

## Crawley Borough Council

### Audit Committee

Agenda for the **Audit Committee** which will be held in **Committee Rooms A & B - Town Hall**, on **Tuesday, 12 March 2024 at 7.00 pm**

Nightline Telephone No. 07881 500 227



**Chief Executive**

**Membership:** Councillors J Millar-Smith (Chair), J Charatan (Vice-Chair), I Ashraf, T G Belben, H Hellier, J Russell and S Sivarajah

Independent Member Atta UI Haque

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Published 4 March 2024



01293 438000

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The order of business may change at the Chair's discretion

## Part A Business (Open to the Public)

	<b>Pages</b>
Live Streaming Committee Meetings: YouTube Guidance	
As a trial, Committee meetings will be live streamed via the Council's YouTube channel and then stored on the same channel.	
Here's the procedure for <b>watching a live stream</b> on YouTube:	
Go to <a href="https://www.youtube.com/crawleybc">https://www.youtube.com/crawleybc</a>	
Once live, the meeting will automatically be displayed on the Home or Videos page tab of the channel.	
To watch it in larger size, click the full screen icon in the bottom right of the video.	
Please note that the live stream will not have the comment function enabled.	
<b>1. Apologies for Absence</b>	
<b>2. Disclosures of Interest</b>	
In accordance with the Council's Code of Conduct, councillors are reminded that it is a requirement to declare interests where appropriate.	
<b>3. Minutes</b>	5 - 10
To approve as a correct record the minutes of the Audit Committee held on 21 November 2023.	
<b>4. Public Question Time</b>	
To answer any questions asked by the public which relate to an item on this agenda and which are in line with the Council's Constitution.	
Public Question Time will be concluded by the Chair when all questions have been answered or on the expiry of a period of 15 minutes, whichever is the earlier.	

	<b>Pages</b>
<p><b>5. Auditor's Annual Report for the Year Ended 31 March 2022</b></p> <p>To consider report FIN/651 submitted by Ernst and Young.</p> <p><b>RECOMMENDATION</b></p> <p>That the Auditor's Annual Report for the year ended 31 March 2022 be received and noted.</p>	11 - 38
<p><b>6. Value for Money Interim Report: Year Ended 31 March 2023</b></p> <p>To consider report FIN/652 submitted by Ernst and Young.</p> <p><b>RECOMMENDATION</b></p> <p>That the Value for Money Interim Report: Year Ended 31 March 2023 be received and noted.</p>	39 - 64
<p><b>7. Accounting Policies 2023/24 and 2024/25</b></p> <p>To consider report FIN/649 of the Head of Corporate Finance.</p>	65 - 84
<p><b>8. Internal Audit Progress Report</b></p> <p>To consider report FIN/653 of the Head of Corporate Finance.</p>	85 - 102
<p><b>9. Internal Audit Charter 2024/2025</b></p> <p>To consider report FIN/654 of the Head of Corporate Finance.</p>	103 - 114
<p><b>10. Internal Audit Annual Plan 2024/2025</b></p> <p>To consider report FIN/655 of the Head of Corporate Finance.</p>	115 - 126
<p><b>11. Risk Management Update</b></p> <p>To consider report LDS/216 of the Head of Governance, People &amp; Performance.</p>	127 - 142
<p><b>12. Approval of RIPA (Regulation of Investigatory Powers Act 2000) Policy and Update on Usage of RIPA</b></p> <p>To consider report LDS/217 of the Head of Governance, People &amp; Performance.</p>	143 - 194

**13. Supplemental Agenda**

Any urgent item(s) complying with Section 100(B) of the Local Government Act 1972.

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## Crawley Borough Council

### Minutes of Audit Committee

Tuesday, 21 November 2023 at 7.00 pm

#### **Councillors Present:**

J Millar-Smith (Chair)

J Charatan (Vice-Chair)

I Ashraf, T G Belben, H Hellier, J Russell and S Sivarajah

#### **Also in Attendance:**

Elizabeth Jackson                      Partner, Ernst & Young

Mr Ul Haque                                Independent Member to the Audit Committee

#### **Officers Present:**

Vicki Basley                                Chief Accountant

Siraj Choudhury                          Head of Governance, People & Performance

Carolin Martlew                          Head of Corporate Finance

Mez Matthews                              Democratic Services Officer

Anna Pedlow                                Corporate Performance Manager

Stuart Small                                Deputy Fraud Manager

#### **1. Disclosures of Interest**

No disclosures of interests were made.

#### **2. Minutes**

The minutes of the meeting of the Audit Committee held on 5 September 2023 were approved as a correct record and signed by the Chair.

#### **3. Public Question Time**

No questions were asked by members of the public.

## 4. Fraud and Investigation Team Report

The Committee considered report [FIN/638](#) of the Head of Corporate Finance, which focused on activity for the period from 21 August 2023 to 7 November 2023.

The Committee discussed the report and in doing so sought and received clarification on a number of points raised, including how the Council could reduce the amount of money lost due to properties being coded as empty; the difficulties in potentially using empty properties to reduce homelessness; billing of business rate for empty business premises; and procedures to ensure business rates and council tax were charged once a premises was in use.

The Deputy Fraud Manager informed the Committee that the length of time cases had been open for varied for those cases identified in paragraph 4.1 of the report, although it was acknowledged that most of those cases were fairly new. As the Deputy Fraud Manager did not have the information to hand, following a query from the Committee, it was agreed they would ascertain how many of the new billable council tax properties identified in paragraph 4.4 of the report were Crawley Homes premises and circulate that information to the Committee via email.

Additionally, the Committee was provided with further details relating to the significant case which was identified in paragraph 5.1 of the report. In response to matters raised by the Committee, the Deputy Fraud Manager expanded on how the Council had become aware of the fraud, the difficulties it had faced in obtaining evidence of fraud, and the process / responsibility for recovering the benefit overpayments.

### RESOLVED

That the Fraud and Investigation Team Report be noted.

## 5. Final Audit Results Report 2021/22

The Committee considered report [FIN/640](#) which had been submitted by Ernst & Young (EY), the Council's External Auditors. The report summarised the status of the Audit and indicated that EY expected to issue an unqualified audit opinion on the financial statements for the year ended 2021/22 and that the Statement of Accounts ("the Accounts") could be signed.

The Committee sought and received clarification on a number of issues. Committee considered matters arising, and in doing so:

- Acknowledged that the Council had a new Head of Corporate Finance (Section 151 Officer) and Chief Accountant who were considering ways in which processes could be revised to reduce the number of unadjusted misstatements for future years. It was noted that EY would be providing training to the Finance team, and that the team would be actively reviewing and challenging valuations throughout the financial year to assist in reducing the number of unadjusted misstatements in future. EY stated that they did not anticipate there would be the same number of unadjusted misstatements in the Accounts going forward.
- Was reminded that some differences in judgement (defined as "errors") could affect two sets of Accounts.
- Was informed that, whilst the Accounts were an operational risk, they were not a strategic risk as EY were expected to issue an unqualified audit opinion.

# Agenda Item 3

Audit Committee (12)  
21 November 2023

- Noted that the Department for Levelling Up, Housing and Communities (DLUC) were working with the Chartered Institute for Public Finance and Accountancy (CIPFA) and audit firms to review the specific requirements for future Accounts. Audit firms would not begin auditing the 2022/23 Accounts until DLUC announced the outcome of that review.

The Independent Member queried whether financial reporting should be subject to an internal audit review. They were informed that the Council's Internal Auditors might consider including such a review on the Audit Plan once the current review process had concluded. The Chair requested that the Committee be provided with an update on the prospect of conducting an internal audit on financial reporting in approximately six months.

## **RESOLVED**

That the Final Audit Results Report 2021/22 be received and noted.

## **6. Approval of the 2021/2022 Statement of Accounts**

The Committee considered report [FIN/641](#) of the Head of Corporate Finance which sought the Committee's approval of the 2021/22 Statement of Accounts. The Committee noted that the item had been included in a supplementary agenda with the agreement of the Chair.

The Committee expressed its thanks to Councillor Belben who had thoroughly reviewed the Accounts ahead of the meeting and had requested further points of clarification, as well as highlighting a few minor clerical corrections and suggestions. The Chief Accountant agreed that the Accounts would be amended to take into account, where necessary, those minor corrections and suggested changes.

The Committee sought and received clarification on a number of matters. In addition, the Committee:

- Noted that the Finance team would be undergoing training as well as revising its practices to assist in reducing the number of unadjusted misstatements in future.
- Noted that the 2.834m transfer to property, plant and equipment (page 56 of the Supplementary Agenda) related to Kingsgate Car Park as the asset had been moved from an investment asset to an operational asset.

## **RESOLVED**

That delegated authority be given to the Chair of the Audit Committee and the Head of Corporate Finance to sign the Statement of Accounts, Annual Governance Statement and Letter of Representation, with the exception of any material errors that impact on the general fund position.

## 7. Internal Audit Progress Report

The Committee considered report [FIN/639](#) of the Head of Corporate Finance which had been prepared by Southern Internal Audit Partnership (SIAP), the Council's External Auditors. The purpose of the report was to update the Committee on the status of 'live' internal audits, the progress against the Annual Audit Plan and provide a summary of internal audits as well as any significant issues which might impact the annual audit opinion.

The Head of Corporate Finance presented the report on behalf of SIAP. The Committee was provided with the following updates:

- Management action 4 of the Recruitment, Retention and Leavers Audit was still in progress as it would form a wider piece of work by the Corporate Management Team (CMT). Future Progress Reports would include revised target dates for the actions, once more accurate timescales could be provided.
- The management action for the Compliance – Gas Safety Audit (Housing Stock) remained in progress. The revised target date for this action was the end of November.

The Committee then discussed the report and, in doing so:

- Acknowledged that it was not always possible to meet the target date for overdue 'high priority' management actions as the target could be impacted by limited workforce capacity or an adjustment to the scope of the actions.
- Was advised that the CMT deemed contract management to be of high importance and had therefore chosen to request that an audit on the matter be undertaken.
- Noted that the Procurement Team would be providing officer training on procurement and contracts.
- Was assured of the measures in place to avoid an officer having a conflict of interest in a procurement process or award of contract.
- Noted that medium sized contracts had been used when conducting the Contract Management Audit.
- Was provided with more information on the varying processes by which contracts could be awarded. It was noted that resilience in the Legal team had improved post-Covid and Council officers were now more proactive in discussing contracts with the Legal team. Negotiations and tracking of contracts had also improved.
- Was provided with more information concerning the level of risk associated with the delay in completing the electrical safety checks (housing stock) and updating the Electrical Safety Policy.

Following a comment from the Committee, the Head of Corporate Finance agreed to request that, where an audit review was identified as high risk and overdue (red) in Section 4 of the Progress Report (Analysis of 'Live' Audit Reviews), SIAP identify where more detailed information on the audit and the related management actions could be found within the Progress Report.

### **RESOLVED**

That the Committee receive the report and note progress to date, as at 31 October 2023.



## 8. Risk Management Update

The Committee considered report [LDS/210](#) of the Head of Governance, People & Performance which provided an update on the Council's Strategic Risks.

The Corporate Performance Manager highlighted the following minor clerical corrections to the report and Register:

- Risk 9 (maintaining a balanced budget): paragraph 7.3 of the report stated that the post mitigation score has increased from 12 to 16. That should be amended to read "...from 12 to 15". The Risk Register identified the correct score.
- Risk 10 (Organisational Capacity: Recruitment, Retention & Succession Planning): the 'no control' score should be 15 on the Register. The Committee noted that the live Register had been updated.

A discussion took place on the Council's risk management processes and the Strategic Risk Register. It was acknowledged that, although a risk score had not yet been attributed for the presence of RAAC (reinforced autoclaved aerated concrete) in Council properties (Risk 18), the Committee agreed it was useful to flag the potential risk early with its inclusion on the Register.

In response to a query raised, the Committee was informed that, other than homelessness, other broader related risks regarding maintaining a balanced budget (Risk 9) had not been included on the Register as those risks would be included in the Budget Strategy Report which would be a publicly available report.

Following a query, the Committee was reminded that the Risk Register was a 'live' document and officers throughout the Council were encouraged to raise any potential risks. Those risks would then be added to the Register if appropriate.

In response to a query raised by the Independent Member regarding the 'no control' and 'post mitigation' scores for cost of living (Risk 15) being identical, it was clarified that the risk did not likely meet the financial level identified in the risk assessment criteria to warrant a higher risk score. Following further discussion, and at the suggestion of the Independent Member, the Committee agreed that the Chief Executive / Corporate Management Team be requested to review the risk description for Risk 15 so it reflected how the Council's inability to support residents might impact the Council's ability to provide services to its residents.

The Committee raised concern regarding damp and mould (Risk 17) and noted the response provided by the Head of Crawley Homes. The Register referred to community event(s) that were being planned ahead of Autumn 2023 to raise awareness and educate residents on self-help. The Committee were not aware of those events and sought further information. Consequentially, the Committee agreed that clarification on the details of those events be sought from the Chief Executive / Cabinet. The Committee also requested that, once details of those events had been obtained, they be circulated to the Committee via email.

### RESOLVED

1. That the Committee confirm it is satisfied with risk management arrangements.

# Agenda Item 3

Audit Committee (15)  
21 November 2023

2. That the Chief Executive / Corporate Management Team and/or Cabinet be requested to:
  - a) Review the risk description for 'cost of living' (Risk 15) so it reflected how the Council's inability to support residents might impact the Council's ability to provide services to its residents.
  - b) Clarify the details of the damp and mould community events being planning with regard to 'damp and mould' (Risk 17).

## **Closure of Meeting**

With the business of the Audit Committee concluded, the Chair declared the meeting closed at 9.15 pm

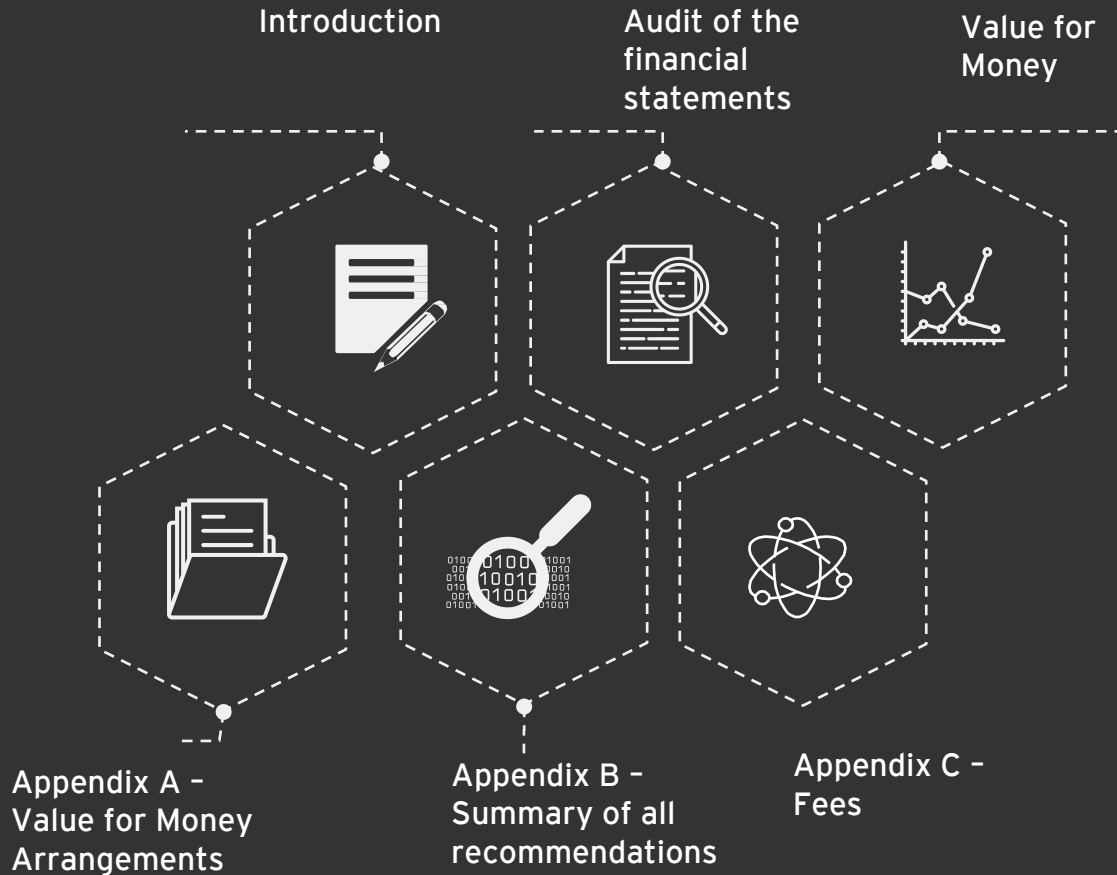
**J Millar-Smith (Chair)**

**FIN/651**

**Crawley Borough  
Council  
Auditor's Annual  
Report**

Year ended 31 March 2022

# Contents



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/auditquality/statement-of-responsibilities/>). The Statement of responsibilities serves as the formal terms of engagement between appointed auditors and audited bodies. It summarises where the different responsibilities of auditors and audited bodies begin and end, and what is to be expected of the audited body in certain areas. The "Terms of Appointment and further guidance (updated July 2021)" issued by the PSAA sets out additional requirements that auditors must comply with, over and above those set out in the National Audit Office Code of Audit Practice (the Code) and in legislation, and covers matters of practice and procedure which are of a recurring nature. This report is made solely to the Audit Committee and management of Crawley 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 Crawley 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 Crawley 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.



# Introduction

## **Purpose**

The purpose of the auditor's annual report is to bring together all of the auditor's work over the year. A core element of the report is the commentary on value for money (VFM) arrangements, which aims to draw to the attention of the Council, or the wider public, relevant issues, recommendations arising from the audit and follow-up of recommendations issued previously, along with the auditor's view as to whether they have been implemented satisfactorily.

## **Responsibilities of the appointed auditor**

We have undertaken our 2021/22 audit work in accordance with the Audit Plan that we issued in February 2023. We have complied with the National Audit Office's (NAO) 2020 Code of Audit Practice, other guidance issued by the NAO and International Standards on Auditing (UK).

As auditors we are responsible for:

Expressing an opinion on:

- The 2021/22 financial statements;
- Conclusions relating to going concern; and
- The consistency of other information published with the financial statements, including the narrative statement.

Reporting by exception:

- If the governance statement does not comply with relevant guidance or is not consistent with our understanding of the Council;
- If we identify a significant weakness in the Council's arrangements in place to secure economy, efficiency and effectiveness in its use of resources; and
- Any significant matters that are in the public interest.

## **Responsibilities of the Council**

The Council is responsible for preparing and publishing its financial statements, narrative statement and annual governance statement. It is also responsible for putting in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources.



## Introduction (continued)

### 2012/22 Conclusions

<b>Financial statements</b>	Unqualified - the financial statements give a true and fair view of the financial position of the Council as at 31 March 2022 and of its expenditure and income for the year then ended. We issued our auditor's report on 25 January 2024.
<b>Going concern</b>	We have concluded that the Head of Corporate Finance's use of the going concern basis of accounting in the preparation of the financial statements is appropriate.
<b>Consistency of the other information published with the financial statement</b>	Financial information in the narrative statement and published with the financial statements was consistent with the audited accounts.
<b>Value for money (VFM)</b>	We had no matters to report by exception on the Council's VFM arrangements. We have included our VFM commentary in Section 03.
<b>Consistency of the annual governance statement</b>	We were satisfied that the annual governance statement was consistent with our understanding of the Council.
<b>Public interest report and other auditor powers</b>	We had no reason to use our auditor powers.
<b>Whole of government accounts</b>	We have not yet completed the procedures required by the National Audit Office (NAO) on the Whole of Government Accounts submission. This is because we are awaiting confirmation from the NAO of any additional procedures to be performed by auditors for bodies which fall below the reporting threshold.
<b>Certificate</b>	We are not currently able to issue our certificate due to the outstanding work required for whole of government accounts as explained above.



# Audit of the financial statements

## Key findings

The Narrative Statement and Accounts is an important tool for the Council to show how it has used public money and how it can demonstrate its financial management and financial health.

On 25 January 2024, we issued an unqualified opinion on the financial statements. We reported our detailed findings to the 21 November 2023 Audit Committee meeting with a follow up addendum issued on 16 January 2024. We outline below the key issues identified as part of our audit, reported against the significant risks and other areas of audit focus we included in our Audit Plan. We did not identify any internal control recommendations but reported two areas for improvement in the control environment in the Audit Results Report.

## Significant risk

## Conclusion

### Risk of fraud in revenue and expenditure recognition

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 medium to longer term projected financial position.

A key way of improving the revenue position is through the inappropriate capitalisation of revenue expenditure. Crawley Borough Council has a significant fixed asset base and therefore has the potential to materially impact the revenue position through inappropriate capitalisation.

Our work did not identify any material misstatements from inappropriate capitalisation of revenue expenditure and we did not identify any material weaknesses in controls or evidence of material management override in relation to capitalisation of revenue expenditure. We did not identify any instances of inappropriate judgements being applied.

### Misstatements due to fraud or error - [e.g. inappropriate capitalisation of revenue expenditure]

The financial statements as a whole are 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.

Our work did not identify any material weaknesses in the design or operation of controls or evidence of material misstatements, whether due to fraud or error. Our work did not identify any other transactions during our audit which appeared unusual or outside the organisation's normal course of business.



# Audit of the financial statements (continued)

Significant risk	Conclusion
<b>Valuation of Land &amp; Buildings in Property, Plant and Equipment (PPE) under fair value - Estimated-Use-Value (EUV)</b>	<p>The value of land and buildings in PPE under EUV represent significant balances in the Council's financial statements and are subject to valuation changes and impairment reviews. Management is required to make a high degree of material judgemental inputs and apply estimation techniques to calculate the year-end balances recorded in the balance sheet.</p> <p>We identified no evidence that management had attempted to override internal controls or any instances of inappropriate judgements being applied. We instructed our property valuation team to review a sample of the valuation performed by the Council. The review concluded that the valuation was based on reasonable and supportable assumptions, with the exception of one asset outside our assessed reasonable range resulting in uncorrected misstatements and we identified misstatements in the valuation of the garages which the Council has amended the financial statements for. We also identified some issues with the methodology and data being used by the Council's valuers. These did not lead to significant variances between the valuers valuation and our assessment of a reasonable range for the valuation.</p>
<b>Valuation of Investment Properties (IP) under Fair Value (FV)</b>	<p>The value of investment properties represent significant balances in the Council's financial statements and are subject to valuation changes and impairment reviews. Management is required to make a high degree of material judgemental inputs and apply estimation techniques to calculate the year-end balances recorded in the balance sheet.</p> <p>We identified no evidence that management had attempted to override internal controls or any instances of inappropriate judgements being applied. We instructed our property valuation team to review a sample of the valuation performed by the Council. The review concluded that the valuation was based on reasonable and supportable assumptions, with the exception of three assets outside our assessed reasonable range resulting in uncorrected misstatements. We also identified some issues with the methodology. These did not lead to significant variances between the valuers valuation and our assessment of a reasonable range for the valuation.</p>
Areas of audit focus	Conclusion
<b>Valuation of Land &amp; Buildings in property, plant and equipment (PPE) under Depreciated Replacement Cost (DRC)</b>	<p>The value of land and buildings in PPE under DRC represent significant balances in the Council's financial statements and are subject to valuation changes and impairment reviews. Management is required to make a degree of material judgemental inputs and apply estimation techniques to calculate the year-end balances recorded in the balance sheet.</p> <p>We identified no evidence that management had attempted to override internal controls or any instances of inappropriate judgements being applied. We instructed our property valuation team to review a sample of the valuation performed by the Council. The review concluded that the valuation was based on reasonable and supportable assumptions, with the exception of one asset which was outside our assessed reasonable range resulting in an uncorrected misstatement. We identified that the floor plan measurements used by the Council's valuers in calculating the valuation of these assets were not in line with the floor plan evidence provided by the Council. We therefore recommended management to verify measurements used by the valuer and challenge the valuation in case of incorrect measurements being used. These did not lead to significant variances between the valuers valuation and our assessment of a reasonable range for the valuation.</p>





## Audit of the financial statements (continued)

Areas of audit focus	Conclusion
Valuation of Housing Revenue Account (HRA) properties	<p>The value of investment properties represent significant balances in the Council's financial statements and are subject to valuation changes and impairment reviews. Management is required to make a high degree of material judgemental inputs and apply estimation techniques to calculate the year-end balances recorded in the balance sheet.</p> <p>We identified no evidence that management had attempted to override internal controls or any instances of inappropriate judgements being applied.</p>
Infrastructure Assets	<p>Nationally, audit firms have identified an issue with applying the CIPFA code accounting treatment to infrastructure assets. Where management incur subsequent expenditure to replace part of an asset, the CIPFA Code requires management to write out the value of the old part being replaced. Across the country, councils have not kept sufficient detailed records of infrastructure spend to allow the value of the part being replaced to be written out.</p> <p>The work we completed on the infrastructure assets has identified that management has reclassified an incorrect amount from community assets to infrastructure assets. This has resulted in infrastructure assets being understated and community assets being overstated by £1.7 million which has been corrected by management in the final version of the financial statements. Apart from this misstatement, our work concluded the Council's current accounting practice continues to be in accordance with the CIPFA Code of Local Authority Accounting. Where subsequent expenditure is incurred to replace part of an asset, management writes out the value of the old part being replaced.</p>
Pension Liability Valuation	<p>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 West Sussex County Council.</p> <p>We completed our review of the accounting entries and disclosures and our review of the assumptions used by the actuaries. We were able to reconcile our roll forward with the figures provided by the actuary within an acceptable range.</p> <p>The net defined benefit liability had originally been recorded based on the 31 March 2022 IAS 19 valuation report which uses the 2019 triennial valuation assumptions. During the period of finalisation of the 2021/22 audit, the 2022 triennial valuation report was issued and therefore the impact of this needed to be considered by both management and the audit team. The revised IAS 19 report showed that the net pension liability reduced by £42.4m. As this was material, management adjusted for this within their 2021/22 financial statements. We performed further procedures on the revised IAS 19 report and no issues were identified.</p>
Valuation of NNDR Appeals Provision	<p>Crawley Borough Council's share of the NNDR Appeal Provision is valued at £5.716m in the financial statements. This is a high value estimate driven by internal calculations and judgement. We identified an error in the calculation of the NNDR provision that the Council did not amend as it was not material.</p> <p>We are satisfied that the NDR Appeals Provision and associated balances within the financial statements are not materially misstated.</p>



## Audit of the financial statements (continued)

Areas of audit focus	Conclusion
Transfer of HRA Garages to the General Fund	<p>In December 2020, the Full Council agreed to transfer the garages from the Housing Revenue Account to the General Fund from 1 April 2021. Although the transfer of garages had been agreed by members, we identified a risk that moving garages from Housing Revenue Account to the General Fund may not be in line with the CIPFA code requirements.</p> <p>We reviewed the written briefing paper provided by management setting out their judgement based on accounting standards and CIPFA guidance. We concluded that the Council is allowed under the Code to transfer the garages from the HRA to the General Fund.</p>
Housing Rents Issue	<p>The Council disclosed to us that it came to their attention in April 2021 that they had been overcharging rent to council housing tenants since April 2014 for all new tenancies since this date in properties that pre-dated April 2014. As the issue came to light in 2021/22, the Council investigated the issue and made the repayments during the year.</p> <p>We gained assurance through obtaining the root cause of the overpayments of rent, obtained the Regulator's response and how they were satisfied in the process of handling and resolving the issue, the procedures taken by the Council with regards to notifying the tenants, applying the repayments to their accounts, and recording the financial impact to the 2021/22 statements.</p> <p>Our testing did not identify any issues that need to be reported in the repayments of the rent in the year. However, the misstatement identified in 2020/21, where the amount relating to the 2020/21 repayments of £688,000 was incorrectly accounted for in 2021/22 remains a misstatement in the 2021/22 financial statements.</p>
Going Concern Disclosure	<p>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 during 2021/22, there is a need for the Council to ensure it's going concern assessment, including its cashflow forecast, is robust and appropriately comprehensive.</p> <p>We were satisfied that the use of the going concern assumption remains appropriate for the Council, and it has access to sufficient working capital to support its operations for a period of at least 12 months from the date of our audit report. We identified some amendments required to the disclosure to ensure the note was focused on the future financing and cashflow position.</p>

We did not identify any risks of significant weaknesses in the Council's VFM arrangements for 2021/22.

Our VFM commentary highlights relevant issues for the Council and the wider public.

We have no matters to report by exception in the audit report.

**Scope**

We are required to report on whether the Council has put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources. We have complied with the guidance issued to auditors in respect of their work on value for money arrangements (VFM) in the 2020 Code of Audit Practice (2020 Code) and Auditor Guidance Note 3 (AGN 03). We presented our VFM risk assessment to the Audit Committee meeting in September 2023 which was based on a combination of our cumulative audit knowledge and experience, our review of Council committee reports, meetings with the Head of Corporate Finance and Chief Accountant and evaluation of associated documentation through our regular engagement with Council management and the finance team.

**Reporting**

We completed our risk assessment procedures in September 2023 and did not identify any significant weaknesses in the Council's VFM arrangements. We have also not identified any significant risks during the course of our audit. As a result, we had no matters to report by exception in the audit report on the financial statements.

Our commentary for 2021/22 is set out over pages 10 to 13. The commentary on these pages summarises our conclusions over the arrangements at the Council in relation to our reporting criteria (see below) throughout 2021/22. Appendix A includes the detailed arrangements and processes underpinning the reporting criteria. These were reported in our 2020/21 Annual Auditors Report and have been updated for 2021/22.

In accordance with the NAO's 2020 Code, we are required to report a commentary against three specified reporting criteria:

<b>Reporting criteria</b>	<b>Risks of significant weaknesses in arrangements identified?</b>	<b>Actual significant weaknesses in arrangements identified?</b>
<b>Financial sustainability:</b> How the Council plans and manages its resources to ensure it can continue to deliver its services	No significant risks identified	No significant weaknesses identified
<b>Governance:</b> How the Council ensures that it makes informed decisions and properly manages its risks	No significant risks identified	No significant weaknesses identified
<b>Improving economy, efficiency and effectiveness:</b> How the Council uses information about its costs and performance to improve the way it manages and delivers its services	No significant risks identified	No significant weaknesses identified



## Value for Money (continued)

### Financial Sustainability: How the Council plans and manages its resources to ensure it can continue to deliver its services

The Council is in the final year of its Corporate Priorities plan and have developed the new Corporate Priorities plan through to 2027. Crawley's six priorities are similar to the prior period:

- Delivering value for money and modernising the way we work
- Delivering affordable homes for Crawley and reducing homelessness
- Enabling a sustainable economic recovery and improving job opportunities
- Reconnecting communities
- Providing high quality leisure and culture facilities and supporting health and wellbeing services
- Protecting the environment

As part of this, the Council is continuing to deliver its transformation plan 'embracing new ways of working, providing easily accessible and more efficient services for their customers, delivering value for money and creating a more commercial culture in order to be financially stable.'

The 2022/23 budget reflects the policy objectives set out in the Budget Strategy 2022/23 to 2026/27 and was approved in February 2023. The budget strategy for 2022/23 to 2026/27 was prepared with the aim to deliver the Council's service delivery objectives outlined in its Corporate Priorities and Transformation Plan. Due to the financial pressures the Council is facing, it needs to identify significant savings or deliver income growth over the next 5 - 10 years to balance the budget, particularly if it wants to deliver on its service delivery objectives detailed in its 'Corporate Priorities' and 'Transformation Plan'.

Revenue and capital budgets are monitored throughout the financial year by the CFO and reported on a quarterly basis to the Overview and Scrutiny Commission. The 2021/22 Outturn Report reflects the efficiency of these in-year monitoring measures as the Council has again contained expenditure within the original budget levels despite facing a range of additional costs that were not part of the original budget. In 2021/22, the Council reported an underspend of £0.6 million against a budget of £14.8 million.

As noted in more detail in the section of this report related to Governance, we updated our review of the breach in laws and regulations in relation to the overcharging of housing rents as part of our Non-Compliance with Laws and Regulations (NOCLAR) procedures. Our work concluded that the breach of the regulations was material to the Council's financial statements for 2021/22 but that the overcharging of rent was not a deliberate act by the Council.

We considered the impact on the level of reserves, given that the Council repaid c£3.3 million relating to this issue in 2021/22. We noted that general reserves at the end of 2021/22 were £5.573 million with earmarked reserves of £11.846 million with total general fund reserves being £17.419 million. Despite repaying the housing rents, the Council has maintained significant reserves, which continue to be maintained at greater than the £3 million minimum reserve level set by the Head of Corporate Resources.

**Conclusion: Based on the work performed, the Council had proper arrangements in place in 2021/22 to enable it to plan and manage its resources to ensure that it can continue to deliver its services.**



## Value for Money (continued)

### Governance: How the Council ensures that it makes informed decisions and properly manages its risks

The Council has good arrangements in place to monitor the implementation of internal audit recommendations by the Audit Committee. Internal audit progress reports are presented on a regular basis throughout the year to monitor implementation of recommendations by internal audit and to implement corrective actions where necessary.

The opinion by the Head of Internal Audit provides “substantial assurance”. However, they did issue three reports that received limited and no assurance in 2021/22. These are: Complaints; Health and Safety and Cyber Security. We reviewed the reasons for the outcome on these reports and their impact on value for money. The main area of significance was the Cyber Security audit, which identified a large number of actions that management need to address, many of which were in the ‘high’ category. The main issues are that training was not taking place for officers or members with respect of GDPR and cyber security awareness; cyber security incident communication protocols to staff and the public are not documented and the Information Security and AUP documents are version-controlled but do not indicate whether they are subject to a review schedule and the AUP does not include an approval date by the IT Board. The lack of training around cyber security could leave the Council open to cyber security risks and the lack of training on GDPR could lead to unintentional breaches of the regulations.

Internal Audit also undertook a review of the framework and process in place to support the compilation of the Annual Governance Statement, which concluded with a reasonable assurance opinion.

The Audit Committee is a key mechanism of governance for the Council. Throughout the 2021/22 audit period, we discussed with management in place at the time that there were weaknesses in the Committee as members placed too much reliance on the ability and briefings of officers rather than forming their own conclusions. Whilst they levied good challenge at times, they tended to focus too heavily on minutiae rather than taking a wider holistic overview as required by a committee responsible for overseeing the governance arrangements of the Council. They did not take reliance from the more detailed scrutiny of other committees; an example of this is the risk register reporting, the focus of the discussion was on the specific risks and their views on the action planned/being taken instead of whether they considered the reporting style, governance process over the risks and the management engagement with the risk register to be appropriate. The Council took steps to strengthen the Committee, undertaking training for the Committee members and have since appointed an independent member. This has brought more balance into the challenges made and the Committee is now operating effectively.

The Council notified us of an issue identified in April 2021 regarding historic overcharging of housing rents. Our initial review in 2020/21 concluded that there was no ‘detect’ control gap at the Council. The original error was made when the future target rent was not updated due to an oversight when the Council moved from a 48 week to 52 week rental year. The target rent is a figure that is only updated once a year when the Council apply any prescribed uplift or decrease required by the regulations, government instruction or guidance. Internal Audit verified that all required uplifts and decreases required each year had been applied accurately and in line with the guidance for each given year. Without the Regulator performing the review of the formula calculation, the error in not adjusting the target rent would not have been identified. The Council had no reason to perform such a check as they were confident that they had applied the correct adjustment to the target rent each year.



## Value for Money (continued)

### Governance: How the Council ensures that it makes informed decisions and properly manages its risks (continued)

We noted that once the issue regarding the overcharging of housing rents was identified, the Council acted swiftly to identify the root cause of the issue and discussed how to resolve this, taking decisions in consultation with the Leader of the Council, the Cabinet Member for Housing and the Leader of the Opposition, including a timeline for further communication and decisions that members needed to make to support the process being undertaken. Therefore, we do not consider this to be a significant weakness in arrangements.

We updated our review of the breach in laws and regulations as part of our Non-Compliance with Laws and Regulations (NOCLAR) procedures. Our work concluded that the breach of the regulations was material to the Council's financial statements for 2021/22 but that the overcharging of rent was not a deliberate act by the Council.

