



Agenda

Meeting: **Cabinet**
Date: **11 September 2019**
Time: **5.00 pm**
Place: **Council Chamber - Civic Centre Folkestone**

To: **All members of the Cabinet**

All Councillors for information

The cabinet will consider the matters listed below on the date and at the time and place shown above. The meeting will be open to the press and public.

This meeting will be webcast live to the council's website at <https://folkestone-hythe.public-i.tv/core/portal/home>. Although unlikely, no guarantee can be made that Members of the public in attendance will not appear in the webcast footage. It is therefore recommended that anyone with an objection to being filmed does not enter the council chamber.

1. **Apologies for Absence**
2. **Declarations of Interest**

Members of the Council should declare any interests which fall under the following categories. Please see the end of the agenda for definitions*:

- a) disclosable pecuniary interests (DPI);
- b) other significant interests (OSI);
- c) voluntary announcements of other interests.

3. **Minutes (Pages 3 - 12)**

To consider and approve, as a correct record, the minutes of the meetings held on 17 and 31 July 2019.

Queries about the agenda? Need a different format?

Contact Jemma West – Tel: 01303 853369
Email: committee@folkestone-hythe.gov.uk or download from our
website
www.folkestone-hythe.gov.uk

4. **Regulation of Investigatory Powers Act 2000 - Policy (Pages 13 - 44)**

This report sets out the Council's policy on the use of directed surveillance and covert human intelligence sources under the Regulation of Investigatory Powers Act 2000.

5. **Key Performance Indicators Review 2019-20 (Pages 45 - 54)**

This report sets out a proposed list of Key Performance Indicators (KPIs) to be monitored during 2019/20 in line with the Council's Corporate Plan strategic priorities and objectives.

6. **Romney Marsh Employment Hub (Land at Mountfield Road Industrial Estate, New Romney) (Pages 55 - 66)**

This report seeks Cabinet agreement to a financial contribution from Folkestone & Hythe District Council towards the development of a new business centre at Mountfield Road Industrial Estate, New Romney and delegated authority to the Corporate Director for Place and Commercial to finalise the terms of the legal agreements with co-funders.

7. **Folkestone & Hythe District High Streets Fund (Pages 67 - 78)**

This report sets out proposals for investing and managing the Council's £3 million High Streets Regeneration Fund that has been established to support and help high streets in the district adapt for the future.

*Explanations as to different levels of interest

(a) A member with a disclosable pecuniary interest (DPI) must declare the nature as well as the existence of any such interest and the agenda item(s) to which it relates must be stated. A member who declares a DPI in relation to any item must leave the meeting for that item (unless a relevant dispensation has been granted).

(b) A member with an other significant interest (OSI) under the local code of conduct relating to items on this agenda must declare the nature as well as the existence of any such interest and the agenda item(s) to which it relates must be stated. A member who declares an OSI in relation to any item will need to remove him/herself to the public gallery before the debate and not vote on that item (unless a relevant dispensation has been granted). However, prior to leaving, the member may address the meeting in the same way that a member of the public may do so.

(c) Members may make voluntary announcements of other interests which are not required to be disclosed under (a) and (b). These are announcements made for transparency reasons alone, such as:

- membership of outside bodies that have made representations on agenda items, or
- where a member knows a person involved, but does not have a close association with that person, or
- where an item would affect the well-being of a member, relative, close associate, employer, etc. but not his/her financial position.

Voluntary announcements do not prevent the member from participating or voting on the relevant item

Minutes

Cabinet

Held at:	Council Chamber - Civic Centre Folkestone
Date	Wednesday, 17 July 2019
Present	Councillors John Collier, Mrs Jennifer Hollingsbee (Vice-Chair), Ian Meyers, David Monk (Chairman), Stuart Peall and David Wimble
Apology for Absence	Councillor David Godfrey
Officers Present:	Tim Bailey (Senior Planning Officer), Gavin Edwards (Policy and Improvements Officer), Andy Jarrett (Chief Strategic Development Officer), Susan Priest (Head of Paid Service), Hazel Sargent (Senior Planning Officer), Charlotte Spendley (Assistant Director), Adrian Tofts (Planning Policy Manager), Jemma West (Senior Committee Services Officer) and David Whittington (Planning Policy Team Leader)
Others Present:	Councillor McConville.

NOTE: All decisions are subject to call-in arrangements. The deadline for call-in is Friday 26 July 2019 at 5pm. Decisions not called in may be implemented on Monday 29 July 2019.

8. **Declarations of Interest**

Councillor Peall declared a voluntary interest in respect of the agenda item relating to Biggins Wood Delivery, in that his wife was employed by Smith Woolley and Perry.

9. **Minutes**

The minutes of the meeting held on 19 June 2019 were submitted, approved and signed by the Chairman.

10. **Treasury Management Annual Report 2018/19**

The report reviewed the council's treasury management activities for 2018/19, including the actual treasury management indicators. The report meets the requirements of both

the CIPFA Code of Practice on Treasury Management and the CIPFA Prudential Code for Capital Finance in Local Authorities. The Council is required to comply with both Codes through Regulations issued under the Local Government Act 2003.

The report had been considered by the Overview and Scrutiny Committee at their meeting held on 16 July 2019. Their comments had been circulated to the Cabinet Members at the meeting.

Proposed by Councillor Monk,
Seconded by Councillor Peall; and

RESOLVED:
That Report C/19/10 be received and noted.

(Voting figures: 6 for, 0 against, 0 abstentions).

REASONS FOR DECISION:

Cabinet was asked to agree the recommendations because:-

- a) Both CIPFA's Code of Practice on Treasury Management in the Public Services and their Prudential Code for Capital Finance in Local Authorities, together with the Council's Financial Procedure Rules, require that an annual report on treasury management is received by the Council after the close of the financial year.

11. **Annual Performance Report - Making a difference: a snapshot of our year 2018/19**

This report set out how the Council has continued to deliver for local people in the district in 2018/19 in response to the Corporate Plan (2017-20) vision of *investing for the next generation ~ delivering more of what matters*.

The report had been considered by the Overview and Scrutiny Committee at their meeting held on 16 July 2019. Their comments had been circulated to the Cabinet Members at the meeting.

Proposed by Councillor Monk,
Seconded by Councillor Peall; and

RESOLVED:

1. **That report C/19/14 be received and noted.**
2. **That the Annual Performance Report, Making a difference: a snapshot of our year 2018/19 be approved.**

(Voting figures: 6 for, 0 against, 0 abstentions).

REASONS FOR DECISION:

The Annual Report highlights the activities and achievements of Folkestone & Hythe District Council in 2018/19 against priorities set out in 2017-20 Corporate Plan.

12. **Places and Policies Local Plan (PPLP) - Gypsy and Traveller allocation site**

The Planning Inspector considering the Places and Policies Local Plan (PPLP) at the Examination in Public indicated that the District Council should be allocating a site(s) to meet the future needs for the Gypsy and Traveller community. This report sets out the work that has been undertaken to identify a preferred site. The report also sought Cabinet approval to carry out a six-week period of public consultation on the preferred site allocation.

The report had been considered by the Overview and Scrutiny Committee at their meeting held on 16 July 2019. Their comments had been circulated to the Cabinet Members at the meeting.

A Cabinet Member highlighted a typographical error in paragraph 3.6 of the report, where Brenzett had been spelt incorrectly.

Proposed by Councillor Wimble,
Seconded by Councillor Peall; and

RESOLVED:

1. That report C/19/13 be received and noted.
2. That the publication of the preferred Gypsy and Traveller site allocation, draft Policy RM15 wording; and supporting documents be agreed for public consultation.
3. That delegated authority be given to the Assistant Director of Finance, Customer & Support Service to make any minor modifications to the consultation materials resulting from the findings of the Sustainability Appraisal/Habitats Regulations Assessment.
4. That the consultation comments and consultation materials be submitted to the planning Inspector to progress with the final stages of the public examination of the Places and Policies Local Plan.

(Voting figures: 6 for, 0 against, 0 abstentions).

REASONS FOR DECISION

To enable the Places and Policies Local Plan to continue to the final stages of examination and adoption.

13. **Dungeness Sustainable Access and Recreational Management Strategy (SARMS)**

The report summarised the findings and sets out the main recommendations of the SARMS. It also summarised the results of the consultation on the document and set out proposed actions to take this strategy forward.

Proposed by Councillor Wimble,
Seconded by Councillor Mrs Hollingsbee; and

RESOLVED:

- 1) That report C/19/11 be received and noted.
- 2) That the action plan be agreed as the basis for discussions with Rother District Council and Natural England (set out in Appendix 1 of the report);
- 3) That funding for implementing the strategy be raised through S106 for new developments that directly impact on the area or through CIL contributions.
- 4) That Folkestone & Hythe and Rother District Councils explore making a financial contribution to the Fifth Continent Project for rebranding and an interpretation plan.
- 5) That officers make any necessary minor amendments to the strategy and action plan to improve accuracy and clarity subject to the agreement of the Assistant Director and Cabinet Member.

(Voting figures: 6 for, 0 against, 0 abstentions).

REASONS FOR DECISION:

These actions were required to fulfil the requirements of the habitats regulations assessment for the current Core Strategy and will help with the production of the Core Strategy Review. They will also fulfil the Council's responsibilities arising from its role as a land owner and also a duty to conserve biodiversity under the Natural Environment and Rural Communities Act 2006 as part of its policy or decision making.

14. **Biggins Wood Delivery**

The report recommended the acceptance of two bids to deliver the Biggins Wood development.

The report had been considered by the Overview and Scrutiny Committee at their meeting held on 16 July 2019. Their comments had been circulated to the Cabinet Members at the meeting.

The Cabinet Members received a presentation from the Chief Strategic Development Officer.

Proposed by Councillor Monk,
Seconded by Councillor Pall; and

RESOLVED:

That the public be excluded for the following item of business on the grounds that it is likely to disclose exempt information, as defined in paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 – 'Information relating to the financial or business affairs of any particular person (including the authority holding that information). "Financial or business affairs" includes contemplated as well as current activities.'

(Voting figures: 6 for, 0 against, 0 abstentions).

The Chief Strategic Development Officer gave a further presentation to the Cabinet Members, and the Cabinet Members asked question relating to commercially sensitive information.

The meeting was then reopened to the public for the decision.

Proposed by Councillor Monk,
Seconded by Councillor Peall; and

RESOLVED:

- 1. That report C/19/12 be received and noted.**
- 2. That the offers from those below be accepted, subject to the completion of satisfactory agreements (including the formation of a joint venture):-**
 - R in respect of the commercial element of the development and;**
 - E in respect of the residential element of the development.**
- 3. To enter into a joint venture partnership with R in accordance with the details set out in this report on terms to be agreed.**
- 4. That the use of £500,000 from the Business Rates Pool Reserve to fund the commercial element of this proposal be agreed.**
- 5. That the Corporate Director for Place and Commercial be authorised with the agreement of the Leader of the Council and the Cabinet Member for Transport, Housing and Special Projects and in consultation with the Corporate Director for Customer, Support, and Specialist Services to negotiate and conclude such agreements (including the formation and establishment of a joint venture) and to take such other actions as are necessary to deliver the Biggins Wood development in accordance with the offers set out in this report. This to include the use of the Business Rates Pool to fund any shortfall in remediation costs should this occur.**

(Voting figures: 6 for, 0 against, 0 abstentions).

REASONS FOR DECISION:

The council has sought bids for the delivery of the Biggins Wood development. The bids received have been evaluated and a decision needs to be made on the acceptance of the offers. Completion of Biggins Wood will be in accordance with the Council's strategic objectives of more homes and more jobs.

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Cabinet

Held at:	Council Chamber - Civic Centre Folkestone
Date	Wednesday, 31 July 2019
Present	Councillors John Collier, Mrs Jennifer Hollingsbee (Vice-Chair), Ian Meyers, David Monk (Chairman), Stuart Peall and *David Wimble
Apologies for Absence	Councillors David Godfrey
Officers Present:	Sarah Robson (Assistant Director), Andrew Rush (Corporate Contracts Manager) and Jemma West (Senior Committee Services Officer)

* For part of the meeting

NOTE: Only the decision shown at minute No 16 is subject to call-in arrangements. The deadline for call-in is Friday 9 August 2019 at 5pm. Decisions not called in may be implemented on Monday 12 August 2019. Call-in has been waived on the decision set out at minute no 17, with the approval of the Chairman of the Overview and Scrutiny Committee (part 6.3, rule 7 of the constitution).

15. **Declarations of Interest**

There were no declarations of interest at the meeting.

16. **East Kent Housing - Compliance Update**

In late May it emerged that there were serious issues of non-compliance with regards to East Kent Housing's management of gas safety across East Kent's council housing stock.

This report set out the context to these issues of non-compliance and how they are being addressed. The report also set out the steps the East Kent councils were taking to ensure these issues of non-compliance did not occur again, including the need to consider alternative options for the future delivery of the management of council housing. It would, therefore, serve as the means by which the Council replies (as it is required to do) to the Monitoring Officer's report which had been shared with all members of the Council.

The report also set out details of wider compliance issues identified within the Council's housing stock which have been identified through an East Kent

Internal Audit Investigation of compliance across the housing stock managed by East Kent Housing in East Kent. East Kent Housing has also identified detailed significant areas of non-compliance in respect of the pumping and water treatment plants which it manages. East Kent Housing (EKH) are urgently preparing detailed action plans to ensure that all areas of non-compliance are addressed as a priority.

An addendum to the report had been circulated to members prior to the meeting, setting out an update on the various work stream activity being proactively undertaken by the council in partnership with East Kent Housing (EKH) and the other three local authority owners of EKH.

Proposed by Councillor Monk,
Seconded by Councillor Peall; and

RESOLVED:

1. **That report C/19/15 be received and noted.**
2. **That the report be adopted as the response of the Council to the Monitoring Officer in accordance with the requirements of S5A (8) and (9) of the Local and Housing Act 1989, and that a copy of it be provided to all Councillors and the Monitoring Officer.**
3. **That a further report be prepared on the wider issues of housing management for this Council and that consultation be commenced with the Council's tenants and other key stakeholders as soon as practicable on future housing management options, reporting back by the end of November 2019.**
4. **That the range of related work stream activity, as outlined in the addendum provide as a supplementary report relating to C/19/15 be received and noted.**

(Voting figures: 5 for, 0 against, 0 abstentions).

REASONS FOR DECISIONS:

1. In May 2019 it emerged there were serious issues of non-compliance with regards to EKH's management of gas safety across East Kent's council housing stock. Therefore, the Council needs to approve a way forward to review future options for the delivery of the management of the four councils' housing stock.
2. An investigation into wider issues of compliance across the Council's Housing stock completed by East Kent Internal Audit has identified other significant areas on non-compliance.
3. East Kent Housing has identified significant issues of non-compliance in respect of pumping and treatment works in this district.

17. Gas Servicing and Heating Installations Contract

The former contractor for gas servicing and heating installations, P&R Installation Company Ltd (P&R), triggered a no fault break clause under the terms of the contract with a termination date 3/7/19. The four councils, with DDC acting as the lead, started the procurement for a new contract. The report

detailed the outcome of this procurement process and made a recommendation for reward. The report also outlined risk controls to be implemented by East Kent Housing to improve the management of the next contract.

Proposed by Councillor Monk,
Seconded by Councillor Peall; and

RESOLVED:

That the public be excluded for the following item of business on the grounds that it is likely to disclose exempt information, as defined in paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 – ‘Information relating to the financial or business affairs of any particular person (including the authority holding that information). “Financial or business affairs” includes contemplated as well as current activities.’

