFM)	EY to complete risk assessment work.	EY
Group Reporting from component auditors	Group consolidation review and casting of final accounts	EY
General review of completed tasks	EY to complete various levels of review on completed work	EY
Management representation letter	Receipt of signed management representation letter	Management and Audit Committee
Subsequent events review	Completion of subsequent events procedures to the date of signing the audit report	EY and management

Until all our audit procedures are complete, we cannot confirm the final form of our audit opinion as new issues may emerge or we may not agree on final detailed disclosures in the Annual Report. At this point no issues have emerged that would cause us to modify our opinion, but we should point out that key disclosures on going concern remain to be finalised and audited.

Draft Management Representation Letter

Draft Management Rep Letter

[To be prepared on the entity's letterhead]

[Date]

Maria Grindley
Ernst & Young
R+ Building
2 Blagrove Street
Reading, RG1 1AZ

This letter of representations is provided in connection with your audit of the Council financial statements of Watford Borough Council ("the Council") for the year ended 31 March 2021. We recognise that obtaining representations from us concerning the information contained in this letter is a significant procedure in enabling you to form an opinion as to whether the Council financial statements give a true and fair view of the Council financial position of Watford Borough Council as of 31 March 2021 and of its financial performance (or operations) and its cash flows for the year then ended in accordance with, for the Council the CIPFA LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2020/21 (as amended by the Update to the Code and Specifications for Future Codes for Infrastructure Assets (November 2022)).

We understand that the purpose of your audit of our Council financial statements is to express an opinion thereon and that your audit was conducted in accordance with International Standards on Auditing, which involves an examination of the accounting system, internal control and related data to the extent you considered necessary in the circumstances, and is not designed to identify - nor necessarily be expected to disclose - all fraud, shortages, errors and other irregularities, should any exist.

Accordingly, we make the following representations, which are true to the best of our knowledge and belief, having made such inquiries as we considered necessary for the purpose of appropriately informing ourselves:

A. Financial Statements and Financial Records

1. We have fulfilled our responsibilities, under the relevant statutory authorities, for the preparation of the financial statements in accordance with, for the Council the Accounts and Audit Regulations 2015 and CIPFA LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2020/21 (as amended by the Update to the Code and Specifications for Future Codes for Infrastructure Assets (November 2022)).
2. We acknowledge, as members of management of the Council, our responsibility for the fair presentation of the Council financial statements. We believe the Council financial statements referred to above give a true and fair view of the financial position, financial performance (or results of operations) and cash flows of the Council in accordance with the CIPFA LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2020/21 (as amended by the Update to the Code and Specifications for Future Codes for Infrastructure Assets (November 2022)) and are free of material misstatements, including omissions. We have approved the Council financial statements.
3. The significant accounting policies adopted in the preparation of the Council financial statements are appropriately described in the Council financial statements.
4. As members of management of the Council, we believe that the Council have a system of internal controls adequate to enable the preparation of accurate financial statements in accordance with the CIPFA LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2020/21 (as amended by the Update to the Code and Specifications for Future Codes for Infrastructure Assets (November 2022)) that are free from material misstatement, whether due to fraud or error. We have disclosed to you any significant changes in our processes, controls, policies and procedures that we have made to address the effects of the COVID-19 pandemic.

Management representation letter

Draft Management Rep Letter

A. Financial Statements and Financial Records (cont'd)

5. We believe that the effects of any unadjusted audit differences, summarised in the accompanying schedule, accumulated by you during the current audit and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the Council financial statements taken as a whole. We have not corrected these differences identified and brought to our attention by the auditor because [specify reasons for not correcting misstatement].
6. We confirm the Council does not have securities (debt or equity) listed on a recognised exchange.

B. Non-compliance with law and regulations, including fraud

1. We acknowledge that we are responsible for determining that the Council's activities are conducted in accordance with laws and regulations and that we are responsible for identifying and addressing any non-compliance with applicable laws and regulations, including fraud.
2. We acknowledge that we are responsible for the design, implementation and maintenance of internal controls to prevent and detect fraud.
3. We have disclosed to you the results of our assessment of the risk that the Council financial statements may be materially misstated as a result of fraud.
4. We have no knowledge of any identified or suspected non-compliance with laws or regulations, including fraud that may have affected the Council (regardless of the source or form and including without limitation, any allegations by "whistleblowers"), including non-compliance matters:
 - involving financial statements;
 - related to laws and regulations that have a direct effect on the determination of material amounts and disclosures in the Council's financial statements;
 - related to laws and regulations that have an indirect effect on amounts and disclosures in the financial statements, but compliance with which may be fundamental to the operations of the Council's activities, its ability to continue to operate, or to avoid material penalties;

- involving management, or employees who have significant roles in internal controls, or others; or
- in relation to any allegations of fraud, suspected fraud or other non-compliance with laws and regulations communicated by employees, former employees, analysts, regulators or others.