The Council prepared its draft 2021/22 financial statements in accordance with the 31 May 2022 deadline. However, our accounts audit for that year identified a significant number of misstatements in the accounts, some of which were adjusted by management before the audit report was issued in January. We identified improvements to the internal control processes for preparing and reviewing the draft financial statements and the supporting documentation that underpins them. We reported a recommendation in the Audit Results Report and have included this below as it is also relevant to the Council's governance arrangements for value for money.

**Conclusion:** Based on the work performed, the Council had proper arrangements in place in 2021/22 to enable it to make informed decisions and properly manage its risks.

#### **Recommendations:**

- 1) The Council needs to put in place more robust processes in relation to the quality verification of the preparation of the financial statements. This includes the preparation of the financial statements in line with the CIPFA guidance and accounting standards, quality of working papers to support the balances and transactions disclosed, documentation of judgements made by management in preparing the financial statements and the final review process by management before publishing them on the Council's website as ready for audit.**
- 2) The Council should ensure that all cyber security training is up to date to minimise the risk of cyber security risks and unintentional breaches of the regulations.**



## Value for Money (continued)

### 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

Crawley Borough Council is required to have arrangements in place to ensure proper resource management. The primary responsibility and reporting on the design and operation of these arrangements is via the annual governance statement and rests with management.

The 2020 to 2022 Transformation Plan is the forum for action to be taken when a project has been identified that generally lies outside of any single service and require impetus and additional resource/focus in order to deliver and embed that change. Overview of the delivery of the Transformation Plan is the responsibility of the Transformation Board, which sits at Corporate Management Team level and brings together and provides oversight at a high level plan to ensure coherence, manage interdependencies and change, allocate resources and ensure delivery. The Transformation Board meets monthly and monitors progress at regular intervals reporting back to the organisation through Portfolio Briefings, Chief Executive Inform and Q&A sessions, Team Brief, via the intranet and at the annual update to the Overview and Scrutiny Commission.

Most services have performance information and standards used to compare and assess performance with other Councils or with national recognised performance frameworks (e.g Housemark, DWP, national planning indicators).

A senior management group - Corporate Project Assurance Group - ensures appropriate governance of projects and that key projects beyond the transformation programme are not adversely impacted from the constraint of capacity and resources. Performance monitoring is done by the Corporate Management Team (CMT) quarterly. This includes the major contracts such as waste and leisure. The finance team prepare fortnightly budget monitoring reports for the Corporate Management Team on the financial performance of the Council which identifies emerging issues. This feeds into the quarterly reporting of the revenue and capital budgets to the Overview and Scrutiny Commission.

In terms of partnerships, the Council has a successful capital programme with the LEP and WSCC on the Crawley Growth Programme, shared procurement service with three other authorities, they are part of the Greater Brighton Economic Board, Gatwick Diamond, development management partnership with Westrock. The Council is also party to a shared procurement service with Horsham District Council and Mid Sussex District Council as part of its procurement processes, with Crawley Borough Council being the lead authority. The Council has published its procurement thresholds and contract register on its website.

We are currently reviewing the Town Hall as a specific project but we are aware from discussions with management that there were contract disputes with the builders which have been resolved as part of the finalisation of the project. We will report our findings from this review as part of the Auditor's Annual Report.

**Conclusion: Based on the work performed to date, the Council had proper arrangements in place in 2022/23 to enable it to plan and manage its resources to ensure that it can continue to deliver its services.**

# Appendices

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Agenda Item 5



# Appendix A - Summary of arrangements

## Financial Sustainability

### Reporting Sub-Criteria

How the body ensures that it identifies all the significant financial pressures that are relevant to its short and medium-term plans and builds these into them

### Findings

The Council has a corporate priorities plan, in which they set out its strategic direction. The corporate priorities consist of six key headline priority objectives which are underpinned by 24 objectives, projects and initiatives and these inform its service delivery objectives for the short-term and forms the basis of its strategic planning, including its short-term and medium-term financial plans.

The Council have developed their Corporate Priorities through to 2027. As part of this, the Council is continuing to deliver its transformation plan 'embracing new ways of working, providing easily accessible and more efficient services for their customers, delivering value for money and creating a more commercial culture in order to be financially stable.'

The Council prepares an annual revenue budget as part of its short-term financial planning which compiles with the context of the Government's Comprehensive Spending Review, the Chancellor's Budget, and the local government settlement. This is approved at full Council. There has been a significant decline in overall government income in recent years with increasing amounts of income being generated locally through Council Tax, Business Rates, fees and charges, and income from commercial property.

The Council prepares a five-year revenue budget as part of its medium-term financial planning. The budget strategy is prepared with the aim to deliver the Council's service delivery objectives outlined in its 'Corporate Priorities' and 'Transformation Plan'. These forecasts are updated throughout the year to give the Council a clear view of the forthcoming financial challenges. They then feed into the setting of the medium term financial plan and the budget, taking into account any cost pressures on the finances of the Council and setting the strategic direction to address the significant challenges for 2022/23 onwards.

These forecasts consider the fall in government funding combined with the impact of the pandemic of the Council's budgets. A combination of the use of reserve, efficiencies and temporary divisional savings is on track to address the in-year savings needed.

Permanent savings are also required to be made to meet the long term budget gap with any future waves of Covid increasing the level of savings required as this will impact on Council tax and business rates income.

Revenue and capital budgets are monitored throughout the financial year by the CFO and reported on a quarterly basis to the Overview and Scrutiny Commission. These reports culminate into the revenue and capital outturn report that is approved by the Overview and Scrutiny Commission.

Any areas of concern are subject to detailed scrutiny by the relevant Portfolio holder at separate management meetings. The Overview and Scrutiny Commission can also add areas of concern to their work programme.

# Appendix A - Summary of arrangements

## Financial Sustainability (continued)

### Reporting Sub-Criteria

### Findings

How the body plans to bridge its funding gaps and identifies achievable savings

The savings process followed for the development of the budget has the following stages:

- Savings achieved through the challenge process led by the Corporate Management Team and any agreed savings that have been identified by officers.
- Savings identified by each Head of Service meeting with the Chief Exec and finance officers to identify savings in their service
- Public consultation as set out in the annual budget report
- A meeting held with members, where officers present the options for savings which would involve a cut to services currently provided to ensure governance oversight of the decisions being taken

Once the budget has been set and approved, it is monitored throughout the financial year by Corporate Management Team and reported on a quarterly basis to the Overview and Scrutiny Committee, as discussed above.

The Council's transformation plan is also taken into consideration throughout the process above.

How the body plans finances to support the sustainable delivery of services in accordance with strategic and statutory priorities

As discussed previously, the Council has detailed its service delivery objectives detailed in its 'Corporate Priorities' and 'Transformation Plan'. This forms the basis for its strategic and statutory priorities on which its short-term and medium-term financial plans are developed.

Progress towards achieving these objectives are monitored by the Corporate Management Team throughout the year and through review of the quarterly finance reports, which are presented to the Overview and Scrutiny Commission, with remedial actions discussed and subsequently actioned, where necessary.

Short-term and medium-term financial plans detail the likely costs associated with the Council's strategic and statutory priorities; identifies any budget gaps that may arise from reduction in government funding; and planned savings strategies to bridge any gaps between available funding from taxation and the cost of services.

Any new service investment made must meet either objectives within the corporate priorities or be a new statutory obligation.

# Appendix A - Summary of arrangements

## Financial Sustainability (continued)

### Reporting Sub-Criteria

### Findings

How the body ensures that its financial plan is consistent with other plans such as workforce, capital, investment, and other operational planning which may include working with other local public bodies as part of a wider system

As part of the Council's short-term and medium-term financial planning process (which include their capital budgets), it develops an annual Treasury Management Strategy, which includes its capital investment strategy which is approved by the Council alongside its Revenue Budget. This Strategy is also aligned to the Council's Corporate Priorities and Transformation plans and identifies the capital investments required to achieve set service delivery objectives.

This capital plan determines the cost of financing the required capital along with any other financial impact. The Revenue Budget is also updated to reflect the latest information regarding the delivery of the capital programme.

Members are also involved in the budget setting process, through a Budget Advisory Group or all Member Seminar and special meetings, to ensure that knowledge is brought into the process from all aspects of the Council.

How the body identifies and manages risks to financial resilience, e.g. unplanned changes in demand, including challenge of the assumptions underlying its plans

The Council manages its financial resilience risk through the following implemented measures:

- The Council publishes detailed short-term and medium-term financial plans that are aligned to its Corporate Priorities and Transformation plans and includes actions to ensure financial sustainability as discussed above
- In-year monitoring of these financial plans to identify and incorporate any unplanned changes in underlying assumptions of the Council's plans as discussed above
- Reporting of financial performance against above set financial plans on a quarterly basis to the Overview and Scrutiny Commission and Cabinet as discussed above; and
- Risk management processes to identify, monitor and address risks

The high level risks to the 2022/23 Budget and how they will be managed are shown in an Appendix to the Budget report. Risks on the Town Hall project are reported to the Audit Committee. Risks are highlighted throughout the budget report including the impacts of the pandemic on the current and unknown impacts of this on future years for both service costs and income but especially business rates, interest rates, the impact of the economic climate, ensuring planned savings are achieved, and the availability of capital resources in future years and the need to take out borrowing.

The Council also have in place mitigations, so when a meeting is cancelled, the reports are still shared with members through the Councillor information bulletin.

## Appendix A - Summary of arrangements (continued)

### Governance

#### Reporting Sub-Criteria

How the body monitors and assesses risk and how the body gains assurance over the effective operation of internal controls, including arrangements to prevent and detect fraud

#### Findings

The Council's Constitution sets out how it Council operates, how decisions are made and the procedures which are followed to ensure that decisions are efficient, transparent and accountable to local people. Areas of potential change are identified, and the Constitution is amended accordingly, which has been evidenced by the recent updating of its constitution on in November 2021.

The Council operates an Overview and Scrutiny Commission which has its own terms of reference, as outlined in the Council's Constitution. This Commission supports the work of the Cabinet and the Council as a whole. It allows citizens to have a greater say in Council matters by holding public inquiries into matters of local concern. These lead to reports and recommendations which advise the Cabinet and the Council on its policies, budget and service delivery. The Overview and Scrutiny Commission also monitors the decisions of the Cabinet. This enables them to consider whether the decision is appropriate. They may recommend that the Cabinet reconsider or amend the decision. They may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

All significant (strategic) risks are discussed regularly by the Corporate Management Team and are reported to the Audit Committee on a quarterly basis. Operational risks are managed at departmental level.

This aids the achievement of the Council's strategic priorities, supports its decision-making processes, and protect its reputation and other assets and is compliant with statutory and regulatory obligations. These risks are identified as a routine process of all services and these are regularly reviewed and updated. Strategic risks are those risks defined as something that may result in failure in service delivery, significant financial loss, non-achievement of key objectives, damage to health, legal action or reputational damage, and mitigating measures/assurances must be put in place.

The Council also has an internal audit service in place which provides the Council with information regarding the effectiveness of the internal control environment and its arrangements to prevent and detect fraud. Regular in-year reporting at each meeting by internal audit to the Audit Committee is also in place which ensures that efficient and effective assurance arrangements are in place to assist in the management of risk and performance.

The Council has a Fraud and Investigations Team with responsibility for investigating fraud and carrying out verification work on issues such as Council Tax discount and investigations into NFI matches. This team acts to minimise the risk of fraud, bribery, corruption and dishonesty and recommends procedures for dealing with actual or expected fraud to the Council. The team also prosecutes where appropriate and is involved in fraud training and awareness.

## Appendix A - Summary of arrangements (continued)

### Governance (continued)

#### Reporting Sub-Criteria

#### Findings

How the body approaches and carries out its annual budget setting process

The Annual Budget process including the responsibilities and procedures in the annual budget process is set out in Part 2: Financial and Budget Procedure Rules within the Constitution of the Council.

As mentioned above, the Annual Budgeting process of the Council seeks to reconcile corporate and business plans and strategies with the relevant resources which includes the finance department. This process starts with a series of strategic initiatives with inputs from the various stakeholders, for example, the establishment of the Council's Medium-Term Financial Plan and Medium-Term Capital Strategy, the Council has an implemented budgeting system that allows for the alignment of its annual budget to the priorities and commitments in its 'Corporate Priorities' and 'Transformation Plan'. The Council refreshes the medium term financial plan and agrees the budget strategy in advance of the forthcoming year in November. Budget holders meet with finance officers and update their budgets in the CP (Collaborative Planning) module in the finance system. CP is updated before this to incorporate any known changes that are in the MTFS, including inflation. Subsequently, the overall savings plan is checked and consulted on prior to initial consideration by the Corporate Management Team and the Overview and Scrutiny Commission in February. As set out above, the savings are then put to 'All Members seminars' with the proposals that resulted in a public consultation and the results, which then go through to Cabinet for approval. Note that the Overview and Scrutiny Commission is not a decision making body. The Council will then consider the overall budget and options for Council Tax setting which is then subject to approval by the respective Councils in February.

How the body ensures effective processes and systems are in place to ensure budgetary control; to communicate relevant, accurate and timely management information (including non-financial information where appropriate); supports its statutory financial reporting requirements; and ensures corrective action is taken where needed

The processes and systems in place to ensure budgetary control have been set out in Part 2: Financial and Budget Procedure Rules within the Constitution of the Council.

Furthermore, each cost centre has an assigned budget manager. There are monthly meetings with budget managers, but unless there is a major variation, the reporting is only done quarterly. This is a standing item on CMT agenda every two weeks. Contingency budgets include Covid expenditure and there are other reserves available to meet pressures as outlined in the budget report and budget strategy.

The finance team prepare fortnightly budget monitoring reports for the Corporate Management Team on the financial performance of the Council which identifies emerging issues. This feeds into the quarterly reporting of the revenue and capital budgets to the Overview and Scrutiny Commission. This budget management process is also subject to regular internal audit review to ensure that the system is fit for purpose.

## Appendix A - Summary of arrangements (continued)

### Governance (continued)

#### Reporting Sub-Criteria

How the body ensures it makes properly informed decisions, supported by appropriate evidence and allowing for challenge and transparency. This includes arrangements for effective challenge from those charged with governance/audit committee

#### Findings

Primary oversight is the responsibility of the Full Council. There are certain decisions which are reserved for the Full Council, either by legislation or through its own choice, and as such these will only be taken by the Full Council.

All decisions of the Council are accompanied by a detailed report which details the rationale for the decision, the options considered, legal advice and financial advice. Under the constitution, all decisions may be called in by members for review prior to implementation on specific grounds. These reviews are the purview of the Overview and Scrutiny Commission.

These committees meet on a regular basis during which key issues are raised and addressed with effective challenge from members.

To allow for transparency, the Council also ensures that it publishes relevant information relating to salaries, business interests and performance data on its website; has a Procurement team who provide advice and issue clear guidelines for procuring goods and services; publishes information to the Council and its Committees as part of established accountability mechanisms; prepares an Annual Governance Statement and prepares a Corporate Priorities Plan as discussed above.

The Council is furthermore committed to the publication of transparent performance information on its website, which includes Budget reports; Operational performance reports; a Medium-Term Financial Plan; A Corporate Plan; Statement of Accounts; Annual Governance Statement and Information as required under the Local Government Transparency Code.

Internal audit progress reports are presented on a regular basis throughout the year to monitor implementation of recommendations by internal audit and to implement corrective actions where necessary.

## Appendix A - Summary of arrangements (continued)

### Governance (continued)

#### Reporting Sub-Criteria

How the body monitors and ensures appropriate standards, such as meeting legislative/regulatory requirements and standards in terms of officer or member behaviour (such as gifts and hospitality or declarations/conflicts of interests)

#### Findings

The roles of both members and officers of the Council are outlined in the Code of Conduct included within its Constitution. If any member or officer breaches the Code of Conduct, there is a resolution and complaints process administered by the Council's Monitoring Officer and potentially involving a hearing of the Council's Governance Committee.

The Council is transparent about how decisions are taken and recorded by ensuring that decisions are made in public and recorded. Those decisions and relevant information are publicly available (except where that information is exempt under the provisions of the Local Government Act or determined as being confidential by Government) and having rules and procedures which govern how decisions are made.

The Council has implemented systems to ensure conflicts of interest are identified, recorded and acted upon accordingly, excluding anyone from decision-making where a conflict arises, and making public declaration of interests through its 'Register of Councillors' financial and other interests' which is published on the Council's website and covers employees, governing body members and members of committees.

Regular training is provided to members on standards issues, so all members are aware of the requirements. Each member and officer is expected to complete a return on any gifts of hospitality.

The Council has a published Whistleblowing Policy and provides protection to individuals raising concerns. This policy is periodically reviewed in line with guidance.

The Council also ensures that effective, transparent and accessible arrangements are in place for dealing with complaints. The website contains guidance for submitting complaints against the Council by the public and processes are in place to progress any complaints that are made.

## Appendix A - Summary of arrangements (continued)

### Improving economy, efficiency and effectiveness

Reporting Sub-Criteria	Findings
How financial and performance information has been used to assess performance to identify areas for improvement	<p>The Transformation Plan was revised in 2020, following a report to the Overview and Scrutiny Commission in November 2020, with six key themes and activities to deliver against the corporate priorities.</p> <p>The Transformation Board at Corporate Management Team level brings together and provides oversight at a high level plan to ensure coherence, manage interdependencies and change, allocate resources and ensure delivery.</p> <p>The Transformation Board meets monthly and monitors progress at regular intervals reporting back to the organisation through Portfolio Briefings, Chief Executive Inform and Q&amp;A sessions, Team Brief, via the intranet and at the annual update to the Overview and Scrutiny Commission.</p> <p>Furthermore, any issues identified by internal audit are monitored and reported to the Audit Committee regularly. Officers not taking sufficient action on these service improvements may be requested to report to the Committee.</p>
How the body evaluates the services it provides to assess performance and identify areas for improvement	<p>As discussed above, the Council's service delivery objectives are detailed in the Corporate Priorities and Transformation Plan. Overview of the delivery of the Transformation Plan is the responsibility of the Transformation Board.</p> <p>Most services have performance information and standards used to compare and assess performance with other Councils or with national recognised performance frameworks (e.g Housemark, DWP, national planning indicators).</p> <p>Internal audit and customer feedback are also used to inform which services require improvement. Where a service is identified in need of improvement consideration is given for including this within the transformation plan to support service improvement.</p>



## Appendix A - Summary of arrangements (continued)

### Improving economy, efficiency and effectiveness (continued)

#### Reporting Sub-Criteria

#### Findings

How the body ensures it delivers its role within significant partnerships, engages with stakeholders it has identified, monitors performance against expectations, and ensures action is taken where necessary to improve

A senior management group - Corporate Project Assurance Group - ensures appropriate governance of projects and that key projects beyond the transformation programme are not adversely impacted from the constraint of capacity and resources.

The Transformation Plan is the forum for action to be taken when a project has been identified that generally lies outside of any single service and require impetus and additional resource/focus in order to deliver and embed that change.

#### Consultation and engagement

The Council has a Consultation section on its website, which enables the public to get involved with helping the Council to make good, informed decisions and provide the best service to the town. There is a new service with local public can sign up to, to keep informed of new consultation to enable them to take part.

The Council consult on their budget each year, especially in areas impacting services as set out above.

#### Complaints

There is also a clear and transparent complaints procedure for dealing with complaints as set out above. Complaints are included in performance monitoring report to CMT.

#### Partnership working

Performance monitoring is done at CMT quarterly. This includes the major contracts such as waste and leisure.

The Council has a successful capital programme with the LEP and WSCC on the Crawley Growth Programme (see quarterly monitoring), shared procurement service with three other authorities, they are part of the Greater Brighton Economic Board, Gatwick Diamond, development management partnership with Westrock.

How the body ensures that commissioning and procuring services is done in accordance with relevant legislation, professional standards and internal policies, and how the body assesses whether it is realising the expected benefits

As set out in the Constitution, the Council's Procurement Code governs the way officers acquire goods, works and services, and ensure that their processes are consistent, transparent, legally compliant, and that they treat suppliers fairly.

The Council has published its procurement thresholds and contract register on its website. The Council is party to a shared procurement service with Horsham District Council and Mid Sussex District Council as part of its procurement processes, with Crawley Borough Council being the lead authority.

In line with the above-mentioned standing procedures, any procurement over £20,000 must be referred to the shared procurement team to ensure that the proposed procurement will deliver the expected outcome, and to ensure that the Council is complying with relevant legislation. All contracts are referred to legal, who will ensure that the procurement process has been complied with prior to approving the form of contract. Furthermore, the council will commission external expert advice where a proposed procurement is particularly complex or difficult.

## Appendix B - Summary of all recommendations

### Recommendations

The table below sets out all the recommendations arising from the financial statements and value for money audits in 2021/22. All recommendations have been agreed by management.

Issue	Recommendations	Management Response
Financial statements: Quality of accounts preparation Value for Money: Governance	The Council needs to put in place more robust processes in relation to the quality verification of the preparation of the financial statements. This includes the preparation of the financial statements in line with the CIPFA guidance and accounting standards, quality of working papers to support the balances and transactions disclosed, documentation of judgements made by management in preparing the financial statements and the final review process by management before publishing them on the Council's website as ready for audit.	
Financial statements: Asset valuations	<ol style="list-style-type: none"> <li>1) Wilks Head &amp; Eve's valuation methodology continues to use a gross yield rather than a net yield in determining property valuations on behalf of the Council. We do not consider this is in line with open market practice. A gross yield does not consider relevant purchase costs attributable to the property. If the Council were to sell the asset, any purchaser would reflect their purchase cost within the price offered. The Council should continue to challenge this approach when taken by their specialist.</li> <li>2) When testing the valuation of the Council's other land and building assets valued on an EUV basis, we identified that the floor plan measurements used by Wilks Head &amp; Eve (WHE) in calculating the valuation of these assets were not always in line with the floor plan evidence provided by the Council. We therefore recommend management to verify measurements used by WHE and challenge the valuation in case of incorrect measurements being used.</li> </ol>	
Value for Money: Governance	The Council should ensure that all cyber security training is up to date to minimise the risk of cyber security risks and unintentional breaches of the regulations.	

## Appendix C - Fees

### Fees

We carried out our audit of the Council's financial statements in line with PSAA Ltd's "Statement of Responsibilities of auditors and audited bodies" and "Terms of Appointment and further guidance (updated April 2018)". As outlined in the Audit Results Report we were required to carry out additional audit procedures to address audit risks in relation to the valuation of property, plant and equipment and investment properties and the identified areas of audit focus. As a result, we have discussed an associated additional fee with the Head of Corporate Resources which remains subject to approval by PSAA Ltd.

Description	Proposed Final Fee 2021/22 £	Planned Fee 2021/22 £	Final Fee 2020/21 £
Audit Scale Fee - Code work	50,291	50,291	50,291
Changes in work required to address professional and regulatory requirements and scope associated with risk (see Note 1)	30,208	34,248	
Scale Fee Variation - revised ISA 540 and VFM arrangements (Note 2)	8,490	8,500 - 12,500	31,687
Scale Fee Variation due to one-off issues impacting the audit year (Note 3)	25,264	tbc	
<b>Total Audit Fee</b>	<b>114,253</b>	<b>£TBC</b>	<b>81,978</b>

All fees exclude VAT, and 2021/22 is subject to determination by PSAA.

For 2021/22 the scale fee has been re-assessed to take into account a number of risk factors which includes procedures performed to address the risk profile of the Council and additional work to address the increase in Regulatory standards.

We confirm we have not undertaken any non-audit work.



## Appendix C - Fees

### Fees

#### Note 1

We have previously discussed with the management and the Audit Committee that we do not believe the existing scale fees provide a clear link with a public sector organisation's risk and complexity and laid out the impact of regulatory changes which have caused that. We have quantified the implications of these factors on our assessment of the baseline fee to deliver a sustainable high-quality external audit. For 2021/22 we have rolled forward our previous rebasing request.

#### Note 2

In 2021/22, the new VFM arrangements and revised ISA 540 (estimates) result in a scale fee variation. PSAA have published guidance on these matters and advise for minimum additional fees, for a borough council. We have kept these proposed fees at the lower end of the ranges indicated in the guidance.

#### Note 3

For 2021/22 we have quantified the additional work we undertook in the completion of the audit, as set out in the table below.

Issue	Fee
Area of focus: Engaging our internal asset valuation specialists with respect to our work over asset valuations	£4,689
Area of focus: Engaging our internal pensions specialists with respect to our work over the valuation of the pension fund liability	£3,122
Area of focus: Work related to the transfer of garages to the general fund	£6,369
Area of focus: Work related to the overcharging of housing rents	£5,975
Other: Work regarding the identification and audit of a prior year adjustment in respect of writing out of depreciation	£3,869
Other: Work regarding a required assessment of the uncorrected misstatements in the prior year following identification of a misstatement that affected the prior year but was not significant individually to require a prior year adjustment	£1,240

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EY-000070901-01 (UK) 07/18. CSG London.

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**FIN/652**

**Crawley Borough Council**

**Value for Money Interim Report**

**Year ended 31 March 2023**

**March 2024**

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Agenda Item 6



Crawley Borough Council  
Town Hall  
The Boulevard  
Crawley  
United Kingdom  
RH10 1UZ

1 March 2024

Dear Audit Committee Members

2022/23 Value for Money Report

We are pleased to attach our interim commentary on the Value for Money (VFM) arrangements for Crawley Borough Council. This commentary explains the work we have undertaken during the year and highlights any significant weaknesses identified along with recommendations for improvement. The commentary covers our interim findings for audit year(s) xx/xx.

The Department for Levelling Up, Housing and Communities (DLUHC) has worked collaboratively with the FRC, as incoming shadow system leader, and other system partners, to develop measures to address the delay in local audit. The National Audit Office (NAO) issued a consultation on 8 February 2024 seeking views on changes to the Code of Audit Practice (the Code) to support auditors to meet backstop dates and promote more timely reporting of their work on value for money arrangements. The consultation proposes to reduce the scope of the VFM reporting up to and including the 2022/23 financial year. At this stage, we are continuing to report VFM in line with our existing responsibilities as set out in the 2020 Code.

This report is intended solely for the information and use of the Audit Committee and 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 12 March 2024.

Yours faithfully

Elizabeth Jackson

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/auditquality/statement-of-responsibilities/>). The Statement of responsibilities serves as the formal terms of engagement between appointed auditors and audited bodies. It summarises where the different responsibilities of auditors and audited bodies begin and end, and what is to be expected of the audited body in certain areas. The “Terms of Appointment and further guidance (updated July 2021)” issued by the PSAA sets out additional requirements that auditors must comply with, over and above those set out in the National Audit Office Code of Audit Practice (the Code) and in legislation, and covers matters of practice and procedure which are of a recurring nature. This report is made solely to the Audit Committee and management of Crawley 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 Crawley 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 Crawley 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.



BOARDROOM



# 01 Executive Summary



# Executive Summary

## Purpose

Auditors are required to be satisfied that the Council has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources. We do not issue a 'conclusion' or 'opinion', but where significant weaknesses are identified we will report by exception in the auditor's opinion on the financial statements. In addition, auditor's provide an annual commentary on arrangements published as part of the Auditor's Annual Report. In doing so, we comply with the requirements of the 2020 Code of Audit Practice (the Code) and Auditor Guidance Note 3 (AGN 03).

The purpose of this interim commentary is to explain the work we have undertaken during the year and highlights any significant weaknesses identified along with recommendations for improvement. The commentary covers our interim findings for audit year ended 31 March 2023. The NAO has confirmed that where VFM reporting is outstanding for more than one year, the auditor can issue one report covering all years.

The Department for Levelling Up, Housing and Communities (DLUHC) has worked collaboratively with the Financial Reporting Council (FRC), as incoming shadow system leader, and other system partners, to develop measures to address the delay in local audit. As part of the NAO consultation issued on 8 February 2024, there is a proposal to reduce the scope of the VFM reporting up to and including the 2022/23 financial year. However, the consultation states that where auditors have begun or already undertaken work that no longer falls under the reduced scope (if agreed once the consultation closes), they may still report on it in accordance with Schedule 4. We are continuing to report VFM in line with our existing responsibilities as set out in the 2020 Code to ensure a smooth transition to the 2023/24 audit year when auditors are required to meet the full Code reporting responsibilities.

The report sets out the following areas which have been assessed up to the point of issuing this interim report:

- Any identified risks of significant weakness, having regard to the three specified reporting criteria;
- An explanation of the planned responsive audit procedures to the significant risks identified;
- Findings to date from our planned procedures; and
- Summary of arrangements over the period covered by this report (Appendix A).

We will summarise our final view of the value for money arrangements as part of the Auditor's Annual Report once the audit report has been issued for 2022/23.



# Executive Summary (continued)

## Risks of Significant Weakness

In undertaking our procedures to understand the body's arrangements against the specified reporting criteria, we identify whether there are risks of significant weakness which require us to complete additional risk-based procedures. AGN 03 sets out considerations for auditors in completing and documenting their work and includes consideration of:

- our cumulative audit knowledge and experience as your auditor;
- reports from internal audit which may provide an indication of arrangements that are not operating effectively;
- our review of Council committee reports;
- meetings with the Chief Accountant and Head of Corporate Finance ;
- information from external sources; and
- evaluation of associated documentation through our regular engagement with Council management and the finance team.

We completed our risk assessment procedures and did not identify any significant weaknesses in the Council's VFM arrangements.

As a result, we have no matters to report by exception at this stage of the audit and we will update our interim reporting as part of issuing the final commentary in the Auditor's Annual Report later in the year.

# Executive Summary (continued)

## Reporting

Our interim commentary for 2022/23 is set out over pages 10 to 13. The interim commentary on these pages summarises our understanding of the arrangements at the Council based on our evaluation of the evidence obtained in relation to the three reporting criteria (see table below) throughout 2022/23. We include within the VFM commentary below the associated recommendations we have agreed with the Council.

Appendix A includes the detailed arrangements and processes underpinning the reporting criteria. These were reported in our 2021/22 Auditor's Annual Report and have been updated for 2022/23.

In accordance with the NAO's 2020 Code, we are required to report a commentary against the three specified reporting criteria. The table below sets out the three reporting criteria, whether we identified a risk of significant weakness as part of our planning procedures, and whether, at the time of this interim report, we have concluded that there is a significant weakness in the body's arrangements.

Reporting Criteria	Risks of significant weaknesses in arrangements identified?	Actual significant weaknesses in arrangements identified?
<b>Financial sustainability:</b> How the Council plans and manages its resources to ensure it can continue to deliver its services	No significant risks identified	No significant weakness identified
<b>Governance:</b> How the Council ensures that it makes informed decisions and properly manages its risks	No significant risks identified	No significant weakness identified
<b>Improving economy, efficiency and effectiveness:</b> How the Council uses information about its costs and performance to improve the way it manages and delivers its services	No significant risks identified	No significant weakness identified



# Executive Summary (continued)

## Independence

The FRC Ethical Standard requires that we provide details of all relationships between Ernst & Young (EY) and the Council, and its members and senior management and its affiliates, including all services provided by us and our network to the Council, its members 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 2022 to the date of this report, which we consider may reasonably be thought to bear on our independence and objectivity.

## EY Transparency Report 2023

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 2023:

[EY UK 2023 Transparency Report | EY UK](#)



# 02 Value for Money Commentary

# Value for Money Commentary (continued)

**Financial Sustainability: How the Council plans and manages its resources to ensure it can continue to deliver its services**

**No significant weakness**

The Council's new corporate priorities plan 2023 to 2027 came into use in 2022/23. Crawley's six priorities set out within this are:

- Delivering value for money and modernising the way we work
- Delivering affordable homes for Crawley and reducing homelessness
- Enabling a sustainable economic recovery and improving job opportunities
- Reconnecting communities
- Providing high quality leisure and culture facilities and supporting health and wellbeing services
- Protecting the environment

As part of the next stage of this, the Council has updated its Transformation Plan which will run to 2026.

The 2023/24 budget reflects the policy objectives set out in the Budget Strategy 2023/24 to 2026/27 and was approved in February 2023. The strategy for 2022/23 to 2026/27 was prepared with the aim to deliver the Council's service delivery objectives outlined in its Corporate Priorities and Transformation Plan.

The February 2023 budget report sets out the future budget gap over the medium term period of 2032/24 to 2027/28 of c£3 million. The Council has sufficient reserves to cover this gap but has identified that the average annual savings plans over this period need to total £0.7 million a year to mitigate the gap to avoid this situation. These forecasts considered the fall in government funding combined with the impact of the pandemic of the Council's budgets. A combination of the use of reserve, efficiencies and temporary divisional savings is on track to address the 2023/24 in-year savings needed.

Permanent savings are also required to be made to meet the long term budget gap with any future waves of Covid increasing the level of savings required as this will impact on Council tax and business rates income.

The savings strategy developed by the Council has three strands:

1. Identify potential for permanent savings within the in-year savings identified.
2. Work to bring forward larger savings items identified by officers, the ones that are public facing have formed part of public consultation.
3. Undertake a number of thematic and service reviews to improve services and drive future efficiencies, these reviews are in early stages and will be reported to future Cabinet meetings.

Revenue and capital budgets are monitored throughout the financial year by the CFO and reported on a quarterly basis to the Overview and Scrutiny Commission. The 2022/23 Outturn Report reflects the efficiency of these in-year monitoring measures as the Council has again contained expenditure within the original budget levels despite facing a range of additional costs that were not part of the original budget.



# Value for Money Commentary

Financial Sustainability: How the Council plans and manages its resources to ensure it can continue to deliver its services (continued)

No significant weakness

In 2022/23 Crawley Borough Council reported an overspend of £1.58 million against a budgeted deficit of £1.96 million, giving a total drawdown from reserves of £3.5 million. However, we also note that drawing down from reserves to meet overspends in year is not sustainable and the Council needs to ensure that it reduces future overspends so as to operate within its budget envelope.

There is a future risk to the Council's financial sustainability as we note that the Council's available reserves would not be sufficient if the Council were required to bear the cost of any impact of housing the Chagossians in Crawley. We have considered the Council's arrangements for managing this financial risk in the Governance arrangements set out on page 12.

We are currently reviewing the Town Hall as a specific area of focus for 2022/23 and are aware from discussions with management that during 2022/23 the Council's major capital project to build the new Town Hall has come to a close, with an overall overspend of £1.1 million. There were disputes arising during the project and these have been reviewed by the Council and challenges have been made to the contractor. We will report our findings in the Auditor's Annual Report for 2022/23 later in the year.

**Conclusion:** Based on the work performed to date, the Council had proper arrangements in place in 2022/23 to enable it to plan and manage its resources to ensure that it can continue to deliver its services.

# Value for Money Commentary (continued)

Governance: How the Council ensures that it makes informed decisions and properly manages its risks

No significant weakness identified

The Council's Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that decisions are efficient, transparent and accountable to local people. Areas of potential change are identified, and the Constitution is amended accordingly, which has been evidenced by the recent updating of its constitution on in October 2023.

From our meetings with officers and wider press reporting, we are aware that following advice from The Foreign, Commonwealth and Development Office (FCDO), it is expected that 3,500-5,000 Chagossians will be given the opportunity to take up UK citizenship. Currently the largest population of Chagossians based in the UK live in Crawley and the FCDO have advised that a large number of the Chagossians are likely to want to settle in Crawley. Over 1200 Chagossians have been granted citizenship to date. We note that the Council's available reserves would not be sufficient if the Council were required to bear the cost of any impact of housing the Chagossians in Crawley. This issue has been discussed at Council meetings and the Council has been lobbying the Government to highlight that if they did not receive funding alongside the requirement for services, then they would likely be put in a difficult situation. We are aware from meetings with officers that the Council has been verbally informed by the Home Office that funding will be provided to assist in covering any such costs. This is expected to be communicated in writing. This has demonstrated that the Council is aware of the wider impact of issues outside of their control and have kept members informed appropriately and have been proactive in seeking additional support from the government.

Internal audit have given reasonable assurance for 2022/23 over the frameworks of governance, risk management and management control. During 2022/23 a review of Decision Making & Accountability was undertaken concluding in a substantial assurance opinion. Internal audit asserted that, based on the work completed during the year and observations through their attendance at a variety of management and governance meetings, in their opinion the governance frameworks in place across the Council are robust, fit for purpose and subject to regular review. Internal Audit also found that a robust control framework was operating and no issues were identified with respect to the transformation programme and the surrounding governance.

There is also appropriate reporting to the Audit Committee to provide the opportunity for independent consideration and challenge including the Annual Governance Statement.

