

Enquiries to Committee Services
Direct Dial: 024 7637 6000
Direct Email: committee@nuneatonandbedworth.gov.uk

Date: 20th December 2022

Our Ref: MM

Dear Sir/Madam,

A meeting of the **AUDIT & STANDARDS COMMITTEE** will be held in the Council Chamber, Town Hall, Nuneaton, on **Tuesday 10th January 2023** at **6.00pm**

Please note that meetings will be recorded for future publication on the Council's website.

Yours faithfully,

BRENT DAVIS
Chief Executive

To: All Members of the
Audit & Standards
Committee

Councillors R Baxter-Payne (Chair),
J. Sheppard (Vice-Chair), B. Beetham,
T. Cooper, L. Cvetkovic, L. Downs,
M. Green, J. Hartshorn, J. Kennaugh,
N. Phillips and R. Tromans.

A G E N D A

PART I - PUBLIC BUSINESS

1. ANNOUNCEMENTS

To advise the meeting participants of the procedure that will be followed by the Members of the committee.

A fire drill is not expected, so if the alarm sounds please evacuate the building quickly and calmly. Please use the stairs and do not use the lifts. Once out of the building, please gather outside Lloyds Bank on the opposite side of the road.

Exit by the door by which you entered the room or by the fire exits which are clearly indicated by the standard green fire exit signs.

If you need any assistance in evacuating the building, please make yourself known to a member of staff.

Please also make sure all your mobile phones are turned off or set to silent.

The meeting will be live streamed to YouTube and will be available to view via the NBBC website.

2. APOLOGIES - To receive apologies for absence from the meeting.

3. MINUTES – To confirm the minutes of the meeting of the Audit and Standards Committee held on 8th November 2022, attached (**Page 4**).

4. DECLARATIONS OF INTEREST

To receive declarations of Disclosable Pecuniary and Other Interests, in accordance with the Members' Code of Conduct.

Declaring interests at meetings

If there is any item of business to be discussed at the meeting in which you have a disclosable pecuniary interest or non-pecuniary interest (Other Interests), you must declare the interest appropriately at the start of the meeting or as soon as you become aware that you have an interest.

Arrangements have been made for interests that are declared regularly by members to be appended to the agenda (**Page 9**). Any interest noted in the Schedule at the back of the agenda papers will be deemed to have been declared and will be minuted as such by the Committee Services Officer. As a general rule, there will, therefore, be no need for those Members to declare those interests as set out in the schedule.

There are, however, TWO EXCEPTIONS to the general rule:

1. When the interest amounts to a Disclosable Pecuniary Interest that is engaged in connection with any item on the agenda and the member feels that the interest is such that they must leave the room. Prior to leaving the room, the member must inform the meeting that they are doing so, to ensure that it is recorded in the minutes.

2. Where a dispensation has been granted to vote and/or speak on an item where there is a Disclosable Pecuniary Interest, but it is not referred to in the Schedule (where for example, the dispensation was granted by the Monitoring Officer immediately prior to the meeting). The existence and nature of the

dispensation needs to be recorded in the minutes and will, therefore, have to be disclosed at an appropriate time to the meeting.

Note: Following the adoption of the new Code of Conduct, Members are reminded that they should declare the existence and nature of their personal interests at the commencement of the relevant item (or as soon as the interest becomes apparent). If that interest is a Disclosable Pecuniary or a Deemed Disclosable Pecuniary Interest, the Member must withdraw from the room.

Where a Member has a Disclosable Pecuniary Interest but has received a dispensation from Audit & Standards Committee, that Member may vote and/or speak on the matter (as the case may be) and must disclose the existence of the dispensation and any restrictions placed on it at the time the interest is declared.

Where a Member has a Deemed Disclosable Interest as defined in the Code of Conduct, the Member may address the meeting as a member of the public as set out in the Code.

Note: Council Procedure Rules require Members with Disclosable Pecuniary Interests to withdraw from the meeting unless a dispensation allows them to remain to vote and/or speak on the business giving rise to the interest.

Where a Member has a Deemed Disclosable Interest, the Council's Code of Conduct permits public speaking on the item, after which the Member is required by Council Procedure Rules to withdraw from the meeting.

5. PUBLIC CONSULTATION - Members of the Public will be given the opportunity to speak on specific agenda items, if notice has been received.
6. REGULATION OF INVESTIGATORY POWERS ACT 2000 – report of the Director for Planning and Regulation **(Page 12)**.
7. BRIEFING NOTE – report of the Head of Audit and Governance **(Page 37)**.
8. INTERNAL AUDIT PLAN 2022-23 – report of the Head of Audit and Governance **(Page 41)**.
9. REVIEW OF RISK MANAGEMENT POLICY AND STRATEGY – report of the Head of Audit and Governance, Risk Management and Performance Officer **(Page 44)**.
10. ANY OTHER ITEMS - which in the opinion of the Chair should be discussed as a matter of urgency because of special circumstances (which must be specified).

NUNEATON AND BEDWORTH BOROUGH COUNCIL

AUDIT & STANDARDS COMMITTEE

8th November 2022

A meeting of the Audit & Standards Committee was held on Tuesday, 8th November 2022 in the Council Chamber, Town Hall, Nuneaton. The meeting was recorded and live streamed.

Present

Councillor R Baxter Payne – Chair

Councillors: L. Cvetkovic, T. Cooper, L. Downs, M. Green, J. Kennaugh, J Sheppard (Vice-Chair) R. Tromans, S. Harbison (substitution for Councillor B. Beetham) and B. Hammersley (substitution for Councillor J. Hartshorn).

Apologies: Councillors B. Beetham, J. Hartshorn and N. Phillips.

PART I – PUBLIC BUSINESS

ACS19 **Minutes**

RESOLVED that the minutes of the Audit and Standards Committee meeting held on 6th September 2022, be confirmed, and signed by the Chair.

ACS20 **Declarations of Interest**

As substitute Councillors for this meeting, the Declarations of Interest for Councillors S. Harbison and B Hammersley were not detailed in the Schedule attached to the agenda.

RESOLVED that the declarations of interest are as set out in the Schedule attached to these minutes, with the addition of the Declarations of Interest for Councillors S. Harbison and B. Hammersley.

ACS21 **Public Consultation**

A statement from Mr S. Margrave was read out by the Director for Planning and Regulation.

ACS22 **Local Government Ombudsman’s Annual Report for Year Ended 31st March 2021 to April 1st 2022**

A report of the Director for Customer and Corporate Services was presented to the committee for consideration of the information received in the Local Government Ombudsman’s annual letter relating to complaints received about the Council, and for the Committee to comment on the Council’s performance in dealing with these complaints for year ended 1st April 2022.

Public Speaker: Councillor K. Kondakor

RESOLVED that the contents of the report be noted.

ACS23 **Internal Audit Annual Report and Counter Fraud Activity 2021-2022**

A report of the Audit and Governance Manager was presented to the committee to review the Head of Audit and Governance Annual Report.

Public Speakers: Councillor K. Kondakor and Mr P. Smith.

RESOLVED that

- a) the findings of an assessment of the internal audit function against the Public Sector Internal Audit Standards and quality assurance programme be noted;
- b) the summary of internal audit work (at Appendix A and B of the report) which supports the Head of Audit and Governance opinion be considered; and
- c) the Head of Audit and Governance overall opinion on the control environment be noted.

ACS24 **Internal Audit Charter**

A report of the Audit and Governance Manager was presented to the committee to consider and approve the Internal Audit Charter.

Public Speaker: Councillor K. Kondakor.

RESOLVED that the Internal Audit Charter at Appendix A of the report be approved.

ACS25 **Review of the Register of Members' Interests and Gift and Hospitality Registers 2021-2022**

A report of the Director for Planning and Regulation was presented to the committee, to review the register of Members' Interests and Gifts and Hospitality by Members and Officers for the period 21st October 2021 – 31st October 2022.

Public Speaker: Councillor K. Kondakor.

RESOLVED that

- a) the contents of the register of Members' Interests between 21st October 2021 and 13th October 2022 be considered; and
- b) the contents of the registers of Gifts and Hospitality for Members and Officers between 21st October 2021 and 13th October 2022, as set out in Appendix A of the report, be considered.

ACS26 **Annual Governance Statement 2021-2022**

A report of the Director for Planning and Regulation was presented to the committee to consider the findings of an assessment of Nuneaton and Bedworth Borough Council's corporate governance framework, as presented in the Annual Governance Statement (AGS).

Public Speaker: Councillor K. Kondakor.

RESOLVED that

- a) the findings of the review of corporate governance and internal control as set out in the AGS at Appendix A of this report be considered; and
- b) the AGS be approved.

Chair _____

Audit and Standards Committee - Schedule of Declarations of Interests – 2022/2023

	Name of Councillor	Disclosable Pecuniary Interest	Other Personal Interest	Dispensation
	General dispensations granted to all members under s.33 of the Localism Act 2011			Granted to all members of the Council in the areas of: <ul style="list-style-type: none"> - Housing matters - Statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992 - An allowance, payment given to members - An indemnity given to members - Any ceremonial honour given to members - Setting council tax or a precept under the Local Government Finance Act 1992 - Planning and Licensing matters - Allotments - Local Enterprise Partnership
	R. Baxter-Payne (Chair)	Manager Brinklow Quarry Ltd, Brinklow; County Councillor - WCC	Spouse: Self-employed childminder Member of the following Outside Bodies: <ul style="list-style-type: none"> • West Midlands Combined Audit, Risk and Assurance Committee • Warwickshire Adult Social Care and Health Overview and Scrutiny Committee (substitute) 	
	B. Beetham	Employed at The George Eliot Hospital; Warwickshire County Council – Camp Hill	Member of the following Outside Bodies: <ul style="list-style-type: none"> • Camp Hill Urban Village: Pride in Camp Hill Board • Committee of Management of Hartshill and Nuneaton Recreation Ground 	
	T. Cooper	None	Member on the following Outside Bodies: <ul style="list-style-type: none"> • Camp Hill Urban Village: Pride in Camp Hill Board • Committee of Management of Hartshill and Nuneaton Recreation Ground 	
	L. Cvetkovic	Head of Geography	The Bulkington Volunteers	

	Name of Councillor	Disclosable Pecuniary Interest	Other Personal Interest	Dispensation
		(Teacher), Sidney Stringer Academy, Coventry	(Founder); Bulkington Sports and Social Club (Trustee) Member on the following Outside Bodies: <ul style="list-style-type: none"> • Building Control Partnership Steering Group 	
	L. Downs	River Bars Limited; Coventry Plus Beyond the Plane	Member on the following Outside Body: <ul style="list-style-type: none"> • Hammersley, Smith and Orton Charity 	
	M. Green	Employed by Horiba Mira – Calibration Technician	Chair of Education Standards Committee – St Thomas More School Executive Member – Nuneaton Conservatives. Secretary – St Vincent De Paul Society at Our Lady of the Angels Church. Our Lady of the Angels Church Member of the George Eliot Fellowship. Member of the Nuneaton Education Strategy Board Member on the following Outside Bodies: <ul style="list-style-type: none"> • Friendship Project for Children. 	
	J. Hartshorn	Employed by Asda Nuneaton	Member of Nuneaton Conservatives	
	J. Kennaugh	County Councillor W.C.C. Employed by FedEx Express UK Limited.	Member of the W.C.C. Regulatory Committee Member of the Conservative Party Member of UNITE the Union Member on the following Outside Bodies: <ul style="list-style-type: none"> • EQUIP 	
	N. Phillips	Employee of DWP	Member of: <ul style="list-style-type: none"> • Nuneaton Labour CLP • The Fabian Society • The George Eliot Society • The PCS Union • Central Credit Union • Stockingford Sports and Allotment Club • Haunchwood Sports and Social Club 	
	J. Sheppard (Vice-Chair)		Partnership member of the Hill Top and Caldwell Big Local. Director of Wembrook	Dispensation to speak and vote on any matters of Borough Plan that relate to the Directorship of Wembrook Community Centre