(Voting figures: 5 for, 0 against, 0 abstentions).

Proposed by Councillor Monk,
Seconded by Councillor Meyers; and

RESOLVED:

- 1. That report C/19/16 be received and noted.**
- 2. That the contract be awarded to Company A subject to the risk mitigation measures set out in 5.5.**
- 3. That an additional budget provision of £ 93,201 be agreed, as set out in 5.6 and 5.7, to be funded from the Housing Revenue Account for contract management improvements to be implemented by EKH**

During consideration of this item, Councillor Wimble arrived at the meeting.

(Voting figures: 6 for, 0 against, 0 abstentions).

REASONS FOR DECISIONS

Cabinet was asked to agree the recommendations because: -

- a) The council needs to have in place heating servicing and maintenance services for its tenanted properties.
- b) A procurement exercise has been completed with a recommendation to award.
- c) Weaknesses in East Kent Housing’s management of the heating contract have been identified. These need to be addressed for the next contract.

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This Report will be made public on 3 September 2019



Report Number **C/19/22**

To: Cabinet
Date: 11 September 2019
Status: Non key decision
Responsible Officer: Amandeep Khroud – Assistant Director – Governance, Law and Regulatory Services
Cabinet Member: Councillor Ian Meyers – Cabinet Member for Digital Transformation and Customer Services

SUBJECT: REGULATION OF INVESTIGATORY POWERS ACT 2000 – POLICY

SUMMARY: This report sets out the Council's policy on the use of directed surveillance and covert human intelligence sources under the Regulation of Investigatory Powers Act 2000.

REASON FOR RECOMMENDATIONS:

The Cabinet is asked to agree the recommendations set out below to endorse the policy

RECOMMENDATIONS:

1. To receive and note report C/19/11.
2. To endorse the RIPA policy and procedure in appendix 1 to this report.

1. INTRODUCTION

- 1.1 Part II of the Regulation of Investigatory Powers Act 2000 (RIPA) puts covert surveillance on a statutory basis enabling public authorities identified in the legislation to carry out surveillance operations without breaching the Human Rights Act 1998.
- 1.2 A number of statutory instruments and codes of practice published by the Home Office govern the operation of RIPA; the most recent came into effect in October 2012.
- 1.3 Organisations using RIPA are subject to regular inspection by the Investigatory Powers Commissioner's Office. Previously this was undertaken by the Office of Surveillance Commissioners (OSC) however on 1 September 2017 the OSC were merged with the Interception of Communications, and Intelligence Services Commissioners to form the new regulator.

2. REPORTING REQUIREMENTS

- 2.1 The guidance states:

“elected members of a local authority should review the authority's use of the 2000 Act and set the policy at least once a year. They should also consider internal reports on the use of the 2000 Act on at least a quarterly basis to ensure that it is being used consistently with the local authority's policy and that the policy remains fit for purpose. They should not, however, be involved in making decisions on specific authorisations.”

- 2.2 This report sets out the policy and seeks cabinet's endorsement of it.

3. BRIEF OVERVIEW OF RIPA

- 3.1 The Act enables senior officers within public authorities to authorise Directed Surveillance and the use of Covert Human Intelligence Sources (CHIS). These authorisations can however only take effect once approved by a Magistrate.

- 3.2 The following sections give a brief overview of the types of surveillance:-

a) Directed Surveillance

RIPA defines Directed Surveillance as surveillance that is covert but not intrusive. Directed Surveillance must relate to a specific investigation or operation and is surveillance that is likely to result in obtaining private information about someone, including the target of the investigation or operation. Private information includes any aspect of a person's private or personal relationships with others, including family and professional/business relationships.

Directed Surveillance is usually planned surveillance. There is provision, in urgent cases, for an authorisation to be applied for and granted in exceptional circumstances (i.e. where the time taken to apply in writing would, in the judgment of the Authorising Officer, be likely to jeopardise the operation). In such circumstances unless renewed, the authorisation will cease to have effect after seventy-two hours.

b) Covert Human Intelligence Sources (CHIS).

RIPA defines a Covert Human Intelligence Source (CHIS) as a person (source) who establishes and/or maintains a personal or other relationship with a person for the purpose of: covertly using the relationship to obtain information or to provide another person with access to information or, covertly disclosing information obtained through the relationship. A CHIS is deployed in a manner intended to ensure that the target is unaware of the investigation or the purpose of the relationship between the source and the target.

The Council has never sought to make use of the CHIS provision. The Policy requires that if the use of CHIS is being contemplated, the officers concerned should seek the appropriate advice from other organisations that more commonly use CHIS surveillance, such as the Police.

- 3.3 The council can only grant an authorisation under RIPA for the use of directed surveillance where the local authority is investigating particular types of criminal offences. These are criminal offences which attract a maximum custodial sentence of six months or more or criminal offences relating to the underage sale of alcohol or tobacco. These latter offences would, in any event, be matters for Kent County Council trading standards.
- 3.4 The Council may only authorise directed surveillance where it is both necessary and proportionate to the investigation or operation being undertaken and to what is being sought to achieve in terms of evidence gathering. The Authorising Officers have a key role in carefully scrutinising all applications for the use of RIPA powers under a specific authorisation. Authorising Officers must ensure that authorisations are granted only in appropriate cases and that the extent of all authorisations are clearly set out.
- 3.5 The last authorisation for directed surveillance was granted on 1 June 2012.

4. THE POLICY

- 4.1 The policy as amended is attached (1) for endorsement by cabinet. This is essentially the same as the policy endorsed by cabinet last year other than clarification in the updated RIPA policy about test purchases.

5. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

5.1 Legal Officer's Comments

The RIPA codes of practice advises that the elected members of a local authority should set the RIPA policy at least once a year. This is reflected in the council's RIPA policy.

5.2 Finance Officer's Comments (CS)

There are no direct financial implications arising from this report

5.3 Diversities and Equalities Implications

No implications arising directly from this report.

6. CONTACT OFFICER AND BACKGROUND DOCUMENTS

Councillors with any questions arising from this report should contact the following officer prior to the meeting:

Amandeep Khroud – Assistant Director – Governance, Law and Regulatory Services

Telephone: 01303 853253

E-mail: Amandeep.khroudl@folkestone-hythe.gov.uk

The following background documents have been relied upon in the preparation of this report:

None

Appendices:

Appendix 1: RIPA Policy and Procedure

FOLKESTONE & HYTHE DISTRICT

COUNCIL

RIPA Policy and Procedures

Issue 14

Assistant Director – Governance, Law and Regulatory Services
Folkestone & Hythe District Council
The Civic Centre
Castle Hill Ave
Folkestone
Kent CT20 2QY

Approved CMT XXXX

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1. Introduction

This Corporate Policy & Procedures Document is based upon the requirements of the Regulation of Investigatory Powers Act 2000 (RIPA) and the Home Office's Code of Practices on Covert Surveillance and Property Interference and Covert Human Intelligence Sources. Covert Surveillance should be used only rarely and in exceptional circumstances. Copies of the Home Office's Codes of Practice are available on its [website](#).

The website should be consulted regularly to ensure that the correct versions of the Codes of Practice are being used.

RIPA and this document are important for the effective and efficient operation of the Council's actions with regard to Covert Surveillance and Covert Human Intelligence Sources. The RIPA Monitoring Officer will therefore keep this document under annual review.

The RIPA Monitoring Officer is responsible for keeping the RIPA forms up to date and for checking the Home Office website and Codes of Practice. The RIPA Monitoring Officer will also be responsible for submitting a report on a three monthly basis to Cabinet on Council's use of RIPA if the Council has used RIPA during the previous three months. The RIPA monitoring officer is also responsible for submitting an annual report to Cabinet on this policy and, if relevant the Council's use of RIPA.

Authorising Officers must bring any suggestions for continuous improvement of this document to the attention of the RIPA Monitoring Officer at the earliest possible opportunity. If any of the Home Office Codes of Practice change, this document will be amended accordingly.

2. Policy Statement

The Council takes its statutory responsibilities seriously and will, at all times, act in accordance with the law and take necessary and proportionate action in these types of matters. In that regard, the Corporate Management Team is duly authorised by the Council to keep this document up to date and to amend, delete, add or substitute relevant provisions as necessary. The Cabinet will if the Council has used RIPA receive the RIPA Monitoring Officer's report every three months. The report will set out the surveillance carried out (though without revealing details of specific operations) and, if appropriate, reporting alterations to this policy. An annual report will be submitted to Cabinet on this policy setting out any alterations since the last report.

It is the policy of the Council that where RIPA applies (see below) surveillance should only be carried out in accordance with this policy.

Where RIPA does not apply, surveillance may properly be carried out provided that the appropriate rules and procedures are followed. For example surveillance connected with an employment issue will have to be carried out in accordance with the Data Protection Act 1998 and the various relevant HR policies. The Council has also adopted a non-RIPA authorisation policy which officers must follow for surveillance which falls outside of RIPA. Advice on non-RIPA surveillance should be sought from Legal Services or HR as appropriate.

3. Roles and Responsibilities of Corporate Directors, Heads of Service, Senior Authorising Officers, Authorising Officers, Senior Responsible Officer and the RIPA Monitoring Officer

This document replaces the previous policy document approved in 2018. It is essential that Corporate Directors, Heads of Service and Authorising Officers take personal responsibility for the effective and efficient operation of this document and the implementation of RIPA in their departments.

The types of surveillance are set out in greater detail below. Directed Surveillance, Intrusive Surveillance and Covert Human Intelligence Sources are described here to aid understanding of the various roles and responsibilities.

Directed Surveillance

Directed Surveillance is surveillance which:

- is covert, but not Intrusive Surveillance;
- is conducted for the purposes of a specific investigation or operation;
- is likely to result in the obtaining of private information about a person (whether or not one specifically identified for the purposes of the investigation or operation);
- is conducted otherwise than by way of an immediate response to events or circumstances the nature of which is such that it would not be reasonably practicable to seek authorisation under the Act.

Intrusive Surveillance

This is when surveillance:

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

Directed Surveillance that is carried out in relation to anything taking place on so much of any premises mentioned below as is, at any time during the surveillance, used for the purpose of legal consultations is also Intrusive Surveillance.

The premises referred to above are:

- (a) Any place in which persons who are serving sentences of imprisonment or detention, remanded in custody or committed in custody for trial or sentence may be detained;
- (b) Any place in which persons may be detained under paragraph 16(1), (1A) or (2) of Schedule 2 or paragraph 2(2) or (3) of Schedule 3 to the Immigration Act 1971 or section 36(1) of the UK Border Act 2007;
- (c) Police stations;
- (d) Hospitals where high security psychiatric services are provided;
- (e) The place of business of any professional legal adviser;
- (f) Any place used for the sittings and business of any court, tribunal, inquest or

- inquiry;
- (g) Residential accommodation includes rented properties and hotel bedrooms but does not include communal areas of flats unless the area is known to be used by the homeless as a place of abode, hotel reception areas or dining rooms or a front garden readily visible to the public

The Council cannot use RIPA to authorise Intrusive Surveillance.

Covert Human Intelligence Source (CHIS)

A CHIS is someone who establishes or maintains a personal or other relationship for the covert purpose of using the relationship to obtain information.

Roles

Authorising Officer

An Authorising Officer is a person who considers whether or not to grant an application to use Directed Surveillance. He/she must believe the activities to be authorised are necessary for the purposes of preventing or detecting crime and that they are proportionate to what is sought to be achieved by carrying them out.

An Authorising Officer may not, except in case of urgency, consider an application to use Directed Surveillance if the Applying Officer is an officer in his/her service area or the Authorising Officer has direct involvement with the operation.

Senior Authorising Officer

A Senior Authorising Officer is a person responsible for considering whether or not to grant an authorisation where confidential information is likely to be obtained or for use of a CHIS.

Senior Responsible Officer

The Senior Responsible Officer oversees the competence of Authorising Officers and the processes in use in the Council. The Senior Responsible Officer is not an Authorising Officer as it would be inappropriate to oversee his / her own authorisations. Specifically the Senior Responsible Officer will be responsible for:

- The integrity of the processes to authorise Covert Surveillance;
- Compliance with the statutory provisions and codes of conduct;
- Training or arranging training for Authorising Officers;
- Ensuring officers generally understand provisions relating to Covert Surveillance and Covert Human Intelligence Sources.
- Engagement with the Commissioners and inspectors when they conduct their inspections; and
- Overseeing the implementation of any action plans following an inspection.

RIPA Monitoring Officer

The RIPA Monitoring Officer has:

- The duty to maintain the list of Authorising Officers;
- The power to suspend from the list of Authorising Officers any Authorising Officer who does not follow the procedure or who does not attend training sessions; and
- The power to cancel any authorisation that is manifestly wrong.

Responsibilities

Heads of Service are responsible for ensuring their relevant members of staff are suitably trained as 'Applying Officers' so as to avoid common mistakes appearing on forms for RIPA authorisations.

Heads of Service will also ensure that staff who report to them follow this Corporate Policy & Procedures Document and do not undertake or carry out any form of surveillance governed by RIPA without first obtaining the relevant authorisations in compliance with this document. Wilful failure to follow this policy will constitute gross misconduct under the Council's HR policies.

Corporate Directors, Heads of Service, Senior Authorising Officers and Authorising Officers must also pay particular attention to health and safety issues that may be raised by any proposed surveillance activity. Under no circumstances should a Head of Service permit an application to be made unless, and until s/he is satisfied the health and safety of Council employees/agents are suitably addressed and/or risks minimised, so far as is possible, and proportionate to/with the surveillance being proposed. It is the responsibility of the Applying Officer (i.e. the person who applies to the Authorising Officer to use the Council's RIPA powers) to carry out any risk assessment and complete a written risk assessment if necessary. **If a Head of Service is in any doubt s/he should obtain prior guidance on the same from a Corporate Director, the Head of Paid Service, the Council's Health & Safety Officer or the RIPA Monitoring Officer.**

Authorising Officers must acquaint themselves with the relevant Codes of Practice issued by the Home Office regarding RIPA. Any failure to comply exposes the Council to unnecessary legal risks and criticism from the Investigatory Powers Commissioner's Office. All stages of the process (application, review, renewal and cancellation) must be promptly dealt with.

Coming across **confidential information** during surveillance must be given prior thought before any applications are made or authorised, as failure to do so may invalidate the admissibility of any evidence obtained. Furthermore, thought must be given before any forms are signed to the retention and disposal of any material obtained under a RIPA authorisation. Where confidential information is likely to be obtained through Covert Surveillance, the application must be authorised by a Senior Authorising Officer.

The Authorising Officer must ensure proper regard has been given to **necessity and proportionality** before any applications are authorised. 'Stock phrases' or cut and paste narrative must be avoided at all times as the use of the same may suggest that insufficient detail had been given to the particular circumstances of any person likely to be the subject of the claim. Any **equipment** to be used in any approved surveillance must also be properly controlled, recorded and maintained for audit purposes.

Authorising Officers must ensure that reviews are conducted in a timely manner (best practice for Directed Surveillance is that a review should be carried out no more than 4 weeks after the grant of authorisation) and that cancellations and renewals are effected before the authorisation ceases to have effect.

The RIPA Monitoring Officer shall have responsibility for maintaining, updating and enforcing this Policy. He/she shall also be responsible for the provision of adequate training to Authorising Officers and Applying Officers and for ensuring that no authorisations shall be granted unless the Authorising Officer has received such training.

The RIPA Monitoring Officer shall also ensure that adequate records are maintained in accordance with the relevant and current Code of Practice and also to check that reviews are conducted in a timely manner and that cancellations and renewals are effected before the authorisation ceases to have effect.

