

You are requested to attend a meeting of the Corporate Governance Committee to be held in The John Meikle Room, The Deane House, Belvedere Road, Taunton on 8 December 2014 at 18:15.

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### Agenda

- 1 Apologies.
- 2 Minutes of the meeting of the Corporate Governance Committee held on 22 September 2014 (attached).
- 3 Public Question Time.
- 4 Declaration of Interests  
To receive declarations of personal or prejudicial interests, in accordance with the Code of Conduct.
- 5 Health and Safety Update. Report of the Health and Safety Manager (to follow).  
Reporting Officer: Catrin Brown
- 6 Presentation on Pensions Deficit. Presentation of the Funds and Investment Manager (attached).  
Reporting Officer: Anton Sweet
- 7 Grant Thornton External Audit - Annual Audit Letter 2013/14. Report of the Audit Manager and Appointed Auditor (attached).  
Reporting Officers: Ashley Allen  
Peter Barber
- 8 Grant Thornton External Audit - Audit Update. Report of the Audit Manager and Appointed Auditor (attached).  
Reporting Officers: Ashley Allen  
Peter Barber
- 9 SWAP Internal Audit - Progress Report on Internal Audit Plan. Report of the Audit Manager (attached).  
Reporting Officer: Alistair Woodland
- 10 Corporate Governance Action Plan Update. Report of the Corporate Strategy and Performance Manager (attached).  
Reporting Officer: Paul Harding

- 11 Regulation of Investigatory Powers Act (RIPA) - Update following Inspection. Report of the Assistant Chief Executive and Monitoring Officer (attached).  
Reporting Officer: Bruce Lang
- 12 Report on Voluntary Code for Self-Financing Housing Revenue Account. Report of the Director - Housing and Communities and Housing Service Lead - Housing and Communities (attached).  
Reporting Officers: James Barrahan  
Stephen Boland
- 13 Corporate Governance Committee Forward Plan - details of forthcoming items to be considered by the Corporate Governance Committee and the opportunity for Members to suggest further items (attached)

Bruce Lang  
Assistant Chief Executive

17 September 2015

Members of the public are welcome to attend the meeting and listen to the discussions.

There is time set aside at the beginning of most meetings to allow the public to ask questions.

Speaking under “Public Question Time” is limited to 4 minutes per person in an overall period of 15 minutes. The Committee Administrator will keep a close watch on the time and the Chairman will be responsible for ensuring the time permitted does not overrun. The speaker will be allowed to address the Committee once only and will not be allowed to participate further in any debate.

Except at meetings of Full Council, where public participation will be restricted to Public Question Time only, if a member of the public wishes to address the Committee on any matter appearing on the agenda, the Chairman will normally permit this to occur when that item is reached and before the Councillors begin to debate the item.

This is more usual at meetings of the Council’s Planning Committee and details of the “rules” which apply at these meetings can be found in the leaflet “Having Your Say on Planning Applications”. A copy can be obtained free of charge from the Planning Reception Desk at The Deane House or by contacting the telephone number or e-mail address below.

If an item on the agenda is contentious, with a large number of people attending the meeting, a representative should be nominated to present the views of a group.

These arrangements do not apply to exempt (confidential) items on the agenda where any members of the press or public present will be asked to leave the Committee Room.

Full Council, Executive, Committees and Task and Finish Review agendas, reports and minutes are available on our website: [www.tauntondeane.gov.uk](http://www.tauntondeane.gov.uk)



Lift access to the John Meikle Room and the other Committee Rooms on the first floor of The Deane House, is available from the main ground floor entrance. Toilet facilities, with wheelchair access, are also available off the landing directly outside the Committee Rooms.



An induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter.

**For further information about the meeting, please contact the Corporate Support Unit on 01823 356414 or email [r.bryant@tauntondeane.gov.uk](mailto:r.bryant@tauntondeane.gov.uk)**

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**Corporate Governance Committee Members:-**

Councillor D Reed (Chairman)  
Councillor A Beaven  
Councillor S Coles  
Councillor B Denington  
Councillor E Gaines  
Councillor A Govier  
Councillor T Hall  
Councillor J Horsley  
Councillor J Hunt  
Councillor S Lees  
Councillor Miss F Smith  
Councillor P Smith  
Councillor V Stock-Williams  
Councillor (Historic)Mrs E Waymouth  
Councillor A Wedderkopp

## Corporate Governance Committee – 22 September 2014

Present: Councillor D Reed (Chairman)  
Councillor Coles (Vice-Chairman)  
Councillors Beaven, Denington, Gaines, Govier, Hall, Horsley, Hunt,  
Miss Smith, P Smith, Mrs Stock-Williams, Mrs Waymouth and  
A Wedderkopp.

Officers: Catrin Brown (Senior Environmental Health Officer – Health and Safety),  
Paul Fitzgerald (Assistant Director - Resources), Jo Nacey (Finance  
Manager), Paul Harding (Corporate and Client Lead), Bruce Lang  
(Assistant Chief Executive), Richard Sealy (Assistant Director - Corporate  
Services), Shirlene Adam (Director of Operations and Section 151 Officer)  
and Emma Hill (Corporate Support Officer).

Also Present: Councillor Morrell  
Peter Barber (Grant Thornton)  
Ashley Allen (Grant Thornton)  
Alastair Woodland (South West Audit Partnership)

(The meeting commenced at 6.15 pm)

### 38. Minutes

The minutes of the meeting held on 23 June 2014 were taken as read and were signed.

### 39. Declaration of Interests

Councillors Coles, Hunt and A Wedderkopp declared personal interests as Members of Somerset County Council. Councillor A Wedderkopp also declared a personal interest as a Member of Wessex Water's Environmental Panel

### 40. Update on Health and Safety Performance and Strategy for 2014-2015

Considered report previously circulated, which provided an update on the progress of a range of Health and Safety matters across the organisation.

Below was a summary of topics which included:-

- Accident and Incident data for the part of the financial year 2014-2015 was as follows:-

<b>TDBC Accident Totals 1st April 2014 - 31st May 2014</b>					
Classification	TDB C	WSC	DLO & Crematorium	Public	Tenants (public areas)
Reportable					
Non-reportable	4	1	16	3	2
Near Miss			1		
Period Total	<b>4</b>	<b>1</b>	<b>17</b>	<b>3</b>	<b>2</b>

- There had been no significant accident investigations undertaken since the last Corporate Governance Committee.
- Key performance indicator monitoring from 1 April 2014 showed three of four indicators were green and on target with the KPI relating to carrying out five targeted audits per quarter.
- Progress had been made with the Internal Audit recommendations. This work was trying to raise the profile of the service.
- Training had been organised for the new Tier 4/5 Managers as part of their familiarisation sessions as well as Corporate Health and Safety inductions now being carried out for all new starters and employees transferred to TDBC from WSC.
- The Health and Safety Policy for the organisation would be reviewed next quarter after the JMASS project as would the Lone Worker Policy with arrangements being made to extend the Deane Helpline lone worker service to all lone workers across the organisation.
- Following asbestos management concerns at the Priory Depot, a follow up asbestos survey had been carried out and remedial actions had been taken and were subject to regular monitoring.
- A programme of awareness training for all employees who visited sites where asbestos containing materials might be encountered was to be completed in September 2014.

During the discussion of this item, Members made comments and statements and asked questions which included: - (Responses are shown in italics)

- Concerns were expressed over the reporting of 17 incidents in only two months.  
*The Council was now encouraging employees to report all incidents/accidents in the new reporting style.*
- Why did the Council need to include WSC figures within the report?  
*This was included for reference purposes only and could be removed from future reports.*

**Resolved** that the implementation of the Health and Safety Strategy and its delivery and the initiatives to improve Taunton Deane's operating culture be noted

#### **41. External Audit 2013/2014 – Audit Findings Report**

Considered report previously circulated, which introduced the annual report of the Council's external auditor Grant Thornton outlining their findings from their audit of our Statement of Accounts, and our arrangements to secure Value for Money. This also incorporated a review of our financial resilience as a Council.

The key issues emerging from the audit were reported although there was nothing of significance. A small number of changes had been made to the final audited Statement of Accounts for 2013/2014, although none of these affected the financial position of the Council.

The audit process had again run smoothly, largely due to the excellent preparation work done by the Finance Team.

The findings reflected the robust planning systems in place at the Council, and the progress made to date in addressing the financial challenges faced together with the rest of the public sector. Members were however requested to note the significant challenges ahead and ensure they remained committed to the approach to budget setting outlined in the report to the Corporate Scrutiny Committee in September 2014.

During the discussion of this item, Members made comments and statements and asked questions which included: - (Responses were shown in italics)

- Could further details of Value for Money as it applied to the Housing Revenue Account be provided?  
*The latest version of the HRA had not been included but the auditors were chasing an update for this section.*
- Was the variety of levels of checking and auditing service financially viable?  
*There was a risk based approach on the large transactions in the accounts.  
The audit process was essential to provide openness and surety to the public and to members.*
- Looking at Value for Money, what was meant by this? There was no reference to local need and sustainable outcomes?  
*The key criteria set by the Audit Commission were financial resilience and economy effectiveness.*
- Concerning Benchmarking, there were certain areas of the Council services where it would be useful to look at other Local Authorities for their approaches?  
*Benchmarking against your peers was a good starting point for the Council. The Council needed to look at Local Authorities with similar responsibilities.*

**Resolved** that the report be noted.

#### **42. Approval of Statement of Accounts 2013/2014**

Considered report previously circulated, regarding the approval of the Council's Statement of Accounts 2013/2014.

The Statement of Accounts for 2013/2014 – a full copy of which had been submitted to Members - required approval by the Corporate Governance Committee before being signed off by the Section 151 Officer and the Chairman of the Corporate Governance Committee.

The Statement of Accounts for 2013/2014 had been prepared on an IFRS (International Financial Reporting Standards) basis in line with the CIPFA (Chartered Institute of Public Finance Accounting) Code of Practice on Local Authority Accounting in the UK.

Noted that there were a small number of changes required to the Council's accounting requirements, the details of which had already been reported to the Committee (Minute No 32/2014 refers).

There were no material errors related to previous years, or other material changes to accounting requirements, therefore no further changes to comparative financial details relating to 2012/2013 had been made.

Officers provided a summary on a range of topics from the Statements of Accounts including:-

- Movements in Reserves Statement;
- Comprehensive Income and Expenditure Statement;
- Balance Sheet;
- Cashflow Statement;
- Housing Revenue Account;
- Collection Fund; and
- Results of the Audit of the Statement of Accounts.

During the discussion of this item, Members made comments and statements and asked questions included: - (Responses were shown in italics)

- When would the Council know if the provision for Business Rates appeals was accurate? Also at what stage during the financial year would the Council know if it was a good or bad provision?  
*There was currently a large appeals back log and the Council was therefore waiting for these appeals to be processed as well as waiting for a validation before knowing whether the provision made was accurate or not. The Council was also awaiting the latest appeals list, which the Council checked every quarter.*
- Were the changes in Pensions included in the mid-term financial plan and how much were the employers going to have to contribute to address the deficit?  
*A report regarding Pensions with reference to the deficit would be brought to the Committee in due course*
- How would the impact of the deficit be dealt with moving forward?  
*At the start of the transformation project with WSC, a line was drawn relating to the historic pension debt which would continue to be the responsibility of each of the Councils. A fresh start would be made in relation to this topic with the transformed work force.*

**Resolved that:-**

- (1) The Auditor's unqualified opinion on the Statement of Accounts be noted;
- (2) The 2013/2014 Statement of Accounts be approved; and
- (3) The Chairman of the Committee and the Section 151 Officer be requested to sign the Council's Statement of Accounts.

#### **43. External Audit 2013/2014 Certification Plan**

Considered report previously circulated, concerning the External Audit Certification Plan for 2013/2014.



Various grant-paying bodies required external certification of claims for grant or subsidy and returns of financial information.

The Audit Commission had made certification arrangements with grant-paying bodies which included the issue of certification instructions.

These instructions were tailored to each scheme and set out the specific procedures to be applied in examining the claim or return.

Grant Thornton carried out a significant role in ensuring Taunton Deane's claims to the Government were robust and the report set out the plan for approaching this in 2013/2014.

**Resolved** that the external auditor's report outlining the recommended Certification Plan for 2013/2014 be noted.

#### **44. Internal Audit Plan 2014-2015 Progress Report**

Considered report previously circulated, concerning a progress report from the Council's Internal Audit Service regarding their work.

The Internal Audit function played a central role in corporate governance by providing assurance to the Committee, looking over financial controls and checking on the probity of the organisation.

The 2014-2015 Annual Audit Plan was on track to provide independent and objective assurance on TDBC's Internal Control Environment. This work would support the Annual Governance Statement.

It was reported that there were no significant risks but a number of high priority actions had been identified that required attention.

There were three outstanding reviews from 2013/2014. These were IT Financial Controls, Partnership Arrangements and Disaster Recovery Arrangements. It was anticipated that these should be finalised by the end of September 2014.

In conclusion, steady progress against the 2014/2015 plan had been made. It was recognised that significant changes had occurred over the last few months at TDBC with regard to officer responsibilities. This had caused some minor disruption to programming of audits and whilst the Auditors had diverted resource elsewhere it was anticipated this should be recovered throughout quarters three and four.

The auditors had also experienced two initial meeting cancellations with Southwest One (SWOne) on the software and hardware asset management audits, which had pushed this work back by a couple of months.

During the discussion of this item, Members made comments and statements and asked questions included: - (Responses were shown in italics)

- Further information was sought about purchase orders raised by Deane DLO.  
*The orders had been dealt with by the DLO and they had been processed and authorised outside the SAP system. They were genuine payments.*
- Were the auditors comfortable with the current position?  
*This would be considered in more detail before reporting back to the Committee on it.*
- What was meant by “developers” in the context of SWOne?  
*The ICT section of SWOne were working with SWAP and allowing them access to complete the audit process going forward.*
- With regard to ICT problems and risks the Committee sought assurance that the processes outside the normal was risk free.