The Council published their draft 2022/23 financial statements for audit by 31 May 2023, in line with the Audit and Accounts regulations, and advertised and held an inspection period for members of the public in line with these regulations. We confirm that the 2022/23 draft financial statements were arithmetically correct, agreed to the data in the general ledger, and prepared in line with the content required by the CIPFA Code. The Council has carried out bank reconciliations during the year. Therefore, appropriate arrangements for financial reporting were in place during 2022/23.

**Conclusion:** Based on the work performed, the Council had proper arrangements in place in 2022/23 to make informed decisions and properly manage its risks.

# Value for Money Commentary (continued)

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

No significant weakness identified

Crawley Borough Council is required to have arrangements in place to ensure proper resource management and the primary responsibility for these arrangements and reporting on the design and operation of these arrangements via the annual governance statement rests with management.

A senior management group - Corporate Project Assurance Group - ensures appropriate governance of projects and that key projects beyond the transformation programme are not adversely impacted from the constraint of capacity and resources. Performance monitoring is done by the Corporate Management Team (CMT) quarterly. This includes the major contracts such as waste and leisure. The finance team prepare fortnightly budget monitoring reports for the Corporate Management Team on the financial performance of the Council which identifies emerging issues. This feeds into the quarterly reporting of the revenue and capital budgets to the Overview and Scrutiny Commission.

The Transformation Plan, which was updated in 2023, is the forum for action to be taken when a project has been identified that generally lies outside of any single service and require impetus and additional resource/focus in order to deliver and embed that change.

In terms of partnerships, the Council has a successful capital programme with the LEP and WSCC on the Crawley Growth Programme (see quarterly monitoring), shared procurement service with three other authorities, they are part of the Greater Brighton Economic Board, Gatwick Diamond, development management partnership with Westrock. The Council is also party to a shared procurement service with Horsham District Council and Mid Sussex District Council as part of its procurement processes, with Crawley Borough Council being the lead authority. The Council has published its procurement thresholds and contract register on its website.

We are currently reviewing the Town Hall as a specific project but we are aware from discussions with management that there were (the normal) contract disputes with the builders which have been resolved.

**Conclusion:** Based on the work performed, the Council had proper arrangements in place in 2022/23 to enable it to plan and manage its resources to ensure that it can continue to deliver its services.



# 03 Appendices

# Appendix A - Summary of arrangements

## Financial Sustainability

We set out below the arrangements for the financial sustainability criteria covering the year ended 31 March 2023.

### Reporting criteria considerations

How the body ensures that it identifies all the significant financial pressures that are relevant to its short and medium-term plans and builds these into them

### Arrangements in place

The Council has a corporate priorities plan, in which they set out its strategic direction. The corporate priorities consist of six key headline priority objectives which are underpinned by 24 objectives, projects and initiatives and these inform its service delivery objectives for the short-term and forms the basis of its strategic planning, including its short-term and medium-term financial plans.

The Council have developed their Corporate Priorities through to 2027. As part of this, the Council is continuing to deliver its transformation plan 'embracing new ways of working, providing easily accessible and more efficient services for their customers, delivering value for money and creating a more commercial culture in order to be financially stable.'

The Council prepares an annual revenue budget as part of its short-term financial planning which compiles with the context of the Government's Comprehensive Spending Review, the Chancellor's Budget, and the local government settlement. This is approved at full Council. There has been a significant decline in overall government income in recent years with increasing amounts of income being generated locally through Council Tax, Business Rates, fees and charges, and income from commercial property.

The Council prepares a five-year revenue budget as part of its medium-term financial planning. The budget strategy is prepared with the aim to deliver the Council's service delivery objectives outlined in its 'Corporate Priorities' and 'Transformation Plan'. These forecasts are updated throughout the year to give the Council a clear view of the forthcoming financial challenges. They then feed into the setting of the medium term financial plan and the budget, taking into account any cost pressures on the finances of the Council and setting the strategic direction to address the significant challenges for 2023/24 onwards.

These forecasts consider the fall in government funding combined with the impact of the pandemic of the Council's budgets. A combination of the use of reserve, efficiencies and temporary divisional savings is on track to address the in-year savings needed.

Permanent savings are also required to be made to meet the long term budget gap with any future waves of Covid increasing the level of savings required as this will impact on Council tax and business rates income.

Revenue and capital budgets are monitored throughout the financial year by the CFO and reported on a quarterly basis to the Overview and Scrutiny Commission. These reports culminate into the revenue and capital outturn report that is approved by the Overview and Scrutiny Commission. Any areas of concern are subject to detailed scrutiny by the relevant Portfolio holder at separate management meetings. The Overview and Scrutiny Commission can also add areas of concern to their work programme.

# Appendix A - Summary of arrangements

## Financial Sustainability (continued)

We set out below the arrangements for the financial sustainability criteria covering the year ended 31 March 2023.

Reporting criteria considerations	Arrangements in place
How the body plans to bridge its funding gaps and identifies achievable savings	<p>The savings process followed for the development of the budget has the following stages:</p> <ul style="list-style-type: none"><li>• Savings achieved through the challenge process led by the Corporate Management Team and any agreed savings that have been identified by officers.</li><li>• Savings identified by each Head of Service meeting with the Chief Exec and finance officers to identify savings in their service</li><li>• Public consultation as set out in the annual budget report</li><li>• A meeting held with members, where officers present the options for savings which would involve a cut to services currently provided to ensure governance oversight of the decisions being taken</li></ul> <p>Once the budget has been set and approved, it is monitored throughout the financial year by Corporate Management Team and reported on a quarterly basis to the Overview and Scrutiny Committee, as discussed above.</p> <p>The Council's transformation plan is also taken into consideration throughout the process above.</p>
How the body plans finances to support the sustainable delivery of services in accordance with strategic and statutory priorities	<p>As discussed previously, the Council has detailed its service delivery objectives detailed in its 'Corporate Priorities' and 'Transformation Plan'. This forms the basis for its strategic and statutory priorities on which its short-term and medium-term financial plans are developed.</p> <p>Progress towards achieving these objectives are monitored by the Corporate Management Team throughout the year and through review of the quarterly finance reports, which are presented to the Overview and Scrutiny Commission, with remedial actions discussed and subsequently actioned, where necessary.</p> <p>Short-term and medium-term financial plans detail the likely costs associated with the Council's strategic and statutory priorities; identifies any budget gaps that may arise from reduction in government funding; and planned savings strategies to bridge any gaps between available funding from taxation and the cost of services.</p> <p>Any new service investment made must meet either objectives within the corporate priorities or be a new statutory obligation.</p>

# Appendix A - Summary of arrangements

## Financial Sustainability (continued)

We set out below the arrangements for the financial sustainability criteria covering the year ended 31 March 2023.

Reporting criteria considerations	Arrangements in place
How the body ensures that its financial plan is consistent with other plans such as workforce, capital, investment, and other operational planning which may include working with other local public bodies as part of a wider system	<p>As part of the Council's short-term and medium-term financial planning process (which include their capital budgets), it develops an annual Treasury Management Strategy, which includes its capital investment strategy which is approved by the Council alongside its Revenue Budget. This Strategy is also aligned to the Council's Corporate Priorities and Transformation plans and identifies the capital investments required to achieve set service delivery objectives.</p> <p>This capital plan determines the cost of financing the required capital along with any other financial impact. The Revenue Budget is also updated to reflect the latest information regarding the delivery of the capital programme.</p> <p>Members are also involved in the budget setting process, through a Budget Advisory Group or all Member Seminar and special meetings, to ensure that knowledge is brought into the process from all aspects of the Council.</p>
How the body identifies and manages risks to financial resilience, e.g. unplanned changes in demand, including challenge of the assumptions underlying its plans	<p>The Council manages its financial resilience risk through the following implemented measures:</p> <ul style="list-style-type: none"><li>• The Council publishes detailed short-term and medium-term financial plans that are aligned to its Corporate Priorities and Transformation plans and includes actions to ensure financial sustainability as discussed above</li><li>• In-year monitoring of these financial plans to identify and incorporate any unplanned changes in underlying assumptions of the Council's plans as discussed above</li><li>• Reporting of financial performance against above set financial plans on a quarterly basis to the Overview and Scrutiny Commission and Cabinet as discussed above; and</li><li>• Risk management processes to identify, monitor and address risks</li></ul> <p>The high level risks to the 2023/24 Budget and how they will be managed are shown in an Appendix to the Budget report. Risks on the Town Hall project are reported to the Audit Committee. Risks are highlighted throughout the budget report including the impacts of the pandemic on the current and unknown impacts of this on future years for both service costs and income but especially business rates, interest rates, the impact of the economic climate, ensuring planned savings are achieved, and the availability of capital resources in future years and the need to take out borrowing.</p> <p>The Council also have in place mitigations, so when a meeting is cancelled, the reports are still shared with members through the Councillor information bulletin.</p>

# Appendix A - Summary of arrangements

## Governance

We set out below the arrangements for the governance criteria covering the year ended 31 March 2023.

### Reporting criteria considerations

How the body monitors and assesses risk and how the body gains assurance over the effective operation of internal controls, including arrangements to prevent and detect fraud

### Arrangements in place

The Council's Constitution sets out how it Council operates, how decisions are made and the procedures which are followed to ensure that decisions are efficient, transparent and accountable to local people. Areas of potential change are identified, and the Constitution is amended accordingly, which has been evidenced by the recent updating of its constitution on in October 2023.

The Council operates an Overview and Scrutiny Commission which has its own terms of reference, as outlined in the Council's Constitution. This Commission supports the work of the Cabinet and the Council as a whole. It allows citizens to have a greater say in Council matters by holding public inquiries into matters of local concern. These lead to reports and recommendations which advise the Cabinet and the Council on its policies, budget and service delivery. The Overview and Scrutiny Commission also monitors the decisions of the Cabinet. This enables them to consider whether the decision is appropriate. They may recommend that the Cabinet reconsider or amend the decision. They may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

All significant (strategic) risks are discussed regularly by the Corporate Management Team and are reported to the Audit Committee on a quarterly basis. Operational risks are managed at departmental level.

This aids the achievement of the Council's strategic priorities, supports its decision-making processes, and protect its reputation and other assets and is compliant with statutory and regulatory obligations. These risks are identified as a routine process of all services and these are regularly reviewed and updated. Strategic risks are those risks defined as something that may result in failure in service delivery, significant financial loss, non-achievement of key objectives, damage to health, legal action or reputational damage, and mitigating measures/assurances must be put in place.

The Council also has an internal audit service in place which provides the Council with information regarding the effectiveness of the internal control environment and its arrangements to prevent and detect fraud. Regular in-year reporting at each meeting by internal audit to the Audit Committee is also in place which ensures that efficient and effective assurance arrangements are in place to assist in the management of risk and performance.

The Council has a Fraud and Investigations Team with responsibility for investigating fraud and carrying out verification work on issues such as Council Tax discount and investigations into NFI matches. This team acts to minimise the risk of fraud, bribery, corruption and dishonesty and recommends procedures for dealing with actual or expected fraud to the Council. The team also prosecutes where appropriate and is involved in fraud training and awareness.



# Appendix A - Summary of arrangements

## Governance (continued)

We set out below the arrangements for the governance criteria covering the year ended 31 March 2023.

### Reporting criteria considerations

### Arrangements in place

How the body approaches and carries out its annual budget setting process

The Annual Budget process including the responsibilities and procedures in the annual budget process is set out in Part 2: Financial and Budget Procedure Rules within the Constitution of the Council.

As mentioned above, the Annual Budgeting process of the Council seeks to reconcile corporate and business plans and strategies with the relevant resources which includes the finance department. This process starts with a series of strategic initiatives with inputs from the various stakeholders, for example, the establishment of the Council's Medium-Term Financial Plan and Medium-Term Capital Strategy, the Council has an implemented budgeting system that allows for the alignment of its annual budget to the priorities and commitments in its 'Corporate Priorities' and 'Transformation Plan'. The Council refreshes the medium term financial plan and agrees the budget strategy in advance of the forthcoming year in November. Budget holders meet with finance officers and update their budgets in the CP (Collaborative Planning) module in the finance system. CP is updated before this to incorporate any known changes that are in the MTFS, including inflation. Subsequently, the overall savings plan is checked and consulted on prior to initial consideration by the Corporate Management Team and the Overview and Scrutiny Commission in February. As set out above, the savings are then put to 'All Members seminars' with the proposals that resulted in a public consultation and the results, which then go through to Cabinet for approval. Note that the Overview and Scrutiny Commission is not a decision making body. The Council will then consider the overall budget and options for Council Tax setting which is then subject to approval by the respective Councils in February.

How the body ensures effective processes and systems are in place to ensure budgetary control; to communicate relevant, accurate and timely management information (including non-financial information where appropriate); supports its statutory financial reporting requirements; and ensures corrective action is taken where needed

The processes and systems in place to ensure budgetary control have been set out in Part 2: Financial and Budget Procedure Rules within the Constitution of the Council.

Furthermore, each cost centre has an assigned budget manager. There are monthly meetings with budget managers, but unless there is a major variation, the reporting is only done quarterly. This is a standing item on CMT agenda every two weeks. Contingency budgets include Covid expenditure and there are other reserves available to meet pressures as outlined in the budget report and budget strategy.

The finance team prepare fortnightly budget monitoring reports for the Corporate Management Team on the financial performance of the Council which identifies emerging issues. This feeds into the quarterly reporting of the revenue and capital budgets to the Overview and Scrutiny Commission. This budget management process is also subject to regular internal audit review to ensure that the system is fit for purpose.

# Appendix A - Summary of arrangements

## Governance (continued)

We set out below the arrangements for the governance criteria covering the year ended 31 March 2023.

### Reporting criteria considerations

How the body ensures it makes properly informed decisions, supported by appropriate evidence and allowing for challenge and transparency. This includes arrangements for effective challenge from those charged with governance/audit committee

### Arrangements in place

Primary oversight is the responsibility of the Full Council. There are certain decisions which are reserved for the Full Council, either by legislation or through its own choice, and as such these will only be taken by the Full Council.

All decisions of the Council are accompanied by a detailed report which details the rationale for the decision, the options considered, legal advice and financial advice. Under the constitution, all decisions may be called in by members for review prior to implementation on specific grounds. These reviews are the purview of the Overview and Scrutiny Commission.

These committees meet on a regular basis during which key issues are raised and addressed with effective challenge from members.

To allow for transparency, the Council also ensures that it publishes relevant information relating to salaries, business interests and performance data on its website; has a Procurement team who provide advice and issue clear guidelines for procuring goods and services; publishes information to the Council and its Committees as part of established accountability mechanisms; prepares an Annual Governance Statement and prepares a Corporate Priorities Plan as discussed above.

The Council is furthermore committed to the publication of transparent performance information on its website, which includes Budget reports; Operational performance reports; a Medium-Term Financial Plan; A Corporate Plan; Statement of Accounts; Annual Governance Statement and Information as required under the Local Government Transparency Code.

Internal audit progress reports are presented on a regular basis throughout the year to monitor implementation of recommendations by internal audit and to implement corrective actions where necessary.

# Appendix A - Summary of arrangements

## Governance (continued)

We set out below the arrangements for the governance criteria covering the year ended 31 March 2023.

### Reporting criteria considerations

How the body monitors and ensures appropriate standards, such as meeting legislative/regulatory requirements and standards in terms of officer or member behaviour (such as gifts and hospitality or declarations/conflicts of interests)

### Arrangements in place

The roles of both members and officers of the Council are outlined in the Code of Conduct included within its Constitution. If any member or officer breaches the Code of Conduct, there is a resolution and complaints process administered by the Council's Monitoring Officer and potentially involving a hearing of the Council's Governance Committee.

The Council is transparent about how decisions are taken and recorded by ensuring that decisions are made in public and recorded. Those decisions and relevant information are publicly available (except where that information is exempt under the provisions of the Local Government Act or determined as being confidential by Government) and having rules and procedures which govern how decisions are made.

The Council has implemented systems to ensure conflicts of interest are identified, recorded and acted upon accordingly, excluding anyone from decision-making where a conflict arises, and making public declaration of interests through its 'Register of Councillors' financial and other interests' which is published on the Council's website and covers employees, governing body members and members of committees.

Regular training is provided to members on standards issues, so all members are aware of the requirements. Each member and officer is expected to complete a return on any gifts of hospitality.

The Council has a published Whistleblowing Policy and provides protection to individuals raising concerns. This policy is periodically reviewed in line with guidance.

The Council also ensures that effective, transparent and accessible arrangements are in place for dealing with complaints. The website contains guidance for submitting complaints against the Council by the public and processes are in place to progress any complaints that are made.

# Appendix A - Summary of arrangements

## Improving economy, efficiency and effectiveness

We set out below the arrangements for improving economy, efficiency and effectiveness criteria covering the year ended 31 March 2023.

Reporting criteria considerations	Arrangements in place
How financial and performance information has been used to assess performance to identify areas for improvement	<p>The Transformation Plan was revised in 2023, with six key themes and activities to deliver against the corporate priorities.</p> <p>The Transformation Board at Corporate Management Team level brings together and provides oversight at a high level plan to ensure coherence, manage interdependencies and change, allocate resources and ensure delivery.</p> <p>The Transformation Board meets monthly and monitors progress at regular intervals reporting back to the organisation through Portfolio Briefings, Chief Executive Inform and Q&amp;A sessions, Team Brief, via the intranet and at the annual update to the Overview and Scrutiny Commission.</p> <p>Furthermore, any issues identified by internal audit are monitored and reported to the Audit Committee regularly. Officers not taking sufficient action on these service improvements may be requested to report to the Committee.</p>
How the body evaluates the services it provides to assess performance and identify areas for improvement	<p>As discussed above, the Council's service delivery objectives are detailed in the Corporate Priorities and Transformation Plan. Overview of the delivery of the Transformation Plan is the responsibility of the Transformation Board.</p> <p>Most services have performance information and standards used to compare and assess performance with other Councils or with national recognised performance frameworks (e.g Housemark, DWP, national planning indicators).</p> <p>Internal audit and customer feedback are also used to inform which services require improvement. Where a service is identified in need of improvement consideration is given for including this within the transformation plan to support service improvement.</p>

# Appendix A - Summary of arrangements

## Improving economy, efficiency and effectiveness (continued)

We set out below the arrangements for improving economy, efficiency and effectiveness criteria covering the year ended 31 March 2023.

Reporting criteria considerations	Arrangements in place
How the body ensures it delivers its role within significant partnerships, engages with stakeholders it has identified, monitors performance against expectations, and ensures action is taken where necessary to improve	<p>A senior management group - Corporate Project Assurance Group - ensures appropriate governance of projects and that key projects beyond the transformation programme are not adversely impacted from the constraint of capacity and resources.</p> <p>The Transformation Plan is the forum for action to be taken when a project has been identified that generally lies outside of any single service and require impetus and additional resource/focus in order to deliver and embed that change.</p> <p><u>Consultation and engagement</u></p> <p>The Council has a Consultation section on its website, which enables the public to get involved with helping the Council to make good, informed decisions and provide the best service to the town. There is a new service with local public can sign up to, to keep informed of new consultation to enable them to take part.</p> <p>The Council consult on their budget each year, especially in areas impacting services as set out above.</p> <p><u>Complaints</u></p> <p>There is also a clear and transparent complaints procedure for dealing with complaints as set out above. Complaints are included in performance monitoring report to CMT.</p> <p><u>Partnership working</u></p> <p>Performance monitoring is done at CMT quarterly. This includes the major contracts such as waste and leisure.</p> <p>The Council has a successful capital programme with the LEP and WSCC on the Crawley Growth Programme (see quarterly monitoring), shared procurement service with three other authorities, they are part of the Greater Brighton Economic Board, Gatwick Diamond, development management partnership with Westrock.</p>

# Appendix A - Summary of arrangements

## Improving economy, efficiency and effectiveness (continued)

We set out below the arrangements for improving economy, efficiency and effectiveness criteria covering the year ended 31 March 2023.

Reporting criteria considerations	Arrangements in place
How the body ensures that commissioning and procuring services is done in accordance with relevant legislation, professional standards and internal policies, and how the body assesses whether it is realising the expected benefits	<p>As set out in the Constitution, the Council's Procurement Code governs the way officers acquire goods, works and services, and ensure that their processes are consistent, transparent, legally compliant, and that they treat suppliers fairly.</p> <p>The Council has published its procurement thresholds and contract register on its website. The Council is party to a shared procurement service with Horsham District Council and Mid Sussex District Council as part of its procurement processes, with Crawley Borough Council being the lead authority.</p> <p>In line with the above-mentioned standing procedures, any procurement over £20,000 must be referred to the shared procurement team to ensure that the proposed procurement will deliver the expected outcome, and to ensure that the Council is complying with relevant legislation. All contracts are referred to legal, who will ensure that the procurement process has been complied with prior to approving the form of contract. Furthermore, the council will commission external expert advice where a proposed procurement is particularly complex or difficult.</p>

# Appendix B – Summary of recommendations

## Recommendations brought forward from 2021/22

The table below sets out the recommendations arising from the value for money work in 2021/22 and progress made in 2022/23. All recommendations have been agreed by management.

Issue	Recommendation	Management response
Financial statements: Quality of accounts preparation  Value for Money: Governance	The Council needs to put in place more robust processes in relation to the quality verification of the preparation of the financial statements. This includes the preparation of the financial statements in line with the CIPFA guidance and accounting standards, quality of working papers to support the balances and transactions disclosed, documentation of judgements made by management in preparing the financial statements and the final review process by management before publishing them on the Council's website as ready for audit.	
Financial statements: Asset valuations	<ol style="list-style-type: none"> <li>1) Wilks Head &amp; Eve's valuation methodology continues to use a gross yield rather than a net yield in determining property valuations on behalf of the Council. We do not consider this is in line with open market practice. A gross yield does not consider relevant purchase costs attributable to the property. If the Council were to sell the asset, any purchaser would reflect their purchase cost within the price offered. The Council should continue to challenge this approach when taken by their specialist.</li> <li>2) When testing the valuation of the Council's other land and building assets valued on an EUV basis, we identified that the floor plan measurements used by Wilks Head &amp; Eve (WHE) in calculating the valuation of these assets were not always in line with the floor plan evidence provided by the Council. We therefore recommend management to verify measurements used by WHE and challenge the valuation in case of incorrect measurements being used.</li> </ol>	
Value for Money: Governance	The Council should ensure that all cyber security training is up to date to minimise the risk of cyber security risks and unintentional breaches of the regulations.	

Note we have not made any recommendations in the work completed to date for the 2022/23 interim VFM reporting.

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UKC-024050 (UK) 07/22. Creative UK.

ED None

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## Crawley Borough Council

### Report to Audit Committee

12 March 2024

### Accounting Policies 2023/24 and 2024/25

Report of the Head of Corporate Finance –FIN/649

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#### 1. Purpose

- 1.1. To ensure that the Statement of Accounts is prepared using proper accounting practices as required by the Local Government Act 2003.
- 1.2. The audit committee is charged with responsibility for the oversight of financial reporting integrity and plays a pivotal role in helping to ensure that the critical accounting policies, judgments and estimates applied by management present a fair and accurate picture of the Council's financial position.

#### 2. Recommendations

- 2.1. That the Audit Committee:
  - a) review the Accounting Policies (set out in Appendix A to this report) that underpin the preparation of the Financial Statements and confirm it is satisfied with their adequacy.
  - b) approve the accounting policies (set out in Appendix A to this report) that will be applied to the 2023/24 and 2024/25 Financial Statements.

#### 3. Reasons for the Recommendations

- 3.1. The report allows the Audit Committee to consider and approve the Accounting Policies that will be applied to the Statement of Accounts for 2023/24 and those for the year ahead and to understand and evaluate the financial reporting requirements surrounding each critical accounting judgment and estimate and is sufficiently satisfied that management's accounting policies, judgements and estimates are fit for purpose.

#### 4. Background

- 4.1. Local authorities in the United Kingdom are required to prepare their accounts in compliance with the terms of the Code of Practice on Local Authority Accounting in the United Kingdom (the Code). The Code is developed each year by the Chartered Institute of Public Finance and Accountancy/Local Authority Scotland Accounts Advisory Committee (CIPFA/LASAAC) and has effect for financial years commencing on or after 1 April each year.

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- 4.2. It is the responsibility of those charged with governance (the Audit Committee) to consider and agree the accounting policies to be applied to the Statements of Accounts for the years ended 31 March 2024 and 31 March 2025.
- 4.3. The accounting policies are the specific principles, bases and conventions, rules and practices applied by the Council in preparing and presenting the financial statements. The accounting policies are included in Appendix A.

## **5. Description of Issue to be Resolved**

- 5.1. The Code specifies the principles and practices of accounting required to prepare financial statements which give a true and fair view of the financial position and transactions of a local authority.

## **6. Information & Analysis Supporting Recommendation**

- 6.1. It is recommended practice for Council's to only adopt accounting policies that are relevant to their Statement of Accounts. If during the preparation of the Accounts and external audit issues arise that require additions to the adopted policies, the Committee will be updated of any subsequent changes.

## **7. Implications**

- 7.1. The Head of Corporate Finance is responsible for the preparation of the Council's Statement of Accounts in accordance with proper practices as set out in the Code. This includes selecting suitable accounting policies and ensuring they are applied consistently.

## **8. Background Papers**

<https://crawley.gov.uk/council-information/council-finance/statement-accounts>

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## Accounting Policies

### 1. Accounting Policies

#### i. General Principles

The Statement of Accounts summarises the Council's transactions for the 2022/23 financial year and its position at the year-end of 31 March 2023. The Council is required to prepare an annual Statement of Accounts by the Accounts and Audit Regulations 2015, which those Regulations require to be prepared in accordance with proper accounting practices. These practices primarily comprise the Code of Practice on Local Authority Accounting in the United Kingdom 2022/23 (the Code), supported by International Financial Reporting Standards (IFRS).

The accounting convention adopted in the Statement of Accounts is principally historical cost, modified by the revaluation of certain categories of non-current assets and financial instruments. The Statement of Accounts has been prepared on a 'going concern' basis.

#### ii. Accruals of Income and Expenditure

Activity is accounted for in the year that it takes place, not simply when cash payments are made or received. In particular:

- Revenue from contracts with service recipients, whether for services or the provision of goods, is recognised when (or as) the goods or services are transferred to the service recipient in accordance with the performance obligations in the contract.
- Supplies are recorded as expenditure when they are consumed - where there is a gap between the date supplies are received and their consumption, they are carried as inventories on the Balance Sheet.
- Expenses in relation to services received (including services provided by employees) are recorded as expenditure when the services are received rather than when payments are made.
- Interest receivable on investments and payable on borrowings is accounted for respectively as income and expenditure on the basis of the effective interest rate for the relevant financial instrument rather than the cash flows fixed or determined by the contract.
- Where revenue and expenditure have been recognised but cash has not been received or paid, a debtor or creditor for the relevant amount is recorded in the Balance Sheet. Where debts may not be settled, the balance of debtors is written down and a charge made to revenue in financing and investment income and expenditure for the income that might not be collected. The de minimis for an accrual of a single item is £1,000 for revenue and £5,000 for capital.
- Where the amount of an item of revenue or expenditure relating to the financial year is not known at the 31 March, estimation techniques are applied to ensure that the accounts reflect the most likely position.

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## **iii. Cash and Cash Equivalents**

Cash is represented by cash in hand and deposits with financial institutions repayable without penalty on notice of not more than 24 hours. Cash equivalents are highly liquid investments that mature in three months or less from the date of acquisition and that are readily convertible to known amounts of cash with insignificant risk of change in value.

In the Cash Flow Statement, cash and cash equivalents are shown net of bank overdrafts that are repayable on demand and form an integral part of the Council's cash management.

## **iv. Prior Period Adjustments, Changes in Accounting Policies and Estimates and Errors**

Prior period adjustments may arise as a result of a change in accounting policies or to correct a material error. Changes in accounting estimates are accounted for prospectively, ie in the current and future years affected by the change and do not give rise to a prior period adjustment.

Changes in accounting policies are only made when required by proper accounting practices or the change provides more reliable or relevant information about the effect of transactions, other events and conditions on the Council's financial position or financial performance. Where a change is made, it is applied retrospectively (unless not material or stated otherwise) by adjusting opening balances and comparative amounts for the prior period as if the new policy had always been applied.

Material errors discovered in prior period figures are corrected retrospectively by amending opening balances and comparative amounts for the prior period.

## **v. Charges to Revenue for Non-Current Assets**

Services, support services and trading accounts are charged an accounting estimate of the cost of holding non-current assets during the year:

- depreciation attributable to the assets used by the relevant service
- revaluation and impairment losses on assets used by the service where there are no accumulated gains in the Revaluation Reserve against which the losses can be written off
- amortisation of intangible fixed assets attributable to the service.

The Council is not required to raise council tax to fund depreciation, revaluation and impairment losses or amortisations. However, it is required to make an annual contribution from revenue towards the reduction in its overall borrowing requirement equal to an amount calculated on a prudent basis determined by the Council in accordance with statutory guidance. Depreciation, revaluation and impairment losses and amortisations are therefore replaced by the contribution in the General Fund balance (Minimum Revenue Provision) by way of an adjusting transaction with the Capital Adjustment Account in the Movement in Reserves Statement.

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## **vi. Council Tax and Non-Domestic Rates**

Billing authorities act as agents, collecting council tax and non-domestic rates (NDR) on behalf of the major preceptors (including government for NDR) and, as principals, collecting council tax and NDR for themselves. Billing authorities are required by statute to maintain a separate fund (ie the Collection Fund) for the collection and distribution of amounts due in respect of council tax and NDR. Under the legislative framework for the Collection Fund, billing authorities, major preceptors and central government share proportionately the risks and rewards that the amount of council tax and NDR collected could be less or more than predicted.

### **Accounting for Council Tax and NDR**

The council tax and NDR income included in the Comprehensive Income and Expenditure Statement (CIES) is the Council's share of accrued income for the year. However, regulations determine the amount of council tax and NDR that must be included in the Council's General Fund. Therefore, the difference between the income included in the CIES and the amount required by regulation to be credited to the General Fund is taken to the Collection Fund Adjustment Account and included as a reconciling item in the Movement in Reserves Statement.

The Balance Sheet includes the Council's share of the end of year balances in respect of council tax and NDR relating to arrears, impairment allowance for doubtful debts, overpayments and prepayments and appeals.

Where debtor balances for the above are identified as impaired because of a likelihood arising from a past event that payments due under the statutory arrangements will not be made, the asset is written down and a charge made to the taxation and non-specific grant income and expenditure line in the CIES. The impairment loss is measured as the difference between the carrying amount and the revised future cash flows.

## **vii. Employee Benefits**

### **Benefits Payable During Employment**

Short-term employee benefits are those due to be settled wholly within 12 months of the year-end. They include such benefits as wages and salaries, paid annual leave and paid sick leave, bonuses and non-monetary benefits for current employees and are recognised as an expense for services in the year in which employees render service to the Council. An accrual is made for the cost of holiday entitlements (or any form of leave, e.g. time off in lieu) earned by employees but not taken before the year-end which employees can carry forward into the next financial year. The accrual is made at the wage and salary rates applicable in the following accounting year, being the period in which the employee takes the benefit. The accrual is charged to Surplus or Deficit on the Provision of Services, but then reversed out through the Movement in Reserves Statement so that holiday entitlements are charged to revenue in the financial year in which the holiday absence occurs.

### **Termination Benefits**

Termination benefits are amounts payable as a result of a decision by the Council to terminate an officer's employment before the normal retirement date or an officer's decision to accept voluntary redundancy in exchange for those benefits and are charged on an accruals basis to the appropriate service or, where applicable, to a corporate service segment at the earlier of

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when the Council can no longer withdraw the offer of those benefits or when the Council recognises costs for a restructuring.

Where termination benefits involve the enhancement of pensions, statutory provisions require the General Fund balance to be charged with the amount payable by the Council to the pension fund or pensioner in the year, not the amount calculated according to the relevant accounting standards. In the Movement in Reserves Statement, appropriations are required to and from the Pensions Reserve to remove the notional debits and credits for pension enhancement termination benefits and replace them with debits for the cash paid to the pension fund and pensioners and any such amounts payable but unpaid at the year-end.

## **Post Employment Benefits**

Employees of the Council are members of the Local Government Pensions Scheme, administered by West Sussex County Council.

This scheme provides defined benefits to members (retirement lump sums and pensions), earned as employees worked for the Council.

## **The Local Government Pension Scheme**

The Local Government Scheme is accounted for as a defined benefits scheme:

- The liabilities of the West Sussex pension fund attributable to the Council are included in the Balance Sheet on an actuarial basis using the projected unit method - ie an assessment of the future payments that will be made in relation to retirement benefits earned to date by employees, based on assumptions about mortality rates, employee turnover rates, etc, and projected earnings for current employees.
- Liabilities are discounted to their value at current prices, using a discount rate of ?% (*to be confirmed in Actuaries report for 2023/24*) (based on the indicative rate of return on high quality corporate bond, the iBoxx AA corporate bonds index).
- The assets of West Sussex pension fund attributable to the Council are included in the Balance Sheet at their fair value:
  - quoted securities - current bid price
  - unquoted securities- professional estimate
  - unitised securities- current bid price
  - property - market value.

The change in the net pensions liability is analysed into the following components:

- Service cost comprising:
  - current service cost - the increase in liabilities as a result of years of service earned this year - allocated in the Comprehensive Income and Expenditure Statement to the services for which the employees worked.
  - past service cost - the increase in liabilities as a result of a scheme amendment or curtailment whose effect relates to years of service earned in earlier years - debited to the Surplus or Deficit on the Provision of Services in the Comprehensive Income and Expenditure Statement.

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- net interest on the net defined benefit liability (asset), ie net interest expense for the Council – the change during the period in the net defined benefit liability (asset) that arises from the passage of time charged to the Financing and Investment Income and Expenditure line of the Comprehensive Income and Expenditure Statement – this is calculated by applying the discount rate used to measure the defined benefit obligation at the beginning of the period to the net defined benefit liability (asset) at the beginning of the period – taking into account any changes in the net defined benefit liability (asset) during the period as a result of contribution and benefit payments.
- Remeasurements comprising:
  - the return on plan assets – excluding amounts included in net interest on the net defined benefit liability (asset) – charged to the Pensions Reserve as Other Comprehensive Income and Expenditure
  - actuarial gains and losses - changes in the net pensions liability that arise because events have not coincided with assumptions made at the last actuarial valuation or because the actuaries have updated their assumptions – charged to the Pensions Reserve as Other Comprehensive Income and Expenditure.
  - Contributions paid to the West Sussex pension fund - cash paid as employer's contributions to the pension fund in settlement of liabilities; not accounted for as an expense.

In relation to retirement benefits, statutory provisions require the General Fund Balance to be charged with the amount payable by the Council to the pension fund or directly to pensioners in the year, not the amount calculated according to the relevant accounting standards. In the Movement in Reserves Statement, this means that there are transfers to and from the Pensions Reserve to remove the notional debits and credits for retirement benefits and replace them with debits for the cash paid to the pension fund and pensioners and any such amounts payable but unpaid at the year-end. The negative balance that arises on the Pensions Reserve thereby measures the beneficial impact to the General Fund of being required to account for retirement benefits on the basis of cash flows rather than as benefits are earned by employees.

## **Discretionary Benefits**

The Council also has restricted powers to make discretionary awards of retirement benefits in the event of early retirements. Any liabilities estimated to arise as a result of an award to any member of staff are accrued in the year of the decision to make the award and accounted for using the same policies as are applied to the Local Government Pension Scheme.

## **viii. Events After the Reporting Period**

Events after the Balance Sheet date are those events, both favourable and unfavourable, that occur between the end of the reporting period and the date when the Statement of Accounts is authorised for issue. Two types of events can be identified:

- those that provide evidence of conditions that existed at the end of the reporting period - the Statement of Accounts is adjusted to reflect such events
- those that are indicative of conditions that arose after the reporting period – the Statement of Accounts is not adjusted to reflect such events, but where a category of

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events would have a material effect, disclosure is made in the notes of the nature of the events and their estimated financial effect.

Events taking place after the date of authorisation for issue are not reflected in the Statement of Accounts.

## **ix. Financial Instruments**

### **Financial Liabilities**

Financial liabilities are recognised on the Balance Sheet when the Council becomes a party to the contractual provisions of a financial instrument and are initially measured at fair value and are carried at their amortised cost. Annual charges to the Financing and Investment Income and Expenditure line in the Comprehensive Income and Expenditure Statement (CIES) for interest payable are based on the carrying amount of the liability, multiplied by the effective rate of interest for the instrument. The effective interest rate is the rate that exactly discounts estimated future cash payments over the life of the instrument to the amount at which it was originally recognised.