	Name of Councillor	Disclosable Pecuniary Interest	Other Personal Interest	Dispensation
			Community Centre. Member of the Management Committee at the Mental Health Drop-in.	
	R. Tromans	RTC, Nuneaton AFL, Wellingborough	W.C.C. Warwick Member of the following Outside Bodies: <ul style="list-style-type: none"> • Nuneaton Neighbourhood Watch Committee Hospice Charity	

Audit and Standards Committee - Schedule of Declarations of Interests – 2022/2023

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	R. Baxter-Payne (Chair)	Manager Brinklow Quarry Ltd, Brinklow; County Councillor - WCC	Spouse: Self-employed childminder Member of the following Outside Bodies: <ul style="list-style-type: none"> • West Midlands Combined Audit, Risk and Assurance Committee • Warwickshire Adult Social Care and Health Overview and Scrutiny Committee (substitute) 	
	B. Beetham	Employed at The George Eliot Hospital; Warwickshire County Council – Camp Hill	Member of the following Outside Bodies: <ul style="list-style-type: none"> • Camp Hill Urban Village: Pride in Camp Hill Board • Committee of Management of Hartshill and Nuneaton Recreation Ground 	
	T. Cooper	None	Member on the following Outside Bodies: <ul style="list-style-type: none"> • Camp Hill Urban Village: Pride in Camp Hill Board • Committee of Management of Hartshill and Nuneaton Recreation Ground 	
	L. Cvetkovic	Head of Geography	The Bulkington Volunteers	

	Name of Councillor	Disclosable Pecuniary Interest	Other Personal Interest	Dispensation
		(Teacher), Sidney Stringer Academy, Coventry	(Founder); Bulkington Sports and Social Club (Trustee) Member on the following Outside Bodies: <ul style="list-style-type: none"> • Building Control Partnership Steering Group 	
	L. Downs	River Bars Limited; Coventry Plus Beyond the Plane	Member on the following Outside Body: <ul style="list-style-type: none"> • Hammersley, Smith and Orton Charity 	
	M. Green	Employed by Horiba Mira – Calibration Technician	Chair of Education Standards Committee – St Thomas More School Executive Member – Nuneaton Conservatives. Secretary – St Vincent De Paul Society at Our Lady of the Angels Church. Our Lady of the Angels Church Member of the George Eliot Fellowship. Member of the Nuneaton Education Strategy Board Member on the following Outside Bodies: <ul style="list-style-type: none"> • Friendship Project for Children. 	
	J. Hartshorn	Employed by Asda Nuneaton	Member of Nuneaton Conservatives	
	J. Kennaugh	County Councillor W.C.C. Employed by FedEx Express UK Limited.	Member of the W.C.C. Regulatory Committee Member of the Conservative Party Member of UNITE the Union Member on the following Outside Bodies: <ul style="list-style-type: none"> • EQUIP 	
	N. Phillips	Employee of DWP	Member of: <ul style="list-style-type: none"> • Nuneaton Labour CLP • The Fabian Society • The George Eliot Society • The PCS Union • Central Credit Union • Stockingford Sports and Allotment Club • Haunchwood Sports and Social Club 	
	J. Sheppard (Vice-Chair)		Partnership member of the Hill Top and Caldwell Big Local. Director of Wembrook	Dispensation to speak and vote on any matters of Borough Plan that relate to the Directorship of Wembrook Community Centre

	Name of Councillor	Disclosable Pecuniary Interest	Other Personal Interest	Dispensation
			Community Centre. Member of the Management Committee at the Mental Health Drop-in.	
	R. Tromans	RTC, Nuneaton AFL, Wellingborough	W.C.C. Warwick Member of the following Outside Bodies: <ul style="list-style-type: none"> • Nuneaton Neighbourhood Watch Committee Hospice Charity	

NUNEATON AND BEDWORTH BOROUGH COUNCIL

Report to: Audit and Standards Committee – 10th January 2023

From: Director – Planning and Regulation

Subject: Regulation of Investigatory Powers Act 2000

1. Purpose of Report

- 1.1 To provide the Audit and Standards Committee with the findings of the Inspector from the Investigatory Powers Commissioner's Office.
- 1.2 To approve the Council's policy on the use of covert surveillance.

2. Recommendation

- 2.1 To note the findings of the Inspector from the Investigatory Powers Commissioner's Office as attached at Appendix 1.
- 2.2 To approve the Council's policy on the use of covert surveillance as attached at Appendix 2

3. Background

- 3.1 On 21st July 2022 a desk top inspection was carried out by an Inspector appointed by the Investigatory Powers Commissioner's Office. These inspections are carried out every three years to monitor the Council's use of covert surveillance powers pursuant to the Regulation of Investigatory Powers Act 2000. Any use of covert surveillance must be formally approved by a senior officer of the Council and by a Magistrate. The use must balance the requirement to gain evidence in a covert manner with the human rights of individuals. Covert surveillance is only used where other overt methods of gathering evidence has failed.
- 3.2 The Inspector noted that the Council is a limited user of these powers, indeed no authorisation has been granted since 2016. However, it is important that the Council has the proper processes in place to be able to use the powers if necessary. The Inspector noted that the Council's policy would benefit from a refresh, having become unwieldy and outdated in places. He also noted that training had not been undertaken since 2019. The Inspection findings are attached at Appendix 1.
- 3.3 The Council's policy has been updated considering points made by the Inspector and is attached for approval at Appendix 2. Refresher training will also be arranged for all relevant officers. This will ensure that the Council is prepared to make use of the powers available under the Act if required.

PHILIP RICHARDSON



Mr Brent Davis
 Chief Executive
 Nuneaton and Bedworth Borough Council
 Town Hall
 Coton Road
 Nuneaton
 CV11 5AA

brent.davis@nuneatonandbedworth.gov.uk

25 July 2022

Dear Mr Davis,

Inspection of Nuneaton and Bedworth Borough Council

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

Your Council was recently the subject of a remote inspection by one of my Inspectors, [REDACTED]. I am grateful to Mr Philip Richardson, your Director of Planning and Regulation and nominated RIPA Senior Responsible Officer, and Ms Wendy Davies-White, your senior solicitor and RIPA Coordinator, for providing the appropriate documentation and their active participation in the inspection discussion. As part of this inspection, [REDACTED] has examined arrangements to manage activity authorised under Part II of the Regulation of Investigatory Powers Act 2000 (RIPA) by Nuneaton and Bedworth Borough Council.

[REDACTED] conducted your previous desktop inspection in 2019 and identified that your then policy required significant review. Your policy was updated at the time, but it seems that the current version has become unwieldy, difficult to read, and in places outdated. I am pleased to hear that your SRO has acknowledged the need to redraft a much more focused and up to date policy, and [REDACTED] has signposted some positive examples. This should aid compliance, signpost any route of advice and guidance, and ensure your staff fully understand current processes. The finer details have been fully discussed with Mr Richardson and Ms Davies- White and those sections that are outdated, clearly identified. As an example, any reference to the acquisition of communications data is not properly reflective of the changes imposed under Section 73 of the Investigatory Powers Act 2016. I am reassured that any new policy will make the necessary amendments for this, and all other matters highlighted by [REDACTED] to your SRO during their discussion.

Your current RIPA Central Record is also outdated and in need of review. The current record contains data which contravenes your own data management policy and the current safeguards outlined in the relevant Codes of Practice with regard to its review, retention and destruction. Any new Central Record should take account of the guidance provided in Section 8 of the Covert Surveillance and Property Interference Code of Practice and Section 7 of the CHIS Code of Practice. In order to comply fully with the safeguarding measures outlined in the Codes of Practice, clear guidance should be provided within any new RIPA policy, and would wisely include a cross reference to your organisation's wider data management policy.

Although you have not conducted any activity for some time, it is important to ensure there exists an awareness across the organisation of RIPA. I note that Nuneaton and Bedworth BC has not undertaken specific training since 2019 and it is important that your SRO now considers and implements the training and awareness requirement going forward.

In conclusion, while your organisation is a limited user of its surveillance powers, the requirement for an up to date and relevant policy, and an awareness of RIPA across the organisation, remains. I take the opportunity here to reiterate to you the importance of regular, ongoing internal oversight of the actual or potential use of these powers, which should be managed by the Senior Responsible Officer. After a positive discussion with [REDACTED], it seems that both Mr Richardson and Ms Davies-White are well aware of what is required, and have undertaken to implement the necessary changes on your behalf.

I hope that you find this letter to be helpful and constructive. My Office is available to you should you have any queries following the recent inspection, or at any point in the future. Contact details are provided at the foot of this letter. I shall be grateful if you would acknowledge receipt of the report within two months, and let me know your plans as regards the matters identified.

Yours sincerely,

[REDACTED]

[REDACTED]

The Investigatory Powers Commissioner

Nuneaton & Bedworth



Regulation of Investigatory Powers Act 2000

Guidance and Procedure Document

Covert Surveillance

Date	Responsibility	Approved
1 st December 2022	Director – Planning and Regulation	Approved

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1. INTRODUCTION

The Regulation of Investigatory Powers Act 2000 (RIPA) provides a legal framework for surveillance and information gathering techniques undertaken by public bodies in the course of their duties. Such activity must be consistent with the Human Rights Act 1998 (HRA) which provides that “*Everyone has the right to respect for his private and family life, his home and his correspondence*” (Art 8)

Most investigatory or enforcement activity carried out by the Council will be carried out in an open or overt manner. However, on occasion, officers may need to undertake their duties in a covert manner. Covert surveillance is surveillance, carried out so that the people being observed, or listened to, or monitored, are unaware that it is, or may be, taking place.

This document is intended to cover the surveillance and information gathering techniques which are most appropriate to local authority work, such as environmental health, planning and internal audit.

RIPA aims to ensure that when public bodies carry out investigations:

- *they respect the privacy of individuals and*
- *that there is an interference with privacy only where the law permits it and*
- *there is a clear public interest justification.*

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

In authorising surveillance, the Council must be satisfied that:

- *Any surveillance is undertaken in connection with a statutory function with which the Council is charged.*
- *That such interference can be justified legally.*
- *The surveillance is properly authorised in accordance with this policy and consequently provides a basis for justifying any interference with a person’s human rights*

Local authorities are restricted in the type of surveillance and information gathering techniques which they can be authorised to undertake under RIPA.

- **directed surveillance**
- **the use of covert human intelligence sources (CHIS)**
- **acquisition of communications data.**

All directed surveillance, use of a CHIS or accessing communications data must be properly authorised.

Following changes to RIPA by the Protection of Freedoms Act 2012, the Council can only authorise directed surveillance for the purpose of preventing or detecting more serious criminal offences which attract a custodial sentence of six months or more., Local Authority authorisations must also now be approved by a Magistrate.