**Resolved** that the progress made in delivery of the 2014/2015 Internal Audit Plan and significant findings to be noted.

#### **45. Risk Management Update Report**

Considered report previously circulated, about the corporate risks which were being managed by the Joint Management Team (JMT) as well as an action plan for improving risk management within the Council.

Both Taunton Deane and WSC recognised the importance of effective identification, evaluation and management of all key strategic and operational risks.

Risk management was a key element of the Council’s overarching Governance arrangements and it covered the whole spectrum of risks and not just those associated with finance, health and safety, business continuity and insurance. It also included risks associated with:

- Service provision,
- Effectiveness and continuity;
- Public image (reputation);
- Compliance with legislation; and
- Environment.

The Corporate Risk Register was a ‘live’ document which highlighted the key corporate risks facing the Council and was formally reviewed by JMT on a quarterly basis.

There were currently 18 risks which had been identified for inclusion on the Corporate Risk Register. This was an increase of one from the last time an update was provided to the Members of the Committee.

This additional risk related to the failure to deliver housing and employment land growth, as set out in the Development Plan, which had now been split into two separate risks.

During the discussion of this item, Members made comments and statements and asked questions included: - (Responses were shown in italics)

- There was a need to show the differences between the Councils relating to the projects and their progress.  
*The document was to give the Committee an idea what was on the Councils' radar and the progress being made to manage such risks.*
- There were risks that weren't on the register? Was the reason for this that a recovery plan was in place?  
*The main register was for significant Corporate Risks that required tracking and monitoring. During the JMT performance days, they would review the risks and the register.*

**Resolved** that the report be noted.

#### **46. Corporate Counter Fraud Approach Update Report**

Considered report previously circulated, concerning the progress being made in developing an approach to preventing Corporate Fraud.

Progress in developing our counter-fraud function had been affected by a number of factors such as Government announcements, the JMASS project and developments in the creation of the Department of Work and Pensions' (DWP) Single Fraud Investigation Service (SFIS).

The Council intended that the new Corporate Anti-Fraud function would be responsible for detecting and preventing fraudulent activity in a variety of areas.

The South West Audit Partnership Limited (SWAP) currently provided internal audit services to a number of authorities in the South-West. SWAP had been approached by a number of District Councils to ascertain if it could develop a joint cross-partner initiative on counter-fraud.

This was a phased project with a series of stages eventually covering a variety of Corporate Fraud areas but would start by covering some initial areas.

Taunton Deane, WSC and South Somerset District Council had worked together in progressing a bid for potential funding available through the Department of Communities and Local Government (DCLG) Counter Fraud Fund prospectus. Taunton Deane was acting as the lead authority for the bid submission made on 5 September 2014.

The bid had suggested that match funding of £40,000 could be made available by partner authorities in 2015/2016.

Further work was needed to develop the business case, and select the preferred delivery model either through SWAP, a Local Authority Partnership or a combination of a SWAP/Local Authority Partnership arrangement. In addition, discussions were continuing with other local authorities to confirm their commitment, or otherwise, in joining a partnership from the outset.

The ambition was to deliver a Corporate Anti-Fraud function that was effectively self-financing due to the additional income gathered as a result of the function's anti-fraud activities and measures.

During the discussion of this item, Members made comments and statements and asked questions included: - (Responses were shown in italics)

- If the work was to be completed by June 2015, would the DWP be taking over the Council staff and would they be TUPE'd across? Would the staff be working on cases from the Taunton Deane area?  
*DWP would be investigating Housing Benefit fraud whilst the Council would be dealing with Corporate Fraud as well as other risks. The Council would be building a business case for this service and this would look at experienced staff for the service.*
- If these staff moved across to DWP, the Council would be left with no experienced staff for the Corporate Fraud team at Taunton Deane.
- As the responsibility for Housing Benefit Fraud would sit with DWP, the experienced staff should go there. The Council would need staff experienced in other areas of fraud.
- Should Corporate Fraud be included on our Corporate Risk Register?  
*This would be considered by the Joint Management Team.*

**Resolved** that the:-

- (1) The report be noted; and
- (2) The Executive and Full Council be recommended to allocate match funding of up to £20,000 to develop a cost-effective Corporate Anti-Fraud function.

#### **47. Report on the Review of Standards Regime**

Considered report previously circulated, concerning the future composition and operation of the Standards Regime at the Council.

The Council had agreed in July 2012 to retain a Standards Committee to oversee the Standards Regime following the Localism Act 2011.

At its most recent meeting the Standards Committee had reviewed the processes by which it currently operated. During the debate there was much discussion and concern shared by all Members of the Committee that since the introduction of the Localism Act 2011, the Parish Councillors and Independent Members, who were now co-opted and had no right to vote, and therefore felt increasingly disenfranchised from the process.

In addition, reference was made to the fact that now that only Councillors had the right to vote there was a risk that the Committee could be perceived as operating in a "political" way when any Standards Regime needed to be perceived as being objective and be able to operate in an independent manner.

The Standards Committee had therefore agreed to request the Constitutional Sub-Committee to review the current arrangements. This review had recommended that consideration should be given to amending the Constitution in respect of the Standards Committee as follows:-

- (i) to increase the Parish Council representatives from two to three;
- (ii) the selection process for such membership to be determined and implemented by the Monitoring Officer;
- (iii) Independent and Parish Members of the Committee be granted full voting rights alongside the five elected Members appointed to serve on the Committee;
- (iv) the current requirement for the Committee and all Sub-Committees to be Chaired by an elected Member be amended so that the the Committee and any such Sub-Committees can be chaired by any Committee Member.

It was acknowledged that in the event of these recommendations being adopted, the Standards Committee would need to become an Advisory Committee in order to comply with the requirements of local government legislation and thereby need to make recommendations to Full Council.

The Constitutional Sub-Committee was also cognisant of the financial pressures currently being experienced by the Council and had therefore proposed that the reimbursement arrangements for members of the proposed Advisory Committee should remain as they were now to ensure that the proposal was cost neutral.

During the discussion of this item, Members made comments and statements and asked questions included: - (Responses were shown in italics)

- This new regime for the Standards Committee was more cumbersome. It should have been left as it was.
- If there was no Standards Committee and the Council received a complaint about a Councillor, where would it go?  
*Without a Standards Committee any complaints regarding Councillors would come to the Monitoring Officer, although all Councils were required to have an Independent Person who would be involved in the consideration of any such complaints.*
- The Constitutional Sub-Committee had decided that these changes would be appropriate for the Committee. As a Local Government Authority transparency and openness were key.

**Resolved** that Full Council be recommended to approve the proposed amendments to the Standards Committee regime to come into effect after the May 2015 local elections.

#### **48. Review of the Petitions Scheme**

Considered report previously circulated, which reviewed the Council's position on dealing with petitions.

The Local Democracy, Economic Development and Construction Act 2009 had made it a statutory duty for all Councils to adopt a formal petition scheme.

The scheme adopted by the Council in July 2010 had obliged the Council to respond appropriately to compliant petitions and inform people what action would be taken to address their concerns.

The scheme had to be published on the Council's website and by any other method appropriate for bringing it to the attention of those who lived, worked, studied and did business in the area.

The Council was also required to respond to petitions which related to the functions of its partner authorities and which sought an improvement in the economic, social or environmental wellbeing.

The Council was currently required to respond to all compliant petitions and had set thresholds for taking certain steps in response to a petition where practicable.

To date, very few petitions had been received that had required a Council debate or a referral to a Scrutiny Committee.

Further reported that the Localism Act 2011 had repealed the requirement for such a statutory petition scheme and there now was the opportunity for the Council to review its position and provide greater clarity and flexibility if it so wished.

As part of a review undertaken by the Constitutional Sub-Committee some research had been undertaken as to the trigger points for petition schemes that were currently operated by nearby and neighbouring local authorities. As a result the following three options had been considered:-

- (1) To retain the current scheme and perhaps consider giving this facility a higher profile to encourage the public to avail themselves of it;
- (2) To withdraw the current scheme and make the receipt and consideration of petitions as flexible as possible so that they could be dealt with in line with any correspondence received by the Council;  
and
- (3) To continue with a more formal scheme but to vary the trigger points in terms of amounts of signatures required to encourage greater participation.

The Sub-Committee had concluded that the authority had an overriding responsibility to promote democracy and it would therefore be advisable for the Council to retain a scheme of some form but to ensure that any such scheme should be flexible and user-friendly to encourage more petitions to be submitted in the future.

It was therefore recommended that consideration be given to instituting a simplified scheme whereby there was only one definition of a petition which must

contain at least 200 signatures which, if validated, would be debated or discussed at a meeting of the Full Council.

During the discussion of this item, Members made comments and statements and asked questions included:- (Responses were shown in italics)

- The aim was to produce a new procedure for submitting petitions that was easy to understand and also lowered the required signatory level to allow petitions relating to ward matters to come forward and trigger a Full Council debate as well as lowering the minimum age limit for signing a petition.
- Had the Committee thought about what they would do if five petitions were presented to be debated at each Full Council session. How would the Council deal with this?  
*The Council would find a way of dealing with it but this would show democracy working.*  
*After adjusting the levels, not many local authorities had received additional petitions.*
- Concerns were raised that lowering the level of signatures required would trigger too many trivial petitions.

**Resolved** that Full Council be recommended to approve the proposed amendments to the arrangement for submitting petitions to the Council.

#### **49. Corporate Governance Committee Forward Plan**

Submitted for information the proposed Forward Plan of the Corporate Governance Committee.

It was requested that the Annual Governance Statement be moved back to May rather than in June.

**Resolved** that the Corporate Governance Committee Forward Plan be noted.

(The meeting ended at 8.41pm).

# **Declaration of Interests**

## **Corporate Governance Committee**

- Members of Somerset County Council – Councillors Coles, A Govier, Hunt and A Wedderkopp
- Member of Wessex Water’s Environmental Panel – Councillor A Wedderkopp



# Taunton Deane Borough Council

## Corporate Governance Committee – 8<sup>th</sup> December 2014

### Update on Health and Safety Performance and strategy for 2014 - 15.

#### Report of the Corporate Health and Safety Advisor

(This matter is the responsibility of the Chief Executive and Leader of the Council.)

#### 1. Executive Summary

This report provides an update on the progress of a range of Health and Safety matters across the organisation. These include:

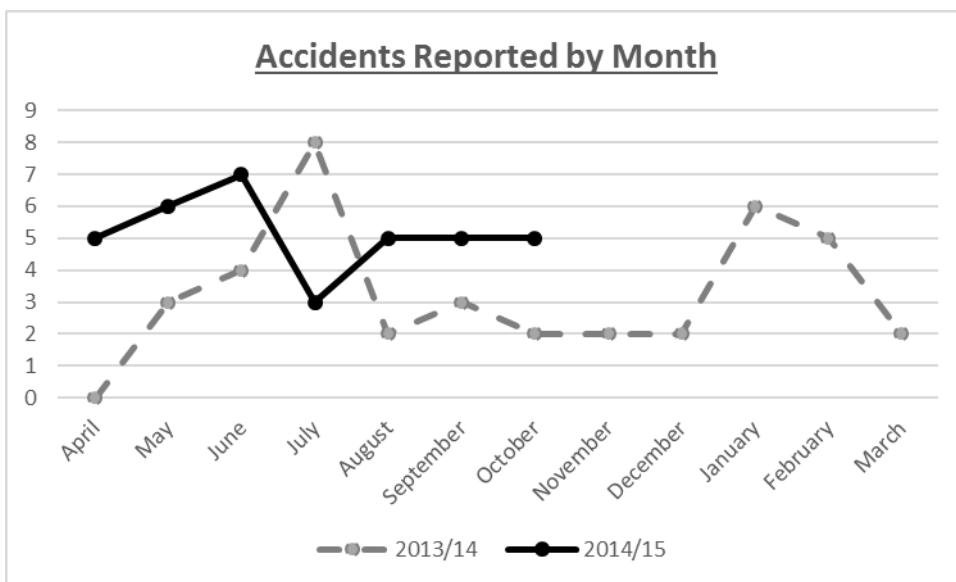
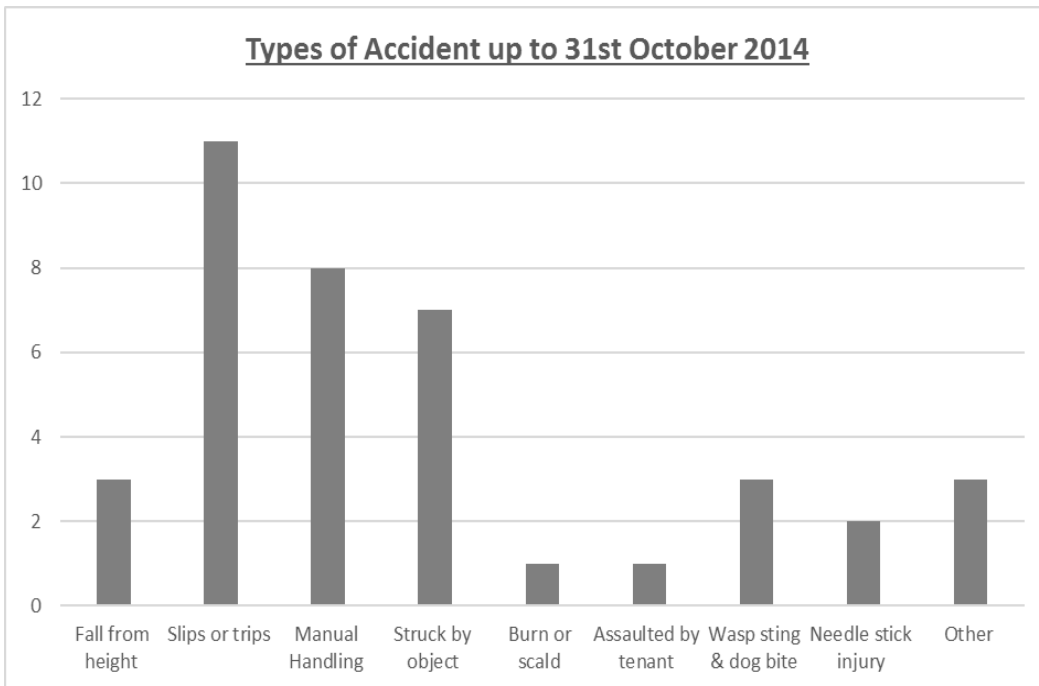
- Accident and Incident Data for the period
- Monitoring Health and Safety Performance
- Report on actions agreed by Health and Safety Committee
- Provision of health and safety information
- Policy updates
- Key activities of the Health and Safety Advisor

#### 2. Accident and Incident Data for the period

Figures provided up to 31<sup>st</sup> October 2014. Last year's figures listed below for comparison.