For most of the borrowings that the Council has, this means that the amount presented in the Balance Sheet is the outstanding principal repayable (plus accrued interest); and interest charged to the CIES is the amount payable for the year according to the loan agreement.

### **Financial Assets**

Financial assets are classified based on a classification and measurement approach that reflects the business model for holding the financial assets and their cash flow characteristics. The Council holds financial assets measured at:

- amortised cost and
- fair value through profit or loss (FVPL)

The Councils business model is to hold investments to collect contractual cash flows, financial assets are therefore classified as amortised cost, except for those whose contractual payments are not solely payment of principal and interest (ie where the cash flows do not take the form of a basic debt instrument).

### **Financial Assets Measured at Amortised Cost**

Financial assets measured at amortised cost are recognised on the Balance Sheet when the Council becomes a party to the contractual provisions of a financial instrument and are initially measured at fair value. They are subsequently measured at their amortised cost. Annual credits to the Financing and Investment Income and Expenditure line in the Comprehensive Income and Expenditure Statement (CIES) for interest receivable are based on the carrying amount of the asset multiplied by the effective rate of interest for the instrument. For most of the financial assets held by the Council, this means that the amount presented in the Balance Sheet is the outstanding principal receivable (plus accrued interest) and interest credited to the CIES is the amount receivable for the year in the loan agreement.

Any gains and losses that arise on the derecognition of a financial asset are credited or debited to the Financing and Investment Income and Expenditure line in the CIES.



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## **Expected Credit Loss Model**

The Council recognises expected credit losses on all of its financial assets held at amortised cost, either on a 12-month or lifetime basis. The expected credit loss model also applies to lease receivables and contract assets. Only lifetime losses are recognised for trade receivables (debtors) held by the Council.

Impairment losses are calculated to reflect the expectation that the future cash flows might not take place because the borrower could default on their obligations. Credit risk plays a crucial part in assessing losses. When risk has increased significantly since an instrument was initially recognised, losses are assessed on a lifetime basis. Where risk has not increased significantly or remains low, losses are assessed on the basis of 12-month expected losses.

## **Financial Assets Measured at Fair Value through Profit or Loss**

Financial assets that are measured at FVPL are recognised on the Balance Sheet when the Council becomes a party to the contractual provisions of a financial instrument and are initially measured and carried at fair value. Fair value gains and losses are recognised as they arrive in the Surplus or Deficit on the provision of Services.

## **Fair Value Measurements of financial assets**

Fair value of an asset is the price that would be received to sell an asset in an orderly transaction between market participants at the measurement date. The fair value measurements of the financial assets are based on the following techniques:

- instruments with quoted market prices - the market price
- other instruments with fixed and determinable payments - discounted cash flow analysis.

The inputs to the measurement techniques are categorised in accordance with the following three levels:

- Level 1 inputs – quoted prices (unadjusted) in active markets for identical assets that the Council can access at the measurement date.
- Level 2 inputs – inputs other than quoted prices included within Level 1 that are observable for the asset, either directly or indirectly.
- Level 3 inputs – unobservable inputs for the asset.

Any gains and losses that arise on the derecognition of the asset are credited or debited to the Financing and Investment Income and Expenditure line in the CIES.

## Instruments Entered into Before 1 April 2006

The Council entered into a number of financial guarantees that are not required to be accounted for as financial instruments. These guarantees are reflected in the Statement of Accounts to the extent that provisions might be required, or a contingent liability note is needed under the policies set out in the section on Provisions, Contingent Liabilities and Contingent Assets.

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## **x. Government Grants and Contributions**

Whether paid on account, by instalments or in arrears, government grants and third-party contributions and donations are recognised as due to the Council when there is reasonable assurance that:

- the Council will comply with the conditions attached to the payments, and
- the grants or contributions will be received.

Amounts recognised as due to the Council are not credited to the Comprehensive Income and Expenditure Statement until conditions attached to the grant or contribution have been satisfied. Conditions are stipulations that specify that the future economic benefits or service potential embodied in the asset in the form of the grant or contribution are required to be consumed by the recipient as specified, or future economic benefits or service potential must be returned to the transferor.

Monies advanced as grants and contributions for which conditions have not been satisfied are carried in the Balance Sheet as creditors. When conditions are satisfied, the grant or contribution is credited to the relevant service line (attributable revenue grants and contributions) or Taxation and Non-Specific Grant Income (non-ring-fenced revenue grants and all capital grants) in the Comprehensive Income and Expenditure Statement.

Where capital grants are credited to the Comprehensive Income and Expenditure Statement, they are reversed out of the General Fund Balance in the Movement in Reserves Statement. Where the grant has yet to be used to finance capital expenditure, it is posted to the Capital Grants Unapplied Reserve. Where it has been applied, it is posted to the Capital Adjustment Account. Amounts in the Capital Grants Unapplied Reserve are transferred to the Capital Adjustment Account once they have been applied to fund capital expenditure.

### **Business Improvement District**

Business Improvement District (BID) schemes apply in Manor Royal and the Town Centre. These schemes are funded by a BID levy paid by non-domestic ratepayers. The Council acts as agent under the schemes and does not show income or expenditure within the Comprehensive Income and Expenditure Statement.

### **Community Infrastructure Levy**

The Council has elected to charge a Community Infrastructure Levy (CIL). The levy will be charged on new builds (chargeable developments for the Council) with appropriate planning consent. The Council charges for and collects the levy, which is a planning charge. The income from the levy will be used to fund a number of infrastructure projects to support the development of the area.

CIL is received without outstanding conditions. It is therefore recognised at the commencement date of the chargeable development in the Comprehensive Income and Expenditure Statement in accordance with the accounting policy for government grants and contributions set out above. CIL charges will be largely used to fund capital expenditure. However, a small proportion of charges may be used to fund revenue expenditure.

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## **xi. Heritage Assets**

Heritage Assets are recognised and measured (including the treatment of revaluation gains and losses) in accordance with the Council's accounting policies on property, plant and equipment. However, some of the measurement rules are relaxed in relation to heritage assets and described below. The council's collections of heritage assets are accounted for as follows:

- **Public Works of Art** – the Council considers that obtaining valuations for the vast majority of public works of art would involve a disproportionate cost in comparison to the benefits to the users of the council's financial statements. This is because of the unique nature of the assets held and the lack of comparable values. Other than the small number of items that have been acquired recently, the Council does not recognise this collection of heritage assets on the Balance sheet.

The carrying amounts of heritage assets are reviewed where there is evidence of impairment for heritage assets, e.g. where an item has suffered physical deterioration or breakage or where doubts arise as to its authenticity. Any impairment is recognised and measured in accordance with the council's general policies on impairment – see note xvi in this summary of significant accounting policies.

## **xii. Intangible Assets**

Expenditure on non-monetary assets that do not have physical substance but are controlled by the Council as a result of past events (e.g. software licences) is capitalised when it is expected that future economic benefits or service potential will flow from the intangible asset to the Council.

Intangible assets are measured initially at cost. Amounts are only revalued where the fair value of the assets held by the Council can be determined by reference to an active market. In practice, no intangible asset held by the Council meets this criterion, and they are therefore carried at cost less accumulated depreciation and any accumulated impairment loss. The depreciable amount of an intangible asset is amortised over its useful life to the relevant service line(s) in the Comprehensive Income and Expenditure Statement. An asset is tested for impairment whenever there is an indication that the asset might be impaired - any losses recognised are posted to the relevant service line(s) in the Comprehensive Income and Expenditure Statement. Any gain or loss arising on the disposal or abandonment of an intangible asset is posted to the other Operating Expenditure line in the Comprehensive Income and Expenditure Statement.

Where expenditure on intangible assets qualifies as capital expenditure for statutory purposes, amortisation, impairment losses and disposal gains and losses are not permitted to have an impact on the General Fund Balance. The gains and losses are therefore reversed out of the General Fund Balance in the Movement in Reserves Statement and posted to the Capital Adjustment Account and (for any sale proceeds greater than £10,000) the Capital Receipts Reserve.

## **xiii. Investment Property**

Investment properties are those that are used solely to earn rentals and/or for capital appreciation. The definition is not met if the property is used in any way to facilitate the delivery of services or production of goods or is held for sale.

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Investment properties are measured initially at cost and subsequently at fair value, being the price that would be received to sell such an asset in an orderly transaction between market participants at the measurement date. As a non-financial asset, investment properties are measured at highest and best use. Properties are not depreciated but are revalued annually according to market conditions at the year-end. Gains and losses on revaluation are posted to the Financing and Investment Income and Expenditure line in the Comprehensive Income and Expenditure Statement. The same treatment is applied to gains and losses on disposal.

Rentals received in relation to investment properties are credited to the Financing and Investment Income line and result in a gain for the General Fund Balance. However, revaluation and disposal gains and losses are not permitted by statutory arrangements to have an impact on the General Fund Balance. The gains and losses are therefore reversed out of the General Fund Balance in the Movement in Reserves Statement and posted to the Capital Adjustment Account and (for any sale proceeds greater than £10,000) the Capital Receipts Reserve.

## **xv. Leases**

Leases are classified as finance leases where the terms of the lease transfer substantially all the risks and rewards incidental to ownership of the property, plant or equipment from the lessor to the lessee. All other leases are classified as operating leases.

Where a lease covers both land and buildings, the land and buildings elements are considered separately for classification.

Arrangements that do not have the legal status of a lease but convey a right to use an asset in return for payment are accounted for under this policy where fulfilment of the arrangement is dependent on the use of specific assets.

### **The Council as Lessee**

A right of use asset and corresponding lease liability are recognised at commencement of the lease.

The lease liability is measured at the present value of the lease payments, discounted at the rate implicit in the lease, or if that cannot be readily determined, at the lessee's incremental borrowing rate specific to the term and start date of the lease. Lease payments include: fixed payments; variable lease payments dependent on an index or rate, initially measured using the index or rate at commencement; the exercise price under a purchase option if the Council is reasonably certain to exercise; penalties for early termination if the lease term reflects the Council exercising a break option; and payments in an optional renewal period if the Council is reasonably certain to exercise an extension option or not exercise a break option.

The lease liability is subsequently measured at amortised cost using the effective interest rate method. It is remeasured, with a corresponding adjustment to the right of use asset, when there is a change in future lease payments resulting from a rent review, change in an index or rate such as inflation, or change in the Council's assessment of whether it is reasonably certain to exercise a purchase, extension or break option.

The right of use asset is initially measured at cost, comprising: the initial lease liability; any lease payments already made less any lease incentives received; initial direct costs; and any dilapidation or restoration costs. The right of use asset is subsequently depreciated on a straight-line basis over the shorter of the lease term or the useful life of the underlying asset.

The right of use asset is tested for impairment if there are any indicators of impairment.

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Leases of low value assets (value when new less than £10,000) and short-term leases of 12 months or less are expensed to the Comprehensive Income and Expenditure Statement, as are variable payments dependent on performance or usage, 'out of contract' payments and non-lease service components.

## **The Council as Lessor**

### Operating Leases

Where the Council grants an operating lease over a property or an item of plant or equipment, the asset is retained in the Balance Sheet. Rental income is credited to the Other Operating Expenditure line in the Comprehensive Income and Expenditure Statement. Credits are made on a straight-line basis over the life of the lease, even if this does not match the pattern of payments (e.g. there is a premium paid at the commencement of the lease). Initial direct costs incurred in negotiating and arranging the lease are added to the carrying amount of the relevant asset and charged as an expense over the lease term on the same basis as rental income.

## **xvi. Overheads and Support Services**

The costs of overheads and support services are charged to service segments in accordance with the Council's arrangements for accountability and financial performance.

## **xvii. Property, Plant and Equipment**

Assets that have physical substance and are held for use in the production or supply of goods or services, for rental to others, or for administrative purposes and that are expected to be used during more than one financial year are classified as Property, Plant and Equipment.

### **Recognition**

Expenditure on the acquisition, creation or enhancement of Property, Plant and Equipment is capitalised on an accruals basis, provided that it is probable that the future economic benefits or service potential associated with the item will flow to the Council and the cost of the item can be measured reliably. Expenditure that maintains but does not add to an asset's potential to deliver future economic benefits or service potential (i.e. repairs and maintenance) is charged as an expense when it is incurred.

### **Assets Included**

All land and buildings owned by the Council are included. Vehicles and equipment are included where the useful asset life is more than three years and the purchase cost is greater than £10,000.

### **Measurement**

Assets are initially measured at cost, comprising:

- the purchase price
- any costs attributable to bringing the asset to the location and condition necessary for it to be capable of operating in the manner intended by management

The Council does not capitalise borrowing costs incurred whilst assets are under construction.

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The cost of assets acquired other than by purchase is deemed to be its fair value unless the acquisition does not have commercial substance (i.e. it will not lead to a variation in the cash flows of the Council). In the latter case, where an asset is acquired via an exchange, the cost of the acquisition is the carrying amount of the asset given up by the Council.

Donated assets are measured initially at fair value. The difference between fair value and any consideration paid is credited to the Taxation and Non-Specific Grant Income line of the Comprehensive Income and Expenditure Statement unless the donation has been made conditionally. Until conditions are satisfied, the gain is held in the Donated Assets Account.

Where gains are credited to the Comprehensive Income and Expenditure Statement, they are reversed out of the General Fund Balance to the Capital Adjustment Account in the Movement in Reserves Statement.

Assets are then carried in the Balance Sheet using the following measurement bases:

- infrastructure community assets and assets under construction - depreciated historical cost
- dwellings - current value, determined using the basis of existing use value for social housing (EUV-SH)
- council offices – current value, determined as the amount that would be paid for the asset in its existing use (existing use value – EUV)
- surplus assets – the current value measurement base is fair value, estimated at highest and best use from a market participant’s perspective.
- all other assets - current value, determined as the amount that would be paid for the asset in its existing use (existing use value - EUV).

Where there is no market-based evidence of current value because of the specialist nature of an asset, depreciated replacement cost (DRC) is used as an estimate of current value.

Where non-property assets that have short useful lives or low values (or both), depreciated historical cost basis is used as a proxy for current value.

Assets included in the Balance Sheet at current value are revalued sufficiently regularly to ensure that their carrying amount is not materially different from their current value at the year-end, but as a minimum every five years. Increases in valuations are matched by credits to the Revaluation Reserve to recognise unrealised gains. Exceptionally, gains might be credited to the Comprehensive Income and Expenditure Statement where they arise from the reversal of a loss previously charged to a service.

Where decreases in value are identified, they are accounted for by:

- where there is a balance of revaluation gains for the asset in the Revaluation Reserve, the carrying amount of the asset is written down against that balance (up to the amount of the accumulated gains)
- where there is no balance in the Revaluation Reserve or an insufficient balance, the carrying amount of the asset is written down against the relevant service line(s) in the Comprehensive Income and Expenditure Statement.

## **Impairment**

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Assets are assessed at each year-end as to whether there is any indication that an asset may be impaired. Where indications exist and any possible differences are estimated to be material, the recoverable amount of the asset is estimated and, where this is less than the carrying amount of the asset, an impairment loss is recognised for the shortfall.

Where impairment losses are identified, they are accounted for by:

- where there is a balance of revaluation gains for the asset in the Revaluation Reserve, the carrying amount of the asset is written down against that balance (up to the amount of the accumulated gains)
- where there is no balance in the Revaluation Reserve or an insufficient balance, the carrying amount of the asset is written down against the relevant service line(s) in the Comprehensive Income and Expenditure Statement.

Where an impairment loss is reversed subsequently, the reversal is credited to the relevant service line(s) in the Comprehensive Income and Expenditure Statement, up to the amount of the original loss, adjusted for depreciation that would have been charged if the loss had not been recognised.

## **Depreciation**

Depreciation is provided for on all Property, Plant and Equipment assets by the systematic allocation of their depreciable amounts over their useful lives. An exception is made for assets without a determinable finite useful life (i.e. freehold land and certain Community Assets) and assets that are not yet available for use (i.e. assets under construction).

Depreciation is calculated on the following bases:

- dwellings and other buildings - straight-line allocation over the useful life of the property as estimated by the valuer.
- vehicles, plant, furniture and equipment – a straight-line allocation over between 3 and 10 years according to estimated useful life.
- Infrastructure – straight-line allocation over 25 years

Revaluation gains are also depreciated, with an amount equal to the difference between current value depreciation charged on assets and the depreciation that would have been chargeable based on their historical cost being transferred each year from the Revaluation Reserve to the Capital Adjustment Account.

## **Componentisation**

Where an item of property, plant and equipment asset has major components whose cost is significant in relation to the total cost of the item, the components are depreciated separately. If the overall value of a Property, Plant and Equipment asset is greater than £1.5m, componentisation will then be applied to any such assets where individual components with a different useful life to the overall item has a cost of £10,000 or over.

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## **Disposals and Non-current Assets Held for Sale**

When it becomes probable that the carrying amount of an asset will be recovered principally through a sale transaction rather than through its continuing use, it is reclassified as an Asset Held for Sale. The asset is revalued immediately before reclassification and then carried at the lower of this amount and fair value less costs to sell. Where there is a subsequent decrease to fair value less costs to sell, the loss is posted to the Other Operating Expenditure line in the Comprehensive Income and Expenditure Statement. Gains in fair value are recognised only up to the amount of any previously losses recognised in the Surplus or Deficit on Provision of Services. Depreciation is not charged on Assets Held for Sale.

If assets no longer meet the criteria to be classified as Assets Held for Sale, they are reclassified back to non-current assets and valued at the lower of their carrying amount before they were classified as held for sale; adjusted for depreciation, amortisation or revaluations that would have been recognised had they not been classified as Held for Sale, and their recoverable amount at the date of the decision not to sell.

Assets that are to be abandoned or scrapped are not reclassified as Assets Held for Sale.

When an asset is disposed of or decommissioned, the carrying amount of the asset in the Balance Sheet (whether Property, Plant and Equipment or Assets Held for Sale) is written off to the Other Operating Expenditure line in the Comprehensive Income and Expenditure Statement as part of the gain or loss on disposal. Receipts from disposals (if any) are credited to the same line in the Comprehensive Income and Expenditure Statement also as part of the gain or loss on disposal (i.e. netted off against the carrying value of the asset at the time of disposal). Any revaluation gains accumulated for the asset in the Revaluation Reserve are transferred to the Capital Adjustment Account.

Amounts received for a disposal in excess of £10,000 are categorised as capital receipts. A proportion of capital receipts relating to housing disposals is payable to the Government. The balance of receipts remains within the Capital Receipts Reserve and can then only be used for new capital investment or set aside to reduce the Council's underlying need to borrow (the capital financing requirement). Receipts are appropriated to the Reserve from the General Fund Balance in the Movement in Reserves Statement.

The written-off value of disposals is not a charge against council tax, as the cost of non-current assets is fully provided for under separate arrangements for capital financing. Amounts are appropriated to the Capital Adjustment Account from the General Fund Balance in the Movement in Reserves Statement.

## **xviii. Provisions, Contingent Liabilities and Contingent Assets**

### **Provisions**

Provisions are made where an event has taken place on or before the Balance Sheet date:

- that gives the authority a present obligation
- that probably requires settlement by a transfer of economic benefits or service potential, and
- where a reliable estimate can be made of the amount of the obligation.



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If it is not clear whether an event has taken place on or before the Balance Sheet date, it is deemed to give rise to a present obligation if, taking account of all available evidence, it is more likely than not that a present obligation exists at the Balance Sheet date. The present obligation can be legal or constructive.

Provisions are charged as an expense to the appropriate service line in the Comprehensive Income and Expenditure Statement when the Council has an obligation, and are measured at the best estimate at the Balance Sheet date of the expenditure required to settle the obligation, taking into account relevant risks and uncertainties.

When payments are eventually made, they are charged to the provision carried in the Balance Sheet. Estimated settlements are reviewed at the end of each financial year - where it becomes less than probable that a transfer of economic benefits will now be required (or a lower settlement than anticipated is made), the provision is reversed and credited back to the relevant service.

Where some or all of the payment required to settle a provision is expected to be recovered from another party (e.g. from an insurance claim), this is only recognised as income for the relevant service if it is virtually certain that reimbursement will be received if the Council settles the obligation.

## **Contingent Liabilities**

A contingent liability arises where an event has taken place that gives the Council a possible obligation whose existence will only be confirmed by the occurrence or otherwise of uncertain future events not wholly within the control of the Council.

Contingent liabilities also arise in circumstances where a provision would otherwise be made but either it is not probable that an outflow of resources will be required, or the amount of the obligation cannot be measured reliably.

Contingent liabilities are not recognised in the Balance Sheet but disclosed in a note to the accounts.

## **Contingent Assets**

A contingent asset arises where an event has taken place that gives the Council a possible asset whose existence will only be confirmed by the occurrence or otherwise of uncertain future events not wholly within the control of the Council.

Contingent assets are not recognised in the Balance Sheet but disclosed in a note to the accounts where it is probable that there will be an inflow of economic benefits or service potential.

## **xix. Reserves**

The Council sets aside specific amounts as reserves for future policy purposes or to cover contingencies. Reserves are created by transferring amounts out of the General Fund Balance. When expenditure to be financed from a reserve is incurred, it is charged to the appropriate service in that year to score against the Surplus or Deficit on the Provision of Services in the Comprehensive Income and Expenditure Statement. The reserve is then transferred back into the General Fund Balance so that there is no net charge against council tax for the expenditure.

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Certain reserves are kept to manage the accounting processes for non-current assets, financial instruments, local taxation, retirement and employee benefits and do not represent usable resources for the Council - these reserves are explained in the relevant policies.

## **xx. Revenue Expenditure Funded from Capital under Statute**

Expenditure incurred during the year that may be capitalised under statutory provisions but that does not result in the creation of a non-current asset has been charged as expenditure to the relevant service in the Comprehensive Income and Expenditure Statement in the year. Where the Council has determined to meet the cost of this expenditure from existing capital resources or by borrowing, a transfer in the Movement in Reserves Statement from the General Fund Balance to the Capital Adjustment Account then reverses out the amounts charged so that there is no impact on the level of council tax.

## **xxi. VAT**

VAT payable is included as an expense only to the extent that it is not recoverable from Her Majesty's Revenue and Customs. VAT receivable is excluded from income.

## **xxii. Fair value measurement of non-financial assets**

The Council's accounting policy for fair value measurement of financial assets is set out in note ix. The Council measures some of its non-financial assets such as surplus assets and investment properties and some of its financial instruments such as Certificates of Deposit and Corporate Bonds at fair value at each reporting date. Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. The fair value measurement assumes that the transaction to sell the asset or transfer the liability takes place either:

- a) In the principal market for the asset, or
- b) In the absence of a principal market, in the most advantageous market for the asset

The Council measures the fair value of an asset using the assumptions that market participants would use when pricing the asset, assuming that market participants act in their economic best interest.

When measuring the fair value of a non-financial asset the Council takes into account a market participant's ability to generate economic benefits by using the asset in its highest and best use or by selling it to another market participant that would use the asset in its highest and best use.

The Council uses valuation techniques that are appropriate in the circumstances and for which sufficient data is available, maximising the use of relevant observable inputs and minimising the use of unobservable inputs.

Inputs to the valuation techniques in respect of assets for which fair value is measured or disclosed in the Council's financial statements are categorised within the fair value hierarchy, as follows:

- Level 1 – quoted prices (unadjusted) in active markets for identical assets or liabilities that the authority can access at the measurement date.
- Level 2 – inputs other than quoted prices included within Level 1 that are observable for the asset or liability, either directly or indirectly

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- Level 3 – unobservable inputs for the asset or liability

## **2.Accounting Standards that have been issued but have not yet been adopted**

The Council is required to disclose information relating to the impact of an accounting change required by a new standard that has been issued, but not yet adopted, in the 2023/24 financial statements.

For the 2023/24 financial statements the changes to disclose that are applicable to the Council are in relation to:

- Definition of Accounting Estimates (Amendments to IAS 8) issued in February 2021
- Disclosure of Accounting Policies (Amendments to IAS 1 and IFRS Practice Statement 2) issued in February 2021.

These items will lead to improved reporting, but they have not had a significant impact on the amounts reported in the financial statements.

The changes to disclose for 2024/25 are in relation to:

- IFRS 16 Leases issued in January 2016
- Classification of Liabilities as Current or Non-current (Amendments to IAS 1) issued in January 2020
- Lease Liability in a Sale and Leaseback (Amendments to IFRS 16) issued in September 2022
- Non-current Liabilities with Covenants (Amendments to IAS 1) issued in October 2022
- International Tax Reform: Pillar Two Model Rules (Amendments to IAS 12) issued in May 2023
- Supplier Finance Arrangements (Amendments to IAS 7 and IFRS 7) issued in May 2023

The first item (IFRS16) was adopted in 2022/23 without a material impact in the financial statements. The other items are not expected to be applicable to the Council.

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# Agenda Item 8

## Crawley Borough Council

### Report to the Audit Committee

12 March 2024

### Internal Audit Progress Report

Report of the Head of Corporate Finance – FIN/653

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#### 1. Purpose

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

#### 2. Recommendations

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

#### 3. Reasons for the Recommendations

- 3.1. The Committee has a responsibility to ensure that action has been taken by relevant Managers on risk based issues identified by Internal Audit.

#### 4. Background

- 4.1. The Committee approved its Internal Audit Plan at its meeting of 20 March 2023.
- 4.2. Under the Accounts and Audit (England) Regulations 2015, the Council is responsible for:
  - ensuring that its financial management is adequate and effective and that it has a sound system of internal control which facilitates the effective exercise of functions and includes arrangements for the management of risk; and
  - undertaking an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards and guidance.
- 4.3. In accordance with proper internal audit practices (Public Sector Internal Audit Standards), the Chief Internal Auditor is required to provide a written status report to the Audit Committee, summarising:
  - The status of 'live' internal audit reports (outstanding management actions);
  - an update on progress against the annual audit plan;
  - a summary of internal audit performance, planning and resourcing issues;

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- a summary of significant issues that may impact on the Chief Internal Auditor's annual opinion.
- 4.4. The progress report is attached at Appendix A and provides a clear and transparent articulation of internal audit activity, performance, and outcomes during the period up to the end of January 2024.

Report author and contact officer: Carolin Martlew, Head of Corporate Finance



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**Southern Internal  
Audit Partnership**

Assurance through excellence  
and innovation

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**CRAWLEY BOROUGH COUNCIL**

**INTERNAL AUDIT PROGRESS REPORT JANUARY 2024**

**Prepared by: Iona Bond, Assistant Head of Partnership**

**FEBRUARY 2024**

**APPENDIX**

## 1. Role of Internal Audit

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

*‘Undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance.’*

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

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

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

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

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



## 2. Purpose of report

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

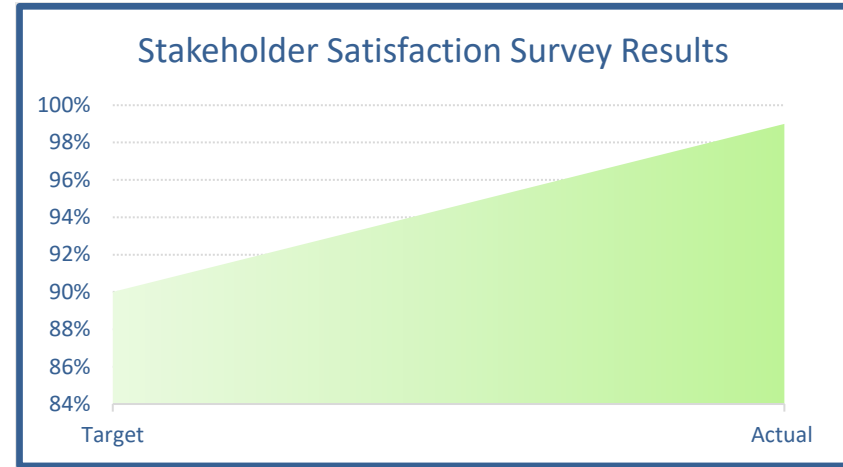
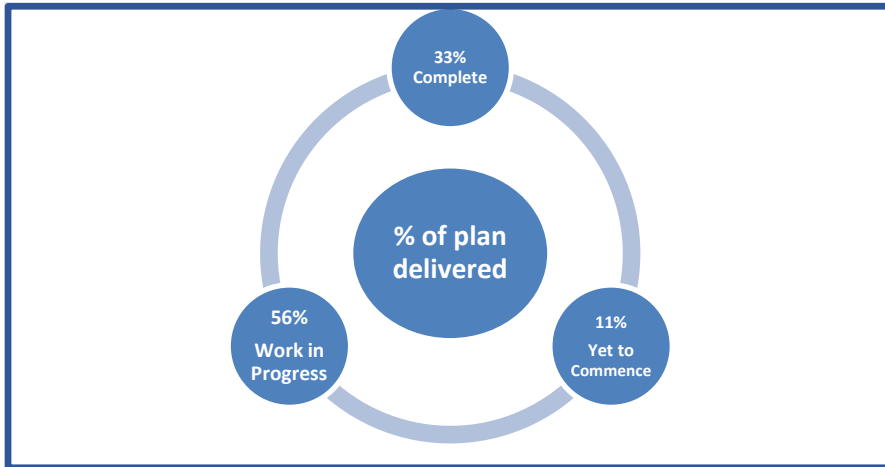
- The status of ‘live’ internal audit reports;
- an update on progress against the annual audit plan;
- a summary of internal audit performance, planning and resourcing issues; and
- a summary of significant issues that impact on the Chief Internal Auditor’s annual opinion.

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

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

\* Some reports listed within this progress report (pre 2022-23 audit plan) refer to categorisations previously adopted by the Council, reference is provided at Annex 3.

### 3. Performance dashboard



#### Compliance with Public Sector Internal Audit Standards

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

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

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

## 4. Analysis of 'Live' audit reviews

Audit Review	Report Date	Audit Sponsor	Assurance Opinion	Total Management Action(s)*	Not Yet Due	Complete	Overdue		
							L	M	H
2021/22 Reviews									
Health and Safety	15.06.2022	HofGP&P	Limited	7 (2)	0(0)	5 (2)		2	
2022/23 Reviews									
Air Quality Management	07.02.2023	HofCoS	Reasonable	3 (0)	0 (0)	2 (0)		1	
Compliance – Gas Safety (Housing Stock)	08.03.2023	HofCH	Reasonable	12 (6)	0 (0)	8 (5)		3	1
Health and Safety – Driver Safety Training	13.04.2023	Hof GP&P	Limited	7 (3)	2 (0)	2 (0)			3
Contract Management	18.09.2023	HofCF	Limited	6 (1)	3 (0)	0(1)		2	1
2023/24 Reviews									
Compliance - Electrical Safety (Housing Stock)	13.10.2023	HofCH	Limited	6 (2)	1(1)	0 (2)	1	3	1
Water Neutrality	04.12.2023	HofE&P	Reasonable	3 (0)	3 (0)	0 (0)			
IT Asset Management	15.12.2023	HofD&T	Reasonable	3 (1)	2 (0)	1 (1)			
Housing Responsive Repairs	20.12.2023	HofCH	Reasonable	14 (0)	14 (0)				
Total							1	11	6

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

## Audit Sponsor

HofCF	Head of Corporate Finance	HofD&T	Head of Digital and Transformation
HofE&P	Head of Economy and Planning	HofComS	Head of Commercial Services
HofCoS	Head of Community Services	HofGP&P	Head of Governance, People and Performance
HofCH	Head of Crawley Homes	HofSS	Head of Strategic Housing

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

There have been no reports published concluding a “Limited” or “No” assurance opinion since our last progress report in November 2023.

## 6. Planning & Resourcing

The internal audit plan for 2023-24 was presented to the Corporate Management Team (CMT) and the Audit Committee in March 2023.

The audit plan remains fluid to provide a responsive service that reacts to the changing needs of the Council. A number of changes have been made to the plan and these are shown in the table in section 8.

We are satisfied that the revised audit plan for the year remains robust and sufficient to enable an annual assurance statement to be provided.

Progress against the plan is detailed within section 7.

## 7. Rolling Work Programme

Audit Review	Sponsor	Scoping	Terms of Reference	Fieldwork	Draft Report	Final Report	Assurance Opinion	Comment
<b>2022/23 Reviews</b>								
Contract Management	HofCF	✓	✓	✓	✓	✓	Limited	
<b>2023/24 Reviews</b>								
<b>Governance</b>								
Procurement	HofCF	✓	✓	✓				
Corporate Complaints	HofGP&P	✓	✓	✓	✓	✓	Reasonable	
<b>IT</b>								
Cyber Security	HofD&T	✓	✓					
IT Asset management	HofD&T	✓	✓	✓	✓	✓	Reasonable	
<b>Core Financial</b>								

Audit Review	Sponsor	Scoping	Terms of Reference	Fieldwork	Draft Report	Final Report	Assurance Opinion	Comment
Main Accounting	HofCF	✓	✓	✓				
Housing Rents	HofCH	✓	✓	✓	✓			
Accounts Receivable and Debt Management	HofCF	✓	✓					
<b>Delivering affordable homes for Crawley and reducing homelessness</b>								
Homelessness	HofSS	✓						
Statutory Checks - Asbestos	HofCH	✓						
Statutory Checks – Fire Safety	HofCH	✓	✓	✓				
Statutory Checks - Electrical	HofCH	✓	✓	✓	✓	✓	Limited	
Responsive Repairs	HofCH	✓	✓	✓	✓	✓	Reasonable	
<b>Protecting the Environment</b>								
Water Neutrality Strategy	HofE&P	✓	✓	✓	✓	✓	Reasonable	
<b>Providing high quality leisure and culture facilities and supporting health and wellbeing services</b>								
Community Facilities – Regulatory Compliance	HofComS	✓	✓	✓	✓			
<b>Creating stronger communities</b>								
Community Safety and Enforcement	HofCH	✓	✓	✓				
<b>Other</b>								
Development Management - CIL	HofE&P							
Community Services – Regulatory Compliance	HofCoS							

## 8. Adjustments to the Internal Audit Plan

The following adjustments to the plan have been made:

Plan Variations	
Removed from the Plan	Reason
Statutory Checks - Lifts	External sources of assurance obtained. No requirement for additional internal audit review.
Statutory Checks – Water Safety	Deferred until 2024/25 to allow for all data to be migrated into the Council’s system.

Health and Safety – New Town Hall	Not a priority area for 2023/24. Policies and procedures as reviewed in 21/22 are substantially the same for new Town Hall. All emergency equipment installed is new and under guarantee.
Towns Fund	Deferred until 2024/25. Full audit in 2022/23 and no new significant projects will be at a stage during 2023/24 that an audit would add value
Crawley Growth Programme	Deferred until 2024/25. Full audit in 2022/23 and no new significant projects will be at a stage during 2023/24 that an audit would add value
PCI	No progress towards compliance, revisit the requirement for review in 2024/25
Port Health	Audit being undertaken by DEFRA, from which we would seek to place assurance, therefore no further internal audit coverage required in 2023/24.
Parks and Open Spaces	Timing considered better from 2024/25 in recognition of new cash receipting system being implemented during the Q3/4 of 2023/24.
Climate Action Plan	Deferred until 2024/25 to allow for the new Sustainability Manager to take up post.
Commercial Properties	Internal review currently in progress. Will be reconsidered as part of annual planning for 2024/25
Parking and Enforcement	Deferred until 2024/25 due to service capacity issues.
Information Governance	Deferred to 2024/25 to focus on data retention and storage following the rollout of Sharepoint.
<b>Added to the Plan</b>	<b>Reason</b>
Compliance Checks – Fire Safety	Cancellation from 2022/23
Compliance Checks – Electrical Safety	Cancellation from 2022/23
Accounts Receivable and Debt Management	Brought forward from 24/25 to impending service management changes.
Community Services - Regulatory Compliance	Introduced for 24/25 to complete the key areas of the corporate estate (non housing stock) that require health and safety compliance checks for gas, water, electric and fire.

## Overdue 'High Priority' Management Actions

**Compliance – Gas Safety Audit (Housing Stock) – Reasonable Assurance****Observation:**

The Council has a contractual arrangement with a third party to undertake gas safety checks and included in the terms of the contract is an agreement to comply with Data Protection legislation between the parties. The Council shares gas safety data with the contractor which includes information relating to individuals residing in council owned properties. The contract states that "Notwithstanding this clause 30, in the event that the Service Provider is reasonably expected to be acting as a Data Processor it shall enter into a data sharing agreement with the Client". We requested a copy of the Data Sharing Agreement between the two parties however we were informed that the Council was not able to locate the Data Sharing Agreement that was in place. Without reference to the Data Sharing Agreement the Council cannot define what is the parties' roles and the purpose of the data sharing and what is going to happen to the data.