Failure to obtain an authorisation is likely to be deemed to be unlawful under the HRA and evidence gathered is liable to be ruled inadmissible in Court, with costs being awarded against the Council and complaints made.

RIPA authorisation cannot be sought for low level offences such as dog fouling or fly posting which do not meet the serious crime threshold, however the principles in this policy should be applied to any surveillance activity falling below the threshold (non-RIPA activity) and the Council's Internet and Social Media Investigation Procedure (February 2022) should be adhered to.

Reference Documents

The Home Office has issued Codes of Practice including:

- Covert surveillance and property interference (2014, updated 2018)
- Covert human intelligence sources (2014, updated 2018)
- Acquisition and disclosure of communications data (2015)
- Interception of communications (2016).

These and other relevant guidance are available at:

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

The Act provides for oversight arrangements as follows:

Investigatory Powers Commissioner and Tribunal

The Government has appointed the Investigatory Powers Commissioner to review how public authorities implement the requirements of RIPA. The Commissioner has wide ranging powers of access and investigation. The Council receives periodic visits from the Commissioner's staff and therefore it is essential that everyone who engages in covert surveillance is fully aware of the law and this procedure. In addition the Act establishes a Tribunal made up of senior members of the judiciary and the legal profession which is independent of the Government. The Tribunal has full powers to investigate and decide any case where a complaint is made about the conduct of the Council in exercising its surveillance powers.

For further information see

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

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

Investigatory Powers Tribunal
PO Box 33220
London
SW1H 9ZQ
020 7273 4514

2. WHAT IS COVERT SURVEILLANCE?

RIPA defines surveillance as:

- monitoring, observing, or listening to persons, their movements, their conversations, or their other activities or communications.
- recording anything monitored, observed, or listened to in the course of surveillance; and
- surveillance by or with the assistance of a surveillance device

Covert Surveillance is surveillance carried out so that the people being observed, or listened to or monitored are unaware that it is or may be taking place

There are two categories of **covert surveillance**:

- Directed Surveillance, and
- Intrusive Surveillance

Directed Surveillance

Directed Covert Surveillance (DCS) is defined as surveillance which is covert, but not intrusive, and undertaken:

- a) for the purpose of a specific investigation or operation;
- b) in such a manner as is likely to result in the obtaining of **private information** about a person (whether or not that person is the target of the investigation or operation); and
- c) in a planned manner and not by way of an **immediate response** whereby it would not be reasonably practicable to obtain an authorisation prior to the surveillance being carried out.

Private Information includes any information relating to a person's private or family life including activities of a professional or business nature.

Intrusive Surveillance

A local authority **cannot** authorise **intrusive surveillance**.

Intrusive surveillance is defined as covert surveillance that:

- a) is carried out in relation to anything taking place on any **residential premises** or in any **private vehicle**; and
- b) involves the presence of any individual other than a CHIS on the premises or in the vehicle or is carried out by means of a **surveillance device**.

If the device is not located on the premises or in the vehicle, it is not intrusive surveillance unless the device consistently provides information of the same quality and detail as might be expected to be obtained from a device actually present on the premises or in the vehicle.

3. WHAT IS A COVERT HUMAN INTELLIGENCE SOURCE?

RIPA defines a CHIS as a person who establishes or maintains a personal or other relationship with a person for the covert purpose of facilitating the doing of anything that

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

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

THE USE OF A CHIS WILL ONLY BE AUTHORISED IN EXCEPTIONAL CIRCUMSTANCES.

The Council would have an ongoing duty of care to a CHIS and their safety and welfare would be paramount. Other methods of obtaining the information should be used if at all possible. Legal Services should be contacted at the outset as the rules and procedures are complicated.

There are additional safeguards in place which apply to the use of persons under the age of 18 as CHIS and also to vulnerable individuals. A vulnerable individual is a person who is or maybe in need of community care services by reason of mental or other disability, age or illness and who is unable to take care of themselves or unable to protect themselves from harm or exploitation.

A named officer (**a handler**) would have day to day responsibility for dealing with a CHIS and a further named senior officer would have oversight of the use made of the CHIS (**a controller**). A further officer (**a record keeper**) would be responsible for maintaining records relating to the CHIS and use of the CHIS. A risk assessment would be carried out prior to the use of the CHIS to determine the risk to them and the likely consequences should their role become known. This would be reviewed regularly during the course of the investigation and all necessary steps taken to ensure the safety and welfare of the CHIS during the course of the investigation and once the authorisation had been cancelled. It would be necessary to maintain a record of the use made by the CHIS, and regulate access to them, ensuring that the Regulation of Investigatory Powers (Source Records) Regulations 2006 are fully complied with.

4. COMMUNICATIONS DATA

Local authorities are only permitted to acquire communications data for the purpose of preventing or detecting serious crime. This is an offence punishable by a maximum term of 12 months imprisonment or more.

The request must be made through a qualified single point of contact accessed via the National Anti-Fraud Network and must also receive prior judicial approval.

Use of the Internet and Social Networking Sites

Use of the internet to gather information in the course of an investigation may amount to directed surveillance and officers should consider the intended purpose and the scope of the online activity it is proposed to take. The following factors should be taken into account:

- Whether the investigation or research is directed towards an individual.
- Whether it is likely to result in obtaining private information about a person or group of people.
- Whether it is likely to involve visiting internet sites to build up a profile.
- Whether the information obtained will be recorded and retained.
- Whether the information is likely to provide a pattern of lifestyle.
- Whether the information is being combined with other sources of information, which amounts to information relating to a person's private life.
- Whether the investigation or research is part of an ongoing piece of work involving repeated viewing of the subject(s).
- Whether it is likely to involve identifying and recording information about third parties, such as friends and family members of the subject of interest, or information posted by third parties, that may include private information and therefore constitute collateral intrusion into the privacy of these third parties.
- Conversely, where the Council has taken reasonable steps to inform the public or particular individuals that the surveillance is or may be taking place, the activity may be regarded as overt, and a directed surveillance authorisation will not normally be available.

Normal usage

Where an investigator makes normal background checks on the internet, accessing pages that are in the public domain on a single occasion, this would be considered normal usage. Under these circumstances, whilst full records must be kept (in order to comply with the Criminal Procedure and Investigations Act) there is no need for investigators to seek RIPA authorisation to make these enquiries. During the course of the investigation, it would be normal for an investigator to make very occasional checks on pages, in order to confirm the information contained therein or, for example, to check for changes just prior to interview. If, following on from this, investigators then wish to monitor pages, or extract information from them in order to keep check on a suspect's activities, this may amount to Directed Surveillance.

Directed Surveillance

Where investigators make regular checks of social media, in order to monitor activity, this may amount to Directed Surveillance. This is because the person, whilst posting to a public forum, site or page, may well not expect the Local Authority to be watching them. As such, regardless of whether or not the user has sought to protect information by activating privacy settings, there will still be privacy implications.

An analogy must be drawn between the electronic world and the 'real' world - if investigators were to go to a public house, in order to listen to a conversation that the suspect was having, this would amount to Directed Surveillance; visiting an online forum for the same purpose is no different.

You wish to covertly watch a shop, in order to see if the shopkeeper is selling unlawful items. This is Directed Surveillance. That same shopkeeper has an online shop that you wish to check every day. What is the difference?

Covert Human Intelligence Source

Looking at publicity available pages is normally considered 'Open Source' investigation but the situation changes if investigators are required to request access, in order to view the page. If investigators have to create or maintain a 'personal or other relationship' in order to access information, this probably amounts to becoming a Covert Human Intelligence Source. A good example of this is 'Facebook', where a profile may be available for all to view ('Open Source' or Directed Surveillance) or may require investigators to send a friend request and have that request accepted. An Officer must not set up a false identity for a covert purpose without authorisation. An officer should not adopt the identity of a person known, or likely to be known, to the subject of interests or users of the site without authorisation, and without the explicit consent of the person whose identity is used, and without considering the protection of that person.

An exception would be where, for example, the officer uses an identity that is manifestly overt (NBBC Environmental Health Officer) and sends the request from this identity. Under these circumstances, the viewing of the page would amount to monitoring and not Directed Surveillance or becoming Covert Human Intelligence Source.

The Council's Internet and Social Media Investigation Procedure (February 2022) provides further information on the use of the internet and social media in the course of investigations and sets out a process to be followed by officers in situations where authorisation under RIPA is not required (non RIPA activity). Officers carrying out investigations must familiarise themselves with the Council's Policy on Covert Surveillance and the Internet and Social Media Investigation Procedure.

CCTV

The overt use of CCTV cameras in town centres, car parks etc is generally not regulated through RIPA. The Council's CCTV Policy and guidance from the Information Commissioner's Office provides more detail on the use of CCTV. However there may be instances where a law enforcement agency typically the Police, may wish to use the Council's CCTV system for Directed Surveillance. A written protocol exists between the Police and the Council which provides that CCTV operatives must be provided with a copy of the RIPA authorisation obtained by the Police prior to using the CCTV system for Directed Surveillance.

ANPR

The overt use of ANPR to monitor flow or detect offences does not require authorisation. However, if used in covert or pre planned operations or as part of a specific investigation of a person or group, a directed surveillance authorisation must be considered. Even where RIPA does not apply, CCTV systems are governed by data protection and human rights rules and regard must be had to the threshold in the Protection of Freedoms Act 2012.

5. THE ROLE OF DESIGNATED OFFICERS

Designated RIPA Co-ordinator, Senior Responsible Officer and Authorised Officers

RIPA Co-ordinator and Senior Responsible Officer

The following officers have been nominated as the designated RIPA Co-ordinator and Senior Responsible Officer for NBBC under the Regulation of Investigatory Powers Act 2000.

Officer:	Section:	Contact Details:
RIPA Co ordinator Wendy Davies-White	Planning and Regulation	Tel: 024 7637 6100 mailto: wendy.davies- white@nuneatonandbedworth.go v.uk
<u>Deputy RIPA Co-ordinator</u> <u>Shehnaz Tai</u>	Planning and Regulation	Tel: 024 7637 6268 mailto: shehnaz.tai@nuneatonandbedwo rth.gov.uk
<u>Senior Responsible Officer</u> Philip Richardson	Planning and Regulation	Tel: 024 7637 6233 mailto: philip.richardson@nuneatonandb edworth.gov.uk
<u>Deputy Senior Responsible</u> <u>Officer</u> <u>Waheeda Sheikh</u>	Planning and Regulation	Tel: 024 7637 6897 mailto: waheeda.sheikh@nuneatonandb edworth.gov.uk

Authorising Officers

The following Officers shall be designated as Authorising Officers for the specified purpose on behalf of NBBC under the Regulation of Investigatory Powers Act 2000.

Power to authorise delegated to post-holder:	DCS	Confidential Material:
Chief Executive	Yes	Yes

Director – Customer and Corporate Services & Deputy Chief Executive	Yes	Yes (in the absence of the Chief Executive)
Director – Regeneration and Housing,	Yes	No
Director – Public Services	Yes	No

NB: There is no provision for other officers to authorise investigations even in cases of emergency. Only the Chief Executive or in his absence the Deputy Chief Executive can authorise investigations that will involve the collection of confidential material.

Elected Members

Regular reports on the number and type of authorisations granted will be taken to Overview and Scrutiny Panel.