<b>TDBC Accident Totals 1st April 2013 - 31st March 2014</b>					
Classification	Core Council	DLO	Crematorium	Public	Contractors
Reportable		3		1	
Non-reportable	5	26		3	
Near Miss	1	4			
Period Total	<b>6</b>	<b>33</b>	<b>0</b>	<b>4</b>	<b>0</b>

<b>TDBC Accident Totals 1st April 2014 - 31st October 2014</b>				
Classification	TDBC	DLO & Crematorium	Public	Tenants (public areas)
Reportable	0	2	0	0
Non-reportable	5	25	3	2
Near Miss	0	1	0	0
Period Total	<b>5</b>	<b>28</b>	<b>3</b>	<b>2</b>



There have been 2 accidents and 1 incident reported under the Reporting of Injuries Diseases and Dangerous Occurrences Regulations 2012 (RIDDOR). Both accidents were where employees were off for more than 7 days as a result of their accident.

Accident 1- Cut to the leg during hedge cutting works.

Accident 2- Trip in a DLO store building leading to an awkward fall and exacerbation of a pre-existing condition.

Reportable Incident – asbestos notification covered in more detail at Paragraph 7 below.

As a result of 2 needle stick injuries this year to date and increased awareness amongst the community, a tool box talk and fact card has been produced and distributed and further in depth needle stick training is being sourced for those most at risk.

Due to the high proportion, slips and trips continue to be reviewed in detail (including consideration of weather, floor conditions and footwear). Manual handling tool box talks are regularly provided and highlighted with Managers where accident trends indicate a need.

### 3. Monitoring Health and Safety Performance

Monitoring of health and safety performance against the key performance indicators set out in the strategy has been carried out since 1 April 2014.

#### KPIs Monitored from 1 April 2014

- 1. Target to increase accident reporting by 10%**  
(37 accidents to date 2014 -15, 21 accidents in same period 2013 -14 = 76% increase)
- 2. Target to carry out accident investigation within 2 weeks**  
92% completed within 2 weeks.
- 3. Target to carry out 5 audits per quarter**  
  
4 full audits carried out to date plus 2 partially complete (2 in qtr1, 1 in qtr 2, 1 and 2 partial in qtr 3)
- 4. To ensure 100% of audit reports completed within 2 weeks**  
  
83% completed to date

<b>1</b>	<b>G</b>
<b>2</b>	<b>G</b>
<b>3</b>	<b>R</b>
<b>4</b>	<b>A</b>

As set out in the last report, KPI 3 would appear to be unrealistic and was set by the service as a target at the outset as an aspiration for delivery. Improved awareness of the H&S service has however increased requests for assistance and advice from Managers and employees across the organisation, with contact and progress made increasingly via this route than the planned proactive audits.

### 4. The arrangements for the Health and Safety Committee and agreed actions

The Priory Depot H&S Committee met on 9<sup>th</sup> October 2014 with the joint H&S Committee on 23 October 2014. A housekeeping tour was carried out beforehand and a report produced for Depot Managers to action.

The committee discussed joint organisational planning and agreed priorities for action, including:

- Reviewed H&S Policy to be produced by 1 February 2014

- Arrangements for Lone Working to be prioritised
- Display Screen equipment (computer workstation) arrangements to be reviewed with WSC
- Unison Safety Officers to try to recruit more safety representatives to ensure that there is cover across the Council.

The next TDBC & WSC joint Unison H&S Committee is to take place on 22 January 2015 at Deane House, Taunton. Priory Depot Committee will take place on 15 January 2015.

All policies continue to be circulated to the Health and Safety Committee for consultation.

## **5. Provision of Health and Safety Information**

Inductions: Two H&S inductions for new starters / those transferring from WSC have been carried out by the H&S Manager. Inductions cover H&S law, responsibilities of the employer and the employee and arrangements for safety within the organisation.

Tool box talk packs have been completed and copies given to DLO managers for use during team briefings. Talk packs are also available to download from the H&S intranet site. New information has been put together on the following key areas:

- Discarded needles
- Stress at work
- Accident prevention

Talks on the first part of the health surveillance programme (hand arm vibration and skin diseases) have been delivered by the H&S team to 76 DLO Building Services employees to date, with Parks and Open Spaces teams to be covered in the forthcoming weeks. The talks also covered dynamic risk assessment, reporting of hazards and near misses and reiterated needle stick advice. They were also an opportunity for employees to raise any concerns or questions. The programme will continue in the New Year with surveillance for those involved in non-licensed asbestos removal and working in confined spaces.

A health and safety update talk and question and answer session was held for Supported Housing Officers.

Asbestos awareness training has been delivered to DLO and TDBC visiting officers by G&L Consultancy Asbestos Specialists.

## **6. Policy updates**

Policies continue to be reviewed in accordance with a dated schedule and taken to joint Unison H&S Committee for approval prior to publishing.

## **7. Key activities of the Health and Safety Advisor**

RIDDOR reportable Incident:

At the beginning of October contractors installing Wi-Fi at Priory Depot damaged the artex type textured coating to the ceiling in order to pass cables through.

As a result the building was evacuated and licensed contractors and analysts were used to clean the affected areas and provide reassurance air testing before reoccupation. The H&S team worked with Managers, Southwest One and contractors to ensure that working procedures were satisfactory before work was recommenced on site (both for works planned at Priory Depot and Deane House).

The exposure levels to employees would have been very low due to the small amount of dust produced by the activity, the asbestos content of this dust (typically 2-5% chrysotile in artex type coatings), and the short duration of exposure before the damage was noted and the building evacuated. This message has been communicated to employees on site at the time of the incident.

A full investigation has been undertaken.

An update on risk assessment, accident reporting and lone working was published in the One Team newsletter.

## **8. Finance Comments**

Any emerging issues or additional training will have to be funded from existing budgets. Line managers are expected to prioritise and refer any difficulties through their Theme Manager to CMT.

## **9. Legal Comments**

Failure to meet or maintain minimum legal compliance will increase Corporate and individual risk, with the potential for criminal and civil actions

## **10. Links to Corporate Aims**

Competent employees working safely in the delivery of the Council's services form an essential contribution to the Corporate Aims.

## **11. Environmental Implications**

There are no environmental implications arising from this report.

## **12. Community Safety Implications**

There are no community safety implications arising from this report.

## **13. Equalities Impact**

There are no equalities impacts over and above those already required to be identified in the Theme delivery plans and existing arrangements.

#### **14. Risk Management**

Failure to meet minimum health and safety statutory requirements has been identified in the Corporate Risk Register. There are no significant risks or incidents to report.

#### **15. Partnership Implications**

The Health and Safety Strategy sets out the majority of the work programme for delivery by the Corporate Health and Safety Team.

The strategy continues to involve the expertise of SWAP, reducing resource requirements and delivering an integrated approach.

#### **16. Recommendations**

The Committee are asked to note the progress made on the implementation of the Health and Safety strategy and its delivery and the initiatives to improve our operating culture.

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Health and Safety Manager  
01823 356578  
[c.brown@tauntondeane.gov.uk](mailto:c.brown@tauntondeane.gov.uk)



# Somerset County Council Pension Fund

**TDBC Corporate Governance Committee  
December 2014**

[WWW.SOMERSET.GOV.UK](http://WWW.SOMERSET.GOV.UK)





# The Local Gov't Pension Scheme

- Statutory scheme run by Communities & Local Government department (Central Government)
  - Set scheme benefits
  - Set members contributions
  - Investments and administration regulations
  - Guidance on governance etc.
- Funded Scheme
- One Administration Authority for each geographic area
  - 99 funds
  - 4.9 million members
  - Assets of £178bn (31<sup>st</sup> March 14)

# Somerset fund

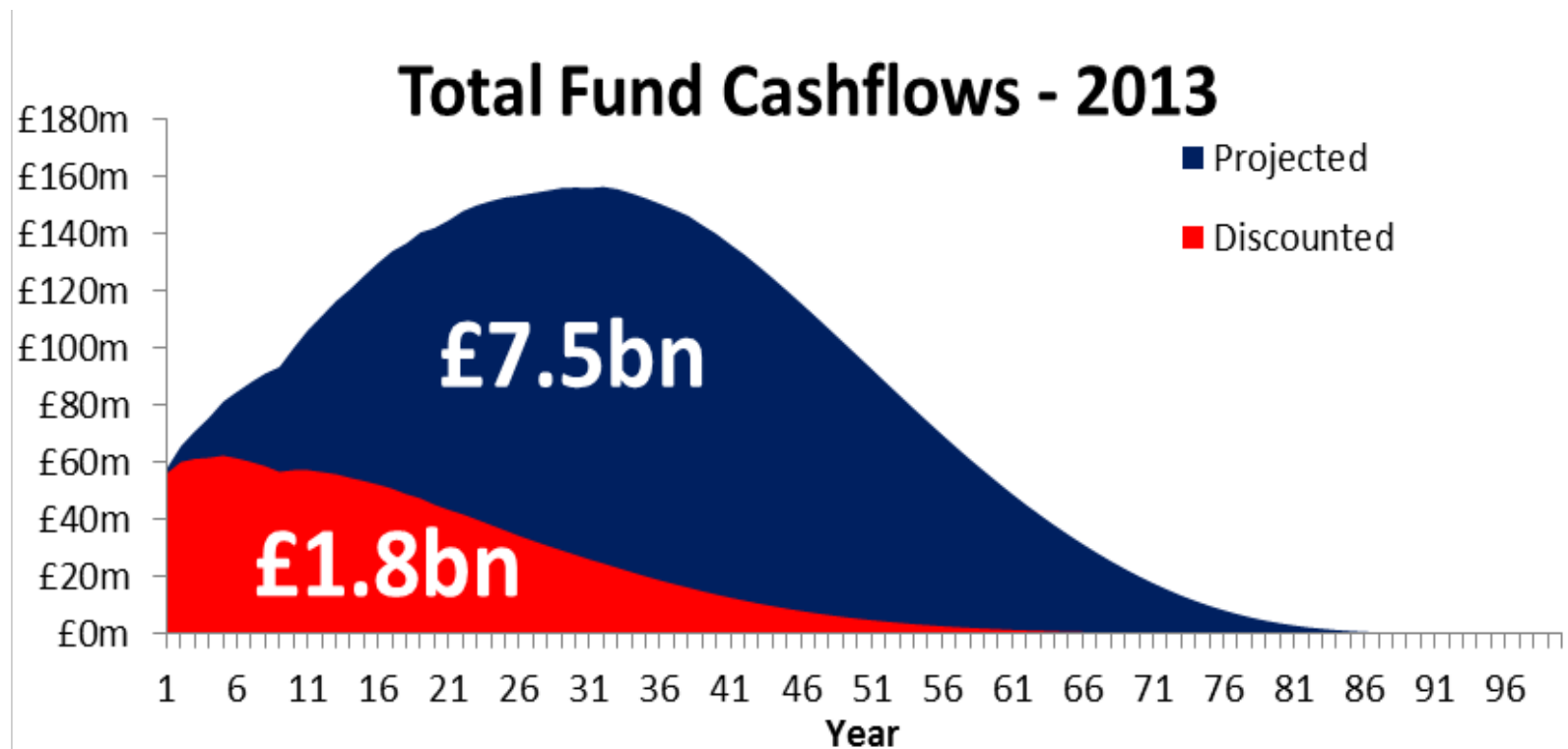
- Somerset scheme covers multiple employers
- 149 Separate employers are members (31 March 2014)
  - 74 Scheduled bodies
    - Employer must offer the scheme by law
    - County Council, non-uniformed police, districts, colleges, academies
  - 23 Resolution bodies
    - Employer can chose to offer the fund by passing a resolution
    - Town and parish councils, burial and drainage boards
  - 27 Admitted bodies
    - Commercial organisations that have applied to be admitted, typically join as part of TUPE of outsourced staff
  - 25 Pensioner only bodies

[WWW.SOMERSET.GOV.UK](http://WWW.SOMERSET.GOV.UK)



# What is a pension scheme deficit?

- The difference between the value of the fund's assets and the net present value of the liabilities



# Why does TDBC have a deficit?

- Possible Causes
  - Whole Fund
    - Incorrect Assumptions
      - Improving mortality
      - Lower investment returns
      - Higher inflation
      - Higher wage increases
    - Not targeting 100% funding in 1990s
  - TDBC
    - Historically not funding early retirements

# How & when is the deficit calculated?

- How
  - By the Somerset fund's appointed actuary (currently Barnett Waddingham)
  - Membership, cash flow and asset data provided by fund
  - Assumption derived by actuary
- When
  - Regulations require every 3 years
  - Last valuation as at 31 March 2013
  - Next valuation as at 31 March 2016

# How much is the current deficit?

- Whole Somerset Fund at 2013 Valuation
  - Assets = £1.355bn
  - NPV of Liabilities = £1.800bn
  - Deficit = £455m
- TDDBC at 2013 Valuation
  - Assets = £101m
  - NPV of Liabilities = £70m
  - Deficit = £31m
- Different figure for accounting deficit shown in the accounts!