The RIPA Monitoring Officer's contact details are set out in Appendix 1 of this Policy.

4. RIPA – General Information

The Human Rights Act 1998 (which brought much of the European Convention on Human Rights and Fundamental Freedoms 1950 into UK domestic law) requires the Council, and organisations working on its behalf, pursuant to Article 8 of the European Convention, to respect the private and family life of citizens, his home and his correspondence.

The European Convention did not, however, make this an absolute right, but a qualified right. Accordingly, in certain circumstances, the Council **may** interfere in the citizen's right mentioned above, **if** such interference is:

- (a) **In accordance with the law;**
- (b) **Necessary** (as defined in this document); **and**
- (c) **Proportionate** (as defined in this document).

RIPA provides a statutory mechanism (i.e. in accordance with the law) for authorising **Covert Surveillance** and the use of a **CHIS** e.g. undercover agents. It now also permits public authorities to compel telecommunications and postal companies to obtain and release communications data to themselves in certain circumstances. It works to ensure that **any** interference with an individual's right under Article 8 of the European Convention is **necessary** and **proportionate**. In doing so, RIPA seeks to ensure both the public interest and the human rights of individuals are suitably balanced.

Directly employed Council staff and external agencies working for the Council are covered by the Act for the time they are working for the Council. All external agencies must therefore comply with RIPA and the work carried out by agencies on the Council's behalf must be properly authorised by one of the **Council's Authorising Officers**. It is the responsibility of the Contracts Manager to ensure that external agencies comply with this policy. Authorising Officers are those shown in **Appendix 1** to this document.

If the correct procedures are **not** followed, the courts may disallow evidence, a complaint of maladministration could be made to the Ombudsman, and/or the Council could be ordered to pay compensation. Such action would not, of course, promote the good reputation of the Council and will, undoubtedly, be the subject of adverse press and media interest. In addition wilful failure to follow this policy could constitute gross misconduct under the Council's HR policies. **It is essential, therefore, that all involved with RIPA comply with this document and any further guidance that may be issued.**

Flowcharts of the procedures to be followed appear at **Appendix 2** for Directed Surveillance and for CHIS.

5. When is RIPA authorisation available?

RIPA authorisation is only appropriate for surveillance which relates to the "core functions" of the Council and is for the purpose of preventing or detecting crime.

The core functions of the Council are defined as its “specific public functions” as opposed to its “ordinary functions.” The ordinary functions are those functions which any public authority carries out e.g. employment of staff or entering into contractual agreements.

Surveillance whether overt or covert related to ordinary functions is not governed by RIPA and RIPA does not prohibit such activity. The Council has adopted a policy covering the authorisation of surveillance which is not covered by RIPA. The policy can be found [here](#). Advice on such surveillance should be sought from Legal Services and HR as appropriate.

6. What RIPA does and does not do:

RIPA does:

- Compel disclosure of communications data from telecom and postal service providers;
- Permit the Council to obtain communications records from communications service providers.

RIPA does not:

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

If the Authorising Officer or any Applying Officer is in any doubt, s/he should ask the RIPA Monitoring Officer BEFORE any Directed Surveillance and/or CHIS is authorised, renewed, cancelled or rejected.

7. Types of Surveillance

‘Surveillance’ includes:

- Monitoring, observing, listening to persons, watching or following their movements, listening to their conversations and other such activities or communications.
- Recording anything mentioned above in the course of authorised surveillance.
- Surveillance, by or with, the assistance of appropriate surveillance device(s).

Surveillance can be overt or covert.

Overt Surveillance

Most of the surveillance carried out by the Council will be done overtly; there will be nothing secretive, clandestine or hidden about it. In many cases, officers will be behaving in the same way as a normal member of the public (e.g. in the case of most test purchases), and/or will be going about Council business openly (e.g. a market inspector walking through markets).

Similarly, surveillance will be overt if the subject has been **told** it will happen, for example

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

Covert Surveillance

Covert Surveillance is carried out in a manner calculated to ensure that the person subject to the surveillance is unaware of it taking place (section 26(9) (a) of RIPA). Generally Covert Surveillance cannot be used if there is reasonably available an overt means of finding out the information desired. However if those overt means might seriously undermine the conduct of any investigation or put innocent persons at risk then Covert Surveillance can be used.

RIPA regulates **two types of covert surveillance, (Directed Surveillance and Intrusive Surveillance)** and the use of **Covert Human Intelligence Sources (CHIS)**.

Directed Surveillance

Directed Surveillance is surveillance which:

- is covert, but not Intrusive Surveillance;
- is conducted for the purposes of a specific investigation or operation;
- is likely to result in the obtaining of private information about a person (whether or not one specifically identified for the purposes of the investigation or operation);
- is conducted otherwise than by way of an immediate response to events or circumstances the nature of which is such that it would not be reasonably practicable to seek authorisation under the Act

Private Information in relation to a person includes any information relating to his private or family life. Private information is generally taken to include any aspect of a person's private or personal relationship with others including family and professional or business relationships. The fact that Covert Surveillance occurs in a public place or on business premises does not mean that it cannot result in the obtaining of private information about a person. Prolonged surveillance targeted on a single person will undoubtedly result in the obtaining of private information about him/her **and others** that s/he comes into contact or associates with.

To take an example although overt town centre CCTV cameras do not normally require authorisation, if the camera(s) are to be directed for a specific purpose to observe particular individual(s), authorisation will be required. The way a person runs his/her business may also reveal information about his or her private life and the private lives of others.

Social media

Social media can provide useful information as part of an investigation. However, Council Officers must consider if a RIPA authorisation is required if they are accessing social media for this purpose before undertaking any monitoring of a site.

Whilst initial research of social media to establish a fact or collaborate an intelligence picture is unlikely to require an authorisation for Directed Surveillance repeat viewing of 'open

source' sites may constitute Directed Surveillance on a case by case basis and this should be borne in mind e.g. if someone is being monitored through, for example, their Facebook profile for a period of time and a record of the information is kept for later analysis, this is likely to require a RIPA authorisation for Directed Surveillance. The key consideration is whether there is a repeated and systematic collection of personal information.

In addition Council officers must be aware that the fact that digital investigation is routine or easy to conduct does not reduce the need for authorisation. Care must be taken to understand how the social networking site being used works. Authorising Officers must not assume that one service provider is the same as another or that the services provided by a single provider are the same. Whilst it is the responsibility of an individual to set privacy settings to protect unsolicited access to private information and even though data may be deemed published and no longer under the control of the author, it is unwise to regard it as 'open source' or publicly available.

The author has a reasonable expectation of privacy if access controls are applied. In some cases, data may be deemed private communication still in transmission (instant messages for example). Where privacy settings are available but not applied the data may be considered 'open source' and an authorisation is not usually required.

However, repeat viewing of 'open source' sites may constitute Directed Surveillance on a case by case basis and this should be borne in mind e.g. if someone is being monitored through, for example, their Facebook profile for a period of time and a record of the information is kept for later analysis, this is likely to require a RIPA authorisation for Directed Surveillance.

If it is necessary and proportionate for the Council to covertly breach access controls, an authorisation for Directed Surveillance is required. An authorisation for the use and conduct of a CHIS is necessary if a relationship is established or maintained by a Council Officer or by a person acting on the Council's behalf (i.e. the activity is more than mere reading of the site's content). It is not unlawful for a Council Officer to set up a false identity, but this must not be done for a covert purpose without authorisation. Using photographs of other persons without their permission to support the false identity infringes other laws and such photographs must not be used.

To avoid the potential for inadvertent or inappropriate use of social network sites in investigative and enforcement roles, Council officers should be mindful of the following:

- Do not create a false identity in order to 'befriend' individuals on social networks without authorisation under RIPA;
- When viewing an individual's public profile on a social network, do so only to the minimum degree necessary and proportionate in order to obtain evidence to support or refute an investigation;
- Repeated viewing of open profiles on social networks to gather evidence or to monitor an individual's status must only take place under a RIPA authorisation;
- Be aware that it may not be possible to verify the accuracy of information on social networks and if such information is to be used as evidence, take reasonable steps to ensure its validity.

For the avoidance of doubt, only those Officers designated and certified to be Authorising Officers for the purpose of RIPA can authorise Directed Surveillance IF, AND ONLY IF, the RIPA authorisation procedures detailed in this document are followed. Authorisation for Directed Surveillance can only be granted if it is for the purpose of preventing or detecting crime and the criminal offence is punishable by

at least 6 months' imprisonment or it is an offence under sections 146, 147, 147A of the Licensing Act 2003 or section 7 of the Children and Young Persons Act 1933 (sale of alcohol and tobacco to underage children).

If you are in doubt as to whether or not you can use Directed Surveillance for the crime you are investigating, you should contact Legal Services for advice.

Intrusive Surveillance

This is when surveillance:

- Is covert;
- Relates to residential premises and/or private vehicles; and
- Involves the presence of a person **in the premises or in the vehicle** or is carried out by a surveillance device **in** the premises/vehicle. Surveillance equipment mounted outside the premises will not be intrusive, unless the device consistently provides information of the same quality and detail as might be expected if they were in the premises/vehicle.

Directed Surveillance that is carried out in relation to anything taking place on so much of any premises mentioned below as is, at any time during the surveillance, used for the purpose of legal consultations is also Intrusive Surveillance.

The premises referred to above are:

- (a) any place in which persons who are serving sentences of imprisonment or detention, remanded in custody or committed in custody for trial or sentence may be detained;
- (b) any place in which persons may be detained under paragraph 16(1), (1A) or (2) of Schedule 2 or paragraph 2(2) or (3) of Schedule 3 to the Immigration Act 1971 or section 36(1) of the UK Border Act 2007;
- (c) police stations;
- (d) hospitals where high security psychiatric services are provided;
- (e) the place of business of any professional legal adviser; and
- (f) any place used for the sittings and business of any court, tribunal, inquest or inquiry.

This form of surveillance cannot be authorised under RIPA for the Council. Only the Police and other law enforcement agencies can use RIPA to authorise Intrusive Surveillance. Likewise, the Council has no statutory powers to interfere with private property.

Proportionality

The authorisation will not be proportionate if it is excessive in the overall circumstances of the case. Each action authorised should bring an expected benefit to the investigation or operation and should not be disproportionate or arbitrary. No activity should be considered proportionate if the information which is sought could reasonably be obtained by other less intrusive means.

The following elements of proportionality should therefore be considered:

- balancing the size and scope of the proposed activity against the gravity and extent

of the perceived crime or offence;

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

In other words, this means balancing the intrusiveness of the activity on the target subject and others who might be affected by it against the need for the activity in operational terms. The activity will not be proportionate if it is excessive in the circumstances - each case will be judged and be unique on its merits - or if the information that is sought could be reasonably be obtained by other less intrusive means. **All such activity must be carefully managed to meet the objective in question and must not be arbitrary or unfair.** Extra care should also be taken over any publication of the product of the surveillance.

Put very simply, it means not using a sledgehammer to crack a nut.

As well as being proportionate, the Covert Surveillance must be necessary in all the circumstances.

Examples of different types of Surveillance

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

Directed must be RIPA authorised	<ul style="list-style-type: none"> - Officers follow an individual or individuals over a period, to establish whether s/he is working when claiming benefit or off long term sick from employment. - Test purchases where the officer has a hidden camera or other recording device to record information which might include information about the private life of a shop-owner, e.g. where s/he is suspected of running his business in an unlawful manner.
Intrusive or interfering with private property – Note: The Council cannot use RIPA to authorize this	<ul style="list-style-type: none"> - Planting a listening or other electronic device (bug) or camera in a person's home or in/on their private vehicle/person.

Further Information

Further guidance on surveillance can be found in the Home Office Codes of Practice is set out in Appendix 5.

Confidential Information

Special safeguards apply with regard to confidential information relating to confidential personal information, confidential constituent information and confidential journalistic material. The Authorising Officer for Directed Surveillance where confidential information is likely to be obtained or for the use of a CHIS must be a Senior Authorising Officer. Further guidance is available in the Home Office Codes of Practice.

Legal Privilege

Surveillance that is intended to result in knowledge of matters subject to legal privilege CANNOT be authorised. Where surveillance is not intended to result in knowledge of matters subject of legal privilege but acquisition of such matters is likely then the Authorising Officer must consider carefully whether such surveillance is appropriate. In particular such surveillance can only be authorised to prevent or detect serious crime. The Authorising Officer in these circumstances must be a Senior Authorising Officer. Further guidance is available in the Home Office Codes of Practice.

Collateral Intrusion

Before authorising surveillance the Authorising Officer should also take into account the risk of intrusion into the privacy of persons other than those who are directly the subjects of the investigation or operation (collateral intrusion). Measures should be taken, wherever practicable, to avoid or minimise unnecessary intrusion into the lives of those not directly connected with the investigation or operation.

Those carrying out the surveillance should inform the authorising officer if the investigation or operation unexpectedly interferes with the privacy of individuals who are not covered by the authorisation. When the original authorisation may not be sufficient, consideration should

be given to whether the authorisation needs to be amended and re-authorised or a new authorisation is required.

Further guidance is available in the Home Office Codes of Practice.

Retention and Destruction of Products of Surveillance

Where the product of surveillance could be relevant to pending or future criminal or civil proceedings, it should be retained in accordance with established disclosure requirements for a suitable period and subject to review. Authorising Officers must make sure that they have regard to the Code of Practice (2005 edition) made under S23 Criminal Procedure and Investigations Act 1996.

There is nothing in RIPA that prevents material obtained from properly authorised surveillance from being used in other investigations. Authorising Officers must ensure, therefore, that arrangements are in place for the handling, storage and destruction of material obtained through the use of Covert Surveillance. Authorising Officers must also ensure compliance with the appropriate data protection requirements and any relevant codes of practice produced by individual authorities relating to the handling and storage of material.

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

Who is a CHIS?

A CHIS is someone who establishes or maintains a personal or other relationship for the covert purpose of using the relationship to obtain information.

Members of the public who volunteer information to the Council and those engaged by the Council to carry out test purchases in the ordinary course of business (i.e. they do not develop a relationship with the shop attendant and do not use covert recording devices) are not CHIS and do not require RIPA authorisation.

However there may be instances where an individual, covertly discloses information obtained by the use of such a relationship, or as a consequence of the existence of such a relationship. In such circumstances where a member of the public, though not asked to do so, gives information (or repeated information) about a suspect, then serious consideration should be given to designating the individual as a CHIS, particularly if the Council intends to act upon the information received.

It is possible therefore that a person could become engaged in the conduct of a CHIS without the Council inducing, asking or assisting the person to engage in that conduct. As stated in the Home Office statutory CHIS Code of Practice the tasking of a person should not be used as the sole benchmark in seeking a CHIS authorisation. Attention is specifically drawn to the CHIS Code of Practice. It is recommended that legal advice is sought in any such circumstances.

What must be authorised?

The conduct or use of a CHIS require **prior authorisation**

- **Conduct** of a CHIS = Establishing or maintaining a personal or other relationship with a person for the covert purpose of (or is incidental to) obtaining and passing on information

- **Use** of a CHIS = Actions inducing, asking or assisting a person to act as a CHIS and the decision to use a CHIS in the first place.

The Council can only authorise CHIS under RIPA IF, AND ONLY IF THE procedures, as detailed in this document, are followed. Authorisation for CHIS can only be granted if it is for the purposes of preventing or detecting crime.