Management Action	Original Due Date	Revised Due Date	Latest Service Update
If there is no DSA present in the strong room, we will draft and issue a DSA between the Client and the Service Provider.	28.04.2023	29.09.2023 <b>30.06.2024</b>	Work in progress.  New DSA being drafted.

**Health and Safety – Driver Safety Training – Limited Assurance****Observation:**

The Council's Vehicle Policy requires a Manager or Supervisor to complete a Grey Fleet Register Form for drivers using their own vehicle/s during any Council business to ensure the vehicles are 'fit for purpose', taxed and roadworthy. The purpose of the form is to capture that a drivers Driving Licence, Road Fund Licence Disc, Insurance Certificate and MOT Certificate has been checked annually at the same time as the CBC Drivers Assessment Form and placed on file.

A sample of 25 drivers were selected for testing across three service areas; these were Crawley Homes, Communities and Neighbourhood Services. Of the 25 drivers, 11 were drivers that used their own vehicles and should have been subject to completion of a Grey Fleet Register Form. This had not been

completed for any of the drivers, nor were the Services Managers aware of the requirement.

We also noted that vehicle tax discs were abolished in 2014 and therefore, the requirement to check a drivers 'Road Fund Licence Disc' is obsolete. The Council can check this on the Gov website at <https://www.gov.uk/check-vehicle-tax> and may wish to amend the wording in the Vehicle Policy if this is still a requirement.

Management Action	Original Due Date	Revised Due Date	Latest Service Update
All employees who use their personal vehicle for council business will have their Driving Licence, Road Tax paid status, Insurance Certificate and MOT Certificate checked annually as part of their annual PDR (appraisal). The Grey Fleet Form (GFF) will be completed as a record of these checks. Further, all council vehicle drivers will have their driver licences checked annually during PDRs. These driver checks (via PDRs) will next take place between mid-June and the end of August 2023. (Head of Governance, People and Performance to seek confirmation of completion of this initial task from line managers).	30.09.2023	31.05.2024	<p>More detailed work was required before a corporate request could be put to all team managers.</p> <p>In the meantime the Finance Team has also undertaken some work to check these details. The new process will be ready for team managers to implement for 24/25 to tie in with staff PDRS (annual appraisals).</p> <p>Corporate comms will go out ASAP with a view to checks being undertaken.</p>

**Health and Safety – Driver Safety Training – Limited Assurance**

**Observation:**

All employees driving on Council business, whether they are operating personal, or fleet vehicles are subject to driver risk assessments completed by line management.

A sample of 25 drivers were selected for audit testing. One Driver Assessment Form could not be provided, leaving 24 available for testing.

On 4 occasions the drivers risk rating had not been calculated correctly. This meant that:



- One driver was scored 15 points rather than 35, still making them low risk.
- One driver was scored 35 instead of 40 taking them from low to medium risk.
- One driver score had not been populated in the available fields nor had their total risk rating been calculated. When populated by Audit, the driver’s score put them at medium risk.
- One driver score had been incorrectly calculated as 45 instead of 55 taking them from medium to high risk.

Management Action	Original Due Date	Revised Due Date	Latest Service Update
All employees who use their personal vehicle for council business or drive council vehicles will undergo a Driver Risk Assessment (DRA) annually as part of their annual PDR (appraisal). These will next take place between mid-June and the end of August 2023. Line Managers (conducting the assessments) will be reminded to take care in completing this task accurately. (Head of Governance, People and Performance to seek confirmation of completion of this initial task from line managers).	31.08.2023	31.05.2024	More detailed work (including policy review) has been required before the refreshed Driver Risk Assessment can put in place for team managers to use. The new tool will be ready for team managers to implement for 24/25 to tie in with staff PDRS (annual appraisals).
The Health & Safety Team will review a small sample from across the organisation to scrutinise the accuracy of scoring.	30.09.203	31.05.2024	This action will form part of the annual cycle of these checks from 24/25.

**Contract Management - Limited Assurance**

**Observation:**

The Contract Register records the contract expiry dates together with the expiry review dates to ensure that service continuity can be maintained. Testing for two contracts included in the audit found:

- Estates Management Services – the Contract Register records the contract expiry date as 31/1/2023. The Contract Lead confirmed this should be 31/1/2024. In addition, the expiry review date was not recorded.
- Occupational Health Services – the Contract Register records the contract expiry date as the 31/7/2024 with a potential extension to 31/7/2025. The expiry review date is also recorded as 31/7/2024, however, Contract Management Guidance confirms that the expiry review timescale for this contract should be 12 months prior to its expiry date. The expiry review date should therefore 31/7/2023 in order to maintain continuity of service provision either through a procurement exercise or the extension period.

In addition, it was found that the expiry review date for contracts is not always recorded within the Contract Register, with the date being shown as “Not Applicable” or left blank.

Management Action	Original Due Date	Revised Due Date	Latest Service Update
The Shared Procurement Service will contact all contract managers and ensure that this is updated to ensure accuracy of the expiry review date. The Contracts Register is to be reviewed by CMT and their departments to be completed by the end of November 2	30.11.2023	31.01.2024	Delay in taking to CMT. Contract register sent out to all services managers for completion by close of play 5 Jan 24, when we will be able to publish the following week.

#### Compliance – Electrical Safety (Housing Stock) - Limited Assurance

##### Observation:

There is an Electrical Safety Policy in place which covers the legislation, staff responsibilities, Council’s responsibilities, tenants and leaseholders’ responsibilities as well as contractors’ responsibilities. It also covers legal access and enforcement, repairs and rewire and data management. The policy was due for a review in December 2022, however, there is no documentation to substantiate that a review took place and no evidence that the policy was approved by the Head of Crawley Homes. In addition, the policy states in section 14 that; ‘Failure to allow access after 3 attempts/ 3 letters should result in the case being passed back to Crawley Borough Council legal department to progress through one of the routes identified below. ‘ However, there is no mention of any routes to resolve these outstanding checks, which makes this section of the policy incomplete.

Management Action	Original Due Date	Revised Due Date	Latest Service Update
The Electrical Safety Policy will be amended to correct the ‘Head of Property’ to ‘Head of Crawley Homes’. The review will also incorporate the outcome of the review of no access compliancy visits being undertaken together by the new Policy and Engagement Manager, with the agreed outcome being incorporated into the Policy document. Once agreed the amended Electrical Safety Policy document will be submitted to the Head of Crawley Homes, Amanda Kendall, for her	30.11.2023	31.03.2024	Crawley Homes Policy and Engagement Manager has been approached for support in drafting of enhanced Electrical Safety Policy and has offered support. The Policy will be finalised at the later date of 31/03/24 due to there being an existing Policy Document in place and competing pressure of

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comment with any changes (if applicable) incorporated and corporately approved.			other compliance tasks which are required at this time. Priority remains the same.
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## Overdue 'Low &amp; Medium Priority' Management Actions (July 2023)

Audit Review	Report Date	Opinion	Priority	Due Date	Revised Due Date
Health and Safety	15.06.2022	Reasonable	Medium	31.08.2022	31.05.2023
			Medium	31.08.2022	31.05.2023
Air Quality management	07.02.2023	Reasonable	Medium	01.07.2023	31.03.2024
Compliance – Gas Safety Audit (Housing Stock)	08.03.2023	Reasonable	Medium	31.03.2023	31.03.2024
			Medium	31.03.2024	31.03.2024
			Medium	28.04.2023	30.06.2024
Contract Management	18.09.2023	Limited	Medium	30.11.2023	31.03.2024
			Medium	30.11.2023	31.03.2024
Compliance - Electrical Safety (Housing Stock)	13.10.2023	Limited	Medium	30.11.2023	31.03.2024
			Medium	30.11.2023	31.03.2024
			Medium	30.11.2023	31.03.2024
			Low	30.11.2023	31.03.2024

Crawley Borough Council Assurance Opinions (Pre 2022/23)

- Substantial** *There is a sound system of internal control designed to achieve the system objectives. Compliance with the control process is considered to be of a high standard and few or no material errors or weaknesses were found.*
- Satisfactory** *Whilst there is a basically sound system of internal control designed, there are weaknesses, which put some of the system objectives at risk, and/or there is evidence that the level of non-compliance with some of the controls may put some of the system objectives at risk.*
- Limited** *Weaknesses in the design of the system of internal controls are such as to put the system objectives at risk, and/or the level of non-compliance with some of the controls puts the system objectives at risk.*
- No** *Control design is generally weak leaving the system open to significant error or abuse, and/or significant non-compliance with basic controls leaves the system open to error or abuse.*

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# Agenda Item 9

## Crawley Borough Council

### Report to the Audit Committee

12 March 2024

### Internal Audit Charter 2024/2025

Report of the Head of Corporate Finance – FIN/654

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#### 1. Purpose

- 1.1 The purpose of this paper is to present the Internal Audit Charter 2024-25 to the Audit Committee in accordance with the requirements of the Public Sector Internal Audit Standards.

#### 2. Recommendations

- 2.1 The Committee is requested to approve the Internal Audit Charter 2024-25 as attached.

#### 3. Reasons for the Recommendations

- 3.1 The Committee has a responsibility to approve the Internal Audit Charter in accordance with the Public Sector Internal Audit Standards.

#### 4. Background

- 4.1 The Internal Audit Charter is a formal document that defines the internal audit activity's purpose, authority and responsibility consistent with the Definition of Internal Auditing, the Code of Ethics and the Standards. The Public Sector Internal Audit Standards require the charter to be reviewed and approved annually.

- 4.2 The Accounts and Audit (England) Regulations 2015 state:

*'a relevant body must undertake an effective internal audit to evaluate the effectiveness of its risk management control and governance processes, taking into account public sector internal auditing standards or guidance'*

The Public Sector Internal Audit Standards (attribute standard 1000) requires that all internal audit activities maintain an 'internal audit charter'.

The internal audit charter establishes internal audits position within the organisation including:

- Recognising the mandatory nature of the Public Sector Internal Audit Standards
- Defining the scope of internal audit responsibilities.
- Establishing the organisational independence of internal audit.
- Establishing accountability and reporting lines (functional and administrative).
- Arrangements that exist with regard anti-fraud and anti-corruption.
- Establishing internal audit rights of access.
- Defining the terms 'board' and 'senior management' for the purpose of internal audit.

# Agenda Item 9

In accordance with the Standards the internal audit charter should be reviewed annually (minimum) and approved by senior management and the Audit Committee.

Appendix A provides a draft copy of the Internal Audit Charter 2024-25 for review and comment.

Report author and contact officer: Carolin Martlew, Head of Corporate Finance



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### **Southern Internal Audit Partnership**

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CRAWLEY BOROUGH COUNCIL  
Internal Audit Charter 2024/25

Prepared By: Iona Bond, Assistant Head of Partnership  
February 2024

# Agenda Item 9

## Internal Audit Charter – 2024/25

### Introduction

The Public Sector Internal Audit Standards (the Standards) provide a consolidated approach to audit standards across the whole of the public sector providing continuity, sound corporate governance and transparency.

The Standards form part of the wider mandatory elements of the International Professional Practices Framework (IPPF) which also includes:

- the mission;
- core principles;
- definition of internal audit; and
- Code of Ethics.

The Standards require all internal audit activities to implement and retain an 'Internal Audit Charter'.



The purpose of the Internal Audit Charter is to formally define the internal audit activity's purpose, authority, and responsibility.

### Mission and Core Principles

The IPPF 'Mission' aims *'to enhance and protect organisational value by providing risk-based and objective assurance, advice and insight.'*

The 'Core Principles' underpin delivery of the IPPF mission:

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

# Agenda Item 9

## **Authority**

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

*‘undertake an adequate and effective internal audit of its accounting records and of its system of internal control in accordance with the proper practices in relation to internal control’.*

The standards for ‘proper practices’ in relation to internal audit are laid down in the Public Sector Internal Audit Standards (updated 2017).

## **Purpose**

The Council is responsible for establishing and maintaining appropriate risk management processes, control systems, accounting records and governance arrangements. Internal audit plays a vital role in advising the Council that these arrangements are in place and operating effectively. The Council’s response to internal audit activity should lead to the strengthening of the control environment and, therefore, contribute to the achievement of the organisation’s objectives.

This is achieved through internal audit providing a combination of assurance and consulting activities. Assurance work involves assessing how well the systems and processes are designed and working, with consulting activities available to help to improve those systems and processes where necessary.

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

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

## **Responsibility**

The responsibility for maintaining an adequate and effective system of internal audit within Crawley Borough Council lies with the S151 Officer.

For the Council, internal audit is provided by the Southern Internal Audit Partnership.

The Chief Internal Auditor (Assistant Head of Southern Internal Audit Partnership) is responsible for effectively managing the internal audit activity in accordance with the ‘Mission’, ‘Core Principles’, ‘Definition of Internal Auditing’, the ‘Code of Ethics’ and ‘the Standards’.

# Agenda Item 9

## **Definitions**

For the purposes of this charter the following definitions shall apply:

*The Board* – the governance group charged with independent assurance on the adequacy of the risk management framework, the internal control environment and the integrity of financial reporting. At the Council this shall mean the Audit Committee.

*Senior Management* – those responsible for the leadership and direction of the Council. At the Council this shall mean the Corporate Management Team.

## **Position in the organisation**

The Chief Internal Auditor reports functionally to the Board, and organisationally to the S151 Officer who has statutory responsibility as proper officer under Section 151 of the Local Government Act 1972, for ensuring an effective system of internal financial control and proper financial administration of the Council's affairs.

The Chief Internal Auditor has direct access to the Chief Executive who carries the responsibility for the proper management of the Council and for ensuring that the principles of good governance are reflected in sound management arrangements.

The Chief Internal Auditor has direct access to the Council's Monitoring Officer where matters arise relating to Monitoring Officer responsibility, legality and standards.

Where it is considered necessary to the proper discharge of the internal audit function, the Chief Internal Auditor has direct access to elected Members of the Council and in particular those who serve on committees charged with governance (i.e. the Audit Committee).

## **Internal audit resources**

The Chief Internal Auditor will be professionally qualified (CMIIA, CCAB or equivalent) and have wide internal audit and management experience, reflecting the responsibilities that arise from the need to liaise internally and externally with Members, senior management and other professionals.

The S151 Officer will provide the Chief Internal Auditor with the resources necessary to fulfil the Council's requirements and expectations as to the robustness and scope of the internal audit opinion.

The Chief Internal Auditor will ensure that the internal audit service has access to an appropriate range of knowledge, skills, qualifications and experience required to deliver the audit strategy and operational audit plan.

# Agenda Item 9

The annual operational plan will identify the resources required to complete the work, thereby highlighting sufficiency of available resources. The Chief Internal Auditor can propose an increase in audit resource or a reduction in the number of audits if there are insufficient resources.

*'Senior Management'* and *'the Board'* will be advised where, for whatever reason, internal audit is unable to provide assurance on any significant risks within the timescale envisaged by the risk assessment process.

The annual operational plan will be submitted to *'senior management'* and *'the Board'*, for approval. The Chief Internal Auditor will be responsible for delivery of the plan. The plan will be kept under review to ensure it remains responsive to the changing priorities and risks of the Council.

Significant matters that jeopardise the delivery of the plan or require changes to the plan will be identified, addressed and reported to *'senior management'* and *'the Board'*.

If the Chief Internal Auditor, *'the Board'* or *'Senior Management'* consider that the scope or coverage of internal audit is limited in any way, or the ability of internal audit to deliver a service consistent with the Standards is prejudiced, they will advise the S151 Officer accordingly.

## **Independence and objectivity**

Internal auditors must be sufficiently independent of the activities they audit to enable them to provide impartial, unbiased and effective professional judgements and advice.

Internal auditors must maintain an unbiased attitude that allows them to perform their engagements in such a manner that they believe in their work product and that no quality compromises are made. Objectivity requires that internal auditors do not subordinate their judgement on audit matters to others.

To achieve the degree of independence and objectivity necessary to effectively discharge its responsibilities, arrangements are in place to ensure the internal audit activity:

- retains no executive or operational responsibilities;
- operates in a framework that allows unrestricted access to *'senior management'* and *'the Board'*;
- reports functionally to *'the Board'*;
- reports in their own name;
- rotates responsibilities for audit assignments within the internal audit team; and
- completes individual declarations confirming compliance with rules on independence, conflicts of interest and acceptance of inducements.

# Agenda Item 9

If independence or objectivity is impaired in fact or appearance, the details of the impairment will be disclosed to *'Senior Management'* and *'the Board'*. The nature of the disclosure will depend upon the impairment.

## **Due professional care**

Internal auditors will perform work with due professional care, competence and diligence. Internal auditors cannot be expected to identify every control weakness or irregularity, but their work should be designed to enable them to provide reasonable assurance regarding the controls examined within the scope of their review.

Internal auditors will have a continuing duty to develop and maintain their professional skills, knowledge and judgement based on appropriate training, ability, integrity, objectivity and respect.

Internal auditors will apprise themselves of the *'Mission', Core Principles', Definition of Internal Auditing'*, the *'Code of Ethics'* and the *'Standards'* and will work in accordance with them in the conduct of their duties.

Internal auditors will be alert to the possibility of intentional wrongdoing, errors and omissions, poor value for money, failure to comply with management policy and conflicts of interest. They will ensure that any suspicions of fraud, corruption or improper conduct are promptly reported in accordance with the Council's Anti-fraud and Corruption Policy.

Internal auditors will treat the information they receive in carrying out their duties as confidential. There will be no unauthorised disclosure of information unless there is a legal or professional requirement to do so. Confidential information gained in the course of internal audit work will not be used to effect personal gain.

## **Access to relevant personnel and records**

In carrying out their duties, internal audit (on production of identification) shall have unrestricted right of access to all records, assets, personnel and premises, belonging to the Council or its key delivery partner organisations.

Internal audit has authority to obtain such information and explanations as it considers necessary to fulfil its responsibilities. Such access shall be granted on demand and not subject to prior notice.

## **Scope of Internal Audit activities**

The Chief Internal Auditor is responsible for the delivery of an annual audit opinion and report that can be used by the Council to inform its governance statement. The annual opinion will conclude on the overall adequacy and effectiveness of the organisation's framework of governance, risk management and control.

# Agenda Item 9

The Council assume a Key Stakeholder role within the Southern Internal Audit Partnership (SIAP). The SIAP currently provides internal audit services to a wide portfolio of public sector clients (Annex 1) through a variety of partnership and sold service delivery models.

A range of internal audit services are provided (Annex 2) to form the annual opinion for each member / client of the SIAP. The approach is determined by the Chief Internal Auditor and will depend on the level of assurance required, the significance of the objectives under review to the organisation's success, the risks inherent in the achievement of objectives and the level of confidence required that controls are well designed and operating as intended.

In accordance with the annual audit plan, auditors will plan and evaluate their work so as to have a reasonable expectation of detecting fraud and identifying any significant weaknesses in internal controls.

The Council maintain an in-house Corporate Fraud & Inspection Team responsible for conducting reactive fraud and irregularity investigations and proactive fraud work. This includes participation in the National Fraud Initiative (NFI) in which data from the Council's main systems are matched with data supplied from other Local Authorities and external agencies to detect potential fraudulent activity.

The Corporate Fraud & Inspection Team will inform the SIAP of the outcomes of all reactive fraud and irregularity investigations and proactive fraud work on a regular basis. SIAP will monitor the outcomes of this work to contribute to its assessment of the wider control environment and will review the governance arrangement to prevent, detect and investigate fraud and irregularities on a cyclical basis.

SIAP will review the governance arrangements to prevent, detect and investigate fraud and irregularities on a cyclical basis.

## **Reporting**

### ***Chief Internal Auditor's Annual Report and Opinion***

The Chief Internal Auditor shall deliver an annual internal audit opinion and report that can be used by the organisation to inform its governance statement.

The annual internal audit report and opinion will conclude on the overall adequacy and effectiveness of the organisation's framework of governance, risk management and control.

The annual report will incorporate as a minimum:

- The opinion;
- A summary of the work that supports the opinion; and
- A statement on conformance with the Public Sector Internal Audit Standards and the results of the quality assurance and improvement programme.

# Agenda Item 9

## Senior Management

As those responsible for the leadership and direction of the Council. It is imperative that the Corporate Management Team are engaged in:

- approving the internal audit charter (minimum annually);
- approving the risk based internal audit plan;
- receiving communications from the Chief Internal Auditor on the internal audit activity's performance relative to its plan and other matters;
- making appropriate enquiries of management and the Chief Internal Auditor to determine whether there are inappropriate scope and resource limitations; and
- receiving the results of internal and external assessments of the quality assurance and improvement programme, including areas of non-conformance.

## The Board

Organisational independence is effectively achieved when the Chief Internal Auditor reports functionally to the Board. Such reporting will include:

- approving the internal audit charter;
- approving the risk based internal audit plan;
- receiving communications from the Chief Internal Auditor on the internal audit activity's performance relative to its plan and other matters, including the annual report and opinion;
- making appropriate enquiries of management and the Chief Internal Auditor to determine whether there are inappropriate scope or resource limitations;
- receiving the results of internal and external assessments of the quality assurance and improvement programme, including areas of non-conformance; and
- approval of significant consulting services not already included in the audit plan, prior to acceptance of the engagement.

## Review of the internal audit charter

This charter will be reviewed annually (minimum) by the Chief Internal Auditor and presented to '*Senior Management*' and '*the Board*' for approval.



## Southern Internal Audit Partnership – Client Portfolio

<b>Strategic Partner:</b>	Hampshire County Council
<b>Key Stakeholder Partners:</b>	West Sussex County Council Havant Borough Council East Hampshire District Council Winchester City Council New Forest District Council Mole Valley District Council Epsom & Ewell Borough Council Reigate & Banstead Borough Council Tandridge District Council Crawley Borough Council Arun District Council Guildford Borough Council
<b>Blue light Key Stakeholder Partners:</b>	Hampshire & IoW Fire & Rescue Authority West Sussex Fire Service Office of the Hampshire & IoW Police & Crime Commissioner / Hampshire Constabulary Office of the Sussex Police & Crime Commissioner / Sussex Police Force Office of the Surrey Police & Crime Commissioner / Surrey Police Force
<b>External clients:</b>	Waverley Borough Council Hampshire Pension Fund West Sussex Pension Fund New Forest National Park Authority Ringwood Town Council Lymington & Pennington Town Council Langstone Harbour Authority Chichester Harbour Authority Isle of Wight College

### Assurance Services

- **Risk based audit:** in which risks and controls associated with the achievement of defined business objectives are identified and both the design and operation of the controls in place to mitigate key risks are assessed and tested, to ascertain the residual risk to the achievement of managements' objectives. Any audit work intended to provide an audit opinion will be undertaken using this approach.
- **Developing systems audit:** in which:
  - the plans and designs of systems under development are assessed to identify the potential weaknesses in internal control and risk management; and
  - programme / project management controls are assessed to ascertain whether the system is likely to be delivered efficiently, effectively and economically.
- **Compliance audit:** in which a limited review, covering only the operation of controls in place to fulfil statutory, good practice or policy compliance obligations are assessed.
- **Quality assurance review:** in which the approach and competency of other reviewers / assurance providers are assessed in order to form an opinion on the reliance that can be placed on the findings and conclusions arising from their work.
- **Fraud and irregularity investigations:** Internal audit may also provide specialist skills and knowledge to assist in or lead fraud or irregularity investigations, or to ascertain the effectiveness of fraud prevention controls and detection processes. Internal audit's role in this respect is outlined in the Council's Anti Fraud and Anti Corruption Strategy.
- **Advisory / Consultancy services:** in which advice can be provided, either through formal review and reporting or more informally through discussion or briefing, on the framework of internal control, risk management and governance. It should be noted that it would not be appropriate for an auditor to become involved in establishing or implementing controls or to assume any operational responsibilities and that any advisory work undertaken must not prejudice the scope, objectivity and quality of future audit work.

# Agenda Item 10

## Crawley Borough Council

### Report to the Audit Committee

12 March 2024

### Internal Audit Plan 2024/2025

Report of the Head of Corporate Finance – FIN/655

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#### 1. Purpose

- 1.1 The purpose of this paper is to present the Internal Audit Plan 2024-25 to the Audit Committee in accordance with the requirements of the Public Sector Internal Audit Standards.

#### 2. Recommendations

- 2.1 The Committee is requested to approve the Internal Audit Plan 2024-25 as attached.

#### 3. Reasons for the Recommendations

- 3.1 The Committee has a responsibility to approve the Internal Audit Plan in accordance with the Public Sector Internal Audit Standards.

#### 4. Background

- 4.1 The aim of internal audit's work programme is to provide independent and objective assurance to management, in relation to the business activities; systems or processes under review that:
- The framework of internal control, risk management and governance is appropriate and operating effectively; and
  - Risks to the achievement of the Council's objectives are identified, assessed and managed to a defined acceptable level.
- 4.2 The Internal Audit Plan provides the mechanism through which the Chief Internal Auditor can ensure most appropriate use of internal audit resources to provide a clear statement of assurance on risk management, internal control and governance arrangements. Internal audit focus should remain proportionate and appropriately aligned to key areas of organisational risk.
- 4.3 All auditable areas of review remain within the audit universe and are subject to ongoing assessment. The audit plan will remain fluid to ensure internal audits ability to react to the changing needs of the Council.
- 4.4 Other reviews, based on criteria other than risk, may also be built into the work plan. These may include 'mandatory' audits or reviews requested or commissioned by management. Any commissioned review must be able to clearly demonstrate a contribution to the audit opinion on risk management, control and governance.
- 4.5 Appendix A provides a copy of the Internal Audit Plan 2024-25 (draft) for review and comment.

# Agenda Item 10

## **5. Implications**

- 5.1 The Internal Audit Plan provides an overview of the audit work to be undertaken to enable the Chief Internal Auditor to form an annual report and opinion used to inform the Council's Annual Governance Statement.

## **6. Background Papers**

- 6.1 None.

Report author and contact officer: Carolin Martlew, Head of Corporate Finance



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## **CRAWLEY BOROUGH COUNCIL INTERNAL AUDIT PLAN 2024-25**

**Prepared by: Iona Bond, Assistant Head of Partnership**

**February 2024**

**APPENDIX A**

**Agenda Item 10**

## Introduction

The role of internal audit is that of an:

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

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

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

The aim of internal audit's work programme is to provide independent and objective assurance to management, in relation to the business activities; systems or processes under review that:

- the framework of internal control, risk management and governance is appropriate and operating effectively; and
- risk to the achievement of the Council's objectives is identified, assessed and managed to a defined acceptable level.

The internal audit plan provides the mechanism through which the Chief Internal Auditor can ensure most appropriate use of Internal Audit resources to provide a clear statement of assurance on risk management, internal control and governance arrangements.

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## Your Internal Audit Team

Your internal audit service is provided by the Southern Internal Audit Partnership. The strategic lead will be Iona Bond, Assistant Head of Partnership, supported by Vanessa Anthony, Audit Manager.

## Conformance with Internal Auditing Standards

The Southern Internal Audit Partnership service is designed to conform to the Public Sector Internal Audit Standards (PSIAS). Under the PSIAS there is a requirement for audit services to have an external quality assessment every five years. In September 2020 the Institute of Internal Auditors were commissioned to complete an external quality assessment of the Southern Internal Audit Partnership against the PSIAS, Local Government Application Note and the International Professional Practices Framework.

In selecting the Institute of Internal Auditors (IIA) a conscious effort was taken to ensure the external assessment was undertaken by the most credible source. As the authors of the Standards and the leading Internal Audit authority nationally and internationally the IIA were excellently positioned to undertake the external assessment.

In considering all sources of evidence the external assessment team concluded:

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

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

## Conflicts of Interest

We are not aware of any relationships that may affect the independence and objectivity of the team which are required to be disclosed under internal auditing standards.

### **Crawley Borough Council – Corporate Priorities 2023 - 2027**

The purpose of the Council’s corporate priorities 2023 to 2027 document is to set out their strategic direction for the four-year period. This is linked to the administration’s Manifesto, the Budget Strategy and the Transformation Plan.

The corporate priorities consist of six key headline priority objectives which are underpinned by 33 objectives, projects and initiatives.

The six priorities are:

- **Delivering value for money and modernising the way we work**
- **Delivering affordable homes for Crawley and addressing homelessness**
- **Enabling a sustainable economic recovery and improving job opportunities**
- **Reconnecting communities**
- **Providing high quality leisure and culture facilities and supporting health and wellbeing services**
- **Protecting the environment**



**Developing the Internal Audit Plan 2024/25**

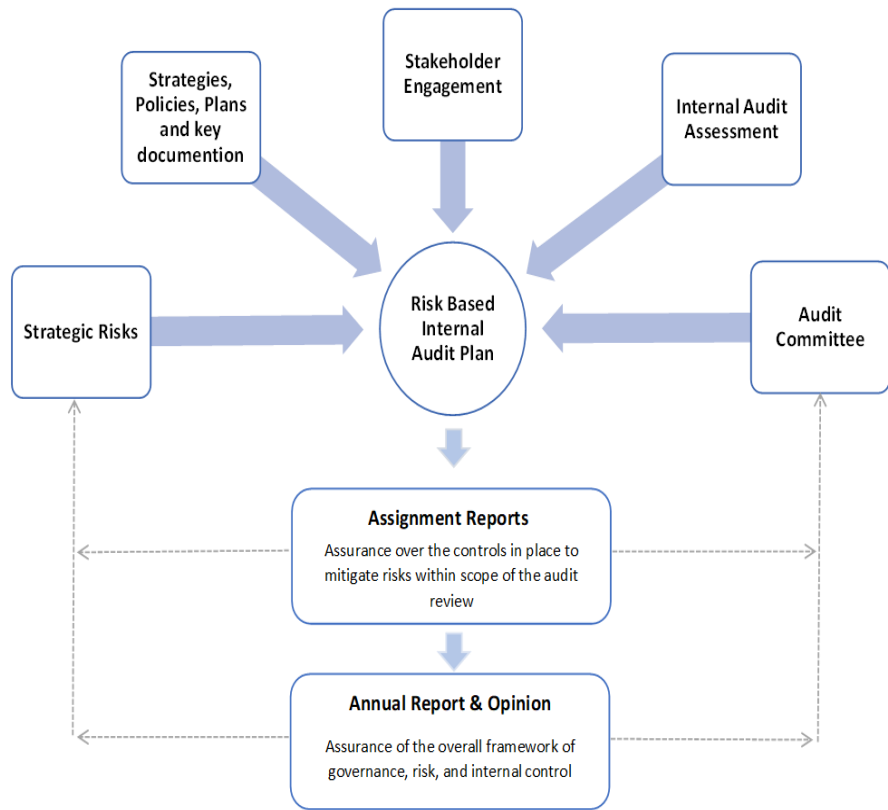
In accordance with the Public Sector Internal Audit Standards there is a requirement that internal audit establish a risk-based audit plan to determine the resourcing of the internal audit service, consistent with the organisation’s goals.

Based on conversations with key stakeholders, review of risk registers, key corporate documents and our understanding of the organisation, the Southern Internal Audit Partnership have developed an annual audit plan for the coming year.

Audit planning is a perpetual process throughout the course of the year to ensure we are able to react to new and emerging risks and the changing needs of the organisation.

The Council are reminded that internal audit is only one source of assurance and through the delivery of our plan we will not, and do not seek to cover all risks and processes within the organisation.

We will however continue to work closely with other assurance providers to ensure that duplication is minimised, and a suitable breadth of assurance is obtained.



## Internal Audit Plan 2024-25

Audit Review	Audit Sponsor	Indicative Scope	Corporate Risks	Proposed Timing
<b>Corporate and Governance</b>				
Asset Management (corporate estate)	Head of Commercial Services Head of Community Services Head of Corporate Finance	Assurance over the governance and management of reactive and proactive maintenance of the corporate estate.		Q4
Safeguarding	Head of Community Services	To ensure effective policies and procedures are in place and training provided to staff along with appropriate statutory checks.		Q3
Risk Management	Head of Governance, People and Performance	Assurance over the risk management framework including governance, transparency and maturity.		Q1
Human Resources and Organisational Development	Head of Governance, People and Performance	Assurance against key services / risk over a cyclical period, to include: · Workforce Strategy / Development · Performance Management · Absence Management · Recruitment · Training & Development · Use of Agency Staff · Use of Volunteers. Scope for 2024/25 to be determined.	✓	Q4

Audit Review	Audit Sponsor	Indicative Scope	Corporate Risks	Proposed Timing
Information Governance	Head of Governance, People and Performance	Assurance over information governance arrangements in place for data retention, storage and handling.	✓	Q3
<b>IT</b>				
User Access – Set Up and Permissions	Head of Digital and Transformation	Assurance over the controls in place for setting up and removing access to Council IT systems.		Q4
IT Contingency	Head of Digital and Transformation	TBC		Q2/3
<b>Core Financial</b>				
Accounts Payable	Head of Corporate Finance	Cyclical review as a key financial system.		Q2
Council Tax	Head of Corporate Finance	Cyclical review as a key financial system.		Q3
Housing Benefits	Head of Corporate Finance	Cyclical review as a key financial system.		Q1
<b>Delivering value for money and modernising the way we work</b>				
Medium Term Financial Planning	Head of Corporate Finance	Framework in place to assess the ongoing financial resilience of the Council (MTFS assumptions etc). Implications on future saving programmes / work streams.	✓	Q2
Commercial Properties	Head of Corporate Finance	Assurance over the governance and processes in place to manage the commercial property portfolio.		Q3

Audit Review	Audit Sponsor	Indicative Scope	Corporate Risks	Proposed Timing
<b>Delivering affordable homes for Crawley and reducing homelessness</b>				
Homelessness	Head of Strategic Housing	Assurance over the governance arrangements in place for the administration of migration and asylum seekers.	✓	Q3
Statutory Checks - Water Safety	Head of Crawley Homes	Assurance over the arrangements in place to ensure that all required legislative checks are being conducted and any remedial works identified are undertaken in a timely manner for the Council's housing stock.		Q1
Leasehold Management	Head of Crawley Homes	Assurance over the process and controls in place for the identification and invoicing for leasehold property management charges.		Q2
Tenancy Management	Head of Crawley Homes	Assurance over the process and controls for managing the tenancies of the Council's housing stock.		Q3
Cleaning and Clearance	Head of Crawley Homes	Assurance over the health and safety controls in place for the management of a fleet of vehicles and workforce undertaking cleaning, clearance and maintenance within the community (grass cutting, clearing, dog bins, etc).		Q1
<b>Protecting the Environment</b>				
Refuse Collection and Recycling	Head of Commercial Services	TBC	✓	Q2
<b>Improving job opportunities and developing the local economy</b>				
Crawley Growth Programme	Head of Economy and Planning	Assurances over the processes in place for awarded Crawley Growth Programme Funding. This would be in accordance with any grant determination(s) in place.	✓	Q3

Audit Review	Audit Sponsor	Indicative Scope	Corporate Risks	Proposed Timing
Towns Fund	Head of Corporate Finance Head of Economy and Planning	Assurances over the processes in place for awarded Towns Fund Programme Funding. This would be in accordance with any grant determination(s) in place.	✓	Q1
<b>Creating Stronger Communities</b>				
Community Grants	Head of Community Services	Assurance over the framework of governance in place for the award of grant monies from the Council's strategic grants programme.		Q2
Disabled Facilities Grants	Head of Strategic Housing	Assurance over the administration and awarding of grants in line with local / legislative requirements.		Q3
<b>Other</b>				
Parking (and Enforcement)	Head of Community Services	Assurance over collection of car park income (end to end review from point of pay to banking and reconciliation).		Q4
Vehicle Workshop/Fleet management	Head of Commercial Services	Assurances over the processes in place for the management and operation of the Council's fleet, including maintenance, inspections and MOT's.		Q1
Environmental Health	Head of Community Services	Assurance over the processes in place to manage regulatory activities, e.g. food safety, pollution control, enforcement. For 2024/25 reviews will be undertaken on Health and Safety Licensing and Food Safety.		Q2
<b>Miscellaneous</b>				
Management				Q1 – Q4
<b>Total Days</b>				<b>393</b>

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## Crawley Borough Council

### Report to the Audit Committee

12 March 2024

### Risk Management Update

Report of the Head of Governance, People & Performance – LDS/216

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#### 1. Purpose

- 1.1. The Committee is asked to review the action taken by the Corporate Management Team and staff to mitigate Strategic Risks.