Role of the Senior Responsible Officer

The Senior Responsible Officer is responsible for:

- ensuring processes are in place within the Council to authorise surveillance in compliance with the RIPA legislation and Codes of Practice
- engagement with the Commissioner and inspectors when they conduct their inspections, and where necessary, overseeing the implementation of any post inspection action plans recommended or approved by a Commissioner
- ensuring that all relevant officers receive regular training
- error reporting to IPCO within 10 working days for example surveillance without lawful authority or failure to comply with law or codes of practice

6. AUTHORISATION PROCESS

An authorisation under Part II of the Act will provide lawful authority for a public authority to carry out surveillance.

An application for authorisation must be made on the prescribed form which is available at [RIPA forms - GOV.UK \(www.gov.uk\)](http://www.gov.uk). A separate risk assessment should also be undertaken and provided to the Authorising Officer.

The flowcharts in Annex 1 shows the steps which are required in the authorisation procedure.

Employees are advised to discuss the need to undertake DCS with their line manager and Legal Services before seeking authorisation. The line manager must endorse the application form before submitting it to the Authorising Officer. Options to gain the information, which is required, other than by using covert techniques, should be fully explored.

An applicant should complete the application form addressing the following points:

- The action to be authorised.
- The identities, where known, of those to be the subject of directed surveillance.
- An account of the investigation or operation.
- An explanation of the covert techniques that will be used
- Confirmation that the action proposed is intended to prevent or detect crime
- A statement outlining why the surveillance technique is considered to be proportionate to what it seeks to achieve.
- Details of what a CHIS would be tasked with
- An explanation of the information which it is desired to obtain as a result of the authorisation.
- An assessment of the potential for collateral intrusion, that is to say, interference with the privacy of persons other than the subjects of the surveillance, and an assessment of the risk of such intrusion or interference.
- An assessment of the likelihood of acquiring any confidential material and how that will be treated.
- A risk assessment for use of a CHIS

The applicant should discuss the content of the form with the Authorising Officer

Authorisation must be given in writing by the Authorising Officer. To consent to an authorisation, the Authorising Officer must be satisfied that the proposed surveillance is **necessary** for the purpose of preventing and detecting crime that meets the crime threshold.

The Authorising Officer must also believe that the proposed surveillance is **proportionate** to what it seeks to achieve and that any potential for **collateral intrusion** and the likelihood of acquiring any **confidential material** is reduced to a minimum. Reference must be made to the statutory code of practice on covert surveillance.

Necessity

The Act requires the Authorising Officer to believe that the authorisation is necessary for the following reason.

For the purpose of preventing or detecting conduct which constitutes one or more criminal offences where the offence is punishable whether on Summary Conviction or Indictment by a maximum term of at least 6 months imprisonment or certain prescribed licensing offences e.g. sales to minors

Proportionality

The Authorising Officer must also be satisfied that the proposed surveillance is proportionate to what it seeks to achieve. This should include an explanation of the reasons why the method, tactic or technique proposed is not disproportionate (the provincial “sledgehammer to crack a nut”). Proportionality is not only about balancing the effectiveness of covert methods over overt methods but of explaining why the particular covert method, technique or tactic is the least intrusive. Authorising Officers must balance the human rights of the individual against the need to undertake covert surveillance to further an investigation. It is insufficient to simply say that the ‘seriousness’ of the crime justifies the potential method. Similarly any potential cost savings cannot be used to justify use of technological solutions which are often capable of being more intrusive than a human being.

These 4 elements of proportionality must be fully considered.

- i) balancing the size and scope of the operation against the gravity and extent of the perceived mischief
- ii) explaining how and why the methods to be adopted will cause the least possible intrusion on the target and others
- iii) that the activity is an appropriate use of the legislation and the only reasonable way, having considered all others, of obtaining the necessary result and
- iv) evidencing what other methods have been considered and why they were not implemented.

The Authorising Officer should set out why he/she believes that the proposed action is necessary and proportional. A bare assertion is insufficient. Authorising officers must state explicitly what is being authorised

Collateral Intrusion

Before authorising surveillance the Authorising Officer must also take into account the risk of intrusion into the privacy of persons other than those who are the subject of the investigation. Measures should be taken to avoid or minimise unnecessary intrusion into the lives of those not directly connected with the investigation. Authorising Officers need to fully understand the capabilities and sensitivity levels of any technical equipment intended to be used and where and how it is to be deployed. An application for an authorisation should include an assessment of the risk of any collateral intrusion. The Authorising Officer should take this into account, when considering the proportionality of the surveillance. To assist in this process a map of the area should be attached to the application indicating particularly sensitive items such as schools.

Confidential Material

is anything:

- That is subject to legal privilege, for example communications between a legal adviser and his/her client.
- That is confidential personal information, for example information about a person's health or spiritual counselling or other assistance given or to be given to him or her.
- That is confidential journalistic material (this includes related communications), that is, material obtained or acquired for the purposes of journalism and subject to an undertaking to hold in confidence

The Authorising Officer will consider the content of the application form and address the issues of necessity and proportionality and make a decision as to whether to approve or refuse the application

The Authorising Officer will specify dates when the authorisation should be reviewed and the frequency of review thereafter but these should be completed at least monthly. A review form has to be completed to record any review that does take place.

Approval of Local Authority Authorisation by a Justice of the Peace

The flowcharts at Annex 1 outline the procedure for applying for judicial approval. The application must be made by the public authority that has granted the authorisation. Following approval by the authorising officer, the RIPA Coordinator will contact the magistrates' court to arrange a hearing.

The local authority will provide the JP with a copy of the original RIPA authorisation and the supporting documents setting out the case. This forms the basis of the application to the JP and **should contain all information that is relied upon**. In addition, the local authority will provide the JP with a partially completed judicial application/order form.

The hearing is a 'legal proceeding' and therefore local authority officers need to be formally designated to appear, be sworn in and present evidence or provide information as required by the JP.

The hearing will be in private and heard by a single JP who will read and consider the RIPA authorisation or notice and the judicial application/order form. He/she may have questions to clarify points or require additional reassurance on particular matters and as such the case investigator must attend the hearing. It is good practice for the authorising officer also to attend to assist the Magistrate if required. It is not envisaged that the skills of legally trained personnel will be required to make the case to the JP and this would be likely to, unnecessarily, increase the costs of local authority applications.

Following their consideration of the case the JP will complete the order section of the judicial application/order form recording their decision.

The JP may decide to

Approve the Grant or renewal of an authorisation or notice

The grant or renewal of the RIPA authorisation or notice will then take effect and the local authority may proceed to use the technique in that particular case.

Refuse to approve the grant or renewal of an authorisation or notice

The RIPA authorisation or notice will not take effect and the local authority may **not** use the technique in that case.

Where an application has been refused the local authority may wish to consider the reasons for that refusal. For example, a technical error in the form may be remedied without the local authority going through the internal authorisation process again. The local authority may then wish to reapply for judicial approval once those steps have been taken.

Refuse to approve the grant or renewal and quash the authorisation or notice

This applies where a magistrates' court refuses to approve the grant, giving or renewal of an authorisation or notice and decides to quash the original authorisation or notice.

The court must not exercise its power to quash that authorisation or notice unless the application has had at least 2 business days from the date of the refusal in which to make representations.

A local authority may only appeal a JP decision on a point of law by judicial review. If such a concern arises, the local authority should consult their legal advisers.

Duration of Authorisation

A written authorisation granted by an authorising officer and approved by a Magistrate will take effect when signed by the Magistrate. It will automatically cease to have effect unless renewed or cancelled at the end of a period of three (3) months beginning with the day on which it took effect. CHIS authorisations last for 12 months (1 month if the CHIS is 18).

Record of Authorisations

All completed application forms, renewal forms and cancellation forms must be immediately sent to the RIPA Co-ordinator. Copies should be kept by the Authorising Officer and by the Applicant for retention on the investigation file.

In all cases, the relevant section must retain the following documentation which does not form part of the centrally retrievable record held by the RIPA Co-ordinator

- a copy of the application and a copy of the authorisation together with any supplementary documentation and notification of the approval given by the authorising officer;
- copy of the Justice of the Peace Approval
- a record of the period over which the surveillance has taken place;
- the frequency of reviews prescribed by the authorising officer;

- a record of the result of each review of the authorisation;
- a copy of any renewal of an authorisation, together with the supporting documentation submitted when the renewal was requested;
- the date and time when any instruction was given by the authorising officer

In respect of a CHIS full details of the CHIS and the management arrangements must be kept by the Record Keeper including:

- The identity of the CHIS
- The identity or identities used by the CHIS, where known
- The means used within the Council of referring to the CHIS
- Any significant information connected with the security and welfare of the CHIS
- Any confirmation made by an Authorising Officer granting or renewing an authorisation for the conduct or use of a source, that the security and welfare of the CHIS has been considered and that any identified risks to the security and welfare of the CHIS have been properly explained to and understood by the CHIS
- The date when, and the circumstances in which, the CHIS was recruited
- The authority for the related investigation or operation
- The identities of the Controller, the Handler, and the Record Keeper
- The period for which those responsibilities have been discharged by those persons
- The tasks that are given to the CHIS and the demands made of him in relation to his activities as a CHIS
- All contacts or communications between the CHIS and the Council or where the CHIS is a Council Officer, the Handler, and the Controller.
- The information obtained by the Council by the conduct or use of the CHIS
- In the case of a CHIS who is not an Officer of the Council, every payment, benefit or reward or every offer of a payment, benefit or reward that is made or provided by or on behalf of the Council in respect of the CHIS's activities for the benefit of the Council

Central Record of Authorisations

A centrally retrievable record of all authorisations is held by the RIPA Co-ordinator which is up-dated whenever an authorisation is granted, renewed or cancelled. These records are retained for a period of at least **three years** from the ending of the authorisation and contain the following information:

- The type of authorisation;
- The date the authorisation was given;
- The name and title of the Authorising Officer;
- The unique reference number of the investigation;
- The title of the investigation, including a brief description and the names of the subjects, if known;
- Whether the urgency provisions were used and why;
- If the authorisation is renewed, when it was renewed and the name and title of the Authorising Officer;
- Whether the investigation is likely to result in obtaining confidential information; and

- The date the authorisation was cancelled.

Additional records must be maintained by a CHIS Record Keeper which include full details of the CHIS and the management arrangements.

7. AFTER APPROVAL OF AUTHORISATIONS

After authorisation the Authorising Officer must continue to oversee the progress of the investigation. He or she must ensure that whatever was authorised does actually happen and that actions do not exceed the boundaries of the authorisation. Progress should be reviewed in accordance with the authorisation. In any case, as soon as the objectives have been achieved a **cancellation must be issued**.

It will be the responsibility of the officer in charge of an investigation to ensure that any surveillance activity is only undertaken under an appropriate and valid authorisation, and therefore, he/she should be mindful of the date when authorisations and renewals will cease to have effect. The RIPA Co-ordinator shall also perform a monitoring role in this respect **but the primary responsibility rests with the Authorising Officer**.

Reviews

Regular reviews (at least monthly) of authorisations should be undertaken to assess the need for the surveillance to continue. The results of a review should be recorded on the central record of authorisations. Particular attention is drawn to the need to review authorisations frequently where the surveillance provides access to confidential information or involves collateral intrusion.

In each case the Authorising Officer should determine how often a review should take place. This should be as frequently as is considered necessary and practicable. Reviews do not need to go before a JP.