Juveniles and Vulnerable Individuals

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

A vulnerable individual is a person who is or may be in need of community care services by reason of mental or other disability, age or illness and who is or may be unable to take care of himself or herself, or unable to protect himself or herself against significant harm or exploitation.

Vulnerable individuals and juveniles will only be authorised to act as a CHIS in very exceptional circumstances and a Senior Authorising Officer **MUST** give the authorisation for their use.

Test Purchases

Carrying out test purchases will not usually (as highlighted above) require the purchaser to establish a relationship with the supplier with the covert purpose of obtaining information and, therefore, the purchaser will not normally be a CHIS.

Anti-Social Behaviour Activities (e.g. noise, violence, race abuse, etc.)

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

Recording sound (with a DAT recorder) on private premises could constitute **Intrusive Surveillance**, unless it is done overtly. For example, it will be possible to record if the noisemaker is warned that this will occur if the level of noise continues. Covert recording of noise nuisance where the intention is to record only excessive noise levels from adjoining premises and the recording device is calibrated to record only excessive noise level is unlikely to require authorisation. This is because the perpetrator would normally be regarded as having forfeited any claim to privacy. Placing a covert stationary or mobile video camera outside a building to record anti-social behaviour on residential estates **will** require prior authorisation.

Use and Management of a CHIS

Particular requirements apply to the management and use of a CHIS. This is particularly important when considering that the CHIS may be putting themselves in some jeopardy by performing as a CHIS. Details of those arrangements are contained within **Appendix 3**.

The Senior Authorising Officer must be satisfied that these arrangements are in place before authorising a request. The overriding duty is to the safety of and duty of care towards the CHIS.

Further Information

Further guidance on CHIS can be found in the Home Office's Codes of Practice on surveillance listed in **Appendix 5**.

9. Acquisition of Communications Data

What is Communications Data?

Communication data means any traffic or any information that is or has been sent by over a telecommunications system or postal system, together with information about the use of the system made by any person.

Procedure

There are powers granted by S22 RIPA in respect of the acquisition of Communications Data from telecommunications and postal companies. These issues are beyond the scope of this document. Where an Authorised Officer considers that such data is required, the advice of the RIPA Monitoring Officer should be sought.

10. Authorisation Procedures

Directed Surveillance and the use of a **CHIS** can only gain the protection under RIPA if properly authorised, and conducted in strict accordance with the terms of the authorisation. **Appendix 2** provides flow charts of processes from application/consideration to recording of information and the storage / retention of data obtained.

Authorising Officers

Forms can only be signed by Authorising Officers who have the necessary authority from the Council. Authorised officers are listed in **Appendix 1**. It is the person that is authorised rather than his/her post. This Appendix will be kept up to date by the RIPA Monitoring Officer and added to as needs require. If it is felt that a post should be removed or added, the RIPA Monitoring Officer will request a resolution from the Cabinet. The RIPA Monitoring Officer is however able to suspend an Authorising Officer from the list as detailed above.

All RIPA authorisations must be for specific investigations only and must be reviewed, renewed or cancelled once the specific surveillance is complete or about to expire. **The authorisations for Directed Surveillance last for 3 months and for CHIS 12 months (1 month for juveniles); however they must also be cancelled as soon as the need for them no longer exists.**

Training Records

Authorising Officers and those making applications will receive training in the issues to take into account. The RIPA Monitoring Officer will keep a record of those receiving training and will work with Human Resources to ensure that regular training is carried out to account for staff turnover, legislative changes etc..

Application Forms

Only the RIPA forms set out in this Document are permitted to be used. **The Authorising Officer and/or the RIPA Monitoring Officer will reject any other forms used.** All forms are available on the Intranet.

'A Forms' (Directed Surveillance) -see Appendix 6

- Form A1 **Application** for Authority for Directed Surveillance
- Form A2 **Review** of Directed Surveillance Authority
- Form A3 **Renewal** of Directed Surveillance Authority
- Form A4 **Cancellation** of Directed Surveillance
- Form A5 **Judicial approval** for Directed Surveillance

'B Forms' (CHIS) -see Appendix 7

- Form B1 **Application** for Authority for Conduct and Use of a CHIS
- Form B2 **Review** of Conduct and Use of a CHIS
- Form B3 **Renewal** of Conduct and Use of a CHIS
- Form B4 **Cancellation** of Conduct and Use of a CHIS
- Form B5 **Judicial approval** for the use of a CHIS

Grounds for Authorisation

Directed Surveillance (**A Forms**); the Conduct and Use of the CHIS (**B Forms**) can be authorised by the Council **only on the ground of preventing or detecting crime. NO other grounds are available to local authorities.**

Assessing the Application Form

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

- (a) Be mindful of this Corporate Policy & Procedure Document, the training provided and any other guidance issued, from time to time, by the RIPA Monitoring Officer on such matters;
- (b) **Be clear on what is being authorised and make sure that there are no ambiguities in either the application or the authorisation;**
- (c) **Ensure that his/her statement as the authorising officer is completed spelling out the "5Ws" – who, what, where, when, why and how. In addition the authorising officer must ensure that the proposed operation is both necessary and proportionate;**
- (d) Satisfy his/herself that the RIPA authorisation is:
 - (i) **In accordance with the law;**
 - (ii) **Necessary** in the circumstances of the particular case on the ground mentioned above; **and**
 - (iii) **Proportionate** to what it seeks to achieve;
- (e) In assessing whether or not the proposed surveillance is necessary, consideration should be given to whether it is necessary to use Covert Surveillance in all the circumstances. Consideration must be given as to whether the information could be obtained by other means;
- (f) In assessing whether or not the proposed surveillance is proportionate, consider whether there are any other non-intrusive methods available and, if there are none,

whether the proposed surveillance is no more than necessary to achieve the objective, as the **least intrusive method will be considered proportionate by the courts. Guidance on proportionality is given above;**

- (g) Take into account the risk of intrusion into the privacy of persons other than the specified subject of the surveillance (**Collateral Intrusion**) and the Applying Officer's plan to minimise that intrusion. Measures must be taken wherever practicable to avoid or minimise (so far as is possible) collateral intrusion. When considering proportionality the right to privacy of both third parties and the intended subject of the investigation must be considered against the seriousness of the offence and harm likely to be caused;
- (h) Allocate a Unique Reference Number (URN) for **each form**;
- (i) Set a date for **review** of the authorisation and review on that date using the relevant form. The Authorising Officer should take account of how long authorisations for Directed Surveillance may last for (three months). The review date must be appropriate for the type of surveillance sought. At a review the Authorising Officer should be satisfied that the criteria for granting the authorisation still exists. They may also amend the authorisation;
- (j) **Make sure that the expiry date and time are inserted;**
- (k) Ensure that any RIPA Departmental Register is duly completed, and that a copy of the RIPA Forms (and any review / renewal / cancellation of the same) is forwarded to the RIPA Monitoring Officer's Central Register, **within 2 working days of the relevant authorisation, review, renewal, cancellation or rejection**. The original should be kept on the departmental register.
- (l) If unsure on any matter, obtain advice from the RIPA Monitoring Officer **before** signing any forms.

The authorisation section of the form should be completed in the Authorising Officer's own handwriting and in his/her own words. The Authorising Officer must be prepared to justify his/her authorisation in a court of law and must be able to answer for his/her decision.

Additional Safeguards when Authorising a CHIS

When authorising the conduct or use of a CHIS, the Authorising Officer **must also**:

- (m) Be satisfied that the **conduct** and/or **use** of the CHIS is **proportionate** to what is sought to be achieved;
- (n) Be satisfied that **appropriate arrangements** are in place for the management and oversight of the CHIS and this must address health and safety issues through a written risk assessment (**see Appendix 3**);
- (o) Consider the likely degree of intrusion of all those potentially affected;
- (p) Consider any adverse impact on community confidence that may result from the use or conduct or the information obtained;
- (q) Ensure **records** contain particulars and are not available except on a need to know basis; and
- (r) If unsure on any matter, obtain the advice from the RIPA Monitoring Officer **before** signing any forms.

Judicial Approval

After an Authorising Officer has authorised Directed Surveillance or the Senior Authorising Officer has approved the use of a CHIS, the Council **must** make an application to the magistrates' court for approval of the authorisation. This applies to all authorisations and renewals. The activity permitted by the authorisation **cannot** be carried out until the court has approved the authorisation.

After the Authorising Officer has approved the application, the Applying Officer (or the Authorising Officer in appropriate cases) must complete the first part of the approval form found at Appendix 6 and Appendix 7. Two copies of the approval form, the original authorisation and a copy must be taken to court for the magistrate to consider.

The court will consider:

- (a) if the Authorising Officer was at the correct grade; and
- (b) whether the activity proposed is necessary and proportionate.

The authorisation and the approval form must be detailed enough for the court to consider the application. Whilst the court may ask the officer attending court to clarify the application, oral evidence is not a substitute for a full and reasoned written application.

The court can either approve or quash the authorisation or renewal. Any application for renewal must take place before the expiry of the authorisation. The Applying Officer must ensure that any application to renew is made in good time so that the Authorising Officer and the court have enough time to consider the application.

The original authorisation must be retained by the Council. A copy of the approval or rejection by the magistrates must be placed on the department's register and a further copy given to the RIPA Monitoring Officer for his central register.

Any officer attending court to obtain judicial approval must be authorised by the Council under section 223 of the Local Government Act 1972 to conduct legal proceedings on the Council's behalf.

Further information about the procedure for obtaining judicial approval can be found at Appendix 8.

Duration

The form **must be reviewed in the time stated, renewed and/or cancelled** once it is no longer needed. The authorisation to carry out/conduct the surveillance lasts for 3 months (from authorisation) for Directed Surveillance, and 12 months (from authorisation) for a CHIS. However, whether the surveillance is carried out/conducted or not, in the relevant period, does not mean the authorisation is 'spent'. In other words, **the forms do not expire**. The forms have to be **reviewed, renewed and/or cancelled** (once they are no longer required).

Authorisations can be renewed in writing before the maximum period in the Authorisation has expired. The Authorising Officer must **consider the matter afresh** including taking into account the benefits of the surveillance to date and any collateral intrusion that has occurred. An Authorisation cannot be renewed after it has expired. In such event, a fresh Authorisation will be necessary.

The renewal will begin on the day when the authorisation would have expired.

11. Working With/Through Other Agencies

When some other agency has been instructed on behalf of the Council to undertake any action under RIPA, this document and the forms in it must be used (as per normal procedure) and the agency advised or kept informed, as necessary, of the various requirements. They must be made aware explicitly what they are authorised to do.

When some other agency (e.g. Police, HM Revenue & Customs, Department for Work and Pensions etc):

- (a) Wish to use the Council's resources, that agency must use its own RIPA procedures **and**, before any Officer agrees to allow the Council's resources to be used for the other agency's purposes, s/he **must obtain** a copy of that agency's RIPA form for the record (a copy of which must be passed to the RIPA Monitoring Officer for the Central Register) or relevant extracts from the same which are sufficient for the purposes of protecting the Council and the use of its resources;
- (b) Wish to use the Council's premises for their own RIPA action and is expressly seeking assistance from the Council, the Officer should normally co-operate with the same unless there are security or other good operational or managerial reasons as to why the Council's premises should not be used for the agency's activities. Suitable insurance or other appropriate indemnities may be sought, if necessary, from the other agency for the Council's co-operation in the agency's RIPA operation. In such cases, however, the Council's own RIPA forms should **not** be used, as the Council is only 'assisting' not being 'involved' in the RIPA activity of the external agency.

If the Police or other agency wish to use Council resources for general surveillance, as opposed to specific RIPA operations, an appropriate letter requesting the proposed use, extent of remit, duration, who will be undertaking the general surveillance and the purpose of it must be obtained from the Police or other agency **before** any Council resources are made available for the proposed use. The appropriate Head of Service will be responsible for agreeing to the proposed use.

Joint operations

Where the Council is conducting an investigation jointly with another agency and that investigation involves Directed Surveillance or use of a CHIS only one authorisation under RIPA is needed. Duplicate authorisations therefore should be avoided. At the start of the joint operation the relevant Head of Service should agree with his/her opposite number in the other agency who the lead body should be. The lead body will be responsible for RIPA authorisations.

If in doubt, please consult with the RIPA Monitoring Officer at the earliest opportunity.

12. Record Management

The Council must keep a detailed record of all Authorisations, Reviews, Renewals, Cancellations and rejections in Departments and **a Central Register of all Authorisation Forms will be maintained and monitored by the RIPA Monitoring Officer.**

Records Maintained in the Department

The Council will retain records for a period of at least three years from the ending of the Authorisation. The Investigatory Power Commissioner's Office (IPCO) can audit/review the Council's policies and procedures and individual Authorisations, Reviews, Renewals, Cancellations and rejections.

Central Register Maintained by the RIPA Monitoring Officer

Authorising Officers must send a copy of any authorisation, cancellation, renewal or review to the RIPA Monitoring Officer within 2 working days of the issue. Whilst the RIPA Monitoring Officer is responsible for oversight and review of the records, the Authorising Officers are responsible for their own records.

13. Reporting Arrangements

A one line report will be provided to Cabinet every three months unless there have been any applications for the use of powers under RIPA in which case a full report will be provided to Cabinet.

14. Concluding Remarks

Where there is an interference with the right to respect for private life and family guaranteed under Article 8 of the European Convention on Human Rights, and where there is no other source of lawful authority for the interference, or if it is held not be necessary or proportionate to the circumstances, the consequences of not obtaining or following the correct authorisation procedure set out in RIPA and this document, may be that the action (and the evidence obtained) will be held to be unlawful by the courts pursuant to Section 6 of the Human Rights Act 1998.

Obtaining an authorisation under RIPA and following this document will ensure therefore, that the action is carried out in accordance with this law and subject to stringent safeguards against abuse of anyone's human rights.

Authorising Officers MUST exercise their minds every time they are asked to consider a form. They must NEVER sign or rubber stamp form(s) without thinking about their own personal and the Council's responsibilities. They should also report refusals to the RIPA Monitoring Officer. The RIPA Monitoring Officer will be able to assess whether the refusals were reasonable and this will also be reported to Cabinet.

Any boxes not needed on the form(s) must be clearly marked as being 'NOT APPLICABLE', 'N/A' or a line put through the same. Great care must also be taken to ensure accurate information is used and is inserted in the correct boxes. Reason for any refusal of an application must also be kept on the form and the form retained for future audits.

For further advice and assistance on any aspect of RIPA, please contact the Council's RIPA Monitoring Officer; contact details are set out in Appendix 1.