#### 2. Recommendations

- a) The Committee is requested to consider the contents of this report and confirm it is satisfied with risk management arrangements.
- b) Review the Strategic Risk register (Appendix A) and determine whether there are any matters that it wishes to draw to the attention of the Chief Executive or to Cabinet.

#### 3. Reasons for the Recommendations

- 3.1. The Committee has a responsibility to ensure that action has been taken by relevant Managers on risk-based issues identified by Internal Audit.

#### 4. Background

- 4.1. The Corporate Management team regularly review the Strategic Risks of the Council and look at the mitigations of those risks. This is a live document and updates on risks are presented to the Audit Committee at its meetings. The internal audit service (SIAP) will give an annual report and opinion on the organisation's framework of governance, risk management and contra based on the audit work conducted in the year. The Audit Plan looks at these Strategic risks.
- 4.2. The Corporate Management Team made a commitment to amend the strategic risks from a long list to one in tabular format; with risk scores without controls in place; what mitigations are in place which gives residual scores.
- 4.3. The focus of effective risk management is the identification and management of risks and opportunities. It increases the probability of success, reduces the likelihood of failure and the uncertainty of achieving objectives. Risk management should be a continuous and evolving process which runs throughout the Council's strategies and service delivery.

# Agenda Item 11

- 4.4. This enables the Audit Committee to meet its responsibilities to provide the Council with independent assurance of the adequacy of the risk management framework and associated control environment.

## 5. Risk Management Arrangements

- 5.1. The Council's approach to risk management is set out in its [Risk Management Strategy](#). The objectives of a risk management strategy are to:
- Integrate risk management into the culture of the Council by engendering a positive attitude and understanding to risk throughout service areas.
  - Manage risk in accordance with best practice.
  - Prevent injury, damage and financial loss to those connected with the Council's delivery of services.

## 6. Strategic Risk Register

- 6.1. A strategic risk is defined as an event or action that will affect an organisation's overall ability to achieve its corporate objectives and execute strategies successfully. By their nature, strategic risks are generally not service or objective specific; they are areas of risk that cut across service and objective boundaries.
- 6.2. The Strategic Risk Register (Appendix A) is a live document which is regularly reviewed by the Corporate Management Team, and it includes a summary of the current analysis of residual risk as well as detail on each Strategic Risk.
- 6.3. The risk tolerance of the Council is the threshold above which the level of risk is not acceptable and requires further action to reduce the risk. The level has been agreed by the Corporate Management Team to be any risk with a residual score of 15 or above (red risks). This is set out in the Risk Management Strategy.
- 6.4. Risks around the provision of affordable housing, cost of living, homelessness, water neutrality and climate change emergency and maintaining a balanced budget are exceeding this score. In these cases, there are external factors that are affecting the score, these scores are being constantly reviewed by CMT and updates will be provided to future Audit Committees.

## 7. Updates since the last Audit Committee (21 November 2023)

- 7.1 Risk 4: Homelessness. Reference to the budget overspend reported at Q3 of £3.6m has been updated in the risk description. The risk scores remain unchanged. Representation continues to be made to Government departments and opportunities for collaborative lobbying with other LAs also facing significant challenges are being taken forward.
- 7.2 Risk 9: Maintaining a balanced budget. The risk score post mitigation has been increased from 15 to 20. This reflects the worsening financial budget position reported in the Q3 Budget monitoring report. Cost pressures include the above budget pay settlement, and other inflationary pressures, Housing Benefit and the Town Hall/District Heat Network. However, the greatest cost pressure is in the Homelessness service (temporary accommodation) with an additional cost pressure of £3.6m. These cost pressures are anticipated to continue in the budget for 2024/25.



# Agenda Item 11

- 7.3 Risk 15: Cost of Living. A recommendation from the last Audit Committee was for CMT to review the risk description so that it reflected how the Council's inability to support residents might impact the Council's ability to provide services to its residents. CMT has reviewed this risk which has taken an inward view, the impact on council finances and the financial risk posed which is covered by maintaining a balanced budget. An outward view is the impact on the customer in terms of their ability to cope and manage. The risk score post mitigation has been amended to 15 (previously 16). However, it has been given a probability score of 5 (highly probable) as the risk is occurring now. Arrears are increasing e.g., outstanding rent, but the Council cannot determine how much is attributable to the cost of living. More intelligence is needed on both rent and council tax arrears. Data gathering is being undertaken to help further develop our understanding.
- 7.4 Risk 17 Damp and Mould. The mitigations have been updated to reflect the current approach, but the risk scores remain unchanged. Task teams have been put in place to provide a holistic response for complex cases. These teams include a Surveyor, Housing Officer and Financial Inclusion Officer. For all cases teams are continuing to provide advice about heating and issuing energy vouchers where appropriate to encourage better heating of homes, and mini dehumidifiers and window vacs where relevant. Awaabs law is currently under consultation that will bring in statutory requirements for how social landlords deal with hazards including damp and mould within strict timescales. There is concern the impact this will have on resourcing, both diagnosing and completion of the repair. The Council is awaiting the outcome of the consultation by the Regulator of Social Housing.

Report author and contact officer: Anna Pedlow, Corporate Performance Manager

**Strategic Risk Register**

**Appendix A**

This register details the strategic risks faced by Crawley Borough Council in relation to achieving its priorities and includes the mitigation action being taken to control these risks. The register is owned by the Chief Executive and Corporate Management Team and is updated regularly.

Below is the matrix we use when scoring risk for any project or activity. The risk assessment criteria used to score risks is shown in more detail at Appendix B. We also consider the risk appetite for each risk based on the definitions below.

Impact	5 Catastrophic	5	10	15	20	25
	4 Major	4	8	12	16	20
	3 Moderate	3	6	9	12	15
	2 Minor	2	4	6	8	10
	1 Insignificant	1	2	3	4	5
		Remote 1	Possible 2	Likely 3	Probable 4	Highly probable 5
Probability						

Risk Appetite	Description
Opposed	Avoidance of risk and uncertainty is key objective
Minimalist	Preference for safe options that have a low degree of inherent risk
Cautious	Preference for safe options that have a low degree of residual risk
Mindful	Willing to consider all options and choose one that is most likely to result in successful delivery
Enterprise	Eager to be innovative and to choose options that suspend previous held assumptions and accept greater uncertainty

Risk ID	Risk Title	Risk Description	CMT Owner	Risk score (no controls)	Mitigations	Risk score (post mitigation)	Risk Appetite
1.	District Heat Network	<p>Failure to balance value with return in relation to the ongoing operation, maintenance, and billing of the District Heat Network.</p> <p>The inflationary context in particular creates a pricing risk, attempting to ensure value for residents whilst achieving the required return. There is significant reputational risk in ensuring this balance is correct.</p>	Head of Major Projects & Commercial Services		<p>The operation, maintenance and billing has been contracted out. Heat tariff for second round of price setting was implemented in December 2023. There were some cost pressures (notably the plant operating below capacity the Council currently picking up all of the heat costs for the Create Building) which have negatively impacted the revenue position in 2023/24. The risk score has therefore remained consistent post mitigation and attention to these as well as movement in wholesale gas price will continue in 2024/25.</p> <p>Internal Audit completed a review of the DHN in Q4 2022/23 and assessed it as 'substantial assurance'</p>		Mindful

Risk ID	Risk Title	Risk Description	CMT Owner	Risk score (no controls)	Mitigations	Risk score (post mitigation)	Risk Appetite
2.	LEP Infrastructure – Crawley Growth Programme	<p>Risk of failure to deliver the Crawley Growth Programme due to:</p> <ul style="list-style-type: none"> <li>Budget overspend for the future project delivery within the Programme and scheme delivery time overruns.</li> <li>Discontinuation or withdrawal of support from key partners.</li> <li>A sustained period of economic downturn which slows up private sector investment on key regeneration sites in the town centre.</li> <li>Ineffective co-ordination of delivery across projects, leading to multiple disruption in the town centre and Manor Royal when this was avoidable.</li> </ul>	Head of Economy & Planning		<p>Regular financial monitoring and audit work carried out, including quarterly updates to CPAG. The Head of Corporate Finance regularly attends Programme Delivery Team or Crawley Growth Board meetings with West Sussex County Council.</p> <p>A mid-term programme review was undertaken in Q3 2022 to agree a way forward and delivery programme for the remaining projects. The agreed funding protocol between CBC and WSCC is being updated to reflect that outcome of the review and new opportunities arising to add more government funding to the Crawley Growth programme.</p> <p>Regular project monitoring undertaken by individual Project Boards, the Programme Delivery team with West Sussex County Council and reported to the Crawley Growth Board, chaired by the CBC Chief Executive.</p> <p>Regular interaction to identify and resolve issues promptly at project Board level with the Manor Royal Business District, Network Rail, GTR, Metrobus etc.</p> <p>The target date for delivery of regeneration site outcomes is 2030 to take account of the economic cycle and potential for a sustained downturn, which has been exacerbated by the impact of the COVID-19 crisis nationally and internationally.</p> <p>Careful planning and close cooperation between CBC, WSCC officers and third-party partners / contractors. All partners within the Crawley Growth Programme follow a Communications protocol to ensure effective coordination and communications around project delivery.</p>		Mindful

Risk ID	Risk Title	Risk Description	CMT Owner	Risk score (no controls)	Mitigations	Risk score (post mitigation)	Risk Appetite
3.	Delivering the Affordable Housing Programme	<p>Risk of failure to deliver the affordable Housing Programme due to:</p> <p>The recent water neutrality position statement issued by Natural England has both immediate and future impacts on the delivery programme. Additional costs arising from the requirement for schemes to evidence water neutrality through on-site and off-setting measures may impact the viability of schemes and the level of affordable housing that can be delivered.</p> <p>Beyond the medium term, the majority of larger sites within the Council boundary that can easily be built upon will have been developed. This will leave smaller sites that are more challenging and contentious in nature and therefore more resource intensive to bring forward or finding other opportunities such as regeneration.</p>	Head of Strategic Housing Services		<p>Officers are engaged in discussions with Natural England and Southern Water as well as with neighbouring local authorities in seeking to minimise impacts on the delivery programme. Work is underway to quantify and maximise headroom to take forward new development through offsetting measures within existing stock. Supported by external consultancy advice officers continue to work up proposals to evidence water neutrality for key developments caught by the new requirements.</p> <p>Roll out of a pilot project within the Council's own housing stock has enabled further water savings to be made and these have been allocated to support the development of key sites. This work will continue to generate further water savings to support more housing development.</p> <p>Work has been undertaken to identify these future sites and opportunities, feeding into the Local Plan, and developing programmes of work. This includes seeking to maximise opportunities afforded by development within neighbouring Districts and Boroughs adjoining the Council's boundaries. Should the proposal to remove the Duty to Co-operate come into effect this work may be compromised.</p>		Mindful
4.	Homelessness	<p>Increase of homelessness cases and the financial impact this has on meeting temporary accommodation duties.</p> <p>Following increased demand for temporary accommodation during the pandemic, levels of homelessness continue to rise. The on-going economic impacts from the pandemic, cost of living rises and increased additional demand arising from asylum and refugee resettlement programmes are placing an unprecedented burden on the Council in meeting temporary accommodation duties.</p> <p>Demand for TA significantly outstrips supply necessitating heavy reliance on expensive nightly paid accommodation with significant budgetary implications. An overspend of £3.6m was projected at Q3.</p>	Head of Strategic Housing Services		<p>Due to the continued levels of demand coming into the service and the limited number of opportunities for pathways out of temporary accommodation efforts to mitigate the risk score are not keeping pace and temporary accommodation and nightly paid usage continues on an upward trajectory despite successfully securing an additional 27 units of TA. Without Government intervention through either changes to national housing policy or additional funding support the Council's ability to respond to these pressures and reduce TA expenditure remains severely constrained.</p> <p>Representation continues to be made to Government departments and opportunities for collaborative lobbying with other LAs also facing significant challenges are being taken forward.</p>		Mindful

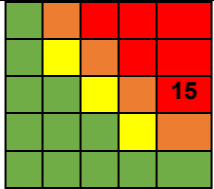
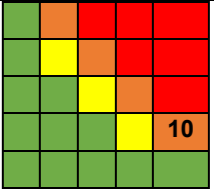
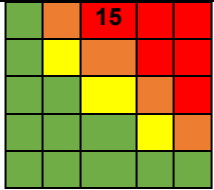
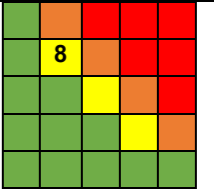
Risk ID	Risk Title	Risk Description	CMT Owner	Risk score (no controls)	Mitigations	Risk score (post mitigation)	Risk Appetite
5.	Migration/Asylum pressures	<p>Increase in migration / asylum cases and the impact this has on meeting temporary accommodation duties.</p> <p>Currently Crawley is host to a number of individuals either seeking asylum or providing Afghan Bridging accommodation. These are arrangements made directly by the Home Office.</p> <p>In addition, new legislation has recently been passed to provide those with Chagossian decent UK Citizenship entitlement from British Overseas Territories.</p>	Chief Executive		<p>The application process went live on 23 November 2022. Revised estimates by the Foreign, Commonwealth &amp; Development Office are that 5000-6000 people will take up this entitlement with a view to moving to the UK, and that the majority will first head to Crawley due to an already established community in the town. Decisions are now taking place with Citizenship ceremonies being arranged.</p> <p>No impact analysis or implementation planning has been put in place by the Government. Potential impacts are wide but none more serious than potential impact on housing and homelessness, in addition to the risks set out in the above entry.</p> <p>Ongoing representations to Government officials and relevant Government Ministers from FCDO, Home Office and DLUHC are regularly made, along with a case for CBC to secure additional new burdens funding to assist with costs of housing and resettlement. Temporary housing officer support is also being secured to assist with demand.</p>		Cautious
6.	Three Bridges Station	A way forward for the scheme is unable to be agreed.	Head of Economy & Planning		<p>A planning application for the scheme was submitted autumn 2022 and Planning Committee resolved to permit the application in Q4 2022/23. Work is being progressed with Network Rail and GTR on the processing of the Station Change procedure, the completion of which is required prior to the tender process commencing to commission the works to start on site. The scheme featured as part of the overall Crawley Growth Programme review jointly with West Sussex County Council which took place in Q3 2022. A comprehensive risk register is overseen by the Project Board of the Crawley Growth programme.</p>		Cautious

Risk ID	Risk Title	Risk Description	CMT Owner	Risk score (no controls)	Mitigations	Risk score (post mitigation)	Risk Appetite
7.	Disaster Recovery and Business Continuity – Data Breaches or Network Compromise (Hack)	<p>Inadequate technical safeguards and poor staff awareness and practice leads to a compromise of our systems and data.</p> <p>Failure to maintain technical security safeguards – e.g. that firewalls are up to date or that the latest advice from NCSC has not been assessed and followed where appropriate.</p> <p>Improper disclosure of confidential information (in any format i.e. digital, paper etc.) could bring both financial loss (ICO fines, or worse, a ransomware attack) as well as reputational damage to the organisation.</p> <p>Failure to comply with GDPR legislation could lead to major reputational damage, loss of public confidence and the inability to operate key business processes.</p>	Head of Digital & Transformation and Head of Governance, People & Performance (Data Protection Officer)	<p>A 5x5 grid with 16 red cells and 14 green cells. The number 16 is in the center.</p>	<p>The Council has made some considerable strides in this area.</p> <ul style="list-style-type: none"> <li>PSN certification achieved again in May 2023.</li> <li>Migration to the Azure (Microsoft) Cloud</li> <li>Implementation of MFA and other technical safeguards mean CBC is well protected.</li> </ul> <p>Training and awareness are key, as well as clear procedures for staff on what to do in the event of suspicious activity or possible breach. Additional foundation training has been delivered to all staff. Staff response to suspicious emails (with further training for those that fail) has been commissioned and began rollout in October 22 which includes regular random testing of all users.</p> <p>A comprehensive Information Management programme is being delivered, which includes new systems (Sharepoint), revised policies and procedures and is delivering training on both systems and GDPR &amp; information management for all staff. The Information Governance Board has been refreshed both in terms of membership and its terms of reference.</p>	<p>A 5x5 grid with 8 red cells, 12 green cells, and 1 yellow cell. The number 8 is in the center.</p>	Minimalist
8.	Disaster Recovery and Business Continuity – Health & Safety Breaches	<p>Failure to comply with the requirements set out by Health &amp; Safety legislation which covers the functions of the Council.</p> <p>Lack of clarity and / or understanding regarding the legal duties of Managers to ensure that risk assessments in respect of places, activities and people are regularly undertaken.</p>	Head of Governance, People & Performance	<p>A 5x5 grid with 12 red cells, 12 green cells, and 1 yellow cell. The number 12 is in the center.</p>	<p>Review the council's Health &amp; Safety Handbook for Employees and Health &amp; Safety Policy. Provide training where appropriate.</p> <p>Evaluate the Council's Health &amp; Safety compliance status.</p> <p>Implement a Health &amp; Safety Action Plan for compliance.</p>	<p>A 5x5 grid with 8 red cells, 12 green cells, and 1 yellow cell. The number 8 is in the center.</p>	Minimalist

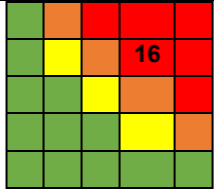
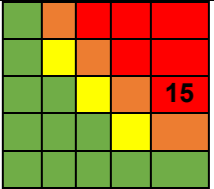
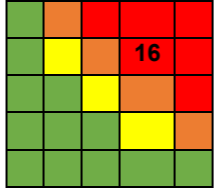
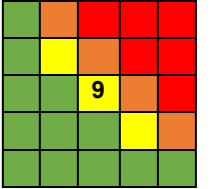
Risk ID	Risk Title	Risk Description	CMT Owner	Risk score (no controls)	Mitigations	Risk score (post mitigation)	Risk Appetite
9.	Maintaining a balanced budget	A balanced budget is not achieved in the Medium Term, resulting in an increased use of reserves, which is not sustainable.	Head of Corporate Finance		<p>Quarterly budget monitoring reports are submitted to Cabinet and Overview &amp; Scrutiny Commission.</p> <p>The Q3 Budget monitoring report shows a worsening financial position. The forecast shows additional cost pressures of £5.2m which reduces to £3.9m net after additional interest on investments. In year mitigations of (£1.5m) have been identified, however, further sources of funding will be required to maintain the General fund above the £3m recommended balance.</p> <p>Cost pressures include the above budget pay settlement, and other inflationary pressures, Housing Benefit and the Town Hall/District Heat Network. However, the greatest cost pressure is in the Homelessness service (temporary accommodation) with additional cost pressure of £3.6m. These cost pressures are anticipated to continue in the budget for 2024/25.</p> <p>The budget strategy accepts that the situation is not sustainable in the medium term and sets out actions over the next 12 to 18 months to correct the situation. An all-member finance seminar was held on 8 November 2023. A further all- member Budget 2024/25 seminar was held on 8 February 2024.</p>		Mindful

Risk ID	Risk Title	Risk Description	CMT Owner	Risk score (no controls)	Mitigations	Risk score (post mitigation)	Risk Appetite
10.	Organisational Capacity: Recruitment, Retention & Succession Planning	<p>Failure to recruit and retain employees across a variety of professional, technical and front-line roles.</p> <p>Failure to take steps to counter the impact of an ageing workforce and an increase of key staff retiring.</p>	Head of Governance, People & Performance		<p>HR Team and People Board working on developing the Council's "Employer Value Proposition". This will shape future recruitment campaigns and communications with existing staff. HR are also working closely with managers to refresh the Recruitment Policy and make this activity smoother whilst ensuring lawfulness, fairness and transparency.</p> <p>HR Team is exploring non-financial ways of enhancing the employee experience, e.g. improving the learning and professional development offer, creating career pathways, modernising systems to give managers and staff better tools to work with, maintaining a strong commitment to the physical and mental health and wellbeing of the workforce with solid support services and referral routes.</p> <p>In addition to the Plan, Do, Review (PDR) system. the HR Team and People Board have looked to improve communication lines with staff surveys, listening forums as well as corporate communications.</p> <p>HR Team and People Board to review Reward &amp; Recognition e.g., staff Making a Difference awards to ensure awareness and consistency of use across the organisation.</p> <p>Address the skills gap (and therefore lack of candidates) in the market by potentially "growing our own" experienced staff.</p>		Mindful
11.	Climate Emergency	<p>Failure to reduce carbon emissions by at least 50% and as close to net zero as possible by 2030.</p> <p>Failure to achieve carbon zero by 2040 at the latest.</p>	Head of Economy & Planning		<p>The Council's Climate Change Emergency Action Plan is in place.</p> <p>Officers are drawing on funds from within the agreed Council budget for 2023-2024 to progress the delivery of Climate Change Action Plan tasks and the Council's carbon emissions reductions targets.</p> <p>A new Sustainability Manager started in post on 30<sup>th</sup> October to co-ordinate progress with Action Plan delivery.</p> <p>Indications are that HMG will reduce intervention to support this work moving forward, reducing the availability of external funding, and increasing the risk of not being able to deliver on key aspects of the plan.</p>		Mindful



Risk ID	Risk Title	Risk Description	CMT Owner	Risk score (no controls)	Mitigations	Risk score (post mitigation)	Risk Appetite
12.	National Waste Strategy (including Food Waste)	Impact of the National Waste & Resources strategy on the delivery of the waste and recycling contract.	Head of Major Projects & Commercial Services	 15	<p>Letter from DEFRA October 2023 has confirmed the requirement to introduce separate food waste collection by March 2026. This will be the major change required locally and provides the basis to progress the service specification for the contract period from the beginning of March 2026.</p> <p>Capital funding award towards the cost of vehicles has been confirmed by DEFRA. This is estimated to be approximately £500k lower than the actual costs the Council will incur.</p> <p>A separate food waste collection is likely to create revenue pressure. There are indications from Government that they will provide some financial support however the form and extent of this is not currently known. Given the uncertainty regarding the revenue impacts, the post mitigation risk score has remained the same.</p>	 10	Mindful
13.	Local Plan	Failure to adopt the Local Plan within the timeframe set by the government.	Head of Economy & Planning	 15	<p>The Crawley Local Plan review was further delayed due to the need to demonstrate Water Neutrality for all planned development within the Sussex North Water Resource Zone, cumulatively across all the Plans in the area. A Water Neutrality Strategy to support the emerging Local Plans has been finalised and agreed by all authorities within the Sussex North area, and this has been endorsed by Natural England. An Offsetting Implementation Scheme across Sussex North is in the process of being established to deliver the agreed policy approach. A Project Manager has been appointed working across all the councils to progress this work. Following approval by Full Council in February 2023 and a six-week period of Regulation 19 consultation, which ended on 20th June, the Crawley Local Plan 2024-2040 was submitted at the end of July to the government's Planning Inspectorate for Examination. Representations made to the Plan as part of the consultation process will be considered through the independent Examination in Public (EIP) with interested parties (including those supporting and objecting). The first phase of the Local Plan EIP will take place during the week of 20th November this year with the second phase happening during the weeks of 8th and 15th January next year. The council will be questioned by two Inspectors who have been appointed by the Planning Inspectorate to oversee the Examination of the Plan, who can also query any part of the Plan they wish. The Inspectors may find the Local Plan unsound or propose modifications to make it sound. At that point, modifications would then have to be subject to further public consultation later in 2024 and the Plan with any modifications would then have to be approved by Full Council.</p>	 8	Cautious

Risk ID	Risk Title	Risk Description	CMT Owner	Risk score (no controls)	Mitigations	Risk score (post mitigation)	Risk Appetite
14.	Water Neutrality	Failure to agree a Water Neutrality Strategy	Head of Economy & Planning		<p>A Water Neutrality Strategy to support the emerging Local Plans has been finalised and agreed by the authorities within the Sussex North water supply area, and this has been endorsed by Natural England following work between the affected council officers and Chief Executives, Natural England, Southern Water, the Environment Agency and government representatives. These parties continue to meet regularly to secure the Offsetting Implementation Scheme. This is in the process of being established to deliver the agreed policy approach and enable all the planned development to come forward, following the success of pilot schemes progressed in Crawley with off-site offsetting secured through retro-fitting that has reduced water use in Crawley Homes housing stock. A Project Manager has been appointed working across all the councils to help progress this work. The Council's screening proforma with Natural England enables most householder and minor planning applications to proceed to decision without hindrance. Some developers are securing their own private offsite offsetting measures which is also enabling some limited development to take place where these satisfy the Natural England's water neutrality requirements.</p> <p>A Statement of Common Ground on water neutrality to support the Crawley Local Plan 2024-2040 submission to the Planning Inspectorate has been signed by the Local Planning Authorities affected – Crawley BC, Chichester DC, Horsham DC, Mid Sussex DC, West Sussex CC, South Downs National Park Authority and endorsed by Natural England, Southern Water and the Environment Agency.</p>		Cautious

Risk ID	Risk Title	Risk Description	CMT Owner	Risk score (no controls)	Mitigations	Risk score (post mitigation)	Risk Appetite
15.	Cost of Living	Impact of more residents presenting themselves as homeless and being unable to pay their debts.	CMT		<p>Risk is both inward and outward looking and has been given a probability score of 5 (highly probable) as the risk is occurring now:</p> <ol style="list-style-type: none"> <li>Inward – impact on council finances and therefore the financial risk posed but this is covered by maintenance of the balance budget risk.</li> <li>Outward – Impact on customer, ability to cope and manage.</li> </ol> <p>Arrears are increasing, e.g outstanding rent, but we don't understand how much of this attributable to the cost of living. More intelligence is needed both on rent and council tax arrears. Data gathering is a feature of the cost-of-living transformation item, which will help to develop understanding.</p> <p>UC migration poses further concern.</p> <p>A webpage has been created <a href="https://crawley.gov.uk/council-information/help-money-worries">https://crawley.gov.uk/council-information/help-money-worries</a> designed to direct people to help.</p> <p>Lateral implemented to provide a One Council overview of debt (Crawley Homes still to join), including implementation of 'Breathing Space' within the Corporate Debt Group, Access Crawley working with vulnerable residents with long term debt creating bespoke pathways, and now seeking to extend that model. Work commencing to proactively target households likely not to be claiming all benefits they are entitled.</p>		Mindful
16.	Towns Fund and related programmes	Risk of failure to deliver the Towns Fund and related programmes within budget and timescales.	Head of Economy & Planning		<p>A detailed risk register has been produced for each project within the programme.</p> <p>Regular financial monitoring and project monitoring undertaken by the Towns Deal Board and relevant project boards. The Head of Corporate Finance attends the s151 officer meetings involving other local authorities with Towns Fund programmes. Internal assurance is via the Corporate Projects Assurance Group (CPAG), through quarterly reporting on programme / risk updates.</p>		Mindful

Risk ID	Risk Title	Risk Description	CMT Owner	Risk score (no controls)	Mitigations	Risk score (post mitigation)	Risk Appetite
17.	Damp and Mould	<p>Impact of increased demand relating to damp and mould issues.</p> <p>Unprecedented demand for residents in Crawley Homes and in the private sector for advice, support, inspections and repairs relating to damp and mould following the death of Awaab Ishak in Rochdale.</p> <p>Demand for services is impacting on business-as-usual service delivery and is impacting responsive repairs budgets for Crawley Homes.</p> <p>Resourcing issues to inspect structural concerns and capacity to build potential demand into the planned maintenance programme.</p> <p>Some structural issues are being assessed and managed in the day-to-day service which is impacting service delivery.</p> <p>Loss of staff due to resignations, impact on resource availability</p> <p>Risk of regulatory involvement.</p>	Head of Crawley Homes		<p>Workflows have been amended for call triage and inspections.</p> <p>Task teams in place to provide a holistic response for complex cases. Task teams including Surveyor, Housing Officer and Financial Inclusion Officer.</p> <p>For all cases we are continuing to provide advice about heating, and where appropriate issuing energy vouchers to encourage better heating of homes and providing mini dehumidifiers and window vacs where relevant.</p> <p>Contractors have developed resource, both direct labour and sub-contractor, to manage demand.</p> <p>Inspections are prioritised with building surveyors where structural issues are diagnosed but demand remains high.</p> <p>Awaabs law currently under consultation that will bring in statutory requirements for how social landlords deal with hazards, including damp and mould with strict timescales for responding to such. Concern about the impact this will have on resourcing – both diagnosing and completion of repair. Awaiting outcome of consultation by RSH.</p>		Mindful
18.	Presence of RAAC (Reinforced autoclaved aerated concrete) in Council properties	Identify any council properties constructed using RAAC and validate the potential risk appropriately.	CMT		<p>The Council is assessing the likely exposure to and risk of RAAC (Reinforced autoclaved aerated concrete) to its estate including Crawley Homes.</p> <p>Risk scores and mitigations will be confirmed once the initial risk assessment has been completed.</p>		Mindful

**Risk Assessment Criteria**

Risk assessment categorises risk according to impact and probability and results in a total risk score. Risks are assessed on both inherent risk level (no controls in place) and residual risk (after controls).

**Impact Criteria**

	<b>Risk Level</b>	<b>Financial</b>	<b>Service</b>	<b>Reputation</b>
<b>5</b>	<b>Catastrophic</b>	>£1m	Total service failure	National publicity more than 3 days. Resignation of leading Member or Chief Officer
<b>4</b>	<b>Major</b>	£500k - £1m	Serious disruption to service	National public or press interest.  Damage to the reputation and standing of the council in the public eye.
<b>3</b>	<b>Moderate</b>	£50k – 500k	Moderate disruption to service	Local public / press interest.  Partial loss of credibility of the council
<b>2</b>	<b>Minor</b>	£5k - £50k	Some minor impact on service	Contained within service.  Reduced confidence in delivery of individual services
<b>1</b>	<b>Insignificant</b>	<£5k	Annoyance, but does not disrupt service	Contained within business unit

**Probability Criteria**

	<b>Risk level</b>	<b>Description</b>
<b>5</b>	<b>Highly probable</b>	Expected to occur in most circumstances (>80%)
<b>4</b>	<b>Probable</b>	Will probably occur in most circumstances (>50% to 80%)
<b>3</b>	<b>Likely</b>	Fairly likely to occur (>20% - 50%)
<b>2</b>	<b>Possible</b>	Could occur at some time (>5% - 20%)
<b>1</b>	<b>Remote</b>	May occur only in exceptional circumstances (0% - 5%)

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## Report to Audit Committee

12 March 2024

### Approval of RIPA (Regulation of Investigatory Powers Act 2000) Policy and Update on Usage of RIPA

Report of the Head of Governance, People & Performance - **LDS/217**

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#### 1. Purpose

- 1.1 The purpose of this reports is to advise Members of the recent inspection by the Investigatory Powers Commissioner’s Office (IPCO) regarding RIPA Authorisations, provide information on usage of RIPA during 2021-23 and to seek approval of the reviewed Council policy on RIPA.

#### 2. Recommendations

- 2.1 That the Audit Committee:
- a) Notes the outcome of the recent inspection.
  - b) Notes the usage of RIPA during 2021-23
  - c) Approves the reviewed Council Corporate Policy and Procedural Guidance document on RIPA at Appendix A

#### 3. Background

- 3.1 The Regulation of Investigatory Powers Act 2000 (RIPA) governs the acquisition and disclosure of communications data and the use of covert surveillance by local authorities.
- 3.2 The Council uses powers under RIPA to support its core functions for the purpose of prevention and detection of crime.
- 3.3 There are three processes available to local authorities under RIPA: the acquisition and disclosure of communications data; directed surveillance; and covert human intelligence sources (“CHIS”).
- 3.4 The Act sets out the procedures that the Council must follow if it wishes to use directed surveillance techniques or acquire communications data to support core function activities. The information obtained from such operations can later be relied upon in court proceedings providing RIPA is complied with.

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- 3.5. The Home Office Code for Covert Surveillance and Property Interference recommends that Members, whilst not involved in making decisions or specific authorisations for the local authority to use its powers under Part II of the Act, should review the Council's use of the legislation and provide approval to its policies. The Council adopted this approach for oversight of the authority's use of Parts I and II of the Act.
- 3.6. There are different thresholds that need to be met before any surveillance can be undertaken. In the case of Directed Surveillance or the use of Covert Human Intelligence Sources (CHIS) an offence has to be punishable by a custodial sentence of 6 months or more or the offence is related to the underage sale of alcohol and/or tobacco. In the case of Communications Data an offence has to be punishable by a custodial sentence of 12 months or more (e.g. offences relating to counterfeit goods which carry a maximum penalty of 10 years in prison).
- 3.7. Where the above criteria are met, local authorities can make an application for the acquisition and disclosure of communications data (such as telephone billing information or subscriber details) or directed surveillance (covert surveillance of individuals in public places); and the use of a CHIS (such as the deployment of undercover officers). However, powers can also be used if the offences meet the serious crime threshold.
- 3.8. The legislation and Codes of Practice set out the procedures that local authorities must follow when undertaking surveillance. These include approval by Authorised Council Officers for Directed Surveillance / CHIS applications to show that the proposed use of the powers is "necessary and proportionate".
- 3.9. The Council is required to have a Senior Responsible Officer to maintain oversight of the RIPA arrangements, procedures and operations. The Council's Monitoring Officer performs this function and is responsible for the integrity of the Council's process for managing the requirements under RIPA.
- 3.10. Since 1 September 2017, the Investigatory Powers Commissioner's Office (IPCO) has been responsible for the judicial oversight of the use of covert surveillance by public authorities throughout the United Kingdom.

## **4. Usage of RIPA**

- 4.1. In short, these powers have not been used by Crawley Borough Council since 2019. There were no requests (for authorisation to use the powers) made in 2020, 2021, 2022 or 2023. There have been none so far in 2024.

## **5. Recent inspection by IPCO**

- 5.1. In 2023, the Council was required to provide IPCO with responses to ten compliance points. On providing the information, the IPCO Inspector confirmed that he was satisfied that the Council's reply provided assurance that ongoing compliance with RIPA 2000 and the Investigatory Powers Act 2016 will be maintained. As such, a more detailed in-person inspection was not required.



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- 5.2. The Council will be due its next inspection in 2026.
- 5.3. Suitable training will be arranged for authorising officers and those other Council officers who may look to use the powers.

## **6. Review of RIPA Policy**

- 6.3. The reviewed RIPA policy is included as Appendix A to this report. The significant amendments are marked in green at paragraphs 6.3 and 9.12 and within Appendix 1 of the policy.
- 6.4. The changes to the policy have been mainly to update key names personnel due to staff changes at the Council.
- 6.5. The only other significant changes relate to communications data. 2019 saw the implementation of Part 3 of the Investigatory Powers Act 2016 (IPA). The introduction of this legislation has seen the most significant change to the acquisition of communications data in recent years. The IPA consolidates all existing powers available to law enforcement and other agencies. It radically overhauls the way these powers are authorised and overseen. The legislation also ensures that the powers conveyed are fit for the fast-moving digital age that we live in. The IPA introduced the Office for Communications Data Authorisation (OCDA) which is now part of the IPCO and responsible for independently authorising all applications for communications data. This has removed the requirement for local authorities to seek judicial approval for communications data. In addition, the legislation has broadened the range of communications data available including access to location data.
- 6.6. The acquisition of communications data is undertaken through the National Antifraud Network (NAFN). They act as the single point of contact for many local authorities and ensure the application is RIPA/ IPA compliant. It is NAFN that are audited by the commissioners.

## **7. Other considerations:**

- 7.1. Financial implications - The Council has budget provision to cover the cost of the training, which will be delivered by an external trainer who specialises in RIPA legislation. There are no other direct financial implications arising from this report.
- 7.2. Legal implications - The powers of local authorities have remained largely unchanged following the introduction of the Investigatory Powers Act 2016. However, Officers will continue to monitor the operation of RIPA and ensure that any amendments are incorporated into the Council's policy and procedures as appropriate. Consideration and endorsement by Members, ensures that appropriate scrutiny is in place. Whilst the requirement to obtain judicial / OCDA approval introduced an additional step into the process, given the Council's low use of its powers under RIPA, it has not resulted in any significant delays for planned operations. Routine patrols, adhoc observations at trouble 'hot spots',

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immediate response to events and overt use of CCTV do not require RIPA authorisation.