C. Information Provided and Completeness of Information and Transactions

1. We have provided you with:
 - Access to all information of which we are aware that is relevant to the preparation of the financial statements such as records, documentation and other matters;
 - Additional information that you have requested from us for the purpose of the audit; and
 - Unrestricted access to persons within the entity from whom you determined it necessary to obtain audit evidence.
2. All material transactions have been recorded in the accounting records and all material transactions, events and conditions are reflected in the Council financial statements, including those related to the COVID-19 pandemic.
3. We have made available to you all minutes of the meetings of the Council including Audit Committee, Council and Policy Committee, and (or summaries of actions of recent meetings for which minutes have not yet been prepared) held through the year to the most recent meeting on the following date: [list date]
4. We confirm the completeness of information provided regarding the identification of related parties. We have disclosed to you the identity of the Council's related parties and all related party relationships and transactions of which we are aware, including sales, purchases, loans, transfers of assets, liabilities and services, leasing arrangements, guarantees, non-monetary transactions and transactions for no consideration for the year ended, as well as related balances due to or from such parties at the year end. These transactions have been appropriately accounted for and disclosed in the Council financial statements.

Management representation letter

Management Rep Letter (cont.)

C. Information Provided and Completeness of Information and Transactions (cont'd)

5. We believe that the methods, significant assumptions and the data we used in making accounting estimates and related disclosures are appropriate and consistently applied to achieve recognition, measurement and disclosure that is in accordance with the CIPFA LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2020/21 (as amended by the Update to the Code and Specifications for Future Codes for Infrastructure Assets (November 2022)).
6. We have disclosed to you, and the Council has complied with, all aspects of contractual agreements that could have a material effect on the Council financial statements in the event of non-compliance, including all covenants, conditions or other requirements of all outstanding debt.
7. From the date of our last management representation letter dated XXX through the date of this letter we have disclosed to you any unauthorized access to our information technology systems that either occurred or to the best of our knowledge is reasonably likely to have occurred based on our investigation, including of reports submitted to us by third parties (including regulatory agencies, law enforcement agencies and security consultants) , to the extent that (1) such unauthorised access to our information technology systems is reasonably likely to have a material impact on the Council financial statements, in each case or in the aggregate, and (2) ransomware attacks when we paid or are contemplating paying a ransom, regardless of the amount.

D. Liabilities and Contingencies

1. All liabilities and contingencies, including those associated with guarantees, whether written or oral, have been disclosed to you and are appropriately reflected in the Council financial statements.
2. We have informed you of all outstanding and possible litigation and claims, whether or not they have been discussed with legal counsel.
3. We have recorded and/or disclosed, as appropriate, all liabilities related to litigation and claims, both actual and contingent.

E. Going Concern

1. Note 1 to the Council financial statements discloses all the matters of which we are aware that are relevant to the Council's ability to continue as a going concern, including significant conditions and events, our plans for future action, and the feasibility of those plans.

F. Subsequent Events

1. There have been no events, including events related to the COVID-19 pandemic, subsequent to year end which require adjustment of or disclosure in the Council financial statements or notes thereto.

G. Other information

1. We acknowledge our responsibility for the preparation of the other information. The other information comprises the Narrative Statement and the Annual Governance Statement.
2. We confirm that the content contained within the other information is consistent with the financial statements.

H. Ownership of Assets

1. Except for assets capitalised under finance leases the Council has satisfactory title to all assets appearing in the balance sheets, and there are no liens or encumbrances on the Council's assets, nor has any asset been pledged as collateral. All assets to which the Council has satisfactory title appear in the balance sheets.
2. All agreements and options to buy back assets previously sold have been properly recorded and adequately disclosed in the Council financial statements.
3. We have no plans to abandon lines of product or other plans or intentions that will result in any excess or obsolete inventory, and no inventory is stated at an amount in excess of net realisable value.

Management representation letter

Management Rep Letter (cont.)

H. Ownership of Assets (cont'd)

4. There are no formal or informal compensating balance arrangements with any of our cash and investment accounts.

I. Reserves

1. We have properly recorded or disclosed in the Council financial statements the useable and unusable reserves.

J. Use of the Work of a Specialist - NNDR Appeals Provision, Pensions, and Property, Plant and Equipment

1. We agree with the findings of the specialists that we engaged to evaluate the valuation assertion and have adequately considered the qualifications of the specialists in determining the amounts and disclosures included in the Council financial statements and the underlying accounting records. We did not give or cause any instructions to be given to the specialists with respect to the values or amounts derived in an attempt to bias their work, and we are not otherwise aware of any matters that have had an effect on the independence or objectivity of the specialists.