Appendix 1 – List of Senior Authorising Officers, Authorising Officers, Senior Responsible Officer and RIPA Monitoring Officer

Post Title	Current Post Holder	RIPA post	Contact Details
Head of Paid Service	Susan Priest	Senior Authorising Officer / Authorising Officer	Civic Centre, Castle Hill Avenue, Folkestone CT20 2QY 01303 853315 susan.priest@shepway.gov.uk
Corporate Director – Place and Commercial Services	John Bunnett	Authorising Officer	Civic Centre, Castle Hill Avenue, Folkestone CT20 2QY 01303 853263 john.bunnet@folkestone-hythe.gov.uk
Assistant Director – Governance, Law and Regulatory Services	Amandeep Khroud	RIPA Monitoring Officer Senior Responsible Officer	Civic Centre, Castle Hill Avenue, Folkestone CT20 2QY 01303 853253 amandeep.khroud@folkestone-hythe.gov.uk
Corporate Director – Customer, Support and Specialist Services	Tim Madden	Authorising Officer – Senior Authorising Officer in the absence of the Head of Paid Service	Civic Centre, Castle Hill Avenue, Folkestone CT20 2QY 01303 853371 tim.madden@folkestone-hythe.gov.uk

RIPA MANAGEMENT STRUCTURE

Directed Surveillance

Court



Authorising Officers

Susan Priest
Head of Paid Service

Tim Madden
Corporate Director – Customer, Support and Specialist Services

John Bunnett
Corporate Director – Place and Commercial Services



Applying Officer

Amandeep Khroud
Head of Democratic Services and Law
RIPA Monitoring Officer

CHIS

Court



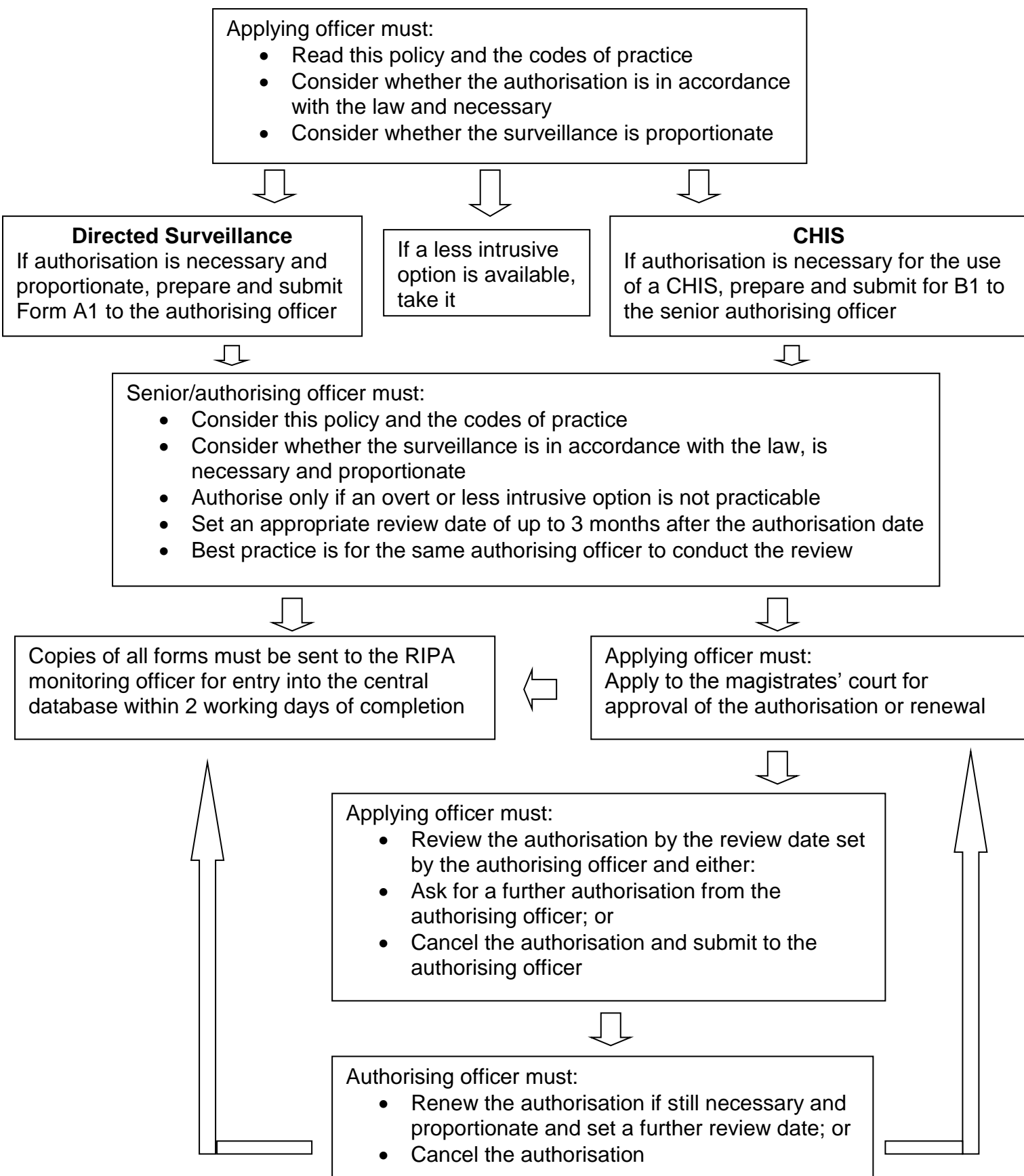
Susan Priest
Head of Paid Service Or

Tim Madden
Corporate Director – Customer, Support and Specialist Services, in the absence of the above



Applying Officer

Appendix 2 – Flow Chart for Directed Surveillance and CHIS



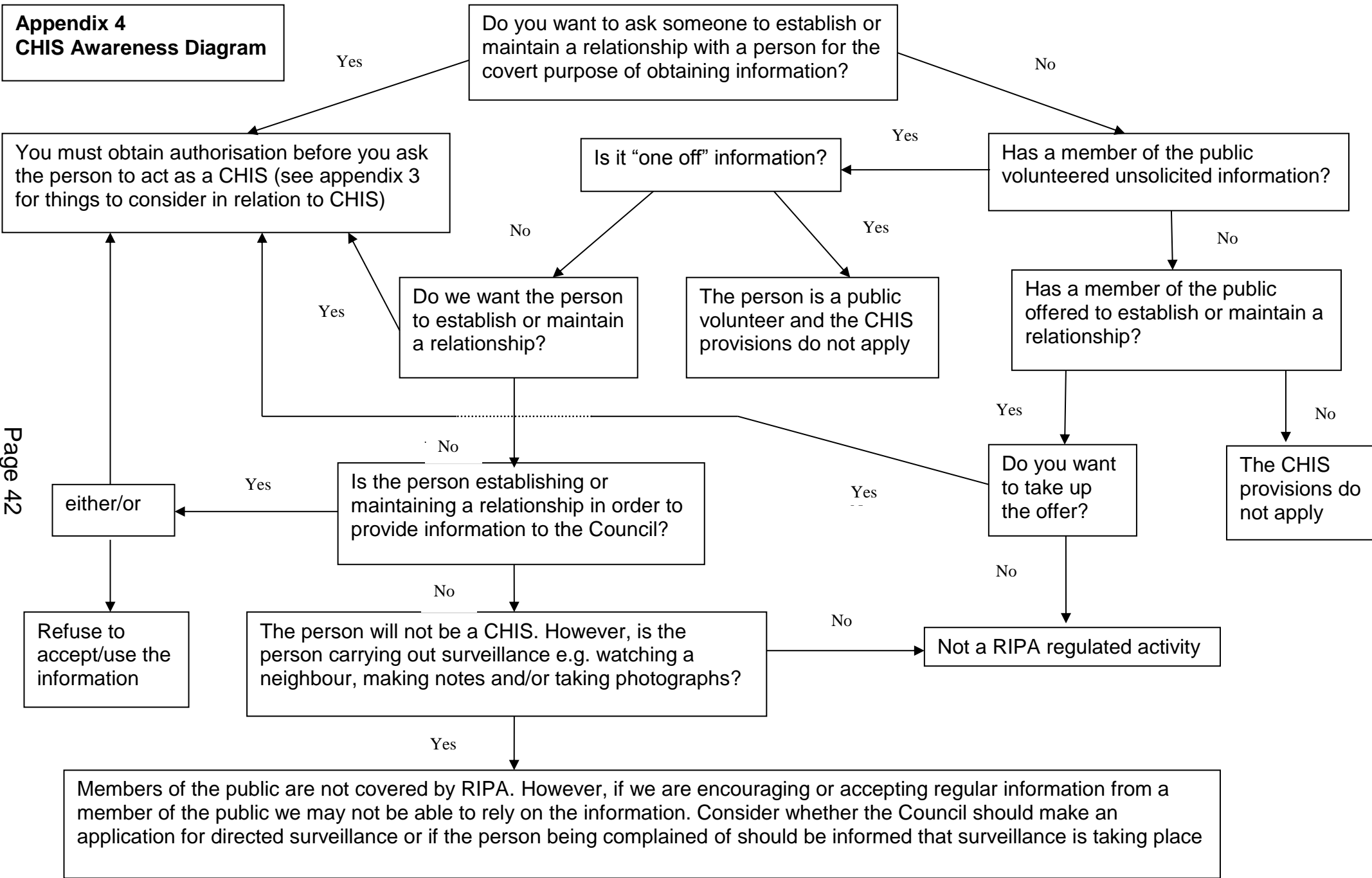
Applying officer – the person who makes a request to use RIPA powers
 Authorising officer – the person who considers whether or not to grant an authorisation
 Senior authorising officer – the senior person who consider whether or not to grant an authorisation for the use of a CHIS

Appendix 3 – Additional Notes for the Use and Management of a CHIS

Tasking

- 1 Tasking is the assignment given to the CHIS by the persons defined in sections 29(5) (a) and (b) of RIPA, asking him to obtain information, provide access to information or to otherwise act incidentally, for the benefit of the relevant public authority.
- 2 Authorisation for the use or conduct of a CHIS must be obtained prior to any tasking where such tasking requires the CHIS to establish or maintain a personal or other relationship for a covert purpose.
- 3 The person referred to in section 29(5) (a) of the 2000 Act will have day to day responsibility for:
 - Dealing with the CHIS on behalf of the Council
 - Directing the day to day activities of the CHIS
 - Recording the information supplied by the CHIS, and
 - Monitoring the CHIS's security and welfare
- 4 The person referred to in section 29(5) (b) of the 2000 Act will be responsible for the general oversight of the use of the CHIS.
- 5 The authorisation should not be drawn so narrowly that a separate authorisation is required each time the CHIS is tasked. The authorisation could cover the broad terms of the CHIS's task.
- 6 The persons mentioned in 3 and 4 above must take great care to ensure that actions are recorded in writing and must also keep the authorisation under review to ensure that it covers what the CHIS is actually doing. During the course of a task, unforeseen events may occur which mean that the authorisation may need to be cancelled and applied for again.
- 7 The Head of the Paid Service of the Council has the power to appoint officers to act under s29 (5) (a) and (b).
- 8 In relation to health and safety, before tasking a CHIS, the relevant officers will ensure that a risk assessment is carried out which determines the risk to the CHIS and to others in carrying out the task. The ongoing security and welfare of the CHIS after the task has been completed should also be considered
- 9 Further advice on good practice is contained with the Code of Practice.

**Appendix 4
CHIS Awareness Diagram**



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This flowchart cannot answer every scenario an officer may encounter. If you are unsure whether or not you authorisation speak to Legal Services or the RIPA monitoring officer

Appendix 5 – Codes of Good Practice

RIPA Codes of Practice can be accessed at:

[Codes of Practice](#)

Appendix 6 – Directed Surveillance Forms

[Directed surveillance application form](#)

[Directed surveillance renewal form](#)

[Directed surveillance review form](#)

[Directed surveillance cancellation form](#)

[Judicial approval form](#)

Appendix 7 – CHIS Forms

[Application to authorise a CHIS](#)

[CHIS cancellation form](#)

[CHIS renewal form](#)

[CHIS review form](#)

[Judicial approval form](#)

Appendix 8 – Judicial approval protocol

In order to obtain judicial approval for your RIPA authorisation you will need to book an appointment to attend court. You must not turn up to court without an appointment.

To book an appointment, contact the court administration centre on 01304 218600, Option 6. There may be a delay between you making the appointment and attending court so make sure you factor this in when thinking about your timetable and the start date.

Your application may be heard at Folkestone or Canterbury Magistrates' Court. You will generally be asked to attend court at 9.30am before the court starts sitting although you may be given an alternative time to attend.

You will need to take two copies of the approval form with the first part completed and the original authorisation to court as well as a copy. Ensure that you retain the original authorisation and a signed approval form.

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This Report will be made
public on 2 September
2019

Report Number **C/19/20**

To: Cabinet
Date: 11 September 2019
Status: Non Key Decision
Responsible Officer: Gavin Edwards, Policy and Improvement Officer
Cabinet Member: Councillor David Monk

SUBJECT: Key Performance Indicators Review 2019-20

SUMMARY: This report sets out a proposed list of Key Performance Indicators (KPIs) to be monitored during 2019/20 in line with the Council's Corporate Plan strategic priorities and objectives.

REASONS FOR RECOMMENDATIONS:

- a) Relevant key performance indicators (KPIs) are essential to provide a 'golden thread' to the delivery of the Corporate Plan strategic objectives.
- b) The Council needs to ensure that performance is measured, monitored and the results are used to identify where services are working well and where there are failings and appropriate action needs to be taken.

RECOMMENDATIONS:

1. To receive and note report C/19/20.
2. To approve the proposed KPI measurements for 2019/20 in Appendix 1.

1. Background

1.1 The Council's Corporate Plan (2017-20) for the district, introduced six new strategic objectives:

- More Homes
- More Jobs
- Health Matters
- Appearance Matters
- Achieving Stability
- Delivery Excellence

1.2 Underpinning each strategic objective is a set of priorities that explain how each objective will be achieved.

1.3 The existing KPIs were collated on a quarterly basis and reported to Overview and Scrutiny and Cabinet. They were not reviewed as part of the Corporate Plan refresh and do not fully align to how the Council will measure progress in delivering the strategic objectives and priorities. Therefore 2018/19 has been something of a transitional year.

1.4 The current format of performance reporting was first presented to Cabinet in July 2018 with the '2017/18 Annual Performance Report' as first a step towards creating a clearer link between KPIs and corporate plan strategic objectives. To compliment the new reporting format some existing internally focused indicators known as PIs were upgraded to KPIs in agreement with service managers.

1.5 In addition, Cabinet approved for a review of the existing KPIs to be undertaken to ensure they provide a 'golden thread' to the delivery of the Corporate Plan strategic objectives. The report outlines the results of the review undertaken with Assistant Directors, Chief Officers and Managers.