- 7.3. How is risk being managed? - The requirement for the Council to seek judicial / OCDA approval for any proposed use of its powers under the Regulation of Investigatory Powers Act 2000, as amended by the Protection of Freedoms Act 2012 and IPA, reduces the risk of the Council using such powers inappropriately or unlawfully. This will help ensure any evidence gained from such use will be admissible in a court of law.
- 7.4. Equalities / EIA - When submitting a request for authorisation to use RIPA, consideration is given to any impact on equalities.

## **8. Reasons for Recommendation**

- 8.1 It is good practice for Members of the Audit Committee to review the effectiveness of the Council's framework for its compliance with the Regulation of Investigatory Powers Act 2000 (RIPA) to ensure that the RIPA powers are being used consistently with the Council's Policy and that the policy as updated, remains fit for purpose.

## **9. Background Papers**

- 9.1 Regulation of Investigatory Powers Act 2000 (RIPA)

Crawley Borough Council Corporate Policy and Procedural Guidance Document (Appendix A)

The Regulation of Investigatory Powers (Direct Surveillance and Covert Human Intelligence Sources) Order 2010

Contact Officer:- Siraj Choudhury (Head of Governance, People & Performance)

## APPENDIX A



### REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)

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### POLICY AND PROCEDURAL GUIDANCE DOCUMENT

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Version Date: 4 March 2024

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## References

### **Legislation**

Regulation of Investigatory Powers Act 2000 (RIPA) *as amended*.

The Police and Criminal Evidence Act 1984

The Criminal Procedure and Investigations Act 1996

The Human Rights Act 1998

Investigatory Powers Act 2016

The General Data Protection Regulation 2018

The Data Protection Act 2018

### **Codes of Practice and Guidance**

Covert Surveillance and Property Interference: Revised Code of Practice

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/384975/Covert\\_Surveillance\\_Property\\_Interference\\_web\\_2\\_.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/384975/Covert_Surveillance_Property_Interference_web_2_.pdf)

Covert Human Intelligence Sources: Revised Code of Practice

<https://www.gov.uk/government/publications/covert-human-intelligence-sources-code-of-practice-2022/covert-human-intelligence-sources-revised-code-of-practice-accessible>

Home Office Guidance to Local Authorities in England and Wales on the judicial approval process for RIPA

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/118173/local-authority-england-wales.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/118173/local-authority-england-wales.pdf)

Home Office Guidance for Magistrates Courts in England and Wales for a Local Authority application seeking an order approving the grant or renewal of a RIPA Authorisation or notice

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/118174/magistrates-courts-eng-wales.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/118174/magistrates-courts-eng-wales.pdf)

OGC Procedures and Guidance July 2016

<https://ipco-wpmedia-prod-s3.s3.eu-west-2.amazonaws.com/OSC-PROCEDURES-AND-GUIDANCE.pdf>

The Investigatory Powers Commissioners Office

<https://www.ipco.org.uk/>

[https://www.ipco.org.uk/The\\_IPCO\\_Annual\\_Report](https://www.ipco.org.uk/The_IPCO_Annual_Report)

<https://www.ipco.org.uk/docs/IPCO%20Annual%20Report%202018%20final.pdf>

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**CRAWLEY BOROUGH COUNCIL**  
**POLICY AND PROCEDURAL GUIDANCE DOCUMENT**  
**(REGULATION OF INVESTIGATORY POWERS ACT 2000) AS AMENDED**

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7.	<a href="#">Covert Surveillance</a>	13
8.	<a href="#">Conduct and Use of a Covert Human Intelligence Source (CHIS)</a>	13-16
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**Appendix 1:** [List of Authorised Officers](#)

**Appendix 2:** RIPA Flow Chart

**Appendix 3:** RIPA Forms: Directed Surveillance

**Appendix 4:** RIPA Forms: Covert Human Intelligence Source (CHIS)

**Appendix 5:** Special arrangements for Authorising Surveillance where confidential material may be involved.

**Appendix 6:** Seeking Magistrate Approval for RIPA Authorisation

**Appendix 7:** Magistrates Approval Process Flow Chart

**Appendix 8:** Magistrates Authorisation Form

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## 1. Introduction

- 1.1. This Policy and Procedures Document addresses the requirements of the Regulation of Investigatory Powers Act 2000 (RIPA). This Policy should be read in conjunction with the revised Home Office's Codes of Practices in relation to the Covert Surveillance and Property Interference, the use of Covert Human Intelligence Sources (CHIS), including undercover officer / agents / informants (Under Part II of RIPA) and the changes to RIPA introduced by The Protection of Freedoms Act 2012 and any Guidance issued by the Investigatory Powers Commissioners Office (IPCO) (formerly the Office of Surveillance Commissioners)

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/384975/Covert Surveillance Property Interference web 2 .pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/384975/Covert_Surveillance_Property_Interference_web_2.pdf)

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/384976/Covert Human Intelligence web.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/384976/Covert_Human_Intelligence_web.pdf)

The main purpose of the Regulation of Investigatory Powers Act 2000 is to ensure that public bodies use their investigatory powers in accordance with the Human Rights Act 1998. The investigatory powers covered by the legislation are:-

- (a) intrusive surveillance (on resident premises/in private vehicles) (NB: The Council is not permitted to engage in intrusive surveillance);
- (b) covert surveillance in the course of specific operations;
- (c) the use of covert human intelligence sources (agents, informants, undercover officers);

For each of these powers the Act ensures that the law clearly covers the purposes for which they may be used, which authorities can use the powers, who should authorise each use of power, the use that can be made of the material gained, independent judicial oversight and a means of redress for any individual aggrieved by use of the powers.

In addition to the legislation itself, the Home Office has issued Codes of Practice dealing with covert surveillance and covert human intelligence sources. This guide is designed to cover the aspects of RIPA that regulate the use of investigatory powers by the Council.

Directed Surveillance can only be undertaken if it is for the purpose of preventing/detecting a criminal offence which is punishable (whether on summary conviction or on indictment) by a maximum term of at least 6 months of imprisonment - or would constitute an offence under sections 146, 147 or 147A of the Licensing Act 2003 or section 7 of the Children and Young Persons Act 1933 (sale of tobacco and alcohol to underage children). All Council Directed surveillance must be lawful and approved by an Authorised officer

- 1.2 Copies of this Document and including links to the current Codes of Practice, Home Office Guidance and Forms can be found on the Council's Intranet

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- 1.3 The Head of Governance, People & Performance will maintain and check The Corporate Central Register of all RIPA authorisations, Magistrates' approvals, reviews, renewals, cancellations and rejections. It is the responsibility of the relevant Authorised Officer however, to ensure that Head of Governance, People & Performance receives a copy of the relevant Forms within 1 week of authorisation, review renewal, cancellation or rejection.
- 1.4 RIPA and this Guidance Document is important for the effective and efficient operation of the enforcement with regard to Covert Surveillance and Covert Human Intelligence Sources this document will therefore be kept under review by Head of Governance, People & Performance in light of changes in legislation, case law, Guidance or for the continuous improvement of this Policy Document. Periodic Reports will also be submitted to the Council's Committee who has responsibility for RIPA.
- 1.5 Staff should, therefore, familiarise themselves with this document, RIPA and the Home Office's Codes of Practices. If you are in any doubt on RIPA, this Document or The Codes of Practices before undertaking any enforcement activities please consult either Head of Governance, People & Performance or The Legal Services Manager.
- 1.6 Officers must appreciate that should they fail to follow the requirement of the Act and Codes of Practices, the Council may be liable to claims alleging breaches of an individual's rights under the Human Rights Act 1998. Authorisation of operations as defined by RIPA can be looked upon as an insurance policy. A properly authorised operation can protect the Council from such claims. Each case must be considered on its own merits. If the operation:
- Involves Covert methods, and
  - Includes the use of Surveillance, and
  - There is a likelihood (not just the intention) of Private Information (about anyone) being obtained then it is highly likely that the operation needs to be authorised.
- 1.7 Failure to follow the Act and Codes may also adversely effect the admissibility of any evidence obtained using methods covered by the Act.
- 1.8 When undertaking any covert investigation, officers should have regard to the health and safety of persons affected by the activity. This may include themselves, colleagues and members of the public.

## **2. Objective**

- 2.1 The Objective of this Policy Document is that Directed surveillance, use of a CHIS or by or on behalf of the Council must be carried out in accordance with this policy. Any such activity must be authorised by one of the Authorising Officers identified in Appendix 1. All authorisations must then be approved by a Magistrate before any covert activity takes place

## **3. Scope**



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- 3.1 This Policy and Procedural Guidance Document applies in all cases where “Directed Covert Surveillance” is being planned or carried out and a “Covert Human Intelligence Source” (CHIS) is used or planned to be used.

## 4. Does RIPA and this Policy apply to me?

- 4.1 The likely answer is “yes”, if you undertake any form of surveillance of individuals or organisations in the conduct of your duties e.g. as part of the investigatory, enforcement or regulatory functions of the Authority.
- 4.2 The table below gives some examples of the types of functions in which surveillance work may be undertaken.

### **Examples of Covert Surveillance undertaken by local authority investigators are:**

- Undertaking investigations into allegations of internal fraud may require surveillance activity.
- Observing persons suspected of Housing Benefit Fraud to see if they are going to and from a place of work.
- Training of a CCTV camera onto a particular trading premises to establish who opens and closes the premises each day.
- Enforcing of controls, planning / building regulations.

The above list is not exhaustive but it is illustrative of the types of activities that local authority investigators engage in and which would be classified as “Directed Surveillance” (see Section 5 for Definitions).

If in doubt as to whether this Policy and Guidance applies to your area of operation, it is better to ask rather than open the Authority and yourself to the consequences of non-compliance, as detailed in paragraphs 1.6, 1.7 and 4.9.

- 4.3 Reference should be made to section 80(c) of RIPA 2000. The effect of this paragraph is that enforcement duties should continue to be carried out by implication where surveillance takes place in circumstances where the conduct may not be authorised under the Act. General observation forms part of duties of the many law enforcement officers within a public authority and is not usually regulated by the 2000 Act. This covers to a large extent Local Authority enforcement powers and duties i.e. those activities which are carried out overtly e.g. Community Warden on patrol, unannounced inspections by Environmental Health and Planning Enforcement Officers. Such observations may involve the use of equipment to merely reinforce normal sensory perception such as binoculars or the use of cameras, where this does not involve systematic surveillance of an individual.

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- 4.4 Before any authorisation takes place officers must consider whether the surveillance falls under RIPA. Consideration needs to be given to the changes introduced by the Protection of Freedoms Act 2012 and also to circumstances when guidance suggest that RIPA does not apply.
- 4.5 The Code of Practice on Covert Surveillance 2018 outlines those circumstances when a RIPA authorisation is not required or not appropriate.
- 4.6 Examples include the following:
- (a) The use of CCTV cameras and ANPR systems by public authorities do not usually require RIPA authorisation as they are generally carrying out overt rather than covert surveillance.
  - (b) If surveillance takes place as an immediate response to events, authorisation will not be required even if the surveillance would generally fall into one of the categories of surveillance covered by RIPA.

#### Example 1

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 public authorities and the obtaining of private information is unlikely. A directed surveillance authorisation need not be sought.

#### Example 2

Overt surveillance equipment, such as town centre CCTV systems or ANPR, 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

- 4.7 If the type of surveillance being considered does not fall under RIPA, an authorisation will not be required.
- 4.8 Even if RIPA does not apply, use of surveillance will still have to be in accordance with the Human Rights Act 1998 and will therefore need to be:
- (a) Proportionate
  - (b) Necessary
  - (c) Lawful
- 4.9 If you undertake surveillance in any form and do not follow the procedures as set out in this Policy and Guidance, then the consequences can be:

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A risk that, if surveillance is not conducted properly, the evidence obtained may be held to be inadmissible. This may result in the loss of a case e.g. at Court.

The Council could be exposed to a claim for compensation for a breach of Article 8 of the European Convention on Human Rights or a complaint to the Local Government Ombudsman or a referral to The Investigatory Powers Tribunal, along with any resulting adverse publicity.

The IPCO conducts regular audits on how local authorities implement RIPA. If it is found that a local authority is not implementing RIPA properly then this could result in censure.

Failure to comply with this Policy and Guidance may be a disciplinary offence.

## 5. General Information on RIPA

- 5.1 The Human Rights Act 1998 (which brought much of the European Convention on Human Rights and fundamental Freedom 1950 into UK domestic law) requires the Council, pursuant to Article 8 of the European Convention, to respect the private and family life of citizens, his home and his correspondence.
- 5.2 The European Convention did not, however, make this an absolute right, but a qualified right. Accordingly, in certain circumstances, the Council may interfere in the citizen's rights mentioned above, if such interference is:-
- a) **in accordance with the law;**
  - b) **necessary** (as defined in this Document); **and**
  - c) **proportionate** (as defined in this Document).
- 5.3 The Regulation of Investigatory Powers Act 2000 (RIPA) provides a statutory mechanism (i.e. 'in accordance with the law') for authorising **Covert Surveillance** and the use of a '**Covert Human Intelligence Source**' ('CHIS') – e.g. undercover agents. It seeks to ensure that any interference with individual's right under Article 8 of the European Convention is necessary and proportionate. In doing so, RIPA seeks to ensure both the public interest and the human rights of individuals are suitably balanced.
- 5.4 A RIPA flowchart appears at **Appendix 2**

## 6. Definitions

### 6.1 Authorising Officer.

Means the person(s) designated under Sections 28 and 29 of the Act to grant authorisations for directed surveillance and the use and conduct of a Covert Human Intelligence Source, respectively. The Council's authorising Officers are set out in **Appendix 1**

### 6.2 Confidential Material.

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This includes: Matters of legal privilege; Confidential personal information (e.g. medical records); Confidential journalistic material.

**Matters Subject to Legal Privilege.** Includes both oral and written communications between a professional legal adviser and his/her client or any person representing his/her client, made in connection with the giving of legal advice to the client or in contemplation of legal proceedings and for the purposes of such proceedings, as well as items enclosed with or referred to in such communications. Communications and items held with the intention of furthering a criminal purpose are not matters subject to legal privilege.

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

6.3 **Communication.** This covers any conduct in relation to a postal service or telecommunications system for obtaining communications data and the disclosure to any person of such data. For these purposes, communications data includes information relating to the use of a postal service or telecommunications system but does not include the contents of the communication itself, content of emails or interaction with websites.

Communications data includes subscribers details, names and addresses and telephone numbers of those contacted, billing addresses, account information, web addresses visited etc. Two types of data (Customer Data or Service Data) are available to local authorities and, when making an application for obtaining or disclosing such data, the applicant must specify exactly which type of information is required from within each of the subscriber data and service use data sources.

a) Part C - Customer data – (Subscriber data, RIPA s21(4)(c))

Customer data is the most basic. It is data about users of communication services. This data includes:

- name of subscriber;
- addresses for billing, delivery, installation;
- contact telephone number(s);
- abstract personal records provided by the subscriber (e.g. demographic information);
- subscribers' account information – bill payment arrangements, including bank, credit/debit card details; and
- other services the customer subscribes to.

b) Part B - Service data – (Service Use data, RIPA s21(4)(b))

This relates to the use of the service provider's services by the customer, and includes:

- the periods during which the customer used the service(s);
- information about the provision and use of forwarding and re-direction services by postal and telecommunications service providers;
- 'activity', including itemised records of telephone calls (numbers called), internet connections, dates and times/duration of calls, text messages sent;

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- information about the connection, disconnection and reconnection of services;
- information about the provision of conference calling, call messaging, call waiting and call barring telecommunications services;
- records of postal items, such as records of registered, recorded or special delivery postal items, records of parcel consignment, delivery and collection; and
- ‘top-up’ details for prepay mobile phones – credit/debit card, voucher/e-top up details.

A third type of data (part A - traffic data) defined in RIPA s21 (6) is not accessible to local authorities. This is data that is or has been comprised in or attached to a communication for the purpose of transmitting the communication.

## **Covert Human Intelligence Sources (CHIS).**

6.4 Commonly known as Agents, Informants, Undercover Officers it is the use or conduct of someone who establishes or maintains a personal or other relationship (this must be a relationship and not a conversation) with a person for the covert purpose of obtaining information.

## 6.5 **Covert Surveillance.**

Means surveillance carried out in a manner calculated to ensure that the persons subject to the surveillance are unaware that it is taking place (**Section 26(9)(a) of RIPA**). It can be either Directed or Intrusive.

## 6.6 **Directed Surveillance.**

Is surveillance which is covert but not intrusive and which is undertaken for the purpose of a specific investigation or specific operation in such a manner as is likely to result in obtaining private information about an individual (whether or not that person is specifically targeted for purposes of an investigation (**Section 26(10) of RIPA**) and otherwise than by way of an immediate response to events or circumstances, the nature of which is such that it would not be unreasonably practicable for an authorisation under Part II of the Act to be sought for the carrying out of the surveillance

## 6.7 **Intrusive Surveillance.**

**(Local Authorities have no power to grant authorisations for intrusive surveillance but it is included here to alert Officers to be aware of inadvertently breaching this rule)**

Means covert surveillance carried out in relation to anything taking place on residential premises or in a private vehicle. This kind of surveillance may take place by means of either a person or device located inside residential premises or a private vehicle of the person who is subject to the surveillance or by means of a device placed outside which consistently provides a product of equivalent quality and detail as a product which would be obtained from a device located inside. **Local authorities are not authorised to conduct Intrusive Surveillance without the consent of the SOS.**

## 6.8 **Private Information.**

In relation to a person this includes any information relating to his/her private or family life, his home and his correspondence. It is important to remember that the Act is drafted in terms of the likelihood of obtaining private information rather than the intention to obtain it or about specific persons. Private information should be taken generally to include any aspect of a person’s private or personal relationships with others including family and professional or business relationships. Private information may include personal data

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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 direct surveillance authorisation is appropriate

6.9 **Controller.**

Means the person or designated managerial officer responsible for overseeing the use of the source.

6.10 **Handler.**

an investigating officer having day to day responsibility for:

- Dealing with the source on behalf of the authority
- Directing the day to day activities of the source
- Recording the information supplied by the source
- Monitoring the security and welfare of the source

6.11 **Conduct of a Source.**

Any action of that source, falling within the terms of the Act, or action incidental to it (i.e. What they do).

6.12 **“The Use” of a Source.**

Any action to induce, ask or assist a person engaged in the conduct of a source or to obtain information by means of an action of the source (i.e. What they are asked to do).

**Residential Premises** Means any **premises** occupied by any person, however temporarily, for residential purposes or otherwise as living accommodation (including hotel or prison accommodation), but does not include common areas to such premises, **front gardens or driveways visible to the public.**

**Premises** can also include any vehicle or moveable structure used within the definition above.

**Private Vehicle** Means any vehicle which is used primarily for private purposes of the person who owns it, or otherwise has a right to use it, but would not include any person whose right to use the vehicle arises from making payment for a particular journey.

**Vehicle** also includes any vessel, aircraft or hovercraft.

6.13 **Surveillance includes: (Section 48(2))**

- Monitoring, observing or listening to persons, watching or following their movements, their conversations, or other such activities
- Recording anything monitored, observed or listened to in the course of authorised surveillance.
- Surveillance by or with the assistance of a surveillance device (any apparatus designed or adapted for use in surveillance).

6.14 **Surveillance does not include: (Section 48(3))**

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(a) any conduct of a Covert Human Intelligence Source for obtaining or recording (whether or not using a surveillance device) any information which is disclosed in the presence of the source;

(b) the use of a Covert Human Intelligence Source for so obtaining or recording information; or

(c) any such entry on or interference with property or with wireless telegraphy as would be unlawful unless authorised under –

- (i) section 5 of the Intelligence Services Act 1994 (warrants for the intelligence services); or
- (ii) Part III of the Police Act 1997 (powers of the police and of custom officers).

## 6.15 Examples of different types of Surveillance:

Type of Surveillance	Examples
<u>Overt</u> : This is what is typically carried out by the Council there will be nothing secretive, clandestine or hidden about it	<ul style="list-style-type: none"> <li>- Police Officer or Community Warden on patrol</li> <li>- Signposted Town Centre CCTV cameras (in normal use)</li> <li>- Recording noise coming from outside the premises after the occupier has been warned that this will occur if the noise persists</li> <li>- Most test purchases (where the officer behaves no differently from a normal member of the public.)</li> </ul>
<u>Covert</u> but not requiring prior authorisation	<ul style="list-style-type: none"> <li>- CCTV cameras providing general traffic, crime or public safety information.</li> </ul>
<u>Directed</u> must be RIPA authorised.	<ul style="list-style-type: none"> <li>- Officers follow an individual or individuals over a period, to establish whether s/he is working when claiming benefit.</li> <li>- 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 running his business in an unlawful manner.</li> </ul>
<u>Intrusive</u> - <u>Crawley Borough Council cannot do this</u> unless consent is obtained from S.O.S	<ul style="list-style-type: none"> <li>- Planting a listening or other device (bug) in a person's home or in their private vehicle.</li> </ul>

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## 7. Covert Surveillance

### What is Covert Surveillance

- 7.1 Covert Surveillance means **surveillance which is carried out in a manner calculated to ensure that the persons subject to the surveillance are unaware that it is or may be taking place**. Covert Surveillance within the meaning of the act falls into two categories Directed and Intrusive (please see Definitions Section).

Each operation needs to be examined to decide whether or not the surveillance is overt or covert. Two examples are:

- Enforcement of Private Hire licensing. If a licensing officer flags down a Private Hire vehicle and identifies him/herself to the driver when it stops then that is overt. On the other hand, riding as a passenger before making the identification would be covert.
- Use of a mobile CCTV camera to cover a blind spot in an area where fixed CCTV cameras are in use may be covert unless signage specific to the mobile camera is also put in place, even though the mobile camera may be in view rather than hidden.

- 7.2 On occasion planned surveillance may be undertaken which is not covert. However, each operation must be assessed on its merits to decide whether or not authorisation is required. On the face of it, an operation may appear to be not covert or not directed but may, in fact, need to be authorised. Whether or not surveillance is **directed** may depend on how narrow the target area is. The target does not have to be specified – RIPA is drafted in terms of the likelihood of obtaining private information rather than the intention to obtain it or about specific persons.

- 7.3 RIPA provides that surveillance will be lawful if an authorisation for such surveillance has been properly issued and a person acts in accordance with that authorisation.

- 7.4 An Authorisation provides lawful authority for a Public Authority to carry out Directed Surveillance.

- 7.5 Heads of Services should maintain a Register of all authorisations, Magistrate approvals, renewals, reviews, cancellations and rejections this information is also maintained in the Central Register held within the Governance, People & Performance Division. Where possible, Authorising Officers should not authorise operations in which they are directly involved.

Whenever surveillance takes place and is for the purpose of obtaining, or is likely to obtain, private information about a person (whether or not they are the target of the operation) an authorisation should be obtained.

- 7.6 By obtaining an authorisation, the surveillance operation, is carried out in accordance with the law and the safeguards that exist.



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7.7 Prior to granting an authorisation the Authorising Officer must be satisfied that the proposed surveillance is necessary on specific grounds and is proportionate to what it seeks to achieve.

7.8 Before applying for an authorisation, the Investigating Officer should consider whether or not the evidence sought could be obtained by alternative methods.

## 8. **Conduct and Use of a Covert Human Intelligence Source (CHIS)**

### **Who is a CHIS?**

A CHIS is a person who establishes or maintains a personal relationship or other relationship with a person in order to covertly obtain or disclose information. In a local authority, a CHIS is restricted to an informant or an officer working under cover.

### **A CHIS would not be:**

- A member of the public who volunteers information to the local authority, such as a person who complains that they purchased food passed its use by date from their local supermarket. In that case the relationship between customer and provider is too remote. However, if the information were to be provided by an employee of the supermarket who was alleging that the food was being sold passed its use by date, then such a person *would be* a CHIS as a relationship exists namely one of employer/employee.
- An officer who merely goes into a shop and purchases an item without engaging in dialogue except for “how much”? and “thank you” , would not be a CHIS as, although the officer is working under cover, the officer is not seeking information from that person or to gain that person’s trust.
- An officer who attends premises and identifies him/herself and then either carries out a statutory inspection or has entered in pursuance of a warrant of entry issued by a court, is not a CHIS. There is nothing covert about their visit.

### **What must be authorised?**

The conduct or use of a CHIS require 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 including asking or assisting a person to act as a CHIS and the decision to use a CHIS in the first place.

8.1 **An Authorising Officer should not grant an authorisation** for use of a CHIS unless they are satisfied of the following:-

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- That at all times there will be an officer who will have day to day responsibility for dealing with the source on behalf of the Council and for the source's security and welfare.
- That at all times there will be another officer (senior to the officer having responsibility under bullet point 1 above) who will have general oversight of the use made of the source.
- That at all times there will be an officer responsible for maintaining a record of the use made of the source, and

That records maintained by the Council, which disclose the identity of the source, will not be available to the persons except to the extent that there is a need for access to them to be made available to those persons.

8.2 It should be considered that the information may well be given secretly and may not be revealed to the defendant as it may well be deemed to be sensitive in accordance with the Criminal Procedures and Investigations Act 1996. It should also be borne in mind that an informant may well be providing regular information during an investigation whereas a member of the public complaining may well be doing so as a one off.

### 8.3 **Safety and Welfare of a CHIS**

The safety and welfare of the source and foreseeable consequences to others should be taken into account in deciding whether or not to grant an authorisation. A risk assessment determining the risk to the source in acting as a source of information to the Council and in particular, identifying and assessing the risks should the identity of the source become known, should be carried out. The welfare and security of the source after operations have ceased should be considered at the outset. The officer having responsibility under Paragraph 8.1 above (i.e. the officer with day to day responsibility for the source) should report to the officer having general oversight any concerns about the personal circumstances of the source, insofar as they might affect:

- The validity of the risk assessment
- The conduct of the source, and
- The safety and welfare of the source

The officer having responsibility under paragraph 7.1 can also be a CHIS and their health and safety should not be overlooked. If officers are to be used as a CHIS, the arrangements mentioned above should be followed so that the source is correctly managed.

### 8.4 **Juvenile Sources**

Special safeguards apply to the use or conduct of Juvenile sources (i.e. under 18 years old). Authorising Officers should abide by The Home Office Code of Conduct relating to Juveniles.

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## 8.5 **Vulnerable Individuals**

A vulnerable individual is a person who is or may be in need of community care services by reason of mental or other disability, age or illness, and who is or maybe unable to take care of himself or herself, or unable to protect himself or herself against significant harm or exploitation. The Council does not envisage using a vulnerable person as a CHIS if such a request did arise then the authorisation from the Chief Executive or in their absence the Deputy Chief Executive would be required.

## 8.6 **Anti-social behaviour activities (e.g. noise, violence, race etc)**

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

Recording sound (with a DAT recorder) on private premises could constitute Intrusive Surveillance, unless it is done overtly. For example, it will be possible to record if the noisemaker is warned that this will occur if the level of noise continues. Placing a stationary or mobile video camera outside a building to record anti social behaviour on residential estates will require prior authorisation.

### **How is an Application for a CHIS authorisation made?**

An application for authorisation for a Covert Human Intelligence Source (CHIS) must be made in writing. It will specify:

- The reasons why the authorisation is necessary in the particular case and the grounds listed in the Act;
- The necessity of the authorisation in the particular case concerned;
- The reasons why the authorisation is considered proportionate to what it seeks to achieve;
- The purpose for which the source will be tasked or deployed;
- Where a specific investigation or operation is involved, the nature of that investigation or operation;
- The nature of what the source will be tasked to do;
- The level of authority required;
- The details of any potential collateral inclusion and why the intrusion is justified;
- Details of the risk assessment undertaken on the security and welfare of using the source; and

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- The details of any confidential information that is likely to be obtained as a consequence of the authorisation.

The application for a **CHIS** Authorisation will be made on the approved RIPA Forms (**Appendix 4**). These forms can be found on the Home Office web site using the following links:

Form 4:1 <http://www.homeoffice.gov.uk/publications/counter-terrorism/ripa-forms/chis-application?view=Binary>

Application of the use of a Covert Human Intelligence Source (CHIS)

Form 4:2 <http://www.homeoffice.gov.uk/publications/counter-terrorism/ripa-forms/chis-review?view=Binary>

Reviewing the use of Covert Human Intelligence Source (CHIS)

Form 4:3 <http://www.homeoffice.gov.uk/publications/counter-terrorism/ripa-forms/chis-renewal?view=Binary>

Renewal of authorisation to use Covert Human Intelligence Source (CHIS)

Form 4:4 <http://www.homeoffice.gov.uk/publications/counter-terrorism/ripa-forms/chis-cancellation?view=Binary>

Cancellation of Covert Human Intelligence Source (CHIS)

## 9. General Rules on Authorisations

### Need for Authorisation

- 9.1 Obtaining appropriate authorisation for surveillance will be of importance to ensure that any evidence obtained is not to be judged inadmissible in any subsequent legal proceedings, as well as to provide the Council with some protection if the surveillance activities of its officers are ever challenged under the Human Rights Act, as part of a Judicial Review of a Council decision or in any referral to the Ombudsman.
- 9.2 Whenever it is proposed to conduct Directed Surveillance, an authorisation should be sought under RIPA as set out in the following paragraphs.

The Application Forms for Directed Surveillance can be found in **Appendix 3** The forms are located under RIPA Part II Standard Forms Directed Surveillance and can be found on the Home Office web site using the following links

Form 3:1 <http://www.homeoffice.gov.uk/publications/counter-terrorism/ripa-forms/application-directed-surveillance?view=Binary>

Application for the use of Directed Surveillance

Form 3:2 <http://www.homeoffice.gov.uk/publications/counter-terrorism/ripa-forms/review-directed-surveillance?view=Binary>

Review of the use of Directed Surveillance

Form 3:3 <http://www.homeoffice.gov.uk/publications/counter-terrorism/ripa-forms/renewal-directed-surveillance?view=Binary>

Renewal of Directed Surveillance

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Form 3:4 <http://www.homeoffice.gov.uk/publications/counter-terrorism/ripa-forms/cancellation-directed-surveillance?view=Binary>

Cancellation of the use of Directed Surveillance

## 9.3 Authorisation

- a) Before an Authorised Officer signs a form he or she must be mindful of this Corporate Policy and Procedures Document, any training that has been provided and any other guidance issued from time to time by Head of Governance, People & Performance. An authorisation *should not* be granted unless the Covert Surveillance/use of CHIS is:-
  - i. In accordance with the law
  - ii. Necessary in the circumstances of the particular case
  - iii. Proportionate to what it seeks to achieve

### Necessary and Proportionate

#### 9.4 In terms of necessary:

For interference with an individual's Rights under Article 8 of the ECHR to be necessary the Covert surveillance/use of CHIS **must** be pursuant to the following ground:-

For the purpose of preventing or detecting crime.

**Note: The criminal offence which it is sought to be prevented or detected must be punishable by a maximum term of at least 6 months imprisonment or would constitute an offence under Sections 146, 147 of 147A of the Licensing Act 2003 or Section 7 of the Children and Young Persons Act 1933.**

It is important that officers address the question why surveillance is necessary in this particular case, in that the desired information cannot reasonably be acquired by overt means.

#### In terms of proportionate:

Even if the proposed activity is considered to be necessary, the person considering the application for authorisation must consider whether the activities are **proportionate** to what is sought to be achieved by carrying them out. This involves balancing the intrusiveness of the activity on the target and others who might be affected by it against the need for the activity in operational terms. This element is designed to ensure that the proposed course of action does not represent a sledge hammer being used to crack a walnut. The activity **will not be proportionate** if:

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- The intrusiveness is excessive in relation to the value of the information to be obtained, or
- The information sought could be obtained by less intrusive means.

**The least intrusive method will be considered proportionate by the Courts**

## **Collateral Intrusion**

The officer seeking the authorisation should also consider the possibility of COLLATERAL INTRUSION. This is where interference with the privacy of others not subject to the original surveillance may occur. Collateral Intrusion might occur if equipment used records information not sought. An example is in Noise Monitoring where it may be inappropriate to place a recording device adjacent to a bedroom wall. Steps should be taken to assess the risk and, where possible, reduce the risk of collateral intrusion. Where unforeseen collateral intrusion occurs during an operation the Authorising Officer must be notified and consideration given to amending the authorisation following a review. Measures must be taken whenever practicable to avoid or minimise so far as is possible Collateral Intrusion an aspect the matter maybe of determining proportionality.

Consideration must also be given as to whether or not the surveillance activities of the Service take place where similar activities are also being undertaken by another agency e.g. the Police, The Department of Work and Pensions The, Environment Agency.

Set a date for review of the authorisation and review on only that date.

Allocate a unique Reference Number (URN) for the application as follows:

Year      Department      Number of Application

Ensure that any RIPA Departmental Register is duly completed and that a copy of the RIPA forms (and any review/cancellations/renewal of the same is forwarded to Head of Governance, People & Performance for recording on the (Central Register).

## 9.5 **Who Can Grant Authorisation?**

**The Regulation of Investigatory Powers ((Directed Surveillance and Covert Human Intelligence Sources) Order 2010**, prescribes that in a local authority, authorisations for Directed Surveillance and the use of a CHIS should be granted to Director, Head of Service, or equivalent. There is no provision for officers of a lower rank to grant authorisations even in cases of urgency. Authorisation for Direct Covert Surveillance or the use of CHIS must be given in writing by the Authorising Officer accept in urgent cases, when an authorisation may be given verbally. **Appendix 1** sets out the officers in the Council empowered to grant authorisations.

9.6 In order to ensure greater independence and consistency, the power to grant, extend and discontinue authorisations will be limited to these officers only. The list will be maintained

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by the Head of Governance, People & Performance. **Appendix 5** details the special arrangements for authorising surveillance where confidential material may be involved.

## 9.7 **The Process of Obtaining an Authorisation**

Officers are advised to discuss the need to undertake Direct Covert Surveillance or the use of a CHIS with their line manager before seeking authorisation. All other options to gain the information required should be fully explored before consideration is given to the use of covert techniques.

9.8 All requests to **conduct, review, review or cancel** a covert surveillance exercise or use a CHIS must be made in writing on the appropriate forms, as specified by the Office of Surveillance Commissioners (see **Appendix 3** and **4**) and be submitted to an appropriate Authorising Officer of the Council in a different Division to the Officer making the request (**Appendix 1**). Sufficient time should be given for the Authorising Officer to consider the application and for the Requesting Officer to obtain a formal order from a Magistrate.

9.9 All Requests must be considered and authorised in writing by an Authorising Officer **and an order from a Magistrate obtained by the Requesting Officer before any Directed Surveillance or CHIS operation can commence.** (See Appendices 6, 7 and 8).

9.10 Both the Requesting Officer seeking the authorisation and the Authorising Officer shall have regard to the factors detailed in paragraphs 9.3, 9.4 and 9.12 in respect of granting authorisations.

## 9.11 **Backdated Authorisation**

In no circumstance must any covert surveillance operation or CHIS be given backdated authorisation after it has commenced. Embarking upon Directed Surveillance or the use of a CHIS without authorisation or conducting covert surveillance outside the scope of the authorisation will not only mean that the ‘protective umbrella’ of RIPA is unavailable but may result in disciplinary action being taken against the officer/officers concerned within the Council Personnel Policies and Procedures.

## 9.12 **Special Procedure: Communications Data**

The Data Retention and Investigatory Powers Act 2014 (DRIPA) removes the authority of accredited Council Officers to directly approach telecommunication service providers to obtain data under RIPA.

Applications for the obtaining and disclosure of communications data can now only be made through the [National Anti-Fraud Network \(NAFN\) via their secure website](#). Reference should be made to the process map at [Appendix 3](#) for guidance as to the process to be followed.

It is the responsibility of Chichester District Council to obtain both provisional authorisation and judicial approval of an application before NAFN are requested to obtain the required communications data. However, NAFN will carry out the Single Point of Contact “SPoC” role which includes:

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- a) where appropriate, assessing whether access to the communications data is reasonably practical for the postal or telecommunications operator;
- b) advising applicants and authorising officers on the practicalities of accessing different types of communications data from different postal or telecommunications operators;
- c) providing safeguards for authentication; and
- d) assessing the cost and resource implications to both the authorisation and postal or telecommunications operator.

Applications to obtain communications data should be submitted in the first instance to the Authorising Officer for feedback. The summary should be used as a record for the Central Monitoring records.