# How does TDBC pay for the deficit?

- Actuary certifies employer contributions that are legally binding
- TDBC contributions
  - 13.5% of pay to cover new service
  - Annual lump sum to pay deficit back over 25 years
    - £760,000 for 2014-15
    - £990,000 for 2015-16
    - £1,220,000 for 2016-17
    - **Next Valuation**
    - £1,450,000 for 2017-18
    - £1,680,000 for 2018-19
    - £1,930,000 for 2019-20

# Can TDBC do anything to reduce this deficit?

- Pay in more money



# Does TDBC pay for decisions on pensions as they materialise?

- Fund now requires all early retirements/retirement caused by redundancy to be paid for upfront
- Changes in assumptions rolled in at each new valuation

# Questions

[WWW.SOMERSET.GOV.UK](http://WWW.SOMERSET.GOV.UK)



# Taunton Deane Borough Council

## Corporate Governance Committee 8 December 2014

### Annual Audit Letter 2013/14

#### Report of the Assistant Director – Corporate Services (Richard Sealy)

This matter is the responsibility of the Leader of the Council, Cllr John Williams

#### 1. Executive Summary

This report introduces the Annual Audit Letter for 2013/14, which has been prepared by our external auditors, Grant Thornton. The letter is set out in Appendix A.

The report summarises the findings from the external auditors work in respect of the 2013/14 financial year and confirms the issue of unqualified opinions in relation to our accounts and value for money arrangements.

#### 2. Background

- 2.1 Each year our external auditor, Grant Thornton, is required to make arrangements for the production of an audit letter for each local authority. The letter covers the follows:
- i) A conclusion on the Statement of Accounts and Annual Governance Statement; and
  - ii) A conclusion on Value for Money, the focus being on financial resilience.

#### 3. Financial Issues/Comments

- 3.1 The letter confirms, as previously reported to the 22 September 2014 Corporate Governance Committee that the external auditors have issued an unqualified opinion in regard to the Council's statement of accounts and value for money arrangements.
- 3.2 The letter also provides a progress update in relation to the certification of grant claims work being undertaken by the external auditors.
- 3.3 The audit fees for 2013/14 were £67,505, which was slightly higher (£900) than originally anticipated.
- 3.4 The external auditors have made a recommendation in relation to property, plant and equipment revaluation, which is being progressed by the Property Service.

#### **4. Legal Comments**

4.1 There are no legal implications from this report.

#### **5. Links to Corporate Aims**

5.1 There are no direct implications.

#### **6. Environmental Implications**

6.1 There are no direct implications.

#### **7. Community Safety Implications**

7.1 There are no direct implications.

#### **8. Equalities Impact**

8.1 There are no direct implications.

#### **9. Risk Management**

9.1 Any risks identified will feed into the corporate risk management process.

#### **10. Partnership Implications**

10.1 There are no direct implications.

#### **11. Recommendations**

Members are requested to note the Annual Audit Letter for 2013/14.

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**Appendix A – Grant Thornton External Audit - Annual Audit Letter for 2013/14**



# The Annual Audit Letter for Taunton Deane Borough Council

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**Year ended 31 March 2014**

3 October 2014

**Peter A Barber**

Director

T 0117 305 7897

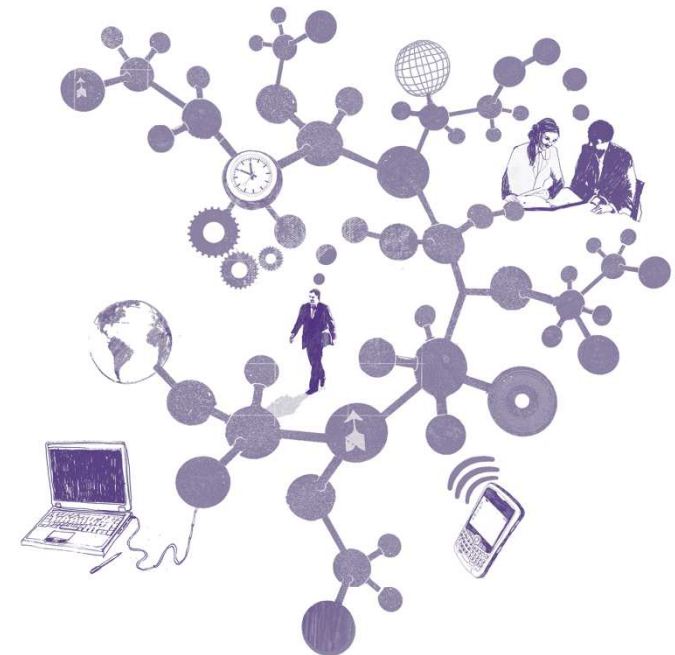
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# Key messages

Our Annual Audit Letter summarises the key findings arising from the work that we have carried out at Taunton Deane Borough Council ('the Council') for the year ended 31 March 2014.

The Letter is intended to communicate key messages to the Council and external stakeholders, including members of the public. Our annual work programme, which includes nationally prescribed and locally determined work, has been undertaken in accordance with the Audit Plan that we issued 19 May 2014 and was conducted in accordance with the Audit Commission's Code of Audit Practice, International Standards on Auditing (UK and Ireland) and other guidance issued by the Audit Commission.

<b>Financial statements audit (including audit opinion)</b>	<p>We reported our findings arising from the audit of the financial statements in our Audit Findings Report on 22 September 2014 to the Corporate Governance Committee. The key messages reported were:</p> <ul style="list-style-type: none"><li>• no material errors were found during the course of our audit in the draft accounts presented for audit;</li><li>• the accounts were produced to a good standard; and</li><li>• we received prompt responses to our audit queries.</li></ul> <p>We issued an unqualified opinion on the Council's 2013/14 financial statements on 29 September 2014, meeting the deadline set by the Department for Communities and Local Government. Our opinion confirms that the financial statements give a true and fair view of the Council's financial position and of the income and expenditure recorded by the Council.</p>
<b>Value for Money (VfM) conclusion</b>	<p>We issued an unqualified VfM conclusion for 2013/14 on 29 September 2014.</p> <p>On the basis of our work, and having regard to the guidance on the specified criteria published by the Audit Commission, we are satisfied that in all significant respects the Council put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources for the year ending 31 March 2014.</p>

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## Key messages

<b>Whole of Government Accounts</b>	The Council was below the £350 million audit threshold set by the National Audit Office (NAO) for Whole of Government Accounts and therefore a full review of the consolidation pack was not required. We confirmed the disclosure of excluded items to the NAO by the 3 October deadline.
<b>Certification of grant claims and returns</b>	We are required to certify two grant claims and returns. Our work with regard to the 'Pooling of Housing Capital Receipts' is complete and was certified with no amendment or qualification. Our work on the certification of the Housing Benefits claim is on-going and the key messages from our certification work will be reported in our certification report due to be issued on completion of work on this claim.
<b>Audit fee</b>	Our fee for 2013/14 for the main audit was £67,505, excluding VAT, which was an increase of £900 over the fee reported in our audit plan. This increase was in respect of work on material business rates balances. This work was previously carried out as part of the certification work for the national non domestic rates return and the fee was included within the certification fee in prior years. Further detail is included within Appendix B.



---

## Appendix A: Key issues and recommendations

This appendix summarised the significant recommendations identified during the 2013/14 audit.

No.	Issue and recommendation	Priority	Management response/ responsible officer/ due date
1.	<p>The rolling property, plant and equipment revaluation programme does not meet the Code's requirement in paragraph 4.1.2.35 to value items within a class of property, plant and equipment simultaneously.</p> <p><b>Recommendation:</b> The Council should ensure that all assets within the same class are valued within the same financial year to meet the Code's requirements for revaluing of Property, Plant and Equipment in paragraph 4.1.2.35.</p>	Significant deficiency	<p>Recommendation accepted and the valuation process will be updated to reflect latest requirements. The approach will be discussed with auditors in advance of year end.</p> <p>Responsible officer: Finance Manager and Property Manager Due date: January 2015</p>

## Appendix B: Reports issued and fees

We confirm below the fee charged for the audit and provision of non-audit services.

### Fees

	Per Audit plan £	Actual fees £
Audit Fee	66,605	*67,505
Grant certification fee	15,606	**15,606
<b>Total fees</b>	<b>82,211</b>	<b>83,111</b>

\*There is additional fee of £900 in respect of work on material business rates balances. This additional work was necessary as auditors are no longer required to carry out work to certify NDR3 claims. The additional fee is 50% of the average fee previously charged for NDR3 certifications for district councils and has been approved by the Audit Commission.

\*\*The indicative fee published by the Audit Commission for grant certification work required in 2013/14 for the Council is £15,606. As the work has not yet been completed on the grant certifications, we therefore cannot confirm the final fee.

### Fees for other services

Service	Fees £
None	Nil

### Reports issued

Report	Date issued
Audit Plan	19 May 2014
Audit Findings Report	12 September 2014
Certification report	Planned for November 2014
Annual Audit Letter	3 October 2014



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# Taunton Deane Borough Council

## Corporate Governance Committee 8 December 2014

### External Audit (Grant Thornton) Update Report

#### Report of the Assistant Director – Corporate Services (Richard Sealy)

This matter is the responsibility of the Leader of the Council, Cllr John Williams

#### 1. Executive Summary

This is a regular progress update report for Members by our external auditors, Grant Thornton, in relation to their work for the 2013/14 financial year and also provides an update in relation to emerging national issues.

#### 2. Background

- 2.1 Each year our external auditor is required to carry out “set” audit work and this report provides a useful progress update on this work.
- 2.2 Additionally, the report shares headlines on some national issues that may have an impact upon the Council.

#### 3. Audit Update

- 3.1 The audit update report is attached see appendix one.

#### 4. Finance Comments

- 4.1 This is an update report only.

#### 5. Legal Comments

- 5.1 There are no legal implications from this report.

#### 6. Links to Corporate Aims

- 6.1 No direct implications.

#### 7. Environmental Implications

- 7.1 No direct implications.

#### 8. Community Safety Implications

- 8.1 No direct implications.

## **9. Equalities Impact**

9.1 No direct implications.

## **10. Risk Management**

10.1 No direct implications.

## **11. Partnership Implications**

11.1 No direct implications.

## **12. Recommendations**

Members are requested to note the update report.

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**Appendix 1 – Grant Thornton External Audit – Audit Update**



# Corporate Governance Committee Update for Taunton Deane Borough Council

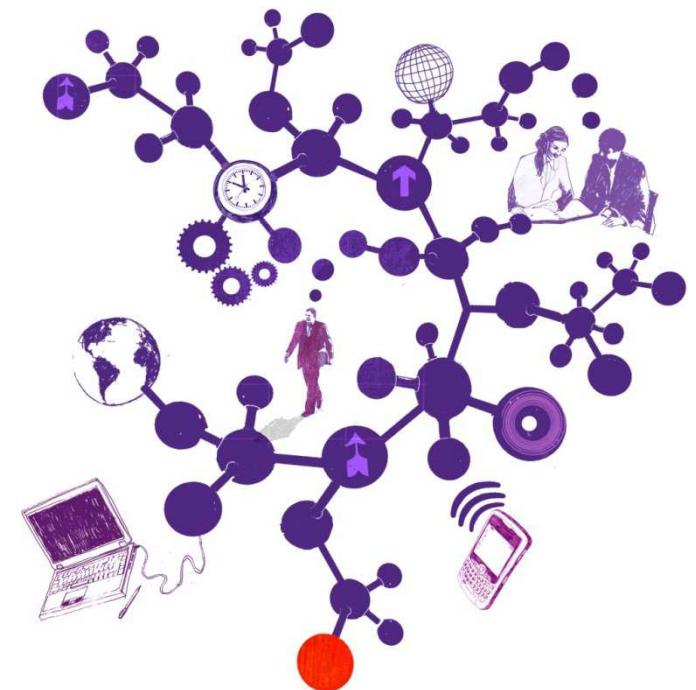
**Year ended 31 March 2014**

14 November 2014

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The contents of this report relate only to the matters which have come to our attention, which we believe need to be reported to you as part of our audit process. It is not a comprehensive record of all the relevant matters, which may be subject to change, and in particular we cannot be held responsible to you for reporting all of the risks which may affect your business or any weaknesses in your internal controls. This report has been prepared solely for your benefit and should not be quoted in whole or in part without our prior written consent. We do not accept any responsibility for any loss occasioned to any third party acting, or refraining from acting on the basis of the content of this report, as this report was not prepared for, nor intended for, any other purpose.

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# Introduction

This paper provides the Audit and Governance Committee with a report on progress in delivering our responsibilities as your external auditors. The paper also includes:

- a summary of emerging national issues and developments that may be relevant to you; and
- a number of challenge questions in respect of these emerging issues which the Committee may wish to consider.

Members of the Audit and Governance Committee can find further useful material on our website [www.grant-thornton.co.uk](http://www.grant-thornton.co.uk), where we have a section dedicated to our work in the public sector (<http://www.grant-thornton.co.uk/en/Services/Public-Sector/>). Here you can download copies of our publications including:

- Working in tandem, local government governance review 2014, our third annual review, assessing local authority governance, highlighting areas for improvement and posing questions to help assess the strength of current arrangements
- 2016 tipping point? Challenging the current, summary findings from our third year of financial health checks of English local authorities
- Local Government Pension Schemes Governance Review, a review of current practice, best case examples and useful questions to assess governance strengths
- Responding to the challenge – Alternative Delivery Models in Local Government

If you would like further information on any items in this briefing, or would like to register with Grant Thornton to receive regular email updates on issues that are of interest to you, please contact either your Engagement Lead or Audit Manager.