2. What defines a KPI?

2.1 A Key Performance Indicator (KPI) can be defined as: *'A measurable value that demonstrates how effectively an organisation is achieving key business objectives'*

2.2 To ensure KPIs are effective in measuring achievement against objectives, the following general principles should guide the development of KPIs:

- **Aligned** - *Make sure they align with the strategic goals and objectives of your organization*
- **Attainable** - *The indicators you choose to measure should have data that can be easily obtained*
- **Acute** - *They should keep everyone on the same page and moving in the same direction*
- **Accurate** - *The data flowing into the performance indicators should be reliable and accurate*

- **Actionable** - *Does each one give insight into the organisation that is actionable?*
- **Alive** – *An organization is always growing and changing. KPIs should evolve as well*

3. KPI review

- 3.1 Between August 2018 and April 2019, the Policy and Improvement Officer commenced a review, working with Assistant Directors, Chief Officers, Managers and Team Leaders across the Council to review their KPIs in light of revisions to corporate plan priorities.
- 3.2. Many of the existing KPIs previously approved as part of the 2017/18 review are still fit for purpose and should therefore remain in place with target or output revisions. A total of 37 new KPIs are being proposed to be retained, updated or introduced, with a further 25 to be deleted to ensure performance information appropriately reflects the delivery of current corporate plan priorities. Appendix 1 provides an overview of the suite of KPIs being proposed to support the Corporate Plan and could take effect from 1st October 2019, subject to Cabinet approval.
- 3.3 However, it has been noted, the current corporate plan is due to expire next year and further work on the creation of a new corporate plan is due to commence in the Autumn of 2019. The work set out within this review ensures the Council's continues to monitor its performance against strategic priorities for the full life span of the current plan until a new corporate plan is formally adopted in 2020.
- 3.4 The Council is also currently undergoing an organisation-wide transformation programme, which will bring new ways of working alongside new ICT systems in 2019/20. As a result, this may bring further changes and KPIs will therefore continue to be monitored.
- 3.5 An overview of the KPIs to be removed and the new or revised KPIs identified against the Corporate Plan strategic objectives is set out below:

Priority: More Homes - *Provide and enable the right amount, type and range of housing*

New or revised KPIs

- Number of new homes built within the District
- Number of homelessness approaches
- Homelessness approaches under Prevention Duty
- Number of rental properties provided through the Social Lettings Agency
- Average number of households in Bed and Breakfast accommodation

KPIs to be removed

- Number of days taken to check full plans applications from receiving a valid application

- Number of homeless decisions made
- Average length of stay for families in B & B
- Average length of stay for singles in B & B
- Average number of people in temporary accommodation, of which how many are:
 - Families
 - Families over six weeks
 - 16/17 year olds
 - 16/17 year old over 6 weeks

Priority: More Jobs - *Work with businesses to provide jobs in a vibrant local economy*

New or revised KPIs

- Square metres of employment space granted permission
- Number of employment sites or schemes where new employment space has been delivered
- Increase in employment or turnover by at least 5% for businesses that participate in the Scale up Folkestone & Hythe programme
- External funding sources applied for to deliver better infrastructure or business accommodation within the district
- Number of key employers met and supported as of the business engagement programme
- Value of Grant Funding Agreements agreed under the Folkestone Community Works SME Business Grant Scheme funding programme

KPIs to be removed

- Applications for external funding
- Investment in the Folkestone & Hythe District Council area scheme
- Delivery of the business accommodation scheme
- Delivery of the engagement programme to key employers

Priority: Appearance Matters - *Provide an attractive and clean environment*

New or revised KPIs

- Number of unauthorised encampments successfully removed from FHDC Land
- Community environmental events (e.g. litter picks) held
- Community environmental volunteer hours committed
- Corporate social responsibility environmental events held
- Corporate social responsibility hours committed
- Number of recorded See It, Own It, Do it, interventions completed
- Average time for graffiti to be removed from the time of being reported

KPIs to be removed

- Percentage of streets surveyed clear of detritus within the district

Priority: Health Matters - *Keep Our Communities Healthy and Safe*

New or revised KPIs

- Number of people engaged in Public Space Protection Order education and prevention activity
- Fixed Penalty Notices issued under the Public Space Protection Order
- Number of young people engaged in ASB diversionary activities
- Number of visits and inspections to licensed premises
- Hospital admissions prevented or hospital discharges accelerated as a result of Private Sector Housing Team and partner intervention
- No of Disabled Facilities Grants administered

KPIs to be removed

- PSPO Breaches
- Number of supported community litter picks
- Number of community volunteer hours
- Number of corporate social responsibility business volunteer hours
- No of caravan sites inspected

Priority: Achieving Stability – *Achieve financial stability through a commercial and collaborative approach*

New or revised KPIs

- Total annual income accrued from Oportunitas for the Council.
- Total income collected from the Council's corporate property portfolio
- Total income received from delivery of East Kent apprenticeship programme
- Total income received from FHDC apprenticeships
- Total value of Community Infrastructure Levy Liability notices
- Total value of Community Infrastructure Levy receipts

KPIs to be removed

- Value of grounds maintenance works invoiced

Priority: Delivering Excellence – *Deliver excellent customer service through commitment of staff and members.*

New or revised KPIs

- Number of social media followers (Facebook and Twitter, Instagram, LinkedIn)
- Number of website unique visits
- % change in unique website visits
- Number of apprenticeships available for East Kent Authorities (Folkestone & Hythe, Thanet, Dover and Canterbury)
- Employee Net Promoter score
- % Customers satisfied with the Web Chat service
- All Subject Access Request responses to be provided within the statutory period (1 calendar month or lawful extension).

KPIs to be removed

- Customers seen within 10 minutes of an appointment

- Process Temporary Events Notice applications within 24 hours
- Process new licensing applications and renewals within 30 working days
- Respond to all Local Land Charge searches within 10 working days
- Respond to all Fixed Penalty Notice challenges within 20 working days

3. RISK MANAGEMENT ISSUES

Perceived risk	Seriousness	Likelihood	Preventative action
The key performance indicators (KPIs) do not link to the objectives of the Council's Corporate Plan.	High	Medium	Monitor progress against key performance indicators and take remedial action for those areas where targets and actions are unlikely to be achieved.

4. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

- 4.1. Legal Officer's Comments (NE)** -There are no legal implications or risks arising directly out of this report. The Key Performance Indicators (due to be amended) must continue to take account of both existing and new statutory duties and responsibilities that are imposed on the Council by the Government. Failure to do so will put the Council at risk of legal challenge by affected residents and/or businesses. Whilst reporting on performance is not a statutory requirement, it is considered best practice to review the Council's progress against the Corporate Plan and Service Plans on a regular basis.
- 4.2 Finance Officer's Comments (CS)** -There are no finance implications arising from this report.
- 4.3 Human Resources (RB)** - There are no direct Human Resource implications emanating from this report. The council's People Strategy has been created to support the corporate plan and achievement of associated KPIs.
- 4.4 Equalities and Diversification (GE)** - There are no equalities implications directly arising from this report.
- 4.5 Communications (AW)** -There are no communications implications arising from this report.

5. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officer prior to the meeting

Gavin Edwards
Policy and Improvement Officer
Tel: 01303 85 3436
Email: gavin.edwards@folkestone-hythe.gov.uk

Appendices

Appendix 1 – Proposed 2019/20 Key Performance Indicators

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APPENDIX 1

PROPOSED KEY PERFORMANCE INDICATORS - 2019/20	Time Period	TARGET
MORE HOMES		
Number of new homes built within the District	Annual	350
Council new builds and acquisitions started on site	Annual	20
Additional affordable homes delivered in the District by the Council and its partner agencies	Annual	80
Affordable homes provided in the District for low cost home ownership	Annual	32
Long-term empty homes brought back into use	Annual	70
Private sector homes improved as a result of intervention by the Council and its partner agencies	Annual	150
% of major planning applications to be determined within statutory period	Quarterly	60%
% of non-major planning applications to be determined within statutory period	Quarterly	70%
% of other planning applications to be determined within statutory period	Quarterly	85%
Number of homelessness approaches	Monthly	75
Number of homelessness preventions under Prevention Duty	Annual	550
Average number of households in temporary accommodation	Quarterly	35
Average number of households in Bed and Breakfast accommodation	Quarterly	0
Number of private rental properties provided through the Social Lettings Agency	Annual	60
MORE JOBS		
Number of employment sites or schemes where new employment space has been delivered	Annual	2
% Increase in employment or turnover for businesses that participate in the Scale Up Folkestone & Hythe programme	Annual	5%
External funding sources applied for to deliver better infrastructure or business accommodation within the district	Annual	3
Number of key employers met and supported as part of the business engagement programme	Annual	12
Square metres of employment space granted permission	Annual	20ha (Accumulative over 20 years)
Value of Grant Funding Agreements agreed under the Folkestone Community Works SME Business Grant Scheme funding programme	Annual	£70,000
APPEARANCE MATTERS		
Maintain a 4+ rating on trip advisor for the Coastal Park	Annually	4+
Community environmental events (e.g. litter picks) held	Quarterly	15
Community environmental volunteer hours committed	Quarterly	600 hours
Corporate social responsibility environmental events held	Quarterly	5
Corporate social responsibility hours committed	Quarterly	240 hours
Number of recorded See It, Own It, Do it, interventions completed	Quarterly	1200
Average time for graffiti to be removed from the time of being reported (Local Area Officers)	Quarterly	48 hours
Warning Letters issued (Environmental Protection and Enforcement)	Annual	100
Number of enforcement notices served (e.g. Abatement Notices, Community Protection Notices)	Annual	100
% of successful prosecutions	Annual	100%
Fixed Penalty Notices issued	Annual	150
Enviro-crime patrol hours (dog fouling and littering)	Annual	2800hrs
Number of unauthorised encampments successfully removed from FHDC Land	Annual	1
Compliant air quality monitoring sites	Annual	14 sites
% of household waste recycled	Quarterly	50%
Number of missed collections per 100,000 population	Quarterly	50
% of street surveyed clear of litter within in the district	Quarterly	95%
% of returns to empty a missed bin by the end of the next working day if it is reported within 24	Quarterly	95%
Number of days to remove fly tipped waste on public land once reported	Quarterly	3 days
Number of PCNs issued	Monthly	No Target
British PCN recovery rate	Quarterly	70%
Foreign PCN recovery rate	Quarterly	50%
HEALTH MATTERS		
% of premises rated 3 or above for food hygiene	Quarterly	95%
Number of licensing complaints investigated	Monthly	<100
Number of visits and inspections to licensed premises	Quarterly	45
Number of people engaged in Public Space Protection Order education and prevention activity	Quarterly	200
Fixed Penalty Notices issued under the Public Space Protection Order	Quarterly	No Target
Number of young people engaged in ASB diversionary activities	Quarterly	100
Number of hospital admissions prevented or hospital discharges accelerated as a result of Private Sector Housing Team and partner intervention	Annual	100
No of Disabled Facilities Grants administered	Quarterly	No Target
ACHIEVING STABILITY		
Total annual income accrued from Oportunitas for the Council	Annual	£275,000
Total income collected from the Council's corporate property portfolio	Annual	£1.6 million
Total income received from delivery of East Kent apprenticeship programme	Annual	£100,000
Total income received from FHDC apprenticeships	Annual	£8,000
Business Rates collection target is met	Annual	97.50%
Council tax collection	Annual	97.3%
Council tax reduction collection rate	Annual	82.5%
Total value of Community Infrastructure Levy Liability notices	Annual	No Target
Total value of Community Infrastructure Levy receipts	Annual	No Target
DELIVERING EXCELLENCE		
Calls served (versus volumes of calls received)	Monthly	80%

Reduction in abandoned calls	Annual	1%
Increase of customer self serve transactions (compared to 2018/19)	Annual	5%
% of dissuaded calls	Annual	2%
% Customers satisfied with Web Chat service	Annual	88%
Lifeline - Number of calls answered within 60 seconds	Monthly	97.50%
Lifeline - Number of calls answered within 180 seconds	Monthly	100%
Average time taken to re-let council dwellings excluding major works	Quarterly	15 Days
East Kent Housing - % of emergency repairs completed on time	Quarterly	98%
East Kent Housing - % of routine repairs completed on time	Quarterly	90%
All complaints will be acknowledged within 5 days as required in the policy	Monthly	100%
All Freedom of Information / Environmental information Requests to be responded to within the statutory period of (20 working days or lawful extension).	Monthly	90%
All Subject Access Request responses to be provided within the statutory period (1 calendar month or lawful extension).	Monthly	100%
No of website unique visits	Quarterly	>100,000
% change in unique website visits	Quarterly	5% increase
Number of social media followers (Facebook, Twitter, Instagram, LinkedIn)	Quarterly	>36,000
Number of absence days per employee (Per full-time equivalent)	Annual	7 Days
Number of apprenticeships available for East Kent Authorities (Folkestone & Hythe, Thanet, Dover and Canterbury)	Annual	26
Employee Net Promoter score	Annual	Minus 20 or above

This Report will be made public on 3 September 2019



Report Number **C/19/19**

To: Cabinet
Date: 11 September 2019
Status: Key Decision
Responsible Officer: Katharine Harvey, Chief Economic Development Officer
Cabinet Member: Councillor David Wimble, Cabinet Member for the District Economy

SUBJECT: ROMNEY MARSH EMPLOYMENT HUB (Land at Mountfield Road Industrial Estate, New Romney)

SUMMARY: This report seeks Cabinet agreement to a financial contribution from Folkestone & Hythe District Council towards the development of a new business centre at Mountfield Road Industrial Estate, New Romney and delegated authority to the Corporate Director for Place and Commercial to finalise the terms of the legal agreements with co-funders.

REASONS FOR RECOMMENDATIONS:

The construction of a new business centre at Mountfield Road is required to meet the needs of growing businesses that will help diversify the local economy and create alternative employment to mitigate the loss of some 1000 jobs arising from the de-commissioning of Dungeness A and future closure of Dungeness B power stations.

RECOMMENDATIONS:

1. To receive and note report C/19/19
2. To jointly fund with the East Kent Spatial Development Company (EKSDC) the development and management of a new business centre at Mountfield Road Industrial Estate, New Romney.
3. To seek a grant contribution from the Magnox Socio-economic Fund towards the cost of the new business centre.
4. To delegate to the Corporate Director for Place and Commercial the authority to finalise terms for the contractual and operational arrangements for the Council's funding contribution to the business centre.
5. To invite expressions of interest for the remaining undeveloped land to assess the potential for bringing forward for employment purposes.

1. BACKGROUND

- 1.1 The Council owns land at Mountfield Road Industrial Estate, New Romney known as Phase 4. The land was designated for employment uses in the 2013 Core Strategy and remains to be developed.
- 1.2 Mountfield Road is in close proximity to Dungeness where Magnox is decommissioning 'A' power station and EDF are programmed to close 'B' power station in 2028. This will result in the combined loss of some 1000 jobs.
- 1.3 Mountfield Road is identified in the Romney Marsh Delivery Plan as the key opportunity in the area to diversify and provide more resilience to the local economy, which Magnox research on the economic impact of Dungeness A shows to be highly dependent on the nuclear industry. Overall, Phase 4 is expected to create 700 jobs over ten years.
- 1.4 Magnox partnered the Council in commissioning a feasibility study and masterplan for Phase 4 which reported in March 2018. This advised bringing forward some 6 hectares of land to provide 'grow-on' space for local businesses and the construction of business workspace for smaller businesses that is lacking in the area.
- 1.5 Delivering this scheme is challenging commercially in the current market so a report to Cabinet in January 2018 (C/17/74) requested approval to apply for external funding towards the costs of a business centre and this was approved.
- 1.6 The masterplan included a market assessment of the need for business workspace as 'grow-on' units for small enterprises and identified five possible options for siting a business centre.
- 1.7 The business centre site recommended was approved by Cabinet (C/18/22) in July 2018. It is a self-contained plot which allows the remainder of Phase 4 land to be developed separately. The site chosen also allows for future expansion of the business centre and this part of the site can be used for visitor car parking in the interim.
- 1.8 The location and site for the business centre is shown in Appendix 1 as approved by Cabinet in July 2018.
- 1.9 Following more detailed design of the business centre (Appendix 2), a planning application was submitted and then approved in September 2018.
- 1.10 External funding for Phase 4 has been pursued and submissions made to the Coastal Community Fund (CCF), Magnox Socio-economic Fund and SELEP's Local Growth Fund (LGF).
- 1.11 While the Phase 4 scheme was shortlisted by SELEP it is unlikely that SELEP funding will come forward. Magnox have encouraged a full bid for some grant funding towards the scheme once FHDC has secured match-funding.
- 1.12 Given this funding position, alternative ways have been explored to bring forward the overall scheme, which includes the construction of business workspace and the servicing of the five hectares of undeveloped land, such as bringing it forward in phases and other funding options.
- 1.13 The Council's existing approved Medium Term Capital Programme now includes £2.53m for the development of a new business hub and the employment land at Phase 4 of the Mountfield Road scheme.