Renewals

An Authorising Officer and Justice of the Peace may renew an authorisation before it would cease to have effect if it is necessary for the authorisation to continue for the purpose for which it was given. Such renewals would normally extend the authorisation period for a further three months beginning with the day on which initial authorisation would cease to have effect, but for the renewal. Authorisation may be granted more than once, provided they continue to meet the criteria for authorisation. An application for renewal must not be made more than **seven days** before the authorisation is due to expire and must consider the same criteria as a new application

Cancellations

All authorisations, including renewals, **must** be cancelled if the reason why DCS was required no longer exists. This will occur in most instances when the purpose for which surveillance was required has been achieved and officers must be mindful of the need to cancel any authorisation which has been issued. A cancellation should be issued at the expiry date if not before. The responsibility to ensure that authorisations are cancelled rests with the Authorising Officer.

Cancellations do not need to go before a JP.

All completed cancellation forms must be sent to the RIPA Co-ordinator. A copy of the form should be retained by the Authorising Officer and a further copy sent to the Applicant for retention on the investigation file.

8. RETENTION AND DESTRUCTION OF DOCUMENTS

All applications for authorisation (including those that have been refused), renewals and cancellations will be retained for a period of at least **five years** by the RIPA Co-ordinator. They will then be considered for destruction.

The Central Register will be kept for at least **three years**. Individual records will be considered for destruction after that time.

Individual sections should retain their documentation and a record of all applications and authorisations for a period of **five years** from the ending of the authorisation.

Regard should be had to the Council's Document Retention Policy.

Annex 1 Flow charts¹

Flow chart 1 Directed Surveillance

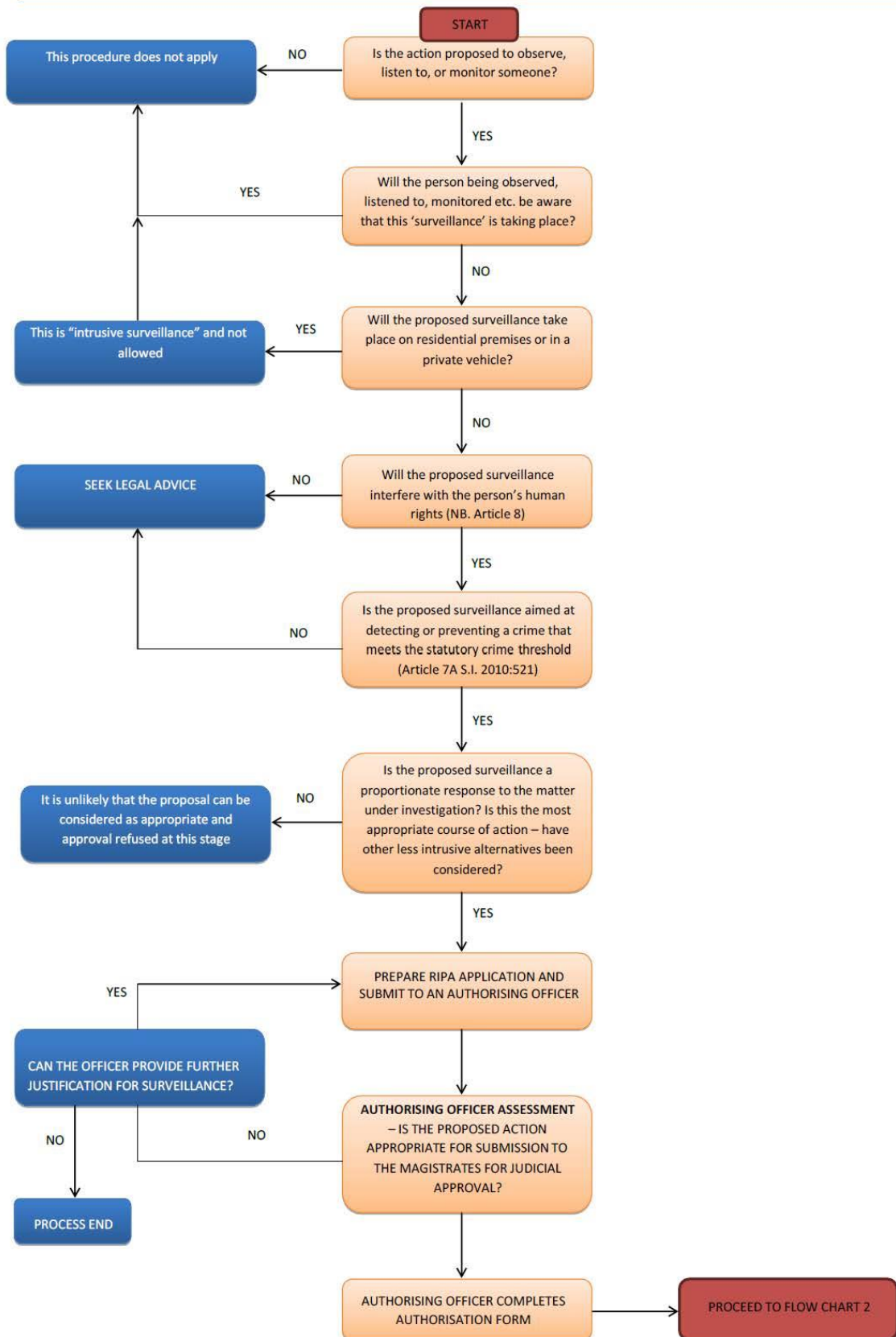
Flow chart 2 Directed Surveillance - Authorisation by Justice of the Peace

Flow chart 1 Use and Authorisation of CHIS

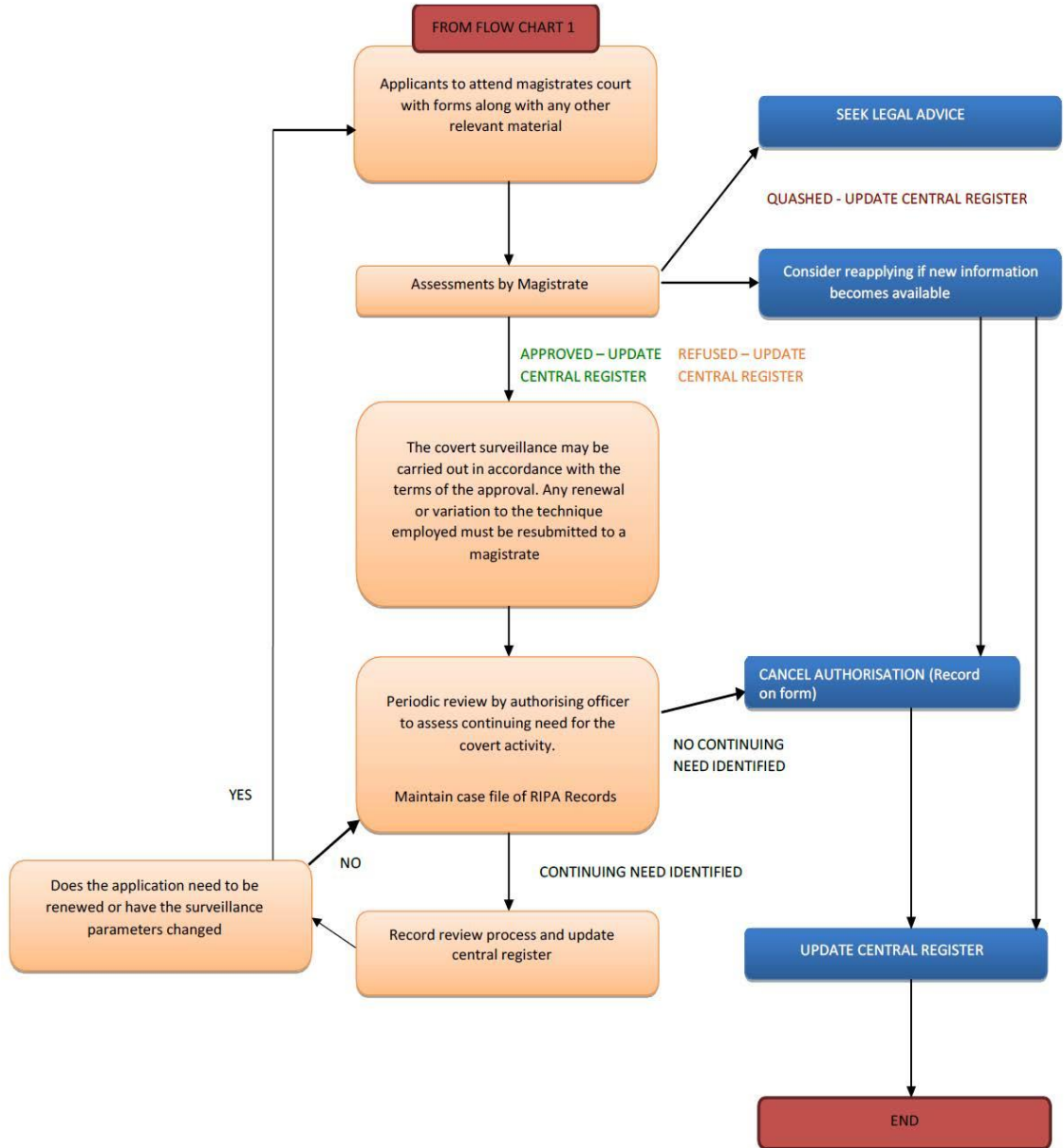
Flow chart 2 Use and Authorisation of CHIS - Authorisation by Justice of the Peace