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## Progress at 14 November 2014

Work	Planned date	Complete?	Comments
<p><b>2013-14 Accounts Audit Plan</b> We are required to issue a detailed accounts audit plan to the Council setting out our proposed approach in order to give an opinion on the Council's 2013-14 financial statements.</p>	March 2014	Yes	The audit plan was a separate item on the Corporate Governance Committee agenda on 19 May 2014.
<p><b>Interim accounts audit</b> Our interim fieldwork visit includes:</p> <ul style="list-style-type: none"> <li>• updating our review of the Council's control environment;</li> <li>• updating our understanding of financial systems;</li> <li>• review of Internal Audit reports on core financial systems;</li> <li>• early work on emerging accounting issues;</li> <li>• early substantive testing; and</li> <li>• initial risk assessment to support the Value for Money conclusion.</li> </ul>	March 2014	Yes	Our interim audit work has been completed and we summarised the findings in the audit plan referred to above.
<p><b>2013-14 final accounts audit</b> Including:</p> <ul style="list-style-type: none"> <li>• audit of the 2013-14 financial statements;</li> <li>• proposed opinion on the Council's accounts; and</li> <li>• proposed Value for Money conclusion.</li> </ul>	July – September 2014	Yes	We completed the audit of the accounts and gave unqualified opinion on the Council's accounts as well as Value for Money conclusion. We discussed our audit findings report as a separate item at the Corporate Governance Committee meeting on 22 September 2014.

## Progress at 14 November 2014 (continued)

Work	Planned date	Complete?	Comments
<p><b>Value for Money (VfM) conclusion</b></p> <p>The scope of our work to inform the 2013/14 VfM conclusion comprises:</p> <ul style="list-style-type: none"> <li>• a review of securing financial resilience;</li> <li>• a review of arrangements for securing economy, efficiency and effectiveness; and</li> <li>• a follow up of recommendations made last year.</li> </ul>	July – September 2014	Yes	Unqualified opinion was provided to the Council and our audit findings report discussed above included details about our conclusion.
<p><b>2013-14 Certification work</b></p> <p>The claims and returns we are certifying this year are:</p> <ul style="list-style-type: none"> <li>• housing benefits scheme claim; and</li> <li>• pooling of housing capital receipts return.</li> </ul>	September – November 2014	Ongoing	<p>Work is underway regarding the housing benefits scheme claim.</p> <p>The pooling of housing capital receipts return has been certified without amendment or qualification as disclosed in the annual audit letter reported at the 8 December 2014 Corporate Governance Committee meeting.</p>

---

# Code changes

## Accounting and audit issues

At the end of July, CIPFA/LASAAC released the 2015/16 Code of Practice on Local Authority Accounting in the United Kingdom (the Code) Exposure Draft (ED) and Invitation to Comment (ITC) for public consultation which closed on Friday 10 October 2014. The changes proposed in the ITC include:

- IFRS 13 fair value measurement: the proposed approach would result in remeasurement of property, plant and equipment assets that do not provide service potential for the authority. IFRS 13 also applies to assets and liabilities covered by those IFRS standards that currently permit or require measurement at fair value (with some exceptions) and will have an impact on the reporting of, for example, financial instruments and investment properties;
- Other amendments to IFRSs: including the accounting treatment of pensions' contributions;
- IFRIC 21 Levies (ie levies imposed by governments);
- changes to UK GAAP particularly relating to Heritage Assets; and
- other minor and drafting amendments.

CIPFA/LASAAC also launched a second stage consultation on simplifying and streamlining the presentation of local authority financial statements which closed on Friday 19 September 2014.

---

# CIPFA LAAP updates

## Accounting and audit issues

CIPFA have issued the following LAAP Bulletins:

- [LAAP bulletin 99](#) Local Authority Reserves and Balances – provides guidance on the establishment and maintenance of local authority reserves and balances.

---

# New routes to housing development

## Grant Thornton

We have issued the first in a series of good practice papers on topical issues for local government.

This paper considers good practice in councils' approaches to delivering affordable housing. Until recently, local authorities have acted as an enabler of new affordable housing; increasingly they are now undertaking a direct delivery role. Delivery routes vary and must be structured with the council's objectives and capacity in mind as there is no 'one size fits all' approach. The paper considers the benefits and challenges of council owned housing companies, including:

- Setting and delivering objectives
- Identifying optimal funding routes
- Assessing viability and working with others

The paper stresses the importance of a properly developed business case and business plan to support the setting up of a housing company.

Copies of our good practice paper are available from your engagement lead.

---

# Anti - fraud and corruption update

## Grant Thornton

Key current issues include:

**Single Fraud Investigation Service (SFIS)** - The SFIS will bring together all investigative capacity in relation to benefits and tax credits under the control of the Department of Work and Pensions. However a number of local authorities have expressed concern that such a transfer will cause them to lose the capacity to readily investigate other issues such as employee fraud and corruption allegations.

**Corruption risk** - In 2013 Transparency International (TI), the world's leading non-governmental anti-corruption organisation, published a report on corruption in UK Local Government. It identified twelve key risk areas covering public procurement, control over outsourced services, personnel transferring between local authorities and companies bidding to provide services, planning issues, collusion in housing fraud and manipulation of electoral registration. TI expressed concern that audit committees were unable to fulfil the function of reducing risks in many authorities.

**Non-benefits fraud** - There are striking differences between the identification of benefit and non-benefit fraud within local government. The Audit Commission has reported that 79 district councils did not detect a single non-benefit fraud whereas only 9 councils among all London boroughs, metropolitan districts and unitary authorities reported non-benefit frauds. Procurement fraud in particular is consistently estimated as accounting for the largest losses to fraud within local government. In its most recent Protecting the Public Purse publication the Audit Commission estimated annual losses at £876 million, representing 1% of total procurement spend.

Our Forensic Investigation Services provide a range of services to local authorities including fraud prevention and detection. If you are interested in a further discussion on these areas please contact your engagement lead.

# Managing council property assets

## Local government guidance

The Audit Commission has issued its briefing paper **Managing Council Property Assets: Using Data from the VFM Profiles**

In the paper the Audit Commission:

- advocates that councils should be active and strategic managers of their estates – understanding property markets and asking questions about the properties they own or lease;
- prompts councils to consider whether assets are in the right place, whether they should keep, sell, or transfer them, and how much they should invest in building, buying and maintaining property; and
- invites local authorities to balance the value realised through sales of surplus assets, against the cost of maintaining them.

The background to the briefing is the collation of information from the government's capital outturn return which identifies that the local government estate has a net book value of £169.8 billion of which £2.5 billion have been classified as 'surplus' assets. In this context the Audit Commission is calling on councils to ensure they have a strategic approach to managing these assets, in order to get the best value for money they can from this portion of the local government estate. The Audit Commission Chair, Jeremy Newman said:

*"we are neither advocating that local government starts a wholesale sell-off of their land and property nor are we suggesting councils shouldn't spend money on buying assets or on investment to improve their existing property. What we are highlighting is a group of assets that do not provide immediate benefit to local communities, but still require councils to spend money on maintaining them. These assets have potential value for councils. While not all such land or buildings may be sellable, councils should consider how much value they gain from surplus assets and how this could be increased. I urge councils to use the data held in the Commission's 'Value for Money (VFM) Profiles Tool', such as spending on and value of land and property assets and 'surplus' assets, alongside their unique and detailed local knowledge, to regularly review if their estate is fit-for-purpose."*



---

# The National Fraud Initiative

## Local government guidance

On 12 June 2014 the Audit Commission released its national report, [The National Fraud Initiative \(NFI\): National Report \(June 2014\)](#) highlighting that its data matching exercise has identified a further £229 million of fraud, overpayment or error in England, Scotland, Wales and Northern Ireland, since it last reported in May 2012. The Chairman of the Audit Commission, Jeremy Newman said;

*"We publish a report from the NFI every two years and continue to produce great results. The national figure for identified fraud, error and overpayment, that would otherwise be lost to the taxpaying public, is down by £46 million compared to the previous report although the number of cases has increased by nearly 20 per cent. This is great news if, as we believe, it is due to improving detection rates. However, we cannot be complacent. The more participants in the exercise, the richer the data for everyone involved and the harder it is for fraudsters to hide from detection".*

The Audit Commission's National Fraud Initiative will move to the Cabinet Office in April 2015 to secure the continuation of the counter fraud data matching initiative which over its 18 year history has identified over £1.17 billion in fraud, error and overpayment.



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# Taunton Deane Borough Council

## Corporate Governance Committee – 8 December 2014

### Internal Audit Plan 2014-15 Progress

#### Report of the Audit Manager – Alastair Woodland

(This matter is the responsibility of Executive Councillor John Williams, the Leader of the Council).

#### 1. Executive Summary

The Internal Audit function plays a central role in corporate governance by providing assurance to the Corporate Governance Committee, looking over financial controls and checking on the probity of the organisation.

The 2014-15 Annual Audit Plan is on track to provide independent and objective assurance on TDBC's Internal Control Environment. This work will support the Annual Governance Statement.

#### 2. Background

This report summarises the work of the Council's Internal Audit Service and provides:

- Details of any new significant weaknesses identified during internal audit work completed since the last report to the committee in June (Appendix B).
- A schedule of audits completed during the period, detailing their respective assurance opinion rating, the number of recommendations and the respective priority rankings of these (Appendix A).

Members will note that there are some high priority recommendations (4 or 5) identified since the June update. Please note priority recommendations are assessed at Service level, i.e. the importance to the service.

#### 3. Detailed Update

Please refer to the attached SWAP Progress Report

#### 4. Finance Comments

There are no specific finance issues relating to this report.

#### 5. Legal Comments

There are no specific legal issues relating to this report.

**6. Links to Corporate Aims**

Delivery of the corporate objectives requires strong internal control. The attached report provides a summary of the audit work carried out to date this year by the Council's internal auditors, South West Audit Partnership.

**7. Environmental Implications**

There are no direct implications from this report.

**8. Community Safety Implications** (if appropriate, such as measures to combat anti-social behaviour)

There are no direct implications from this report.

**9. Equalities Impact**

There are no direct implications from this report.

**10. Risk Management**

Any large organisation needs to have a well-established and systematic risk management framework in place to identify and mitigate the risks it may face. TDBC has a risk management framework, and within that, individual internal audit reports deal with the specific risk issues that arise from the findings. These are translated into mitigating actions and timetables for management to implement. The most significant findings since the last committee report are documented in Appendix B.

**11. Partnership Implications**

There are no direct implications from this report.

**12. Recommendations**

Members are asked to note progress made in delivery of the 2014/15 internal audit plan and significant findings since the September 2014 update.

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## **Taunton Deane Borough Council**

### **Report of Internal Audit Activity, December 2014 Update, 2014/15**

# Contents

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## Summary

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## Internal Audit Work Plan 2013-14

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## Appendices

Appendix A - Audit Plan Progress 2013-14

Appendix B - High Priority Findings and Recommendations (since last Committee)

Appendix C - Audit Definitions

Our audit activity is split between:

- Operational Audit
- Key Control Audit
- Governance, Fraud & Corruption Audit
- IT Audit
- Special Reviews

See Appendix A for individual audits

## Role of Internal Audit

The Internal Audit service for Taunton Deane Borough Council is provided by South West Audit Partnership (SWAP). SWAP is a Local Authority controlled Company. SWAP has adopted and works to the Standards of the Institute of Internal Auditors, further guided by interpretation provided by the Public Sector Internal Audit Standards (PSIAS), and also follows the CIPFA Code of Practice for Internal Audit. The Partnership is also guided by the Internal Audit Charter approved by the Corporate Governance Committee and last reviewed at its meeting on 10<sup>th</sup> March 2014.

Internal Audit provides an independent and objective opinion on the Authority's control environment by evaluating its effectiveness. Primarily the work includes;

- Operational Audit Reviews
- Key Financial Control Reviews
- Cross Cutting Fraud and Governance Reviews
- IT Audit Reviews
- Other Special or Unplanned Reviews

## Overview of Internal Audit Activity

Internal Audit work is largely driven by an Annual Audit Plan. This is approved by the Section 151 Officer, following consultation with the Corporate Management Team and External Auditors. This year's Audit Plan was reported to this Committee at its meeting in March 2014.

Audit assignments are undertaken in accordance with this Plan to assess current levels of governance, control and risk. Key Control Audits are undertaken in quarter three of each year and these are planned in conjunction with the Council's External Auditor to assist in their assessment of the Council's financial control environment. This reduces the overall cost of audit to the Council.



SWAP work is completed to comply with the International Professional Practices Framework of the Institute of Internal Auditors, further guided by interpretation provided by the PSIAS and the CIPFA Code of Practice for Internal Audit in England and Wales.



Update 2014-15

Completed Audit Assignment in the Period

## Audit Plan Progress

The schedule provided at [Appendix A](#) contains a list of all audits as agreed in the Annual Audit Plan 2014/15. It is important that Members are aware of the status of all audits and that this information helps them place reliance on the work of Internal Audit and its ability to complete the plan as agreed. Each completed assignment includes its respective “control assurance” opinions together with the number and relative ranking of recommendations that have been raised with management. The assurance opinion ratings have been determined in accordance with the Internal Audit “Audit Framework Definitions” as shown in [Appendix C](#)

As can be seen from [Appendix A](#) the following audits have been progressed to date:

### Operational:

- Final, 2 reviews
- In Progress, 2 reviews

### Governance, Fraud and Corruption:

- Final, 3 reviews
- Draft, 1 review
- Drafting, 1 Review
- In Progress, 1 review

### Follow-up Reviews:

- Final, 2 reviews

### ICT Reviews

- Discussion Document, 1 review
- Initiation, 2 reviews



SWAP work is completed to comply with the International Professional Practices Framework of the Institute of Internal Auditors, further guided by interpretation provided by the PSIAS and the CIPFA Code of Practice for Internal Audit in England and Wales.

Update 2014-15

## Audit Plan Progress

### Key Control Audit

- In Progress, 4 Reviews
- Drafting, 1 Review

In Addition to the 2014-15 plan there are 2 reviews not finalised from the 2013-14 plan, these are:

### ICT Audits

- IT Financial Controls - Review
- Disaster Recovery Arrangement - Review

These are actions that we have identified as being high priority and that we believe should be brought to the attention of the Audit Committee

## Report on Significant Findings

As agreed with this Committee where a review has a status of 'Final' and has been assessed as 'Partial' or 'No Assurance', I will provide further detail to inform Members of the key issues identified. I attach as **Appendix B**, a summary of the agreed actions relating to those reviews completed for 2013/14 that have not been previously reported where the Auditor assessed the priority to be a level 4 (Medium/High) or 5 (High).