2. TAKING FORWARD THE PHASE 4 DEVELOPMENT

- 2.1 In view of the funding position, it is proposed to phase the development of Mountfield Road Industrial Estate (Phase 4) by taking forward the construction of the business centre as the first stage.
- 2.2 It is proposed that the Council invests jointly with the EKSDC and seeks a grant from Magnox to bring forward the business centre.
- 2.3 EKSDC is a 'not for profit' regeneration company established in 2002. Member organisations are Kent County Council, University of Kent, Locate in Kent, Thanet District Council, Dover District Council, Folkestone & Hythe District Council and Canterbury City Council. Each member organisation is represented on the Board and the company is managed independently with its own secretariat. It is experienced in bringing forward and operating business centres which include the Canterbury Innovation Centre. Funding for new schemes is generated from the successful operation of its portfolio of properties and re-investment of profit gained.
- 2.4 The detailed design by consultants also included a cost review which concluded a cost of £1.7m (March 2018 prices) for a 751 sqm (externally) business centre. An updated costing, which also includes the land value is shown in Appendix 3.
- 2.5 The business centre will comprise 13 office-type units of flexible workspace capable of being converted to meeting or training rooms according to demand. The total net lettable area will be 5,092 sq.ft.
- 2.6 Further advice has been sought from Savills on market demand and market rents and they have advised that an average rent of some £14 per sq.ft should be achievable. A service charge is advised to be capped at £4-5 per sq. ft.
- 2.7 It is estimated the business centre will create some 220 jobs over a ten year period, through growth of businesses and turnover of tenancies that allows other growing enterprises to occupy the workspace.
- 2.8 There has been continuing positive dialogue with Magnox over the scheme and the indications are that an application for grant funding towards the development of the business hub will be successful.
- 2.9 Positive discussions have been held with EKSDC management about being a co-investor to bring-forward new business space. As a result, a report recommending a joint investment with the Council to bring forward the business centre is to be considered at the next EKSDC Board meeting in September.
- 2.10 An indicative timetable for the business centre is shown at Appendix 4.
- 2.11 The remainder of the Phase 4 site (as indicated in Appendix A) comprises some 5 hectares of undeveloped land that requires major investment to bring it forward for employment uses. Nevertheless, there has been significant interest in this land from local companies seeking to expand. It is therefore proposed that the Council invites expressions of interest for the sale of this land, with any feasible propositions coming forward to be considered by Cabinet.

3. Business Centre Financial Plan

- 3.1 Based on Savills advice and discussions with EKSDC, a financial projection for the first 5 years is shown at Appendix 5. It is based on an average rent of £14 plus a £5 service charge per sq.ft.

- 3.2 It is projected 'full' occupancy will be achieved after 18 months.
- 3.3 'Full' occupancy is set at 92% to allow for units becoming vacant for short periods as businesses leave and new occupiers take possession.
- 3.4 It is assumed that EKSDC and FHDC will each receive 50% of the net income generated.
- 3.5 Phase 4 is the major employment generating project in Romney Marsh. Bringing forward the business centre as a first stage will create the initial 220 jobs over ten years to help sustain the local economy. The business centre is not an attractive proposition commercially as, based on the rental income over 25 years, it achieves a low return on investment of slightly less than 2%. Hence the need for alternative funding.

4. CONSULTATION

- 4.1 The original master planning work involved public consultation with local residents and organisations and included an Open Day at Romney Resource Centre in January 2018 where development options were presented and explored.
- 4.2 The Romney Marsh Partnership has been involved throughout the development of the feasibility study and masterplanning work and supported the final version published in March 2018.
- 4.3 The masterplan proposals were supported by the New Romney Coastal Community Team and included in its Economic Plan.
- 4.4 Consultation has also been carried out with the Folkestone and Hythe Business Advisory Board which was supportive of the proposal.
- 4.5 The processing of the related planning applications for the business centre and land invited public comments including from New Romney Town Council. The planning applications have been approved subsequently with no objections raised.

5. RISK MANAGEMENT ISSUES

- 5.1 There is risk management involved in this project.

Perceived risk	Seriousness	Likelihood	Preventative action
EKSDC decides not to jointly invest in the business centre	High	Low	Good liaison and briefing of CEO and Board members to ensure this opportunity is well understood and supported.
Magnox Socio-economic grant funding is unsuccessful	High	Low	A good working relationship has been established with Magnox and direct advice and input to be sought on application
Construction costs increase significantly	High	Medium	Costs will be closely monitored and if necessary, the scheme

			will be reviewed to find cost savings
Lack of take up of units	Medium	Low	Active management of the business centre and business support provision potentially by EKSDC who actively manage similar centres Potential use of the remainder of the Marsh Million fund for grants/loans specifically to attract tenants. Flexibility of workspace for other uses such as for training purposes

6. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

6.1 Legal Officer's Comments (NE)

The report has no legal implications but, depending on the Options pursued, legal advice on contractual arrangements will be required including external legal advice where required.

6.2 Finance Officer's Comments (LW)

The Council's General Fund Medium Term Capital Programme to 2023/4 makes budgetary provision of £2.53m for Phase 4 of Mountfield Road. The proposed scheme would require the Council and EKSDC to contribute £735,000 each (with a further £500k grant from Magnox). The Council's contribution would be funded from the Kent 100% business rates pilot (total of £1,007,671 available) and value of the land to be developed. Appendix 5 indicates the new business centre achieves full occupancy in Year 3 to generate a net annual income of £57,560 which is to be shared equally between FHDC and EKSDC resulting in additional income of £28,780 to the General Fund in a full year.

6.3 Diversities and Equalities Implications

There are no diversities and equalities implications in this report.

6.4 Human Resources Comments (PR)

There are no HR implications in this report.

7. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officer prior to the meeting

Graham Hammond, Senior Specialist (Economic Development)
Telephone: 07841 801050
Email: graham.hammond@folkestone-hythe.gov.uk

The following background documents have been relied upon in the preparation of this report:

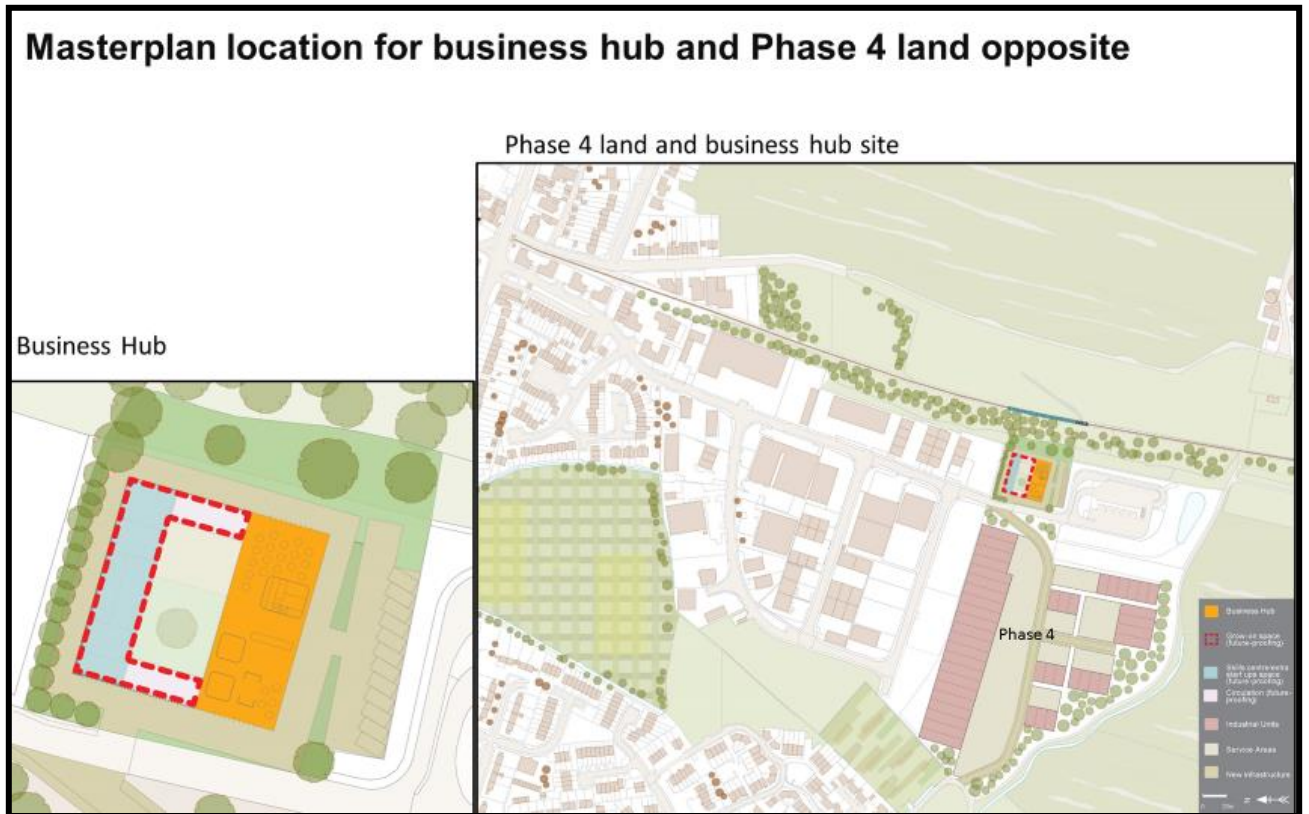
Mountfield Road Industrial Estate, New Romney Masterplan Report (Curl La Tourelle Head) – March 2018
Report & Valuation (Confidential - Savills) - October 2018
Business Workspace Cost Plan (Martello) – August 2018

Appendices:

- Appendix 1: Location and site plans
- Appendix 2: Business workspace layout and future expansion space
- Appendix 3: Cost and proposed funding
- Appendix 4: Key timelines for business centre
- Appendix 5: 5-year financial projection

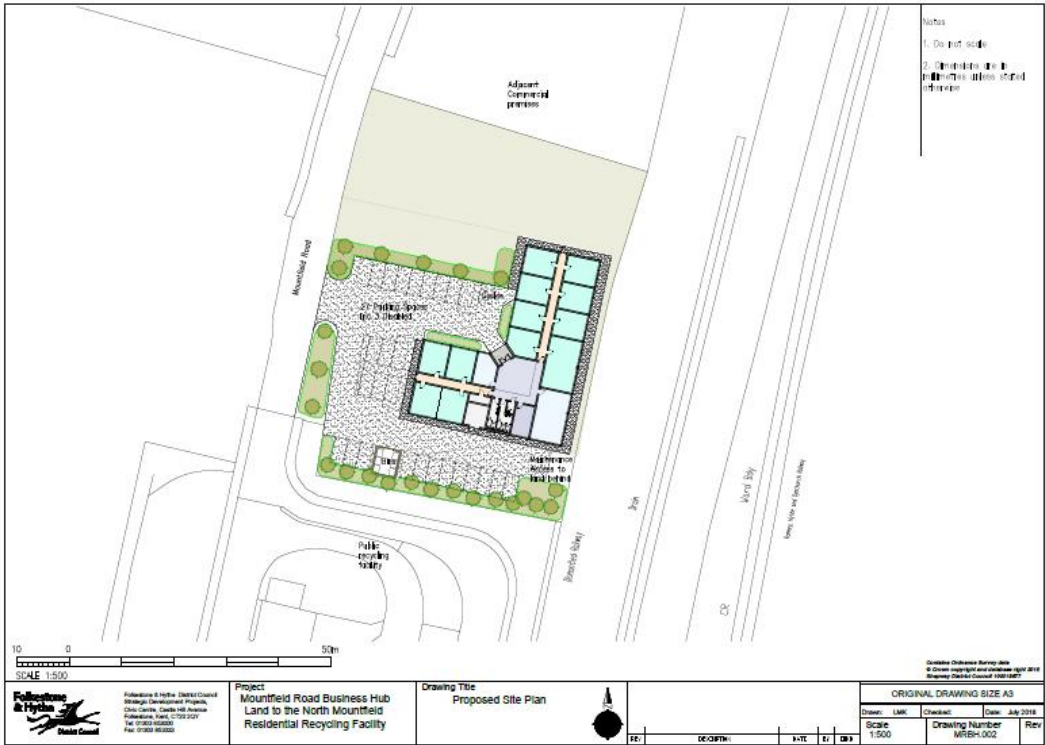
APPENDIX 1

Location and site plan for business centre (business hub)



APPENDIX 2

Business Centre layout and future expansion space



APPENDIX 3

Financial cost and proposed funding

Investment source	Amount £
EKSDC	735,000
FHDC*	735,000
Magnox Socio-Economic Fund	500,000
Total	1,970,000
*FHDC contribution includes land value of £164,500	

APPENDIX 4

Key timelines for business centre

Key stages	Timeline	Status
Masterplan report	March 2018	Completed
Business centre design reviewed and revised	June 2018	Completed
Revised design costings	August 2018	Completed
Planning consent for business centre	September 2018	Completed
Building regulations (part)	November 2018	Completed
Funding applications submitted to Magnox, CCF and SELEP	October 2018 – February 2019	Completed
EKSDC Board funding decision	September 2019	
FHDC funding decision	September 2019	
Full application to Magnox	September 2019	
Develop business centre design & build contract specification	September – December 2019	
Joint venture between EKSDC and FHDC agreed	December 2019	
Magnox grant awarded	December 2019	
Tender contract	January 2020	
Appoint contractor	May 2020	
Construction commences	July 2020	
Practical completion	June 2021	