¹ Flowcharts reproduced with kind permission from Cardiff Council

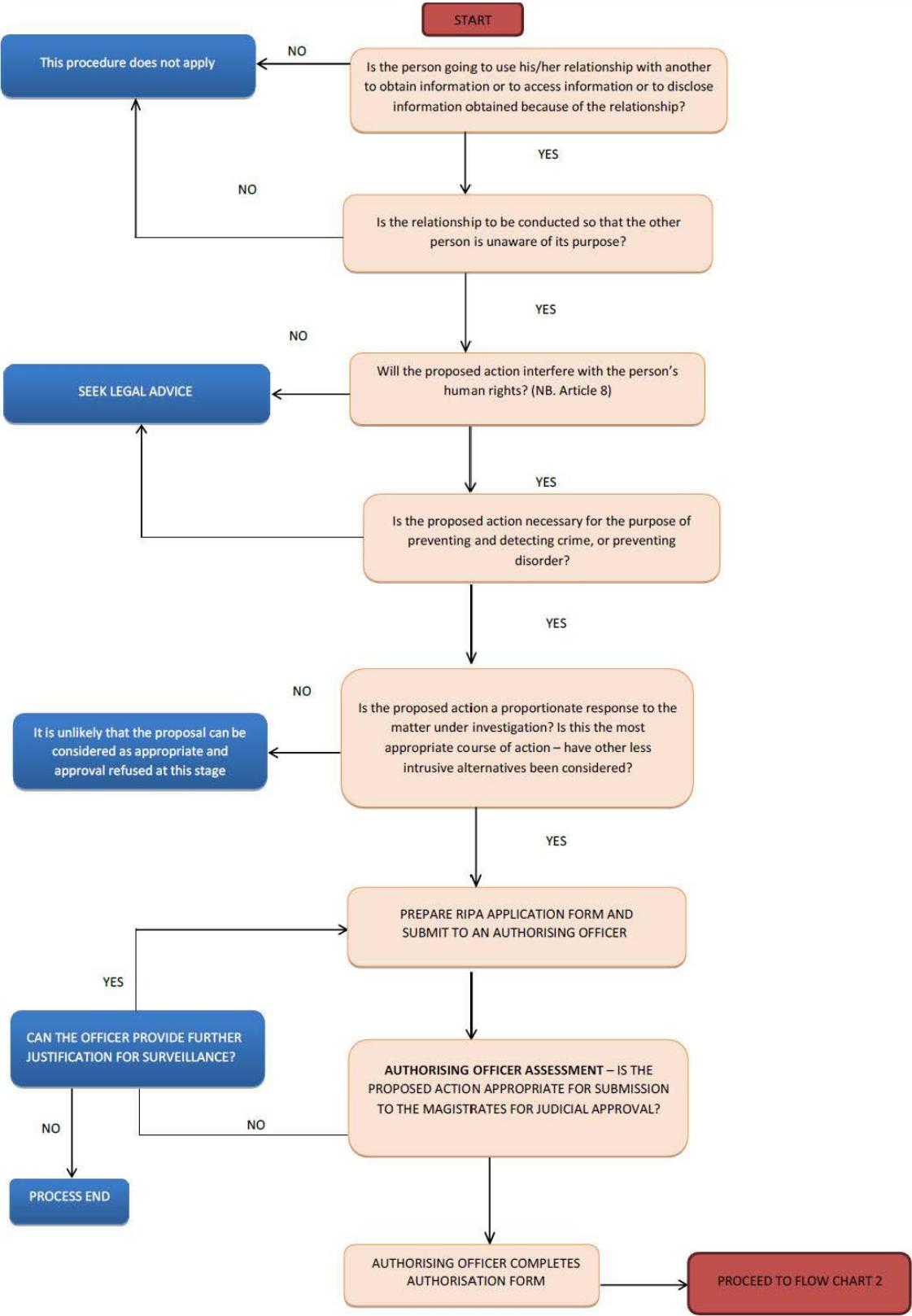
Flow Chart 1: Directed Surveillance



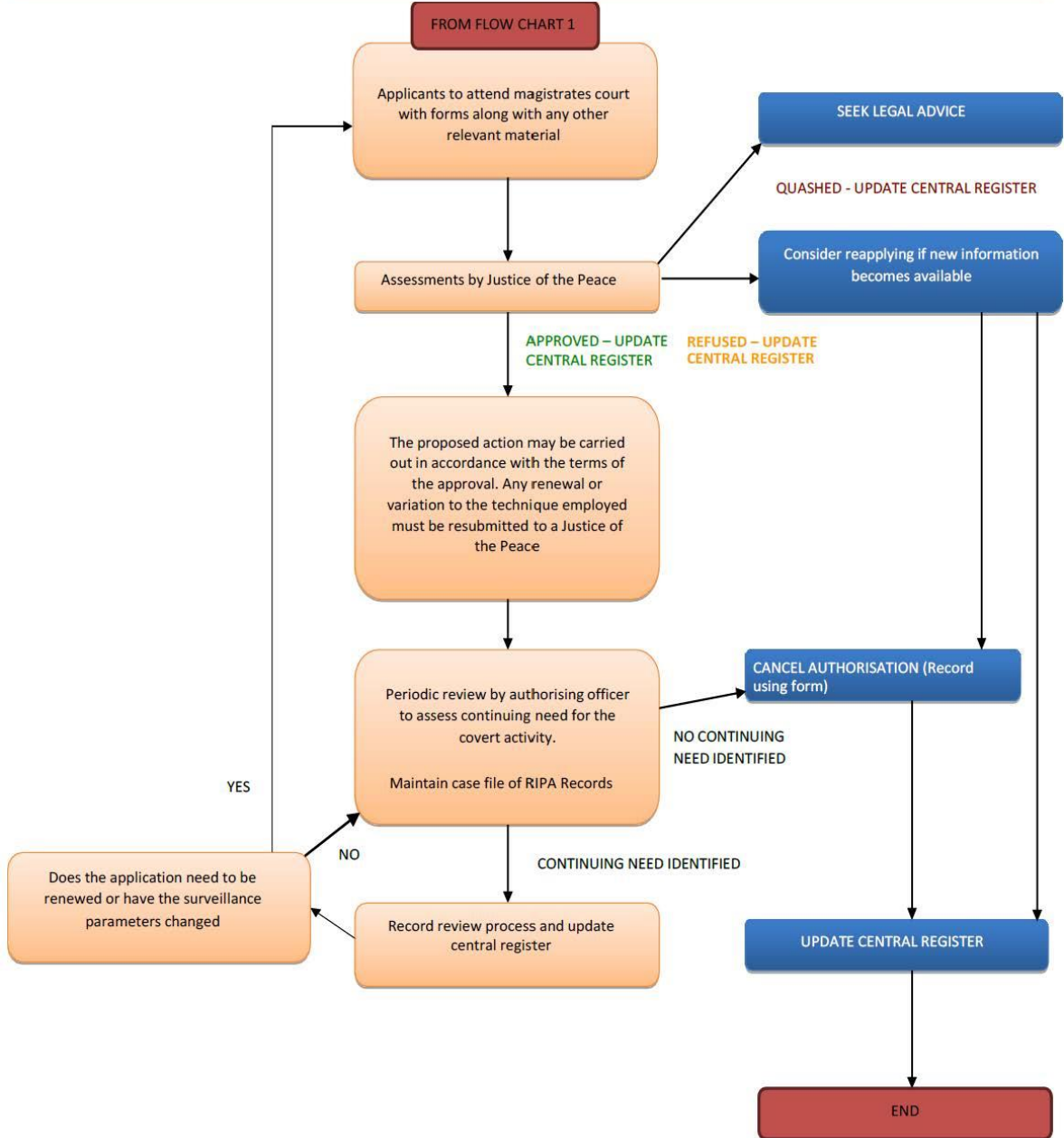
Flow Chart 2: Directed Surveillance



Flow Chart 1: Use and Conduct of CHIS



Flow Chart 2: Use and Conduct of CHIS



This document is also available in other languages on request:

এই ডকুমেন্ট অন্য ভাষায়, বড় প্রিন্ট আকারে এবং অডিও টেপ আকারেও অনুরোধে পাওয়া যায়।

આ દસ્તાવેજ વિનંતી કરવાથી બીજી ભાષાઓ, મોટા છાપેલા અક્ષરો અથવા ઓડિઓ રચનામાં પણ મળી રહેશે.

अनुरोध पर यह दस्तावेज़ अन्य भाषाओं में, बड़े अक्षरों की छपाई और सुनने वाले माध्यम पर भी उपलब्ध है

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NUNEATON AND BEDWORTH BOROUGH COUNCIL

Report to: Audit and Standards Committee – 10th January 2023

From: Head of Audit and Governance

Subject: Briefing Note

1. Purpose of the Report

- 1.1 The purpose of this report is to provide Committee members with responses to the questions raised following the presentation of the Head of Audit and Governance Annual Report 2021-22 on 8th November 2022.

2. Recommendations

- 2.1 That the additional information provided in section 4 to this report in response to the questions raised be noted.

3. What the Committee is being asked to consider?

- 3.1 That the additional information provided adequately addresses the concerns raised by members.

4. Background

- 4.1 During the Committee meeting on the 8th November in response to the information contained in the Internal Audit Annual Report, questions were raised and additional information requested in the following areas: -
- Covid Grants
 - Counter Fraud
 - CCTV
 - Cemeteries
 - Community Centres
 - Mobile Phones
 - Post Project Reviews
 - S106 monies
- 4.2 In response to the questions and concerns raised by members additional information has been obtained as follows.

Covid Grants

NBBC made 7380 Covid-19 Discretionary Grants to Business payments during round two of the awards scheme and ten of these were found to be duplicate payments amounting to approximately £76K. We have confirmed that all of these have now been fully recovered.

Counter Fraud

Members asked for current year counter fraud statistics. From 1st April to 30th November 2022 at NBBC the Counter Fraud Officer has completed 104 investigations and has identified cashable savings to the public purse of approximately £130,027 and notional savings of approximately £1,525,733. Notional savings are the estimated future savings to the public purse as a result of the intervention and successful fraud investigation. In addition, 16 Council properties have been recovered, generally due to the tenant sub-letting the property or being found to have abandoned it, which has allowed these to be allocated to applicants on the housing waiting list.

CCTV

A follow up review has been completed and the only outstanding issue was the need to update the Code of Practice and Procedure Manual, which will be done during 2023 when the CCTV system is fully upgraded.

Members expressed concern over the age of the equipment so we have spoken to the Town Centres and Marketing Manager, and he has confirmed that although the replacement programme has overrun it is expected that the contractors will complete the work by the end of the current financial year.

Cemeteries

A follow-up review has been completed and work is underway to improve the quality of the data held on the new system and action is being taken to identify the best way to digitise the paper records. In relation to the outstanding increase in rental income from £5K per year to market value, which is estimated to be approximately £145K per year, a valuation from the District Valuer (DV) is still awaited and until that is received the Council has no legal basis on which to charge any additional rent. Discussions are taking place with the DV, but we understand that they do have a large backlog of work due to the Covid-19 restrictions.

Members raised concerns because the Council has still not identified additional cemetery land in Nuneaton and the number of deaths will have increased due to Covid-19; In reality, although the number of deaths may have increased (do not know actual statistics) the number of burials is declining. There was an increase of 65 between 2019 and 2020 but then there was a decrease of 58 in 2021 and a further decrease of 7 in the

current year compared to the same period last year; it is assumed that the bereaved are choosing a cremation rather than a burial as ash internments are increasing.

In relation to additional burial land, work is currently underway to look at potential sites within the Borough.

Community Centres

At the time of the initial audit the financial statements had not been obtained from Warwickshire Community and Voluntary Action (WCAVA) to establish whether any additional income was due to the Council under the 50:50 net profit sharing clause in the lease agreement and members asked if these had now been received. Also, members asked if outstanding costs had now been recharged to WCAVA.

A follow up review has been completed and we can confirm that financial information has now been received for financial years 2016/2017 to 2021/2022. This was reviewed by the Land and Property Team, and it was found that no additional income was due to the Council. Also, invoices have now been raised for the outstanding income from WCAVA relating to water bills, insurance costs etc.

Mobile Phones

A follow-up review has been carried out since this audit was completed and two recommendations were still outstanding:

- The ICT Code of Conduct for Employees still needed to be updated; and
- Liaison with our supplier Virgin was on-going to obtain reports as agreed in the contract to enable line managers to effectively monitor call usage within their service area

A question was raised over the number of mobile phones on issue and there are 257, mainly to Elected Members, Directors and Senior Managers and Officers who require them for personal safety reasons, for example visiting officers, town centres and car park teams, refuse operatives, housing employees and the counter fraud officer.

Post Project Reviews

Given the amounts being spent on key projects and developments members were concerned that final business cases could not be located and failures to meet key milestones were not being adequately reported.

To assess the extent of these problems five further projects have been reviewed. There was a business case in place for all of them but in four cases it wasn't clear whether it was the final version although project

leaders have assured us that they are. Four of the five projects had been completed but no end of project evaluation had been done to identify any lessons learned for three of them. There was no evidence of key milestones in relation to costs and completion dates not being achieved

S106 Monies

Member asked for assurance that there was a sound system in place to ensure that all s106 monies due are being claimed. The current computer system is being replaced by the new CX Regulatory system, which is in the process of being built and the planning element, which will include s106 agreements, is due to be installed in 2024. In the meantime, agreements are monitored using a spreadsheet, which is stored in Content Manager with access restricted to relevant officers only.