Since my last update there are two reviews concluded and assessed as 'Partial' and include the Auditor's Opinion as follows:

### Parks & Open Spaces

The Audit covered the following risks;

1. Serious injury or death occurs for which the Council may be liable and/or incurs reputational damage.
2. The quality of work is below required standards leading to loss of contracts and/or not meeting the expectations of the public.
3. Budgets and Costs are not well-controlled leading to financial loss

We found very good performance on risk assessments of the various functions of the service, and testing of a sample of risk-mitigating actions showed these had been fully completed. Monthly inspections are undertaken and defects identified and there is an independent annual inspection, however clearer evidence is needed to confirm that there are no defects or that required works to remedy defects have been completed. It was also identified that there is no signage policy which would ensure a consistent approach to signs in parks and open spaces and provide adequate information to the public. In risk two, it was identified that there is no formal recording and monitoring of complaints, so changes in customer satisfaction levels may not be identified.

The third risk could not be fully evaluated. This was because various information required to complete the audit

These are actions that we have identified as being high priority and that we believe should be brought to the attention of the Audit Committee

## Report on Significant Findings Continued

testing was requested but not received. We acknowledge that managers were busy on the implementation of the new IT system. This affected evaluation of controls in the following areas:

- Tenders and Quotations
- Invoicing for income due
- Payment of Invoices

We were therefore unable to provide assurance that controls in these areas are working. For tenders and quotations, weaknesses were reported and a recommendation was made, because findings indicated that weaknesses exist and we were not provided with evidence to the contrary.

As this is a partial assurance audit it is worth noting that it will be followed up and further work undertaken on risk 3 around management of costs.

### Data Transparency

There are growing expectations that new technologies and publication of data should support transparency and accountability. It is vital that public bodies recognise the value to the public of the data they hold, understand what they hold, what their communities want and then release it in a way that allows the public, developers and the media to use it. Provision of public data should become integral to local authority engagement with local people so that it drives accountability to them. Its availability should be promoted and publicised so that residents know how to access it and how it can be used.

The code contains both *required* and *recommended* information for the authority to comply with. It was explained by the Corporate Strategy and Performance Manager that it is likely that the Council would struggle to publish recommended details due to growing requirements of transparency and the limitations on available resources. There are no particular risks associated with the non-publication of recommended information, however

These are actions that we have identified as being high priority

publishing

## Report on Significant Findings Continued

and that we believe should be brought to the attention of the Audit Committee

this data would be of reputational benefit to the authority by showing that they are transparent with the information they hold and fully engage with the requirements of the Code.

Testing of documentation available on the Council's website against the requirements of the Local Government Transparency Code 2014 identified that for the categories where data must be published:

- Four currently meet the requirements of the Code;
- Two partially fulfil the requirements of the Code;
- Four do not meet the requirements of the code.

The areas below are currently meeting or exceeding requirements:

- Expenditure over £500;
- Organisation chart;
- Constitution;
- Pay multiple.

The areas that currently partially meet the requirements of the code;

- Parking revenues;
- Senior salaries.

The areas that do not meet the requirements of the code are;

- Procurement;
- Procurement Card transactions;
- Local Authority land and building assets;
- Grants to voluntary, community and social enterprise organisations.

We keep our audit plans under regular review, so as to ensure we are auditing the right things at the right time.

## Future Planned Work/Plan Changes

The audit plan for 2014/15 is detailed in [Appendix A](#). Members will note that there were necessary changes to the plan throughout the year; any changes made have been subject to agreement with the appropriate service manager and the Section 151 Officer.

As previously reported changes have been made to the ICT Audit work plan with Threat Protection and Corporate Information Security Controls (CIS) audits scheduled for quarter 1 and quarter 2 respectively were dropped to allow time for the Hardware and Software Asset Management audits and for work on the COSY Replacement Project. Also, the Fraud Themed audit under the Governance, Fraud & Corruption audit plan has been deferred from quarter 1 to quarter 3 due to a change in responsibilities.

## Conclusions

Steady progress against the 2014/15 plan has been made. It is recognised that significant changes have occurred over the last few months at TDBC with regard to officer responsibilities. Whilst this has caused some movements on the timing of some audits we still anticipate to deliver the plan fully. Progress is being made with South West One on the ICT Audits and the Audit Engagement Protocol with South West One is out for final approval and should be a live document for the end of the year.

I can also report that although we have returned two partial assurance audits, no significant corporate risks have been identified that I need to bring to your attention. I will continue to update Members on progress against the plan and am confident that many of the reviews currently in progress or draft will be completed by the time of my next update.

# Audit Plan 2014-15

## Audit Plan Progress 2014-15

## APPENDIX A

Audit Type	Audit Area	Quarter	Status	Opinion	No of Rec	1 = Minor ↔ 5 = Major				
						Recommendation				
						1	2	3	4	5
ICT Audits	Threat Protection ( <b>Dropped to allow time for the COSY Replacement Project and Software &amp; Hardware Asset Management audits</b> )	Q1	Dropped							
Operational Audit	Safeguarding	Q1	Final	Reasonable	6	0	1	4	1	0
Follow-up	Procurement Cards ( <b>work undertaken April, but superseded by Management update to May Corporate Governance Committee</b> )	Q1	Final	Non-Opinion	6	0	1	3	2	0
Operational Audit	Parks & Open Spaces	Q1	Final	Partial	5	0	0	4	1	0
ICT Audits	COSY Replacement Project ( <b>New</b> )	Q2	Discussion Document	Non-Opinion						
ICT Audits	Software Asset Management ( <b>New</b> )	Q2	Initiation							
ICT Audits	Hardware Asset Management ( <b>New</b> )	Q2	Initiation							
Governance, Fraud & Corruption	Absence Management - Theme	Q2	Draft	Reasonable						
Governance, Fraud & Corruption	Private Water Supply	Q2	Final	Reasonable	4	0	2	1	1	0
Governance, Fraud & Corruption	Data Transparency	Q2	Final	Partial	6	0	2	2	2	0



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# Audit Plan 2014-15

## Audit Plan Progress 2014-15

## APPENDIX A

Audit Type	Audit Area	Quarter	Status	Opinion	No of Rec	1 = Minor ↔ 5 = Major				
						Recommendation				
						1	2	3	4	5
Governance, Fraud & Corruption	Protective Marking - Theme	Q2	Drafting							
ICT Audits	Corporate Information Security Controls (CIS) <b>(Dropped to allow time for the COSY Replacement Project and Software and Hardware Asset Management audits)</b>	Q2	Dropped							
Operational Audit	Housing Sales (Right To Buy)	Q2	In Progress							
Follow-up	PAS	Q2	Final	Non-Opinion	4	0	0	3	1	0
Key Control	Main Accounting	Q2	Review							
Governance, Fraud & Corruption	Fraud Theme <b>(deferred from quarter 1)</b>	Q3	In Progress							
Key Control	Creditors	Q3	In Progress							
Key Control	Council Tax & NNDR	Q3	In Progress							
Key Control	Debtors	Q3	Initiation							
Key Control	Housing Benefits	Q3	In Progress							
Key Control	Payroll (Starters, Leavers, Changes)	Q3	In Progress							



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# Audit Plan 2014-15

## Audit Plan Progress 2014-15

## APPENDIX A

Audit Type	Audit Area	Quarter	Status	Opinion	No of Rec	1 = Minor ↔ 5 = Major				
						Recommendation				
						1	2	3	4	5
Key Control	Treasury Management	Q3								
ICT Audits	Financial Key Controls	Q3								
Operational Audit	Housing New Build	Q3	In Progress							
Governance, Fraud & Corruption	Choice Based Letting	Q4								
Governance, Fraud & Corruption	Safer Somerset Partnership/ Community Safety	Q4								
Governance, Fraud & Corruption	Asset Management Theme	Q4								
Operational Audit	Community Infrastructure Levy (CIL)	Q4								
Operational Audit	Housing Voids	Q4								
Operational Audit	Commercial Properties/Rents	Q4								
Follow-up	Data Centre	Q4								
Governance, Fraud & Corruption	WSC & TDBC Shared Services	All								



SWAP work is completed to comply with the International Professional Practices Framework of the Institute of Internal Auditors, further guided by interpretation provided by the PSIAS and the CIPFA Code of Practice for Internal Audit in England and Wales.

# Audit Plan 2014-15

## Audit Plan Progress 2014-15

## APPENDIX A

Audit Type	Audit Area	Quarter	Status	Opinion	No of Rec	1 = Minor ↔ 5 = Major				
						Recommendation				
						1	2	3	4	5
Governance, Fraud & Corruption	Legal Services - Shared Services	All	Final	Non-Opinion	0	0	0	0	0	0

### Outstanding 2013-14 Audits

ICT Audits	IT Financial Controls, Inc Access (Key Financial System Audit)	3	Review							
ICT Audits	Disaster Recovery Arrangements	4	Review							



SWAP work is completed to comply with the International Professional Practices Framework of the Institute of Internal Auditors, further guided by interpretation provided by the PSIAS and the CIPFA Code of Practice for Internal Audit in England and Wales.

## High Priority Findings and Recommendations (Priority 4 & 5)

APPENDIX B

Note; these are prioritised at a service level, not corporate. See 'Categorisation Of Recommendations' on Appendix C for further information

Weakness Found	Risk Identified	Recommended Action	Management's Agreed Action	Agreed Date of Action	Responsible Officer
<b>Parks &amp; Open Spaces</b>					
The tenders and quotation process is not documented, so there is no written guidance on how to calculate the price; the checking and authorisation of the quote or tender; recording of calculations; and when to involve the Council's Legal section. A lack of documentation was held on the sample tenders/quotations reviewed.	If the tender / quotation process is not robust, there is a risk that the Council may under-price works and have to complete these at a loss; conversely, the Council may over-price works and not win the contract. Also, there is an opportunity for fraud leading to financial loss to the Council.	<p>I recommend that the Open Space Manager issues written guidance for the preparation for tenders / quotations, and ensures these are implemented, and issued to and understood by all managers. The guidance should include:</p> <ul style="list-style-type: none"> <li>• Methodology of the calculation of price</li> <li>• When the Council's Legal Section should be consulted</li> <li>• How the price calculation should be checked</li> <li>• How the whole tender / quotation should be authorised</li> <li>• How the tender should be recorded and these records retained</li> <li>• How any changes to the original price should be authorised.</li> </ul>	<p>All quotes are unique and pricing strategy can vary. Any guidance will need to be flexible.</p> <p>Strict monitoring of profit/loss minimises the council from financial loss.</p> <p>At the time of Audit the section was under great pressure. Due to mis-filing information with regards to the calculations of quotes were not submitted. However they do exist.</p> <p>I acknowledge our filing system needs to be looked at along with other issues. However I do disagree that this merits a priority of 4.</p>	April 2015	Open Space Manager

## High Priority Findings and Recommendations (Priority 4 & 5)

APPENDIX B

Note; these are prioritised at a service level, not corporate. See 'Categorisation Of Recommendations' on Appendix C for further information

Weakness Found	Risk Identified	Recommended Action	Management's Agreed Action	Agreed Date of Action	Responsible Officer
<b>Data Transparency</b>					
Some of the <i>required</i> information contained within the Local Transparency Code 2014 is not published.	Unless the required information is published the Council is in breach of the requirements of the Local Data Transparency Code.	I recommend that the Corporate Strategy and Performance Manager ensures that all information listed as mandatory within the Local Government Transparency Code 2014 is published within	Accepted. We will endeavour to gather and publish the required information within the required timeframe.	During course of 2015/16	Corporate Strategy and Performance Manager
An expenditure report uploaded to the website functions incorrectly and triggers a security notice.	There is a risk that such files may deter members of the public from accessing other information uploaded to the Council's website.	I recommend that the ICT and Information Manager ensures that all files uploaded to the website function correctly.	Believe the assessment of this finding is too high at a 4. The spreadsheet has however been removed from our website within 24 hours of notification from SWAP.	Closed	Corporate Strategy and Performance Manager ICT and Information

# Audit Framework Definitions

## Control Assurance Definitions

## Appendix C

<b>Substantial</b>	▲☆☆☆	I am able to offer substantial assurance as the areas reviewed were found to be adequately controlled. Internal controls are in place and operating effectively and risks against the achievement of objectives are well managed.
<b>Reasonable</b>	▲☆☆	I am able to offer reasonable assurance as most of the areas reviewed were found to be adequately controlled. Generally risks are well managed but some systems require the introduction or improvement of internal controls to ensure the achievement of objectives.
<b>Partial</b>	▲☆☆	I am able to offer Partial assurance in relation to the areas reviewed and the controls found to be in place. Some key risks are not well managed and systems require the introduction or improvement of internal controls to ensure the achievement of objectives.
<b>None</b>	▲☆☆	I am not able to offer any assurance. The areas reviewed were found to be inadequately controlled. Risks are not well managed and systems require the introduction or improvement of internal controls to ensure the achievement of objectives.

## Categorisation Of Recommendations

When making recommendations to Management it is important that they know how important the recommendation is to their service. There should be a clear distinction between how we evaluate the risks identified for the service but scored at a corporate level and the priority assigned to the recommendation. No timeframes have been applied to each Priority as implementation will depend on several factors, however, the definitions imply the importance.

Priority 5: Findings that are fundamental to the integrity of the unit's business processes and require the immediate attention of management.

Priority 4: Important findings that need to be resolved by management.

Priority 3: The accuracy of records is at risk and requires attention.

Priority 2: Minor control issues have been identified which nevertheless need to be addressed.

Priority 1: Administrative errors identified that should be corrected. Simple, no-cost measures would serve to enhance an existing control.