APPENDIX 5

Five-year financial projection

	Year 1	Year 2	Year 3	Year 4	Year 5									
100% rent	96748	96748	99650.44	102640	105719.2									
Year 1														
	5%	10%	15%	20%	25%	30%	35%	40%	45%	50%	55%	60%		
	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Month 7	Month 8	Month 9	Month 10	Month 11	Month 12	Total	
Income	403	806	1209	1612	2016	2419	2822	3225	3628	4031	4434	4837	31443	
Rates	0	0	0	0	0	0	1602	1479	1355	1232	1109	986	7762	
Utilities	740	740	740	740	740	740	740	740	740	740	740	740	8880	
Cleaning	370	370	370	370	370	370	370	370	370	370	370	370	4440	
Maintenance	250	250	250	250	250	250	250	250	250	250	250	250	3000	
Insurance	0	0	0	0	0	0	0	0	0	0	0	0	0	
Marketing	505	505	505	505	505	505	505	505	505	505	505	505	6060	
Staff costs	300	300	300	300	300	300	300	300	300	300	300	300	3600	
	-1762	-1359	-956	-553	-149	254	-945	-419	108	634	1160	1687	-2299	
Year 2														
	65%	70%	75%	80%	85%	92%	92%	92%	92%	92%	92%	92%		
	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Month 7	Month 8	Month 9	Month 10	Month 11	Month 12	Total	
Income	5241	5644	6047	6450	6853	7417	7417	7417	7417	7417	7417	7417	82155	
Rates	862	739	616	493	370	197	197	197	197	197	197	197	4460	
Utilities	762	762	762	762	762	762	762	762	762	762	762	762	9146	
Cleaning	381	381	381	381	381	381	381	381	381	381	381	381	4573	
Maintenance	258	258	258	258	258	258	258	258	258	258	258	258	3090	
Insurance	4000	0	0	0	0	0	0	0	0	0	0	0	4000	
Marketing	520	520	520	520	520	520	520	520	520	520	520	520	6242	
Staff costs	309	309	309	309	309	309	309	309	309	309	309	309	3708	
	-1852	2674	3201	3727	4253	4990	4990	4990	4990	4990	4990	4990	46935	
Year 3														
	92%	92%	92%	92%	92%	92%	92%	92%	92%	92%	92%	92%		
	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Month 7	Month 8	Month 9	Month 10	Month 11	Month 12	Total	
Income	7640	7640	7640	7640	7640	7640	7640	7640	7640	7640	7640	7640	91678	
Rates	203	203	203	203	203	203	203	203	203	203	203	203	2437	
Utilities	785	785	785	785	785	785	785	785	785	785	785	785	9421	
Cleaning	393	393	393	393	393	393	393	393	393	393	393	393	4710	
Maintenance	265	265	265	265	265	265	265	265	265	265	265	265	3183	
Insurance	4120	0	0	0	0	0	0	0	0	0	0	0	4120	
Marketing	536	536	536	536	536	536	536	536	536	536	536	536	6429	
Staff costs	318	318	318	318	318	318	318	318	318	318	318	318	3819	
	1020	5140	5140	5140	5140	5140	5140	5140	5140	5140	5140	5140	57560	
Year 4														
	92%	92%	92%	92%	92%	92%	92%	92%	92%	92%	92%	92%		
	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Month 7	Month 8	Month 9	Month 10	Month 11	Month 12	Total	
Income	7869	7869	7869	7869	7869	7869	7869	7869	7869	7869	7869	7869	94429	
Rates	209	209	209	209	209	209	209	209	209	209	209	209	2510	
Utilities	809	809	809	809	809	809	809	809	809	809	809	809	9703	
Cleaning	404	404	404	404	404	404	404	404	404	404	404	404	4852	
Maintenance	273	273	273	273	273	273	273	273	273	273	273	273	3278	
Insurance	4244	0	0	0	0	0	0	0	0	0	0	0	4244	
Marketing	552	552	552	552	552	552	552	552	552	552	552	552	6622	
Staff costs	328	328	328	328	328	328	328	328	328	328	328	328	3934	
	1051	5294	5294	5294	5294	5294	5294	5294	5294	5294	5294	5294	59286	
Year 5														
	92%	92%	92%	92%	92%	92%	92%	92%	92%	92%	92%	92%		
	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Month 7	Month 8	Month 9	Month 10	Month 11	Month 12	Total	
Income	8105	8105	8105	8105	8105	8105	8105	8105	8105	8105	8105	8105	97262	
Rates	215	215	215	215	215	215	215	215	215	215	215	215	2585	
Utilities	833	833	833	833	833	833	833	833	833	833	833	833	9995	
Cleaning	416	416	416	416	416	416	416	416	416	416	416	416	4997	
Maintenance	281	281	281	281	281	281	281	281	281	281	281	281	3377	
Insurance	4371	0	0	0	0	0	0	0	0	0	0	0	4371	
Marketing	568	568	568	568	568	568	568	568	568	568	568	568	6821	
Staff costs	338	338	338	338	338	338	338	338	338	338	338	338	4052	
	1082	5453	5453	5453	5453	5453	5453	5453	5453	5453	5453	5453	61065	

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This Report will be made public on 3 September 2019.



Report Number **C/19/21**

To: Cabinet
Date: 11 September 2019
Status: Key Decision
Head of Service: Katharine Harvey, Chief Economic Development Officer
Cabinet Member: Councillor Wimble – Cabinet Member for District Economy

SUBJECT: Folkestone & Hythe District High Streets Fund

SUMMARY:

This report sets out proposals for investing and managing the Council's £3 million High Streets Regeneration Fund that has been established to support and help high streets in the district adapt for the future.

REASONS FOR RECOMMENDATIONS:

Cabinet is asked to agree the recommendations set out below because approval is required to allocate the £3 million reserve funds earmarked for the regeneration of high streets in the district.

RECOMMENDATIONS:

1. To receive and note report C/19/21.
2. To consider the appropriateness of the proposed funding split between high streets in the district as set out in paragraph 2.4.
3. To agree to the establishment of the Folkestone & Hythe High Streets Fund and the application process as set out below.
4. To agree to delegate the decisions on approving the expenditure of these funds as set out in paragraphs 2.7 and 3.4.

1. INTRODUCTION

- 1.1 Many high streets are currently facing significant challenges as a result of structural changes to the way in which consumers shop for goods. With the rise of online sales and the increased cost pressures facing retailers, many high streets are struggling with falling footfall and sales.
- 1.2 In recognition of these issues, the FHDC Cabinet agreed in February 2019 to establish a £3 million earmarked reserve fund for 'High Streets Regeneration' to support the delivery of regeneration projects within the district. This was in recognition of "the challenge being faced by the high streets in our communities at this time", and as high streets across the district are "looking to deal with a number of adverse pressures" (Cabinet C/18/74).
- 1.3 The aim of this fund is to "support and sustain high streets for the foreseeable future [and] support the Council's work in meeting this aim through investment in planning, studies and direct investment where appropriate" (Cabinet C/18/74).
- 1.4 This report sets out a proposed mechanism for allocating this funding to support high streets across the district, which will ensure that it has the greatest impact on addressing the issues and the district's high streets adapt for the future.

2. THE FOLKESTONE & HYTHE HIGH STREETS FUND

- 2.1 The Folkestone & Hythe High Street (FHHS) Fund will be used in three ways:
 - a) To take forward major capital investments opportunities and other initiatives led by FHDC to help transform Folkestone town centre, the largest town in the district.
 - b) To provide contributory funding to external organisations to take forward initiatives to address issues and improve Folkestone and other key High Streets in the district
 - c) To provide a fixed term 2 year contract for a resource within the Economic Development team to support successful grant applicants deliver projects and to promote the contribution of the Council towards the initiatives.

A. FHDC investments in Folkestone Town Centre

- 2.2 FHDC recently submitted an Expression of Interest to the government's Future High Streets Fund for Folkestone Town Centre. This submission required FHDC to identify the issues facing the town centre and the vision and plans, including a capital investment programme, to address these.
- 2.3 Although the council was not successful, this was anticipated because of the early stage of plans and no capital scheme was yet identified. Nevertheless, the submission was made to demonstrate the council's ambition and commitment to improving Folkestone town centre and earmarking the FHHS Fund also highlighted this commitment.
- 2.4 It is proposed that £2.5 million of the £3 million FHHS Fund (available from 2019/20) is focused on Folkestone town centre. This proportion is because:

- Folkestone is the largest and most important retail centre in the district and its success is important to all parts of the district.
- Folkestone offers the only opportunity for leveraging in government investment to the district to bring forward new opportunities to future-proof its town centre. The Future High Streets Fund call for projects limited the district to funding for only one location and Folkestone was chosen as the largest centre in the district. FHDC's will have a second call for projects in 2020.
- Folkestone offers the best opportunity to deliver a commercially viable proposition that would attract private investment.

2.5 FHDC is at an early stage in the process of developing a capital programme for a scheme in Folkestone town centre, but work is progressing rapidly. This has been made all the more important following the recent Debenhams announcement to withdraw from Folkestone town centre in 2020.

2.6 It is proposed to use the FHHS Fund in Folkestone to:

- Support the development of a wider town centre masterplan and development framework which identifies a programme of capital investments for improving Folkestone town centre.
- Support business case development work for specific town centre capital schemes.
- Provide funding towards capital schemes (including land and building acquisition) for which private sector funding and/or the government's Future High Streets Fund could also be sought.
- Provide funding for and to support key infrastructure projects coming forward around the town centre.
- Provide funding for a range of 'softer' initiatives to improve Folkestone town centre (such as maximising the impact of the street market, developing a 'digital high street', providing 'pop-up shop' opportunities and support for new independent businesses, etc.). These initiatives could be led by FHDC or by other organisations that would apply to the proposed Folkestone & Hythe High Streets Grant Fund.
- Provide a resource to manage town centre initiatives to ensure maximum impact.

2.7 For Folkestone Town Centre activities and initiatives that council officers lead on, the decision to fund these will be taken by the Leader in conjunction with the Corporate Director for Place and Commercial.

B. Folkestone & Hythe High Streets Grants Fund; Contributory Funding

2.8 It is proposed that up to £500,000 of the FHHS Fund is made available as a grant towards investments in other high streets in the district's retail hierarchy centres. These high streets include:

- Cheriton
- Sandgate

- Hythe
- New Romney
- Lydd
- Hawkinge
- Dymchurch
- Elham
- Lyminge
- Sellindge

2.9 To ensure that investment is specifically focused on the high street areas within these locations, the areas and properties eligible for this funding will be identified and these maps will be issued as part of the Call for Projects.

2.10 This element of the FHHS Fund will provide grants between £5,000 and £50,000 towards any individual project, and in normal circumstances this will be expected to comprise a maximum of 50% of the total project cost. However, in exceptional circumstances, and at its discretion, the Council may award 100% of the funding for a project. Exceptional circumstances will be considered as part of the formal decision making process as outlined in paragraph 3.4 below.

2.11 Where match funding is required, this will need to be secured from other sources, such as:

- Own reserves/sources
- Bank loans
- KCC No Use Empty/ No Use Empty Plus scheme loans
- Parish or Town Council funds

2.12 The types of organisations that will be eligible for grant funding includes:

- Commercial property freehold owners or leaseholders with at least 5 years left on lease when the work is expected to be completed and permission for the works from the freeholder
- Town or Parish councils
- Other public organisations such as Folkestone Town Team CIC

2.13 The types of projects that will be eligible for grant funding includes, but is not limited to:

- External renovations or improvements to front elevations of buildings (areas visible from the high street), including repairs, repainting of shop fronts in suitable colours, signage, external lighting, security grilles and/or security glazing, repair of external stonework and brickwork and repair and reinstatement of guttering and down-pipes.
- Internal ground floor fit-outs or conversion to commercial properties.
- Improvements to the townscape, including the introduction of signage, new route ways, new public realm, such as art works or landscaping.
- Introduction of technology and new innovative products, to support the development of commercial operations.
- Initiatives and events to increase the vitality of the High Street.

- Work towards developing a project to improve the vitality or physical environment of the High Street, as a precursor to a further application to the fund or other funding source.

2.14 The towns of Folkestone, Dymchurch, Hythe and New Romney have previously received government funding to establish coastal community teams (CCTs) and develop economic plans which identify initiatives to improve these towns. The FHHS Fund is a potential source for a funding contribution towards any of these initiatives that relate to the High Street.

3 THE FHHS FUND APPLICATION PROCESS

3.1 Grant applications from external organisations will be made via an online form accessible on the Folkestone & Hythe District Council website. A draft online application form and details of the additional information required by applicants is set out in Appendix 1.

3.2 The Grant scheme will be launched on 1st October 2019 and grant applications can be submitted at any time until the closure of the scheme. The scheme will run until either 31st March 2021 or until the funds are allocated.

3.3 Applications will be considered on a first come first served basis and will be assessed in the first instance on the basis of criteria set out in Appendix 2 by the Economic Development Team.

3.4 Final decisions on individual applications will be made by the Leader of the Council, in collaboration with the Lead Cabinet Member for the District Economy, and a councillor drawn from the ward where funding is proposed.

4. RISK MANAGEMENT ISSUES

4.1

Perceived risk	Seriousness	Likelihood	Preventative action
A high number of applications puts resource pressure on the ED team	High – the ED team comprises only 2.6 FTEs and this is a new activity that was not identified in the 2019/20 Service Area plan	Low	The additional 1FTE resource paid for from this fund to work with successful applicants, will be able to provide additional support to help assess applications if needed.
A low number of applications due to a lack of resource within organisations to develop a project idea/ application	High – lack of capacity due to limited public sector resources.	Low	Applications can be made to the fund for capacity to develop project ideas in the first instance

A low number of applications due to a lack of resource to provide match funding for projects	High – lack of finance available due to limited public sector funds	Low	The fund will be able to provide 100% funding for projects, at the discretion of the council, where match funding is an issue
Funding is used to support small projects which have limited impact	High – lack of match funding and resource available due to limited public sector funds	Low	The criteria used to assess projects will ensure that only those impacting positively are supported and the value for money will consider the impact in relation to the size of grant sought. The provision of support within the ED team to take forward projects will help encourage significant projects to come forward. The availability of funding for project development will encourage projects that will have a significant impact to come forward.
The council does not benefit from positive publicity for the investments	High – lack of finance available due to limited public sector funds	Low	The provision of support within the ED team to take forward projects will help to ensure that the council gets maximum positive publicity through close working with the Communications team.

5. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

Legal Officer’s Comments (NE)

- 5.1 There are no legal implications associated with the recommendations in this report. However, any grants that are made available to third parties by FHDC will need to be legally documented and the legal team can assist with this.

Finance Officer's Comments (LK)

- 5.2 There is £3m available in the High Street Regeneration Reserve to be drawn down against as and when required

Human Resources Officer's Comments (AS)

- 5.3 The additional 1fte officer would be on a time limited role, two year funded from the High Streets fund and would not have a direct impact on the annual salary base budget. However, in order to be able to provide an annual salary for the role HR would need to review a job description and ensure it was considered by a job evaluation panel before advertising for the role.

Communications Officer's Comments (AW)

- 5.4 A communications strategy will need to be developed to promote the fund and there are many opportunities for positive communications around supporting businesses. This can also become part of the district place narrative

Diversities and Equalities Implications

- 5.5 There are no diversities or equalities implications arising.

7. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officer prior to the meeting

Telephone: 01303 853287

Email: katharine.harvey@folkestone-hythe.gov.uk

Appendices

1. Folkestone & Hythe High Street Fund Application form and Information required
2. Folkestone & Hythe High Street Fund Gant Assessment Criteria

**Appendix 1: Folkestone & Hythe High Street Fund
Application form and Information required**

**FOLKESTONE & HYTHE HIGH STREET FUND
APPLICATION FORM**



1. Name of applicant organisation	
2. Name and details of contact in applicant organisation	
3. Location or Property Address (including postcode) for project	
4. Project title and description	
<u>If your project relates to a specific property address, please answer question 5.</u>	
5a. Indicate the status of your organisation in relation to the property (e.g. leaseholder, freeholder, prospective leaseholder, prospective freeholder)	
<u>If you are a leaseholder, please provide the following information</u>	
Lease dates	
Name and address of Freeholder	
Has permission been granted by the freeholder for the project (Y/N) <i>Please note: a letter from the freeholder confirming this is required with this application</i>	
5b. Indicate if planning and/or building consents have been granted for the project. <i>Please note that copies of these permissions are require with this application</i>	

6. Project Financial Details	
Total Project Cost (£) <i>Please break this into the different spend components as appropriate</i>	
Grant required (£)	
Is your match funding secured? (Y/N)	
Source of match funding	
7. Project start date	
8. Project completion date	
9. Please identify any support you have from other organisations for this project and the origins and reasons for this support. Please indicate if your project is identified in a Coastal Community Team (CCT) Economic Plan. Letters of support from partners supporting the application are desirable.	
10. How and why this project will benefit the High Street.	
11. How significant will this project be to improving the High Street	
12. What importance and priority should be given to this project for this High Street?	
13. What are your plans for ensuring this project is sustainable once grant funding ends?	
14. How should the success of your project be determined?	

15. Do you have a business plan for your project (Yes/No)? If Yes, please submit with application.	
Signature : Name:	
Dated:	
Please submit this application to:	For further information please contact:-
economy@folkestone-hythe.gov.uk	Lorraine Smith Economic Development Officer 01303 853274 lorraine.smith:@folkestone-hythe.gov.uk

Appendix 2: Folkestone & Hythe High Street Fund

Grant Assessment Criteria

1. Eligibility of property/high street
2. The nature and timing of the proposed works/project
3. Significance and priority of project (e.g. is it a project identified in the CCT Economic Plan?)
4. Level of partner support
5. Size of grant required
6. Match funding source
7. Credibility of the lead applicant
8. Impact on improving the high Street
9. Value for money – size of grant versus impact
10. Sustainability of project and plans after completion

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