Formal written procedure notes are still outstanding due to the relevant officer being on long term sick leave. She is now back on a phased return so these will be developed within the next six months.

5. Conclusion

- 5.1 If there are any additional questions arising from the above, can these be given to the Head of Audit and Governance before the meeting to enable any further information to be obtained or to invite relevant officers to the meeting.

LINDA DOWNES

NUNEATON AND BEDWORTH BOROUGH COUNCIL

Report to: Audit and Standards Committee – 10th January 2023

From: Head of Audit and Governance

Subject: Internal Audit Plan 2022-23

1. Purpose of the Report

- 1.1 The purpose of this report is for the Committee to agree proposed changes to the approved internal audit plan for 2022-23.

2. Recommendations

- 2.1 That the proposed changes to the internal audit plan at Appendix A to this report be approved.

3. What the Committee is being asked to consider?

- 3.1 That the approach taken to adjust the internal audit plan for 2022-23 is reasonable.

4. Background

- 4.1 The internal audit plan for 2022-23 at Appendix A was approved by the Audit and Standards Committee in March 2022. The Plan includes a 'Council wide ranging review of the purchase of goods and services and the operation of the relevant systems and controls' as a single audit. However, it became apparent that the scope of this audit was too diverse and complex to be covered by a single review, so it was split into four, namely:
- Accounts Payable
 - Fuel Cards
 - Corporate Credit Cards
 - Housing Repairs and Stock Control.

These audits are currently being finalised and a report on the findings will be brought to the next Audit and Standards Committee meeting.

- 4.2 Given the above and the limited internal audit resources available during this financial year due to absence of the Head of Audit and Governance, it

is very unlikely that the approved plan at Appendix A can be completed during 2022-23 so some adjustments need to be agreed.

4.3 The table below shows those audit reviews that we propose be deferred until 2023-24 and the reasons why these have been selected:

Audit	Reason
Creditors	Reviewed as part of the Accounts Payable audit mentioned above
Customer Feedback	After the last audit a 'no assurance' opinion was given because of the delays in responding to complaints and Freedom of Information requests. Since then, a Customer Experience and Data Protection Officer has been recruited to monitor requests and prompt officers for responses so there is no longer a backlog
Electoral Services	After the last audit a 'significant assurance' opinion was given so this is considered to be low risk
General Ledger	After the last audit a 'significant assurance' opinion was given, and this is a key financial system that is looked at by our external auditors as well
Leaseholder Management	After the last audit a 'significant assurance' opinion was given so this is considered to be low risk
Licensing	Key personnel within this section have recently left the Authority so it is probably best to defer this audit until the new team are in place, also, after the last audit a 'satisfactory assurance' opinion was given so it is not considered to be high risk

4.4 All follow-up reviews and annual audits that are considered to be the higher risk areas will be completed as planned.

LINDA DOWNES

Operational Audits

- Council wide ranging review of the purchase of goods and services and the operation of the relevant systems and controls
- Customer Feedback (Complaints & Compliments)
- Electoral Services
- Emergency Planning (deferred from 21/22 plan)
- External Grants and Funding
- Health & Safety (exc. Asbestos Management and Fire Risk Management)
- HEART (Home Environment Assessment & Response Team)
- Leaseholder Management
- Licensing (Taxi, Alcohol, temp event notice, gambling licences/permits)
- Sports Development
- Resource Management (HR & Training) (deferred from 21/22 plan)

Annual Reviews

- Asbestos Management
- Data Quality
- Water Bodies
- Transport (Driver Checks)

Financial Audits

- Creditors
- General Ledger
- Payroll

Follow-up Reviews

- Cemeteries & Crematorium
- CCTV
- Community Centres
- Community Groups Funding
- Council Tax
- Delegated Authority Procedure
- Housing Lettings
- Land Charges
- Mobile Phones
- NNDR
- S106 Monies
- Street Naming and Numbering

NUNEATON AND BEDWORTH BOROUGH COUNCIL

Report to: Audit and Standards Committee – 10th January 2023
From: Head of Audit and Governance, Risk Management and Performance Officer
Subject: Review of Risk Management Policy and Strategy

1. Purpose of Report

To provide the Audit and Standards Committee with the updated Risk Management Policy and Strategy document for approval.

2. Recommendation

That the revised Risk Management Policy and Strategy document at Appendix A is approved and it be recommended to Council that the Constitution be updated accordingly.

3. Review Process

The Risk Management Policy and Strategy is subject to review every two years unless significant changes are identified in the interim period, and it was last approved by the Audit and Standards Committee in November 2021. There have been no significant changes since it was last approved. However, due to the changes in committee membership and to emphasise roles and responsibilities, the Chair has agreed that it is appropriate to carry out a review earlier than scheduled.

4. Details of Changes

Only minor modifications have been made to the Policy and Strategy document which relate to changes in organisational structures and reporting lines and to provide clarification where necessary of roles and responsibilities in relation to risk management. For ease of reference, the changes are highlighted on the revised document shown at Appendix A.

LINDA DOWNES
STEVE GORE



Risk Management Policy and Strategy

November 2022

Document Control

Organisation	Nuneaton and Bedworth Borough Council
Title	Risk Management Policy and Strategy
Filename	DOC16/75813
Owner	Governance, Risk Management and Performance Officer
Subject	Risk Management Policy and Strategy
Next Review Date	October 2023

Revision History

Revision Date	Reviser	Previous Version	Description of Revision
07/04/2017	Steve Gore	V4.0	Risk descriptors update.
27/08/2019	Steve Gore	V5.0	New organisational structure.
October 2021	Steve Gore	V6.0	Scheduled review.
November 2022	Steve Gore	V7.0	Organisational structure / clarification of reporting lines.

Document Approvals

This document requires the following approvals

Name	Date
Audit and Standards Committee	10/1/23

Risk Management Policy

1. Nuneaton and Bedworth Borough Council (NBBC) recognises that it has a responsibility to manage risks, both internal and external. It is therefore committed to maintaining robust risk management and business continuity arrangements that make a positive contribution towards the achievement of the Council's corporate aims and priorities and maximise the opportunities to achieve its vision.
2. It is good business practice that risk management processes should be:
 - Supportive rather than unduly restrictive.
 - Embedded in the Council's culture and in its decision-making, planning and management functions; and
 - Embraced by all Members and employees.
3. The Council's aims with respect to risk management are as follows: -
 - To embed risk management into the culture of the Council
 - To adopt an effective and transparent corporate approach to risk management, which also applies to the Council's work with external partners and contractors
 - To work with partners and stakeholders to identify and exploit opportunities that will contribute to corporate aims and priorities
 - To integrate risk management into the operational and management practices of the Council
 - To promote risk awareness throughout the Council and among our contractors and key partners
 - To be responsive to changing social, environmental and legislative requirements, whilst effectively managing the related risks and opportunities.
 - To undertake an annual review of the effectiveness of the risk management arrangements to support the Council's Annual Governance Statement
4. These aims will be achieved through the Council's Risk Management Strategy, which details the roles, responsibilities and actions necessary for successful implementation.

Risk Management Strategy

1. Introduction

- 1.1 This strategy sets out the processes to ensure that risks to the Council's services, objectives, employees, assets, contractors and partnerships are identified, recorded, assessed, prioritised and then mitigated, transferred or eliminated, to achieve an acceptable level of exposure.
- 1.2 The Risk Management Framework states how the Council manages risks and maximises opportunities in achieving its aims and priorities and this strategy forms part of that process.

2. Definitions

2.1 Corporate Governance

Corporate governance is the framework of accountability to users, stakeholders, and the wider community, within which organisations take decisions and lead and control their functions to achieve their objectives. The effectiveness of corporate governance arrangements has a significant impact on how well an organisation meets its aims. Its purpose is to ensure that the right thing is done, in the right way, by the right people, in an open, honest, and timely manner.

2.2 Risk and Risk Appetite

“Risk” can be defined as “The possibility that an event will occur and adversely affect achievement of objectives”.

Therefore, “risk management” is the process by which risks are identified, analysed, controlled, and monitored. Resources for managing risk are finite, therefore risks are prioritised in accordance with an evaluation system. The level of risk tolerated is the “risk appetite”.

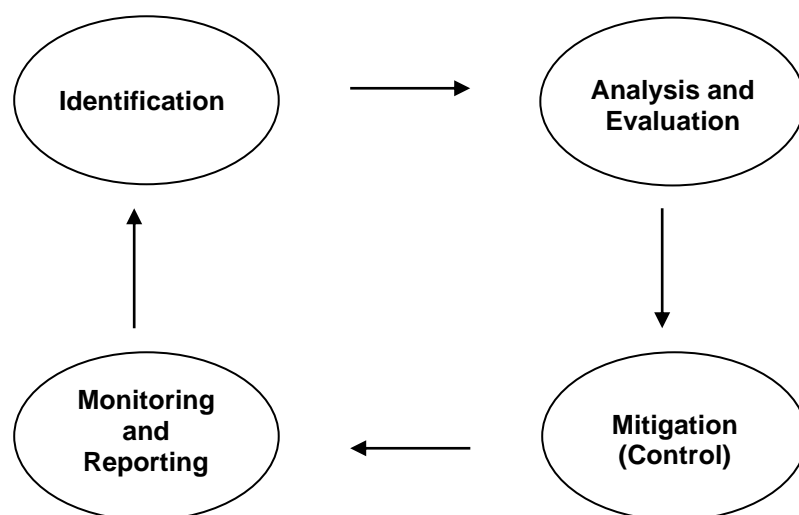
2.3 Partnership

A partnership is an agreement between the Council and one or more independent legal bodies, organisations, or individuals to work collectively to achieve a common purpose with specified aims and objectives. More detailed guidance on managing partnerships and the associated risks is available in the Council's Partnership Framework document.

3. Risk Management Process

Risk management involves the following four processes: -

- Identification of risk
- Analysis and evaluation
- Mitigation
- Monitoring and reporting



3.1 Step 1 - Identification of Risk

A systematic approach needs to be applied if all significant risks are to be identified and managed effectively. By identifying areas of risk before an event or loss occurs, steps can be taken to reduce the likelihood of occurrences and/or to minimise the cost to the Council if they do happen. Reacting to events only after they have occurred can be very costly.

Risks can be identified in a number of ways, for example: -

- Through discussions with colleagues, stakeholders, Members, contractors, partners, insurance brokers, insurers, risk advisers and external auditors
- Looking at trends, accident reports, complaints, new agendas, legislation and regulations

The table below lists some categories of risk which may have an impact on aims and priorities: -

Risk Category	Examples of issues to consider
Political	Local and national political issues. Stability of the political situation.
Economic	State of the local economy. Interest rates, inflation and related key assumptions. Labour market effects on recruitment and retention.
Social and Employee-Related	Demographic profile of the workforce and population. The consequent effect on demand for services and/or stakeholder expectations.
Technological and Information-Related	Capacity to respond to technological changes or opportunities arising from technological developments. Current use of or reliance on technology. Quality and security of information. Accessibility of key documents. Resilience and IT/Communications recovery capacity.