## Definitions of Risk

Risk	Reporting Implications
Low	Issues of a minor nature or best practice where some improvement can be made.
Medium	Issues which should be addressed by management in their areas of responsibility.
High	Issues that we consider need to be brought to the attention of senior management.
Very High	Issues that we consider need to be brought to the attention of both senior management and the Audit Committee.

# Taunton Deane Borough Council

## Corporate Governance Committee – 8 December 2014

### Corporate Governance Action Plan Update

#### Report of Corporate Strategy and Performance Manager

(This matter is the responsibility of Executive Councillor Stock-Williams)

#### 1. Executive Summary

This report shows progress against the Corporate Governance Action Plan at the end of November 2014.

The Corporate Governance Action Plan captures recommendations / actions which have emerged from **external** audits (i.e. Grant Thornton).

When an update report was last given to the Corporate Governance Committee in June 2014 there were **four** 'open' actions. Two of these were 'Green' (on track) and Two were 'Amber' (some concern).

Since the last report, **one further** external audit recommendation (source: Grant Thornton – The Audit findings 2013/14) has arisen. This has been included with the Action Plan.

#### 2. Background

2.1 Each year, the Council receives a number of reports and assessments which result in recommendations for improvement. These normally contain individual action plans which can prove challenging to manage and monitor. Therefore an aggregated plan provides the Council with details, in one place, of the scale of improvements required and progress against them.

2.2 This report includes recommendations / actions which have emerged from **external** audits (i.e. Grant Thornton).

2.3 Progress on these actions is monitored by the Corporate Strategy and Performance Manager and a summary features in the Corporate Performance Scorecard which is reviewed by Corporate Scrutiny and The Executive as well as by JMT quarterly.

#### 3. Progress of Corporate Governance Action 2014-15.

3.1 **Appendix A** provides an update of the current status for the four actions carried over from the last meeting as well as the one new action to the Action Plan.

- 3.2 This report recommends that action no.2, (*The Council should consider what further measures it needs to undertake to reduce the high level of sickness absence*) be closed.
- 3.3 In February 2014, the Local Government Association (LGA), updated their **Local Government Workforce Survey** to reflect the position for the year 2012/13. This most current benchmarking survey reports the local government average sickness FTE employee per annum as **8.80 days** for all Councils. TDBC's average sickness for 2014/15 was 8.2 days per FTE, 2 days per FTE lower than recorded for 2012/13.
- 3.4 Additionally, a recent SWAP *Absence Management* audit report, written in draft format in November 2014, gave a 'reasonable' opinion (the second highest rating out of four possible ratings). There were no significant findings identified during the review.
- 3.5 Absence continues to be reported to both Councils Scrutiny and executive/cabinet quarterly as well as to JMT each quarter as part of the performance reporting process.

### **3. Finance Comments**

Recommended improvement actions in relation to Managing Finances are included in the Corporate Governance Action Plan.

### **4. Legal Comments**

There are no legal implications in relation to this update report.

### **5. Links to Corporate Aims**

The Corporate Governance Action Plan supports all aspects of the Council's corporate aims and operations.

### **6. Environmental and Community Safety Implications**

There are no environmental and community safety implications in relation to this update report.

### **7. Equalities Impact**

There are no equalities implications in relation to this update report.

### **8. Risk Management**

The Corporate Risk Register includes the risk:

*There is a risk of failure to comply with key internal controls & corporate governance arrangements (ie compliance with audit recommendations).*



The Corporate Governance Action Plan is a key control measure, however there are a number of risks associated with not completing the recommended actions within the Corporate Governance Action Plan (e.g. External Audit opinion, reputation, financial).

## **9. Partnership Implications**

There are no partnership implications in relation to this report.

## **10. Recommendations**

It is recommended that Members:

- scrutinise progress of the Corporate Governance Action Plan;
- determine whether they are satisfied for action 2 to be marked as closed.

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## **Appendix A – Action Plan Update**

	Section	Summary	Recommendation Action	Priority	Responsible Officer	Progress	Target Implementation Date	Status
1	Human Resources	Update the Workforce Strategy (ensuring there are clear links to financial planning) and complete & agree a new workforce plan	August 2011 - review statistical data in draft workforce strategy. By November 2011 - Revised workforce strategy to compliment four year budget strategy.	H	Richard Sealy	<p><b>Dec 2014:</b> The Joint Management and Shared Services (JMASS) Project has superseded this action.</p> <p>During 2014/15, after the May elections, work will commence on developing a new 3 or 4 year Corporate Business plan. A Workforce Strategy complements and forms part of the development of that plan and the HR Manager and Corporate Strategy and performance Manager will work closely to align these two pieces of work.</p>	<p>Summer / Autumn 2015/16</p> <p>(Originally 31 December 2013)</p>	Amber
2	Human Resources	Measures to reduce sickness absence.	The Council should consider what further measures it needs to undertake to reduce the high level of sickness absence.	M	Richard Sealy	<p><b>Dec 2014:</b> The Council has been delivering the actions on its Wellbeing and Sickness Action Plan which has seen average days sickness per FTE reduce to 8.2 days per employee (a reduction of over 2 days per full time employee).</p> <p>Sickness absence continues to be reported to both Councils Scrutiny and executive/cabinet quarterly as well as to JMT each quarter as part of the performance reporting process.</p> <p>SWAP Absence Management audit report written in draft format in November 2014 gave a 'reasonable' opinion (the second highest rating out of four possible ratings). There were no significant findings identified during the review. It was recommended that refresher training take place following the creation of new staffing structures within the Council including stress awareness. Refresher training will take place during 2014/15 and 2015/16.</p>	<p>March 2014</p>	Green

3	Resources	Address identified Weakness in financial systems.	The Council should consider address the weakness identified by Internal Audit in the financial systems for creditors and for debtors.	M	Paul Fitzgerald	<p><b><u>Dec 2014:</u></b></p> <p>There were a number of actions arising from the debtors and creditors audits, and these are progressing.</p>	September 2014	Amber
4	Value for Money	Develop benchmarking to support allocating resources	<p>Develop benchmarking to support decisions in allocating resources (Recommendation originally from the VFM conclusion in 2011/12)</p> <p><i>(2013/14 is the third year that this finding has been carried forward in the findings of out Value for Money work)</i></p>	M	Richard Sealy	<p><b><u>Dec 2014</u></b></p> <p>The Council has started gathering data to allow benchmarking information to assist and support decisions moving forward (as we embark on a period of major change re. shared services and organisational transformation). VFM data (organisational and service) was collated from tools available (LG Inform, Sparse etc) and included in a pack of information produced for Directors to use as part of workshops to decide on approach on developing and implementing the new Corporate Business Plan (May 2013). This data was also included in 2013 Service Profiles issued to &amp; used by Theme Managers during Theme/Service &amp; budget reviews for 2014/15.</p> <p>Some benchmarking data was also used in the JMASS business case and subsequently visits have been made to Councils sharing services and management to provide ideas for new ways of working.</p> <p>Further benchmarking will be a key element of the transformation phase of the JMASS programme as services look at options for delivering their services differently.</p>	Ongoing	Amber

5	Value for Money	Valuation of property, plant and equipment assets.	The Council should ensure that all assets within the same class are valued within the same financial year to meet the Code's requirements for revaluing of Property, Plant and Equipment.	M	Paul Fitzgerald	<u>Dec 2014</u> Recommendation accepted and the valuation process will be updated to reflect latest requirements. The approach will be discussed with auditors in advance of year end.	Jan 2015	Green
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# Taunton Deane Borough Council

## Corporate Governance Committee – 8 December 2014

### Regulation of Investigatory Powers Act – Update following Inspection

#### Report of the Assistant Chief Executive and Monitoring Officer

(This matter is the responsibility of the Leader Councillor John Williams)

#### 1. Executive Summary

In accordance with normal procedure the Office of Surveillance Commissioners undertook an inspection of the Council's management of covert activities in respect of the Regulation of Investigatory Powers Act (RIPA) 2000 on 29 July 2014.

This report outlines the outcome from the inspection and seeks endorsement of the action required to implement the recommendations emanating from the inspection.

#### 2. Background

On 29 July 2014 Mr Neil Smart, an inspector acting on behalf of the Chief Surveillance Commissioner, visited the Council to undertake a review of the Council's management of covert activities under the powers conferred by RIPA.

A copy of the covering letter subsequently received from the Rt Hon Sir Christopher Rose, the Chief Surveillance Commissioner, is attached as Appendix A to the report.

It can be noted that the Commissioner recognised that the recommendations made following the previous inspection of the Council's activities three years ago had been largely discharged with good practice having been identified with the formal designation of authorising officers.

The reason why the recommendations of the previous inspection had been described as "largely" rather than completely discharged related to the need for ongoing training which was picked up as part of the formal recommendations arising from the Inspector's report.

The report was generally very positive and confirmed that the Inspector was satisfied that the Council takes its responsibilities under this legislation seriously and that there are appropriate systems and processes in place to use it effectively.

There were two recommendations from the report:

1. That RIPA training should continue to be formally delivered to Council staff who are likely to engage the legislation to ensure it can be applied to an appropriate standard; this should be considered as ongoing professional development; and
2. The policy/guidance document should be further amended in accordance with details set out in the inspection report to ensure it is fit for purpose and up-to-date with all the relevant legislation.

Arrangements have already therefore been made for specialist training to be held for relevant staff on 13 January 2015. In addition, further work has been done on the policy documents which is attached at Appendix B to this report with appropriate tracked changes clearly identified.

When the policy document was last considered by the Committee, the possibility of the Chairman and Vice-Chairman being kept advised of any potential surveillance request was raised and following discussion with the Inspector it is suggested that an appropriate local protocol be agreed in this regard.

### **3. Finance Comments**

There are no financial implications in this report.

### **4. Legal Comments**

The Council must ensure that it follows the procedures set out in this policy. A failure to do so may lead to evidence being inadmissible or the Council being guilty of maladministration.

### **5. Links to Corporate Aims**

There are no direct links to the Council's corporate aims.

### **6. Environmental Implications**

There are no environmental implications in this report.

### **7. Community Safety Implications**

There are no community safety implications in this report, although there will be community safety implications in assessing any applications under this policy.

### **8. Equalities Impact**

An Equalities Impact Assessment must be carried out if the report is in respect of:

- New initiatives/projects with an impact on staff, service or non-service users;
- New services/changes to the way services are delivered;
- New or refreshed Strategies;
- Events – Consultation/Training; and
- Financial/budget decisions.

The application of the policy must be undertaken in such a way to ensure that the human rights of individuals are taken into account.

## **9. Risk Management**

If the policy is not followed then the Council may suffer a risk to its reputation. In addition, health and safety must be assessed as part of any authorisation request.

## **10. Partnership Implications**

There are no partnership implications within this report.

## **11. Recommendations**

1. That the Committee note the outcome of the inspection by the Office of Surveillance Commissioners and support the ongoing provision of appropriate training relating to the RIPA process.
2. That the Committee approve the updated Corporate Policies and Procedures on the Regulation of Investigatory Powers Act 2000 (RIPA) as set out in Appendix B to this report.
3. That a local protocol be followed whereby the Senior Responsible Officer for the RIPA process will ensure that the Chairman and Vice-Chairman of the Corporate Governance Committee be kept appropriately informed in regard to any potential and/or actual authorisations for the undertaking of authorised covert surveillance.

**Contact:** Bruce Lang,  
Assistant Chief Executive and Monitoring Officer  
01984 635200  
[bdlang@westsomerset.gov.uk](mailto:bdlang@westsomerset.gov.uk)

**Appendix A – Letter from Office of Surveillance Commissioners**

**Appendix B – RIPA Policy and Procedure Guide**



Chief  
Surveillance  
Commissioner

14<sup>th</sup> August 2014

**Official-Sensitive**

*Dear M/s James,*

**Covert Surveillance**

On 29 August 2014, one of my Surveillance Inspectors, Mr Neil Smart, again visited your Council on my behalf to review your management of covert activities. I am grateful to you for the facilities afforded for the inspection.

I enclose a copy of Mr Smart's report which I endorse. I am pleased to see that the recommendations made following Mr Smart's last inspection in August 2011 have been largely discharged. Good practice is identified in your formal designation of authorising officers.

The recommendations are that RIPA training continue to be delivered, as ongoing professional development, to ensure its application to appropriate standards and that further amendments be made to your Policy / Guidance as indicated in para 7.5 of the report.

I shall be glad to learn that your Council accepts the recommendations and will see that they are implemented.

One of the main functions of review is to enable public authorities to improve their understanding and conduct of covert activities. I hope your Council finds this process constructive.

Please let this Office know if it can help at any time.