L. Estimates - NNDR Appeals Provision, Pensions, and Property, Plant and Equipment

1. We confirm that the significant judgments made in making the estimates listed above have taken into account all relevant information and the effects of the COVID-19 pandemic on these estimates of which we are aware.
2. We believe that the selection or application of the methods, assumptions and data used by us have been consistently and appropriately applied or used in making the estimates listed above.
3. We confirm that the significant assumptions used in making the estimates listed above appropriately reflect our intent and ability to carry out ongoing activities on behalf of the entity.

4. We confirm that the disclosures made in the Council entity financial statements with respect to the accounting estimates, including those describing estimation uncertainty and the effects of the COVID-19 pandemic on the above estimates, are complete and are reasonable in the context of the CIPFA LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2020/21 (as amended by the Update to the Code and Specifications for Future Codes for Infrastructure Assets (November 2022) .
5. We confirm that appropriate specialized skills or expertise has been applied in making the estimates detailed above.
6. We confirm that no adjustments are required to the accounting estimates and disclosures in the parent entity financial statements, including due to the COVID-19 pandemic.

M. Retirement benefits

1. On the basis of the process established by us and having made appropriate enquiries, we are satisfied that the actuarial assumptions underlying the scheme liabilities are consistent with our knowledge of the business. All significant retirement benefits and all settlements and curtailments have been identified and properly accounted for.

Yours faithfully,

(Director of Finance)



(Chair of the Audit Committee)

Appendix D

Progress report on implementation of IFRS 16 Leases

In previous reports to the Audit Committee, we have highlighted the issue of new accounting standards and regulatory developments. IFRS 16 introduces a number of significant changes which go beyond accounting technicalities. For example, the changes have the potential to impact on procurement processes as more information becomes available on the real cost of leases. The key accounting impact is that assets and liabilities in relation to significant lease arrangements previously accounted for as operating leases will need to be recognised on the balance sheet. IFRS 16 requires all substantial leases to be accounted for using the acquisition approach, recognising the rights acquired to use an asset.

IFRS 16 does not come into effect for the Council until 1 April 2024. However, officers should be acting now to assess the Council's leasing positions and secure the required information to ensure the Council will be fully compliance with the 2024/25 Code. The following table summarises the actions necessary to implement the adoption of IFRS 16 from 1 April 2024:

IFRS 16 theme	Summary of key measures  
Data collection	Management should have: <ul style="list-style-type: none"> ▶ Put in place a robust process to identify all arrangements that convey the right to control the use of an identified asset for a period of time. The adequacy of this process should be discussed with auditors. ▶ Classified all such leases into low value; short-term; peppercorn; portfolio and individual leases ▶ Identified, collected, logged and checked all significant data points that affect lease accounting including: the term of the lease; reasonably certain judgements on extension or termination; dates of rent reviews; variable payments; grandfathered decisions; non-lease components; and discount rate to be applied.
Policy Choices	The council need to agree on certain policy choices. In particular: <ul style="list-style-type: none"> ▶ Will [the council adopt a portfolio approach? ▶ Has the low value threshold been set and agreed with auditors? ▶ Which asset classes, if any, are management adopting the practical expedient in relation to non-lease components? ▶ What is managements policy in relation to discount rates to be used?
Code adaptations for the public sector	Finance teams should understand the Code adaptations for the public sector. The Code contains general adaptations, (e.g. the definition of a lease); transitional interpretations (e.g. no restatement of prior periods) and adaptations that apply post transition (e.g. use of short-term lease exemption).
Transitional accounting arrangements	Finance teams should understand the accounting required on first implementation of IFRS 16. The main impact is on former operating leases where the authority is lessee. However, there can be implications for some finance leases where the Council is lessee; and potentially for sub-leases, where the Council is a lessor, that were operating leases under the old standard.
Ongoing accounting arrangements	Finance teams need to develop models to be able to properly account for initial recognition and subsequent measurement of right of use assets and associated liabilities. This is more complex than the previous standard due to more regular remeasurements and possible modifications after certain trigger events.
Remeasurements and modifications	Finance teams need to familiarise themselves with when the 'remeasurement' or 'modification' of a lease is required and what to do under each circumstance. A modification can lead to an additional lease being recognised. It is also important to know when remeasurements require a new discount rate is to be applied to the lease.

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