The formal application should then be entered on the NAFN website where it will be provisionally reviewed by a NAFN SPOC before forwarding to an Authorising Officer set up on within the website. If satisfied that the proposed investigation is both necessary and proportionate, the Authorising Officer will complete the relevant parts of the application form. The relevant documents will then be retrieved from the NAFN application for presentation for judicial approval. If accepted the NAFN application will be updated with the approval information and the SPOC who will then liaise with the postal / telecommunications company. Any communications data obtained will be provided through the NAFN website.

Communications data, and all copies, extracts and summaries of it must be handled and stored securely. The requirements of the Data Protection Act 1998 and the principles of the Criminal Procedure and Investigations Act 1996 must be strictly followed.

## 9.13 **Information to be provided in Applications for Authorisation**

A written application for authorisation for Direct Surveillance should describe any conduct to be authorised and the purpose of the investigation or nature of any surveillance.



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## The application should include:

- The grounds on which the authorisation is sought.
- The criminal offence you are investigating and how it satisfies the six month threshold test (see paragraph 9.4).
- The reasons why the authorisation is **necessary** in the particular case and the ground i.e. See paragraph; 9.4 *for the purpose of preventing or detecting crime.*
- The reasons why the surveillance is considered **proportionate** to what it seeks to achieve. *In particular the following elements of proportionality should be considered;*
  - *balancing the size and scope of the proposed activity against the gravity and extent of the perceived crime or offence*
  - *explaining how and why the methods to be adopted will cause the least possible intrusion on the target and others*
  - *considering whether the activity is an appropriate use of the legislation and a reasonable way, having considered all reasonable alternatives, of obtaining the necessary result*
  - *evidencing, as far as reasonably practicable, what other methods had been considered and why they were not implemented*
- The action to be authorised;
- The nature of the surveillance;
- An account of the investigation or operation;
- The identities, where know, of those to be the subject of the surveillance; an explanation of the information which it is desired to obtain as a result of the surveillance;
- 
- The details of any potential collateral intrusion and why the intrusion is justified;
- The details of any confidential information that is likely to be obtained as a consequence of the surveillance.
- The level of authority required (or recommended where that is different) for the surveillance; and
- A subsequent record of whether authority was given or refused, by whom and the time and date.

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## 9.13 Records of Authorisations

A record of all authorisations must be maintained for five years. This should include not only those authorisations granted, but also those which are refused.

9.14 These records will be maintained by a nominated Authorising Officer, within each service. A copy must also be supplied to the **central record** of authorisations maintained by the Head of Governance, People & Performance.

9.15 Due to the sensitive nature of **all documentation** covered by the Act, consideration **MUST** be given to the means by which copies are forwarded either by hand or electronically.

## 9.16 Grounds for Granting Authorisations

Surveillance must be shown to be necessary. (Investigations can only fall into the following category):

- For the purpose of preventing or detecting crime (**see Section 22(2)(b), 28(3)(b) and 29(3)(b) RIPA**) and
- The crime under investigation is or would be punishable (whether on summary conviction or on indictment) by a maximum term of **at least 6 months imprisonment (see paragraph 9.4)**.

## 9.17 Duration of Authorisations

The Form must be reviewed in the time stated and cancelled once it is no longer needed

The Authorisation to carry out/conduct the surveillance lasts as follows:

- Directed Covert Surveillance – 3 months (from authorisation)
- Covert Human Intelligence Source (CHIS) – 12 months (from authorisation)

**NB: Whether the surveillance is carried out/conducted or not in the relevant period does not mean that the “authorisation” is spent, in other words the forms do not expire they have to be reviewed and or cancelled once they are no longer required.**

## 9.18 Review of Authorisations

Once granted, an authorisation should be reviewed regularly (at least monthly) by the officer managing the case to assess whether or not the investigation continues to be **necessary** and **proportionate**. The Authorising Officer should be notified of any instances where these criteria are no longer met.

9.19 The forms attached at **Appendix 3** and **4** should be used in conducting a review of Covert Surveillance or a CHIS. (**Form 3.3 and 4.3**)

9.20 The Results of a review should be recorded on the Central Register of Authorisations maintained by the Head of Governance, People & Performance Division. Particular

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attention is drawn to the need to review authorisations frequently where the surveillance provides access to confidential material or involves collateral intrusion.

## 9.21 **Renewal of Authorisations**

If at any time before an authorisation would cease to have effect, the Authorising Officer considers it necessary for the authorisation to continue for the purpose for which it was given they may renew it in writing for a further period of 3 months.

9.22 A renewal takes effect at the time at which, or day on which the authorisation would have ceased to have effect but for the renewal. An application for renewal should not be made until shortly before the authorisation period is drawing to an end and must be submitted to a Magistrate by the Requesting Officer for judicial approval before it can take effect. Any person who would be entitled to grant a new authorisation can renew an authorisation. Authorisations may be renewed more than once, provided they continue to meet the criteria for authorisation.

9.23 An application for renewal should be made to the officer who granted the original authorisation unless there is very good reason not to do so (e.g. because the original authorising officer is on annual leave / has left the Authority).

9.24 Applications for renewal should be made using the forms shown at **Appendix 3** (Directed Covert surveillance) and **Appendix 4** (Use of CHIS). (**Forms 3.2. and 4.2**)

All applications for the **renewal** of an authorisation for Directed Covert Surveillance should record:

- Whether this is the first renewal or every occasion on which the authorisation has been renewed previously;
- Any significant changes to the information in paragraph **6.25**;
- The reasons why it is necessary to continue with the directed surveillance;
- The content and value to the investigation or operation of the information so far obtained by the surveillance;
- The results of regular reviews of the investigation or operation.

9.25 Authorisations may be renewed more than once, if necessary, and the renewal should be kept /recorded as part of the central record of authorisations.

## 9.26 **Cancellation of Authorisations**

The Authorising Officer who granted or last renewed the authorisation **must** cancel it if they are satisfied that the investigation no longer meets the criteria upon which it was authorised. This should be undertaken following a recommendation from the officer managing the case, who will continually review the investigation against the criteria.

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Where the Authorising Officer is no longer available, this duty will fall on the person who is acting as Authorising Officer.

- 9.27 As soon as a decision is taken to cease the operation, an instruction must be given to those involved to stop all Directed Covert Surveillance / using the CHIS. A form recording the cancellation should be completed. The forms to be used are shown at **Appendix 3** and **4** (Directed Surveillance) and (Use of a CHIS) respectively. **(Forms 3.4 and 4.4)** The date and time when such an instruction was given should be recorded in the central record of authorisations and the notification of cancellation, where relevant.

## **10. Records Management**

The Council must keep a detailed record of all Magistrate Approvals, Authorisations, Renewals, Cancellations and Rejections in Directorates/Departments and a Central Register of all Authorisations forms, Magistrates approvals, renewals cancellations and rejections will be maintained and monitored by the Head of Governance, People & Performance.

### **10.1 Recording Authorisations / Reviews / Renewals / Cancellations**

The originals of forms authorising/review/renewing/cancelling or rejecting Directed Surveillance or use of a CHIS should be forwarded to Head of Governance, People & Performance. This information will be recorded on a Central Register. All forms should be retained for a period of not less than 3 years after the Surveillance has been discontinued. Similarly the relevant Directorate/Department shall retain a copy of such forms for the same period.

### **10.2 Records maintained in the Department**

The following documents must be retained by the relevant Head of Service for such purposes.

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

**Central Register Maintained by Head of Governance, People & Performance**

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Authorised Officers must forward details of each Form to the Head of Governance, People & Performance for the Central Register, within 1 week of the authorisation, review, renewal, cancellation or rejection. Head of Governance, People & Performance will monitor the same and give appropriate guidance, from time to time, or amend this Document as necessary.

The Council will retain records for a period of at least three years from the ending of the authorisation. The Investigatory Powers Commissioner's (IPCO) will periodically audit/review the Council's policies and procedures, and individual authorisations.

## **Information required to be recorded on the Central Register:**

- The type of authorisation;
- The date the authorisation was given;
- The date of the Order from the Magistrate;
- Name and position of the Authorising Officer;
- The unique reference number (URN) of the investigation; or operation
- The title of the investigation or operation, including a brief description and names of subjects, if known
- If the authorisation is renewed, when it was renewed and who authorised the renewal, including the name and name /position of the Authorising Officer and the date of the Order from the Magistrate;
- Whether the investigation or operation is likely to result in obtaining confidential information;
- The results of the review of the authorisation;
- The date the authorisation was cancelled
- A copy of the application and copy of the authority together with any supplementary documentation and notification of the approval given by the authorising officer.
- The record of the period over which the Surveillance has taken place.
- The reasons for any request being denied.

10.3 **The Central Register will be maintained electronically as well as a hard copy.**

10.4 Head of Governance, People & Performance will be responsible for monitoring authorisations, carrying out an annual review of applications, authorisations, refusals, extensions and cancellations and maintaining a centrally retrievable record of authorisations. Relevant Directorates must ensure that any data is processed in

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accordance with Data Protection legislation and in the case of use of CHIS's, records should be maintained in such a way as to preserve the confidentiality of the source and the information provided by the source.

## **11. Handling Product From Surveillance Activities**

11.1 Product from Covert Surveillance activities may consist of:

- Photographs
- Video film
- Voice recordings
- Surveillance log
- Officers' Notes

11.2 The above may be required as evidence in current or future criminal proceedings. Officers must have regard to the provisions of the Criminal Procedure and Investigations Act 1996 in relation to unused material. Product obtained via an authorisation may be used by the authority in other investigations.

11.3 Although specific legislation and the Data Protection Act 1998 provide for the disclosure of information in certain circumstances, additional controls are introduced by the Regulation of Investigatory Powers Act.

11.4 The use of any product obtained by authorised surveillance activities outside of the Public Authority or the Courts should only be authorised in the most exceptional circumstances. This requirement seeks to prevent product from being used for grounds other than that for which it was obtained.

11.5 Officers may receive requests from other agencies for product which may include photographs of suspects, descriptions, vehicle details. Where this information has been obtained under an authorisation, further guidance should be sought from the Authorising Officer, since disclosure may not be permitted under the provisions of the Code of Practice

## **11.6 Storage and disposal of material**

11.7 Generally, all material obtained or produced during the course of investigations subject to RIPA authorisations should be processed, stored, and destroyed in accordance with the requirements of The Data Protection Act 2018, The Freedom of Information Act 2000 and any other Legal requirements including those of confidentiality. Confidential material should not be retained or copied unless it is necessary for a specified purpose such retained material should be marked with a warning of its confidential nature and should be destroyed after its use for a specified purpose.

## **12. Use of Covert Surveillance Equipment**

12.1 Each department shall keep a record of equipment held and to be used for the purposes of RIPA. A copy of the list of equipment should be forwarded to the Head of Governance,

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People & Performance in order for the central record of all equipment held by the Council to be maintained and be kept up to date.

- 12.2 The equipment is to be held by the individual departments should be accessible by other departments within the Council in order to carry out the functions under RIPA. Appropriate training must be given to the individual installing and using the equipment to ensure that the equipment is correctly installed and that data recorded is fit for purpose and meets the objectives of the investigation.
- 12.3 The impact on necessity and/or proportionality will be directed related to the type of equipment used. Any equipment used must be fit for purpose in meeting the objectives of the investigation. It is therefore important for the authorising officer to be informed of what equipment is being used and its capabilities [i.e. range, how its turned on manually or remotely] on the application form so that due consideration can be given when considering whether or not to grant the authorisation. The authorising officer will also need to give consideration and advise how images will be managed, for example images will not be disclosed without first speaking with the data controller to ensure compliance with the appropriate data protection requirements under the Data Protection Act 1998 and any relevant codes of practice produced by the Council.
- 12.4 When equipment has been installed a check should be undertaken at least every 48 hours if not daily in order to ensure it remains operational.**
- 12.5 Covert Surveillance Equipment will only be installed with the necessary authorisation of the Council's authorising Officers. It will only be installed in residential premises if a member of the public has requested help or referred a complaint to the Council and such matter can only be investigated with the aid of covert surveillance techniques after all the issues referred to in paragraphs 9.3, 9.4 and 9.15 have been considered. Any permission to locate surveillance equipment on residential premises must be obtained in writing from the householder or tenant.
- 12.6 Any request by a Council Officer to a resident to keep a video/audio/written diary as part of a Covert evidence-gathering exercise will be regarded as a covert surveillance exercise conducted on behalf of the council and must be authorised.
- 12.7 Recording sound (with a DAT Recorder) on private premises could constitute Intrusive Surveillance unless it is done overtly e.g. it will be possible to record if the noisemaker is warned that this will occur if the level of noise continues.

## **13. CCTV**

- 13.1 The use of CCTV must be accompanied by clear signage in order for any monitoring to be overt. If it is intended to use CCTV for covert monitoring for example by way of either hidden cameras by targeted CCTV then an authorisation will be required That is where a CCTV camera is trained on a specific person or a spot at a particular time in order to observe the activities of a particular person or group of persons. That being said, where CCTV is used in the monitoring of public areas in an overt way and just happens to catch a criminal act, then this would not be classified as covert surveillance. However, there may be occasions where a covert CCTV System is used for the purposes of a specific investigation or operation, in which case, an application for Directed Covert surveillance will be required.

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13.2 Reference should be made to the Council's Code of Practice on CCTV.

## **14. Review of the use of RIPA**

14.1 The Senior Responsible Officer (SRO) will be responsible for:

- the integrity of the process in place within the Council for the management of CHIS/Directed Surveillance
- compliance with Part II of the Act and with the Home Office Codes of Practice
- oversight of the reporting of errors to the relevant Commissioner and the identification of both the cause(s) or errors and the implementation of processes to minimise repetition of errors
- engagement with the Investigatory Powers Commissioner's Office (IPCO) and inspectors when it conducts its inspections, where applicable; and
- where necessary, oversight of the implementation of post-inspection action plans approved by the relevant oversight Commissioner.

The SRO for the Council is the Head of Governance, People & Performance

## **15. Social Networking Sites and Internet Sites (SNS)**

15.1 The use of the internet and social networking sites may be required to gather information prior to and/or during an investigation, which may amount to directed surveillance, and may interfere with a person's Article 8 rights

If an overt account on a one off occasion is used to gather information or evidence then no authorisation is considered necessary.

If a service intends to conduct covert surveillance on an individual or site by regularly visiting and monitoring activity and it is considered that private information is likely to be obtained then a RIPA Directed Surveillance Authorisation will be required. The service would also have to consider creating a covert account to carry out this work. In addition where a service may need to communicate covertly online, for example contacting individuals, a CHIS authorisation will be required

15.2 Care must be taken to understand how the social media site being used works. Officers must not be tempted to assume that one service provider is the same as another or that the services provided by a single provider are the same.

15.3 Whilst it is the responsibility of an individual to set privacy settings to protect against unsolicited access to their private information on a social networking site, and even though the data may be deemed published and no longer under the control of the



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author, it is unwise to regard it as 'open source' or publicly available; the author has a reasonable expectation of privacy if access controls are applied. Where privacy settings are available but not applied the data may be considered open source and an authorisation is not usually required.

- 15.4 Further Guidance is available for Council Officers in an advice Note on the use of social networking sites for investigations/gathering evidence.

## **16. Complaints / Information**

- 16.1 The Investigatory Powers Commissioner's Office is an Independent Body who have the oversight of the operation of RIPA. The Council as a public body is liable to inspection on behalf of the Investigatory Powers Commissioner and have a duty to produce records and comply with requests for information by the Commissioner or his Inspectors.

- 16.2 The Act establishes an Independent Investigatory Powers Tribunal which has full powers to investigate and decide on any complaint relating to the operation of surveillance regulated by the Act.

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## **Appendices**

Appendix 1	Council's Authorising Officers
Appendix 2	RIPA Flow Chart
Appendix 3	RIPA Forms: Directed Surveillance
Appendix 4	RIPA Forms: Covert Human Intelligence Source (CHIS)
Appendix 5	Special Arrangements for Authorising Surveillance where Confidential Material may be involved
Appendix 6	Seeking Magistrate Approval for RIPA Authorisation.
Appendix 7	Magistrates' Approval Process Flow Chart
Appendix 8	Magistrates' Authorisation Form

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## **Appendix 1      Covert Surveillance**

### **Council's Authorising Officers**

**The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010**, prescribes that in a local authority, authorisations for Directed Covert Surveillance and the use of a CHIS should be granted to *Directors, Head of Service, and more senior posts* or equivalent. Authorising officers should not be responsible for authorising investigations or operations in which they are directly involved although it is recognised that this may sometimes be unavoidable. Where an authorising officer authorises such an investigation or operation the central record of authorisation should identify this.

The power to grant, renew, review, cancel and reject authorisations will be limited to only those officers detailed below in order to ensure greater independence and consistency. Head of Governance, People & Performance will maintain this list. If a Chief Officer wishes to add, delete or substitute a post he/she must inform Head of Governance, People & Performance. Where knowledge of confidential material is likely to be acquired, reference should be made to the special arrangements set out in **Appendix 5**.

Ian Duke, Chief Executive\*  
Chris Page, Deputy Chief Executive\*

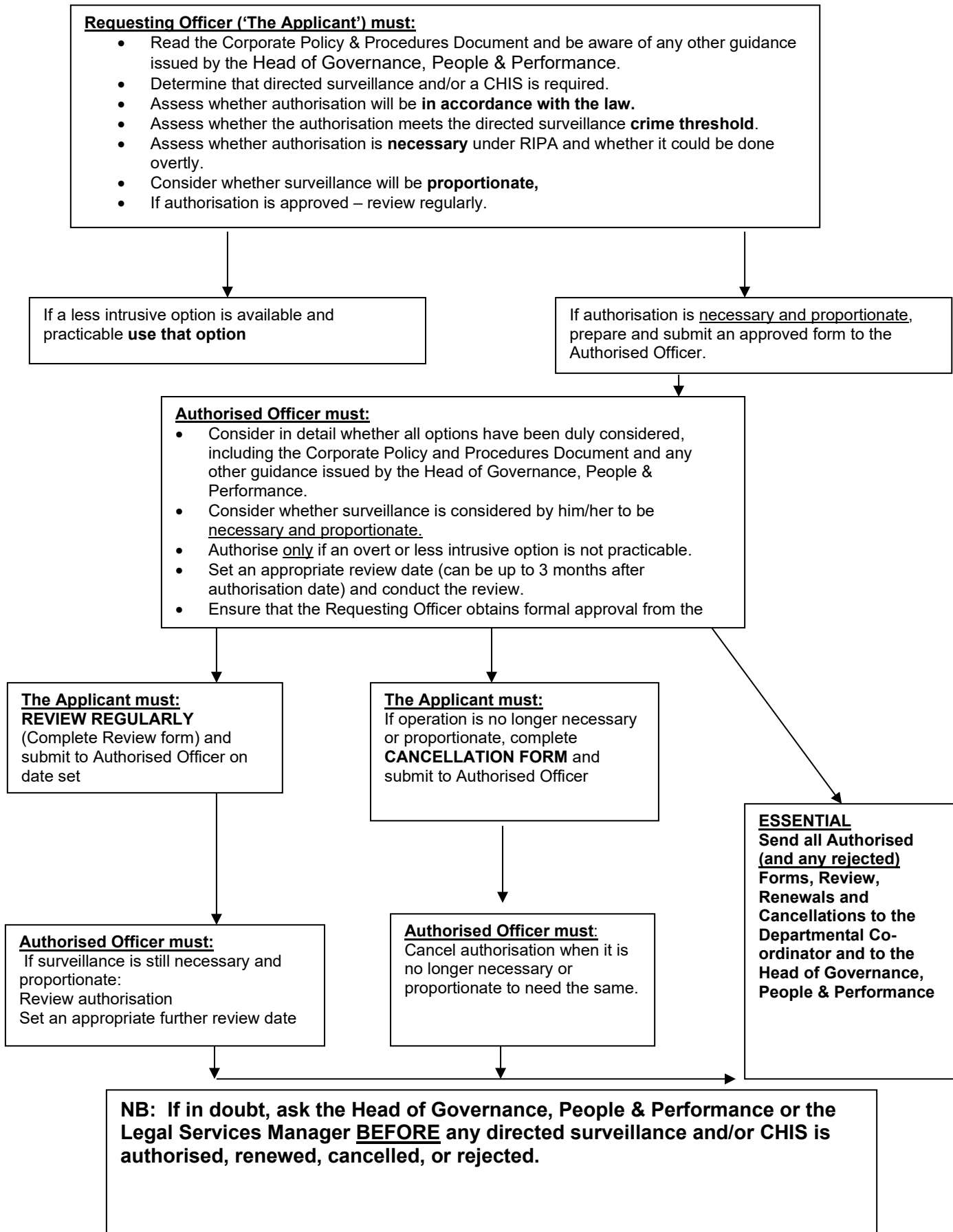
\*These officers will be responsible for the authorisation of a vulnerable or juvenile individual for the conduct and use of a covert Human intelligence Source (CHIS).  
All other authorisations will be undertaken by the Officers set out below

Amanda Kendall, Head of Crawley Homes  
Georgina Bouette, Head of Community Services

**No officer with direct involvement in an operation should authorise the use of RIPA unless it is unavoidable. If considered to be unavoidable the centrally record should record that an officer with direct involvement in the operation has authorised the use of RIPA.**

## Appendix 2

### RIPA FLOW CHART



## **Appendix 3**

### **RIPA FORMS: DIRECTED SURVEILLANCE**

Appendix 3.1 [Directed Surveillance Authorisation](#)

Appendix 3.2 [Review of Directed Surveillance Authorisation](#)

Appendix 3.3 [Renewal of a Directed Surveillance Authorisation](#)

Appendix 3.4 [Cancellation](http://www.homeoffice.gov.uk/publications/counter-terrorism/ripa-forms/cancellation-directed-surveillance/view=Binary) <http://www.homeoffice.gov.uk/publications/counter-terrorism/ripa-forms/cancellation-directed-surveillance/view=Binary>

## **Appendix 4**

### **RIPA FORMS: Covert Human Intelligence Source (CHIS)**

Appendix 4.1 <http://www.homeoffice.gov.uk/publications/counter-terrorism/ripa-forms/chis-application?view=Binary>

Appendix 4.2 <http://www.homeoffice.gov.uk/publications/counter-terrorism/ripa-forms/chis-review?view=Binary>

Appendix 4.3 <http://www.homeoffice.gov.uk/publications/counter-terrorism/ripa-forms/chis-renewal?view=Binary>

Appendix 4.4 <http://www.homeoffice.gov.uk/publications/counter-terrorism/ripa-forms/chis-cancellation?view=Binary>

**NB: If in doubt, ask Head of Governance, People & Performance or the Legal Services Manager BEFORE any directed surveillance and/or CHIS is authorised, renewed, rejected or cancelled.**

### **Additional Notes on CHIS (This is an extract from the Home Office Code of Practice on CHIS)**

## **MANAGEMENT OF COVERT HUMAN INTELLIGENCE SOURCES**

### **Tasking**

1. Tasking is the assignment given to the CHIS by the persons defined at sections 29(5)(a) and (b) of the 2000 Act, asking him to obtain, provide access to or disclose information. Authorisation for the use or conduct of a CHIS will be appropriate prior to any tasking where such tasking involves the CHIS establishing or maintaining a personal or other relationship for a covert purpose.
2. Authorisations should not be drawn so narrowly that a separate authorisation is required each time the CHIS is tasked. Rather, an authorisation might cover, in broad terms, the nature of the source's task. If the nature of the task changes significantly, then a new authorisation may need to be sought.
3. It is difficult to predict exactly what might occur each time a meeting with a CHIS takes place, or the CHIS meets the subject of an investigation. There may be occasions when unforeseen action or undertakings occur. When this happens, the occurrence must be

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recorded as soon as practicable after the event and if the existing authorisation is insufficient it should either be updated at a review (for minor amendments only) or it should be cancelled and a new authorisation should be obtained before any further action is carried out.

4. Similarly, where it is intended to task a CHIS in a significantly greater or different way than previously identified, the persons defined at section 29(5)(a) or (b) of the 2000 Act must refer the proposed tasking to the authorising officer, who should consider whether the existing authorisation is sufficient or needs to be replaced. This should be done in advance of any tasking and the details of such referrals must be recorded. Efforts should be made to minimise the number of authorisations per CHIS to the minimum necessary in order to avoid generating excessive paperwork.

## **Handlers and controllers**

5. Public authorities should ensure that arrangements are in place for the proper oversight and management of CHIS, including appointing individual officers as defined in section 29(5)(a) and (b) of the 2000 Act for each CHIS.
6. Oversight and management arrangements for undercover operatives, while following the principles of the Act, will differ, in order to reflect the specific role of such individuals as members of public authorities.
7. The person referred to in section 29(5)(a) of the 2000 Act (the “handler”) will have day to day responsibility for:
  - dealing with the CHIS on behalf of the authority concerned;
  - directing the day to day activities of the CHIS;
  - recording the information supplied by the CHIS; and
  - monitoring the CHIS’s security and welfare.
8. The handler of a CHIS will usually be of a rank or position below that of the authorising officer.
9. The person referred to in section 29(5)(b) of the 2000 Act (the “controller”) will normally be responsible for the management and supervision of the “handler” and general oversight of the use of the CHIS.

## **Joint Working**

10. In cases where the authorisation is for the use or conduct of a CHIS whose activities benefit more than a single public authority, responsibilities for the management and oversight of that CHIS may be taken up by one authority or can be split between the authorities. The controller and handler of a CHIS need not be from the same public authority.
11. There are many cases where the activities of a CHIS may provide benefit to more than a single public authority. Such cases may include:

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- The prevention or detection of criminal matters affecting a national or regional area, for example where the CHIS provides information relating to cross boundary or international drug trafficking;
  - The prevention or detection of criminal matters affecting crime and disorder, requiring joint agency operational activity, for example where a CHIS provides information relating to environmental health issues and offences of criminal damage, in a joint police/local authority anti-social behaviour operation on a housing estate;
  - Matters of national security, for example where the CHIS provides information relating to terrorist activity and associated criminal offences for the benefit of the police and the Security Service.
12. In such situations, however, the public authorities involved must lay out in writing their agreed oversight arrangements.
13. Management responsibility for CHIS, and relevant roles, may also be divided between different police forces where the Chief Officers of the forces concerned have made a collaboration agreement under section 23 of the Police Act 1996 or section 12 of the Police (Scotland) Act 1967, and the collaboration agreement provides for this to happen.

## **Security and Welfare**

14. Any public authority deploying a CHIS should take into account the safety and welfare of that CHIS when carrying out actions in relation to an authorisation or tasking, and the foreseeable consequences to others of that tasking. Before authorising the use or conduct of a CHIS, the authorising officer should ensure that a risk assessment is carried out to determine the risk to the CHIS of any tasking and the likely consequences should the role of the CHIS become known. The ongoing security and welfare of the CHIS, after the cancellation of the authorisation, should also be considered at the outset. Also consideration should be given to the management of any requirements to disclose information tending to reveal the existence or identity of a CHIS to, or in, court.
15. The CHIS handler is responsible for bringing to the attention of the CHIS controller any concerns about the personal circumstances of the CHIS, insofar as they might affect:
- the validity of the risk assessment;
  - the conduct of the CHIS; and
  - the safety and welfare of the CHIS.
16. Where appropriate, concerns about such matters must be considered by the authorising officer, and a decision taken on whether or not to allow the authorisation to continue.



## **Appendix 5**

### **Covert Surveillance**

#### **Special Arrangements for Authorising Surveillance Where Confidential Material may be involved**

Confidential material is particularly sensitive and is subject to additional safeguards. In cases where the likely consequence of the conduct of a source would be for any person to acquire knowledge of confidential material,

An assessment should be made of how likely it is that the confidential material will be acquired.

Special care should be taken where the target of the investigation is likely to be involved in handling confidential material. Such applications should only be considered in exceptional and compelling circumstances with full regard to the proportionality issues this raises.

The following general principles should be applied:

- Those handling material from such operations should be alert to anything, which may fall within the definition of confidential material. Where there is doubt, advice should be sought from Head of Governance, People & Performance before further dissemination takes place;
- Confidential material should not be retained or copied unless it is necessary for a specified purpose;
- It should be disseminated only where an appropriate officer (having sought advice from the Head of Governance, People & Performance) is satisfied that it is necessary for a specific purpose;
- The retention or dissemination of such information should be accompanied by a clear warning of its confidential nature. It should be safeguarded by taking reasonable steps to ensure that there is no possibility of it becoming available, or its content being known, to any person where possession of it might prejudice any criminal or civil proceedings related to the information;
- Confidential information should be destroyed as soon as it is no longer necessary to retain it for a specific purpose.

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## **Appendix 6**

### **Seeking Magistrate approval for RIPA Authorisation**

Officers should follow the following procedure:-

1. Complete and provide the completed RIPA authorisation form (and all necessary documentation or background information) to the Authorising Officer to enable him/her to make an informed decision recorded in writing on the form.
2. On receipt of the signed authorisation contact Legal Services and provide them with a copy of the authorisation, and any other relevant information.
3. Legal Services will review the authorisation and ensure compliance with the law and advise the Officer that he can proceed with the obtaining of the Magistrates approval before contacting the Magistrate's clerk.
4. The Officer will contact the Magistrates Clerk to arrange a hearing and give the Officer's dates to avoid for the following 14 days.
5. The Officer will complete the "Application for Judicial Approval for authorisation to use a CHIS or to conduct directed surveillance form" (see Appendix 8) and produce a bundle for the Magistrate containing all the information relied upon
6. The Officer will notify Legal Services when the hearing date has been confirmed.
7. The Officer will attend the Magistrate's Court and present the case for approval of authorisation. The Officer will be required to answer questions about the surveillance which the Magistrate may wish to raise.
8. Whilst the original authorisation form will be shown to the Magistrate it will be given to and retained by Legal Services for the Council's central records and a copy provided to the Court.
9. The Order section of the form at paragraph 5 above will be completed by the Magistrate and will stand as the official record of the Magistrate's decision.

### **Emergency Situations**

10. Where an Officer considers an application for authorisation requires urgent Magistrates approval they should contact Legal Services providing all relevant information as at paragraph 3 above, with the addition of a brief outline of why the matter should be heard quickly.
11. Legal Services will liaise with the Court Clerk to affect a quick hearing where it has been assessed as necessary to do so. A delay in internal procedures does not constitute an acceptable reason for an urgent Magistrate's listing.

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12. A Magistrate may consider an authorisation out of hours in **exceptional circumstances**.

Note: Legal Services can assist the Officer with the above process and attend the Magistrates Court with the Officer if required.

## Hearing Outcome

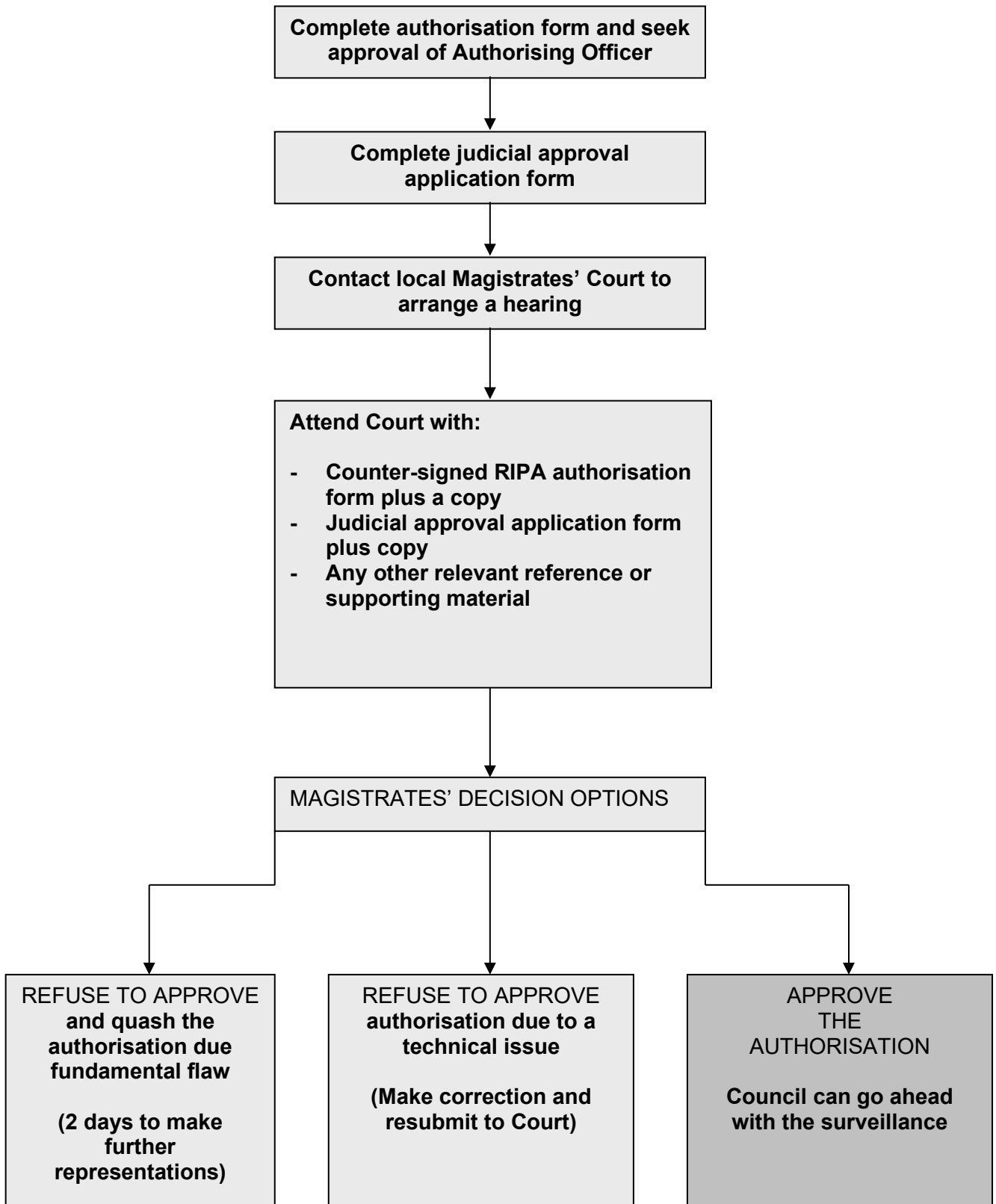
13. On the outcome of an application the Magistrate may impose any of 3 determinations:
1. Refuse to approve the grant or renewal and quash the authorisation notice.
  2. Refuse to approve the grant or renewal of an authorisation notice.
  3. Approve the grant or renewal of an authorisation notice.
14. Should a Magistrate quash an authorisation this means that the application was found to be fundamentally flawed. The Council in such circumstances will be given 2 business days to make representations should it wish to do so as to why the authorisation should not be quashed should it wish to do so. If an authorisation is quashed it cannot rely on it and a fresh authorisation will be required before further approval is sought.
15. Should a Magistrate refuse to grant an approval the Council could consider reapplying following consideration of the reasons for that refusal.
16. In the case of any reapplication or submission, Legal Services will provide advice and draft the appropriate paperwork where appropriate.
17. Where the Magistrate approves an authorisation notice the surveillance may lawfully take place for the period it is granted.
18. All renewals must be put before a Magistrate following referral to Legal Services and the same process as above followed. Cancellations and Reviews are not required to be placed before a Magistrate.
19. There is no right of appeal following a determination by a Magistrate except by way of Judicial Review on a point of law.

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## Appendix 7

### The Magistrates' Approval Process



## Appendix 8

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

Local authority: .....

Local authority department: .....

Offence under investigation: .....

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

.....

.....

Covert technique requested: (tick one and specify details)

**Covert Human Intelligence Source**

**Directed Surveillance**

Summary of details

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.....

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

Investigating Officer: .....

Authorising Officer/Designated Person: .....

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

Address of applicant department: .....

.....

Contact telephone number: .....

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

Local authority reference: .....

Number of pages: .....

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

Magistrates' court: .....

Having considered the application, I (tick one):

- am satisfied that there are reasonable grounds for believing that the requirements of the Act were satisfied and remain satisfied, and that the relevant conditions are satisfied and I therefore approve the grant or renewal of the authorisation/notice.
- refuse to approve the grant or renewal of the authorisation/notice.
- refuse to approve the grant or renewal and quash the authorisation/notice.

Notes

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.....  
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Reasons

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.....  
.....  
.....  
.....  
.....

Signed:

Date:

Time:

Full Name:

Address of magistrates' court:



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