Risk Category	Examples of issues to consider
Legislative /Regulatory	Preparedness for new legislation and regulations, e.g., health and safety, planning or employment law.
Environmental	Use, acquisition &/or disposal of land &/or premises. Waste, disposal and recycling arrangements.
Competitive	Competitiveness of service delivery in terms of cost and quality. Ability to deliver value for money.
Customer/ Citizen	Extent, nature and effectiveness of consultation and involvement with the community. Ability to meet current and future needs. Service delivery feedback. Reputation.
Professional	Organisational and individual competency levels and capacity to deliver objectives. Staff recruitment and retention. Skill and knowledge levels. Opportunities for networking and continuing professional development.
Financial	Level of reserves. Adequacy of funding. Financial planning and control. Fraud.
Legal	Possible legal challenges and claims.
Partnership/ Contractual	Key strategic partners. Procurement arrangements. Contractual arrangements. Partners' governance arrangements.
Physical	Security and protection of assets. Maintenance practices. Protection, security, health, safety and wellbeing of the workforce and population.

There are two key elements to each risk description – **cause and consequence**. To effectively manage risks, both of these elements need to be identified. An example is as follows: -

NBBC's failure to maintain a sound budgetary and financial control environment (**cause**), resulting in the Council having insufficient financial resources to achieve the key priorities (**consequence**).

When identified, significant risks should be recorded in a risk register. NBBC have both strategic and operational risk registers (including some which are specific to individual projects or partnerships). The Strategic Register addresses cross-cutting corporate risks. Operational registers address risks that could impact upon service delivery.

Both follow the same format and record the following information for each risk: -

- A risk reference number
- The risk description (in terms of cause and consequence)
- A gross risk score (the score before effective mitigation controls are in place)
- The mitigation controls (identifying whether 'existing' / 'ongoing' or 'planned')
- The mitigation owner(s). These could be different for each control
- The net risk status – red, amber or green (after effective mitigation controls are in place)
- Sources of assurance i.e., how the risk is monitored / relevant documents; and
- The risk owner

3.2 Step 2 - Analysis of Risk

Having identified the risks, they need to be analysed. This process requires managers to assess: -

- The probability (likelihood) of a risk occurring; and
- The severity (impact) of the consequences should it do so.

The matrix below indicates risk levels

Likelihood	4	4	8	12	16
	3	3	6	9	12
	2	2	4	6	8
	1	1	2	3	4
		1	2	3	4
		Impact			

Key

	Green (acceptable)
	Amber (tolerable)
	Red (unacceptable)

The Council's likelihood and impact descriptors are as follows: -

Likelihood

4: **Very High** – occurrence is most likely or has already happened and will do so again if control measures are not introduced

3: **High** – occurrence is anticipated within the next 12 months

2: **Significant** – occurrence is probable in the next 3 years

1: **Low** – foreseeable but not probable in the next 3 years

Risk Management Policy and Strategy

	Level of Impact	Service Delivery	Financial / Legal	Reputation / Community
4	Major	<ul style="list-style-type: none"> • A service delivery failure causes significant hardship to people for a period of 3 to 4 weeks or more or 1 week for anyone that is vulnerable, or failure to meet a nationally mandated deadline • Loss of major stakeholder/partner. • Adverse outcome of a serious regulatory enquiry 	<ul style="list-style-type: none"> • Financial loss over £400,000. • Serious risk of legal challenge 	<ul style="list-style-type: none"> • Sustained adverse TV/radio coverage • Borough wide loss of public confidence • Major damage to local environment, health and economy • Multiple loss of life
3	Serious	<ul style="list-style-type: none"> • A service delivery failure causes significant hardship for a period of 2 to 3 weeks or 3 to 7 calendar days for vulnerable people • Formal regulatory inquiry • Loss of a key partner or other partners 	<ul style="list-style-type: none"> • Financial loss between £200K and £399K • High risk of successful legal challenge 	<ul style="list-style-type: none"> • Significant adverse coverage in national press or equivalent low national TV coverage • Serious damage to local environment, health and economy • Extensive or multiple injuries &/or a fatality
2	Moderate	<ul style="list-style-type: none"> • A service delivery failure causes significant hardship for 1 to 2 weeks or 1-2 calendar days for vulnerable people • Loss of a significant non-key partner • Legal concerns raised • Loss of employees has moderate effect on service provision 	<ul style="list-style-type: none"> • Financial loss between £50K and £199K • Informal regulatory enquiry 	<ul style="list-style-type: none"> • Significant adverse coverage in local press or regional TV • Large number of customer complaints. • Moderate damage to local environment, health and economy • Moderate injuries to an individual
1	Low	<ul style="list-style-type: none"> • Disruption to services for up to 1 week • Minor legal implications • Loss of employees not significantly affecting service provision 	<ul style="list-style-type: none"> • Financial loss up to £49K 	<ul style="list-style-type: none"> • Minor adverse media coverage. • Minor environmental, health and economy damage • Minor increase in number of customer complaints • One or more minor injuries to an individual

3.3 Step 3 - Control of Risks

Having identified and prioritised the risks, each one needs to be assessed to determine the appropriate action required for it to be mitigated. There are four options: -

Terminate	Stop the activity or remove the physical cause
Transfer	As far as possible, pass the risk on to another party, e.g. contractually or by insuring it
Treat	Set up control (mitigation) measures &/or improve existing ones. Examples: <ul style="list-style-type: none"> • Use of password, barrier, temperature or other controls. • Installation or upgrade of alarms. • Implement new or revised procedures, requirements &/or management arrangements
Tolerate	Do nothing, live with the risk as it stands

The mitigation owner also needs to be identified, this being the individual specified as responsible for putting the stated control(s) into action &/or ensuring it remains in operation. Ownership of a control measure should rest with a single individual, even if more than one person is needed to carry it out.

The level of risk remaining after the internal control measure is in place is the residual or net risk. This should be at a level which is within NBBC’s risk appetite. That is (except for any risk identified as “Outside the Council’s control because of external factors”), the level of residual risk is acceptable to the authority.

3.4 Step 4 - Monitoring and Review of Risks

As key management tools, Risk Registers must be used effectively to ensure that:

- They comprehensively address all recognised significant risks
- Mitigation measures/controls are adequate to minimise the likelihood and/or impact of each risk
- Any significant risks identified and remedial actions are sufficiently monitored

To establish whether they are being adequately managed, the following criteria will be used:

Red – Less than 60% of the identified risks are being satisfactorily managed

Amber – 60%-80% of the identified risks are being satisfactorily managed

Green – Over 80% of the identified risks are being satisfactorily managed

Percentages relate to the proportion of the identified risks that are net green.

4. Roles and Responsibilities

Management Team

- To ensure the Council adopts an effective risk management strategy and that risks are fully considered in all strategic decision making processes
- Responsible for health and safety in relation to Council activities, for establishing a positive health and safety culture and for actively encouraging ownership and accountability at all levels
- To ensure that effective business continuity plans are maintained and are regularly tested
- To regularly monitor the Strategic Risk Register

Audit and Standards Committee

- To monitor the effective development and operation of risk management and corporate governance across the Council
- To seek and obtain assurance that appropriate action has been taken on risk related issues identified by internal and/or external audit
- To ensure that the Council's assurance statements, including the Annual Governance Statement, properly reflect the risk environment and any actions required to improve it
- To review the Strategic Risk Register alongside the draft annual internal audit plan and recommend changes to the plan to address any highlighted concerns
- To consider and approve the Risk Management Policy and Strategy following bi-annual review if significant changes are identified or if significant changes are necessary in the interim period between scheduled reviews

Members

- To oversee the effective management of risk by the Council's officers, particularly when considering reports and proposals from officers

Senior Information Risk Owner (SIRO) and Deputy SIRO

- To oversee the development of an Information Risk Policy, and a Strategy for implementing the policy within the existing Information Governance Framework
- To take ownership of the risk assessment process for information risk, including review of the annual information risk assessment to support and inform the Annual Governance Statement
- To review and agree an action plan in respect of identified information risks
- To ensure that the Council's approach to information risk is effective in terms of resource, commitment and execution and that this is communicated to all staff
- To provide a focal point for the resolution and/or discussion of information risk issues
- To ensure the Corporate Information Governance Group (CIGG) is adequately briefed on information risk issues
- To advise the Chief Executive and the CIGG on information risk management strategies and provide periodic reports and briefings on programme progress

Directors

- To adopt the Risk Management Policy and Strategy
- To ensure that all significant risks are identified and are effectively controlled through the process of risk assessment and mitigation within their respective services (maintain effective directorate Operational Risk Register)
- To establish a positive health and safety culture within their service units and actively encourage ownership and accountability at all levels
- To develop and maintain a current business continuity plan (including updated contact information), ensuring appropriate officers understand their respective roles in relation to it

The Corporate Governance Group (CGG)

- To monitor current and planned expenditure and income and to highlight any emerging issues that could have an impact on the Council's finances
- To develop and co-ordinate excellent governance arrangements across the Council, including those relating to risk management
 - To fulfil the role of the Corporate Information Governance Group (CIGG) on behalf of the Council providing strategic advice and assurance to the Authority on all matters concerning information management and governance
 - To report to Management Team any issues that require its attention.
- To review directorate Operational Risk Registers on an annual basis (one register every two months)

The Information Management Group (IMG)

- To monitor and appraise the information and data needs of the Council and ensure that the Council delivers quality customer interaction and delivers services efficiently
- To facilitate information audits within each functional area and review them on a regular basis
- To aid the Information Asset Owners, (IAO) in carrying out their duties
- To monitor and appraise the outstanding FOI/DP cases. To identify any outstanding actions, liaise and co-ordinate with the relevant service areas to ensure that the requests are completed within the relevant timescales. If necessary, escalating the requests to the CIGG
- To promote and raise awareness of retention and disposal policies and procedures for all documents and records
- To ensure that information and data is treated as a corporate asset, shared by all. Develop any relevant policies and procedures to be presented to CIGG for approval, ensuring that NBBC is complying with relevant legislation
- To promote Information Management as a key corporate activity, essential to the provision of excellent customer interaction and efficiently delivered, high quality services

Head of Audit and Governance

- To support the Council and its services in the effective development, implementation, monitoring and review of the Council's risk management policy, strategy and process
- To promote risk management and the process of business risk assessment throughout the Council and in relation to the Council's partnerships.
- To develop and implement Audit Plans using a risk-based approach.
- To support and promote risk management guidance and training for employees, contractors and members and to encourage the sharing of good practice

- To report to the Audit and Standards Committee on risk management activities and any issues arising
- To ensure that strategic, operational and partnership risks are suitably reflected within risk registers and that appropriate mitigating controls are in place and are adequately monitored and controlled
- To review the Risk Management Policy & Strategy at least bi-annually and to update it as required
- To report to the Corporate Governance Group on risk management activities and any issues arising

The Governance, Risk Management and Performance Officer

- To provide risk management information & advice, both proactively & reactively in relation to strategic, operational and partnership risks
- To work with the owners of operational risks as required to identify and manage those risks and to maximise opportunities
- Liaising with Chief Executive / Directors / officers, to review and update all risks in the Strategic Risk Register on a quarterly basis
- To provide quarterly Strategic Risk Register reports to **Management Team / Cabinet / Scrutiny panels**, identifying what proportion of the risks are being satisfactorily managed (Clause 3.4 of this document refers)
- To review and propose changes as required to the Risk Management Policy & Strategy, to risk registers and to other corporate risk management related documents

Health & Safety Managers

- To promote an effective, healthy and safe organisational culture by developing, implementing and monitoring health & safety policies and procedures

Employees (including agency and casual)

- To maintain an awareness of risks in their own areas of work and contribute to the control process as appropriate
- To recognise their legal responsibility for the health, safety and welfare of themselves and others who may be affected by their work activities