*Yours sincerely,  
Christopher Rose*

M/s Penny James  
Chief Executive  
Taunton Deane Borough Council  
Deane House  
Belvedere Road  
Taunton  
Somerset  
TA1 1HE





**CORPORATE POLICIES AND PROCEDURES ON THE  
REGULATION OF INVESTIGATORY  
POWERS ACT 2000 (RIPA)**

<b>ISSUE DETAILS</b>	
<b>TITLE:</b>	<b>RIPA Policy &amp; Procedures Guide</b>
<b>VERSION CONTROL</b>	1.2 dated 3rd July 2008 1.3 dated 20 February 2009 1.4 dated March 2009 1.5 dated June 2010 (FINAL) 1.6 dated February 2014 (updated) <u>1.7 dated September 2014</u>
<b>OWNER</b>	Assistant Chief Executive and Monitoring Officer
<b>APPROVED By:</b>	Corporate Governance Committee 19 May 2014
<b>REVIEW DATE</b>	(1) March 2015 (2) March 2016

Contact: Bruce Lang  
Assistant Chief Executive & Monitoring Officer  
Taunton Deane Borough Council  
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Taunton TA1 1HE



Tel: 01823 356391 E-mail: [BDLang@westsomerset.gov.uk](mailto:BDLang@westsomerset.gov.uk)

WEST SOMERSET COUNCIL  
PLANNING AND BUILDING CONTROL  
PO BOX 1000  
WELLS BA5 2RN

PLANNING PERMISSION

PLANNING PERMISSION  
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## A. Introduction and Key Messages

1. This 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 Covert Human Intelligence Sources (covert surveillance would be used only rarely and in exceptional circumstances).
2. The authoritative position on RIPA is, of course, the Act itself and any Officer who is unsure about any aspect of this document should contact, at the earliest possible opportunity, the Monitoring Officer, for advice and assistance.
3. Copies of this document and related forms will be placed on the intranet, once this Document has been approved by the Council and the Office of Surveillance Commissioners. This guide (but not the RIPA forms or the list of Authorising Officers) will be placed on the TDBC website.
4. The Monitoring Officer is the Senior Responsible Officer (SRO) who shall be responsible for ensuring the compliance of the Council with Part II two of RIPA 2000 and will maintain (and check) the ~~Corporate Register of~~ Central Record of Authorisations which will include all RIPA authorisations, reviews, renewals, cancellations and rejections. However, it is the responsibility of the relevant Authorising Officer to ensure that the Monitoring Officer receives a copy of the relevant forms within 1 week of authorisation, review, renewal, cancellation or rejection the original form as soon as practical after completion for the completion of the central record, oversight and secure filing.
5. 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. This document will, therefore, be kept under 12-monthly review by the Monitoring Officer. Authorising Officers (AO) must bring any suggestions for the improvement of this document to the attention of the Monitoring Officer at the earliest possible opportunity. The Council takes responsibility for ensuring that RIPA procedures are continuously improved.
6. The Monitoring Officer is the Council's nominated Single Point of Contact (SPOC) Officer who will be the normal point of contact for the Chief Surveillance Commissioner or Surveillance Inspector and will field enquiries relating to RIPA.
7. If you are in any doubt on RIPA, this document or the related legislative provisions, please consult the Monitoring Officer or at the earliest possible opportunity.
8. This policy will be approved and monitored by the Corporate Governance Committee on a regular basis.

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## B. Council Policy Statement

1. The Council takes its statutory responsibilities seriously and it will at all times act in accordance with the law and take action that is both necessary and proportionate to the discharge of such statutory responsibilities. In that regard, the Monitoring Officer is the designated SRO and is duly authorised by the Council to keep this document up to date and to amend, delete, add or substitute relevant provisions, as necessary. For administrative and operational effectiveness, the Monitoring Officer is also authorised to add or substitute Officers authorised for the purposes of RIPA.
2. The SRO shall be responsible for the following:-
  - The integrity of the process in place within West Somerset District Council Taunton Deane Borough Council to authorise Directed Surveillance;
  - Compliance with Part II two of RIPA 2000 and any associated Codes of Practice;
  - Acting as liaison with the Commissioners and inspectors and engaging with them as appropriate;
  - Overseeing the implementation of any post-inspection action and plans recommended or approved by a Commissioners The Chief Surveillance Commissioner.
3. The SRO shall ensure that all AO's are provided with ~~copies~~ a copy of current and updated Codes of Practice and OSC Guidance and Procedure Notes Procedures and Guidance documents as they are released from time to time.
4. The SRO shall maintain a Central Record of Authorisations.
5. The Deputy Monitoring Officers will assist the SRO in undertaking the tasks as specified in 2.0 above.

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### C. Effective Date of Operation : 1 March 2009 and Authorising Officer (AO) Responsibilities

1. The Corporate Policy, Procedures and the forms provided in this document will become operative with effect from the date of the Policy's approval.
2. Prior to the operative date, the Monitoring Officer will ensure that sufficient numbers of Authorising Officers (AO) are (after suitable training on RIPA and this document) duly certified to take action under this document.
3. Authorising Officers (AO) will also ensure that staff who report to them follow this Policy & Procedures Document and do not undertake or carry out any form of surveillance without first obtaining the relevant authorisations in compliance with this document.
4. Authorising Officers (AO) must also pay particular attention to Health and Safety issues that may be raised by any proposed surveillance activity. Under no circumstances should an Authorising Officer (AO) approve any RIPA form unless and until s/he is satisfied that the health and safety of Council employees has been suitably addressed, and/or risks minimised so far as is possible, and that those health and safety considerations and risks are proportionate to/with the surveillance being proposed. If an Authorising Officer (AO) is in any doubt, s/he should obtain prior guidance.
5. Authorising Officers (AO) must also ensure that when sending copies of any forms to the Monitoring Officer, (or any other relevant authority), the same are sent in SEALED envelopes and marked 'Strictly Private & Confidential'.

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## D. General Information on RIPA

1. 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) to respect the private and family life of citizens, their home and their correspondence. See Article 8 of the European Convention.
2. The European Convention did not, however, make this an absolute right, but a qualified right. Accordingly, in certain circumstances, the Council may interfere with 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).
3. The Regulation of Investigatory Powers Act 2000 ('RIPA') provides a statutory mechanism (i.e. 'in accordance with the law') for authorising covert surveillance and the use of a 'covert human intelligence source' ('CHIS') - e.g. undercover agents, informers. It seeks 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 that both the public interest and the human rights of individuals are suitably balanced.
4. Directly employed Council staff and external agencies working for the Council are covered by RIPA during the time they are working for the Council. Therefore, all external agencies must comply with RIPA and work carried out by agencies on the Council's behalf must be properly authorised by one of the Council's designated ~~Authorised Officers~~AO. ~~Authorised Officers~~AO are those whose posts appear in Appendix (1) to this document (as added to or substituted by the Monitoring Officer).
5. If the correct procedures are not followed, evidence may be disallowed by the courts, a complaint of maladministration may be made to the Ombudsman, and/or the Council may be ordered to pay compensation. Were this to happen the good reputation of the Council will be damaged and it will undoubtedly be the subject of adverse press and media interest. Therefore, it is essential that all involved with RIPA comply with this document and any further guidance that may be issued from time to time by the Monitoring Officer.
6. A flowchart of the procedures to be followed appears at Appendix (2).



## **E. What RIPA Does and Does Not Do**

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1. RIPA does:
  - Require - prior authorisation of directed surveillance.
  - Prohibit - the Council from carrying out intrusive surveillance.
  - Require - authorisation of the conduct and use of a CHIS.
  - Require - safeguards for the conduct and use of a CHIS.
  
2. RIPA does not:
  - Make unlawful conduct which is otherwise lawful.
  - Prejudice or disapply any existing powers available to the Council to obtain information by any means not involving conduct that may be authorised under RIPA. For example, it does not affect the Council's current powers to obtain information via the DVLA or to get information from the Land Registry as to the ownership of a property.
  
3. If the ~~Authorised Officer~~ AO or any Applicant is in any doubt, s/he should ask the Monitoring Officer before any directed surveillance and/or CHIS is authorised, renewed, cancelled or rejected.

## F. Types of Surveillance

1. 'Surveillance' includes

- Monitoring, observing, listening to people, 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.

2. **Overt Surveillance**

Most of the surveillance carried out by the Council will be done overtly - there will be nothing secretive, clandestine or hidden about it. In many cases, Officers will be behaving in the same way as a normal member of the public and/or will be going about Council business openly.

3. Similarly, surveillance will be overt if the subject has been told it will happen.

4. **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).

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

6. Powers relating to directed surveillance were amended by the Protection of Freedoms Act 2012 and the RIPA (Directed Surveillance and CHIS) (Amendment) Order 2012

## **G6-** Directed Surveillance and Intrusive Surveillance

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1. Directed Surveillance is surveillance which:-

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

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72 Private information in relation to a person includes any information relating to his private and family life, his home and his correspondence. 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.

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

94 For the avoidance of doubt, only those Officers designated and certified to be '~~Authorised Officers~~'AO for the purpose of RIPA can authorise 'Directed Surveillance' if, and only if, the RIPA authorisation procedures detailed in this document are followed. If an ~~Authorised Officer~~AO has not been 'certified' for the purposes of RIPA, s/he cannot carry out or approve/reject any action set out in this Corporate Policy & Procedures Document.

Further, an ~~Authorised Office~~AO for RIPA purposes cannot delegate his/her power of authorisation to another officer unless that officer is also an ~~Authorised Officer~~AO for RIPA purposes (and listed in Appendix 1), in which case that officer would be authorising in his own right. If in doubt, check with the Monitoring Officer. Officers will bear personal responsibility for ensuring correct RIPA authorisation procedures.

105 Surveillance that is unforeseen and undertaken as an immediate response to a situation normally falls outside the definition of directed surveillance and

therefore authorisation is not required. However, if a specific investigation or operation is subsequently to follow, authorisation must be obtained in the usual way before it can commence. In no circumstance will any covert surveillance operation be given backdated authorisation after it has commenced.

**416. Intrusive Surveillance is surveillance which This-is-when-surveillance:**

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- is covert;
- relates to residential premises and 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.

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**7.42-** Intrusive surveillance can be carried out only by police and other law enforcement agencies. Council Officers must not carry out intrusive surveillance.

**843.** Council Officers must not authorise surveillance that contravenes Part IIIthree of the Police act 1997 relating to interference with property or wireless photography,

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**944.** If any "trespass" is being considered by Council staff during the course of surveillance, the matter should be referred to the Monitoring Officer as a matter of urgency.

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**105. Examples of different types of Surveillance**

Type of Surveillance	Examples
Over	- Police Officer or Parks Warden on patrol. - Signposted Town Centre CCTV cameras (in normal use). - Most test purchases (where the officer behaves no differently from a normal member of the public).
Covert but not requiring prior authorisation	- CCTV cameras providing general traffic, crime or public safety information.
Directed (must be RIPA authorised)	- Officers follow an individual or individuals over a period, to establish whether s/he is working when claiming benefit or genuinely on long term sick leave 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 - (Council cannot do this)	- Planting a listening or other device (bug) in a person's home or in their private vehicle.

Property Interference (the Council cannot authorise this)

Attaching or placing an alarm on a vehicle without the consent of the owner.

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

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### **1. Introduction**

The Council do not propose to initiate involvement within this area of the Act. Nevertheless, the Council does have the power to do so and, in the unlikely event that such a source presents him/herself unexpectedly, the Council will manage the source in accordance with RIPA, the current Code of Practice and will comply with this Section G.

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### **2. Definition of a CHIS**

Covert Human Intelligence Source (CHIS) is defined under Section 26(8)(a-c) of RIPA 2000, where information is obtained to assist in the investigation of a crime or to prevent a crime, by a CHIS who establishes or maintains a personal or other relationship with a person for the covert purpose of facilitating the doing of anything, which is:

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- Covertly using a relationship to obtain information or provide access to any information to another person; or
- Covertly disclosing information obtained by the use of such a relationship, or as a consequence of the existence of a such a relationship
- Where the relationship is conducted in a manner that is unaware of its purpose.

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The provisions of RIPA relating to CHIS do not apply:

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- Where members of the public volunteer information to the Council as part of their normal civic duties;
- Where the public contact telephone numbers set up by the Council to receive information;
- Where test purchase are carried out in the normal course of business;
- Where members of the public are asked to keep diaries of incidents in relation to planning enforcement or anti-social behavior;

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As none of these situations normally require a relationship to be established for the covert purpose of obtaining information.

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### **3. Authorisation**

The Council is only likely to use a CHIS under very exceptional circumstances, and advice should be sought from the SRO before any authorisation is applied for or granted.

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Before the AO grants authorisation to use CHIS, in consultation with the SRO, the SRO should consult with the District Commander with the Police Force Area, which



is the Avon and Somerset Constabulary, to ensure that no conflict arises within the area of where the CHIS is deployed but this will not include disclosure of the identity of the CHIS.

Authorisations should not be drawn so narrowly that a separate authorisation is required each time the CHIS is tasked with an assignment. An authorisation can cover, in broad terms, the nature of the CHIS's task and only if this changes significantly would a new authorisations be needed.

If a CHIS is used, both the use of the CHIS and his or her conduct require prior authorisation.

- **Conduct of a CHIS = Establishing or maintaining a personal or other relationship with a person for the covert purpose (or incidental to the covert purpose of) obtaining and passing on information.**
- **Use of a CHIS = Inducing, asking or assisting a person to engage in the conduct of a source or to obtain information by means of the conduct of a source.**

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In the event of the Council deploying a CHIS they must take into account the safety and welfare of that CHIS. Before authorising the use or conduct of a CHIS the SRO shall ensure that a risk assessment is carried out and consideration given to ongoing security, welfare and management of any requirement to disclose information (including that tending to reveal the existence of the CHIS) and should also include the risk to the CHIS from any tasking and the likely outcome should the role of the CHIS become known.

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When authorising the conduct or use of a CHIS, the AO must also:

- **Be satisfied that the conduct and/or use if the CHIS is proportionate to the objective sought to be achieved;**
- **Consider the likely degree of intrusion for all those potentially affected;**
- **Consider any adverse impact on community confidence of the CHIS or the information obtained; and**
- **Ensure that records contain the required particulars set out in section 5 and that these are not available except on a 'need to know' basis.**

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If a juvenile or vulnerable individual is contemplated as a CHIS the Chief Executive or SRO must be the AO for the purposes of the authorisation.

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#### **4. Management of a CHIS**

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There are specific legal rules, which must be followed in relation to the management of sources. Officers to act as Designated Handlers and controllers (as set out in s.29(5) RIPA 2000) should be appointed. Officers who undertaken these roles must have undergone the specific training required by the legislation. Details are given in the relevant Home Office Code of Practice, and further advice can be obtained from the SRO.

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A controller will have responsibility for the management and supervision of the Designated Handler and general oversight of the use of the CHIS. Special safeguards apply to the use or conduct of juvenile sources (i.e. under 18 years of age). On no account can a child under 16 years of age be authorised to give information against his or her parents. Similar safeguards also apply to the use of vulnerable individuals as sources. (A vulnerable individual is a person who is a person 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.) Further advice must be sought from the SRO before using juveniles or vulnerable individual's source, to ensure that all necessary legal requirements are compiled with.

A CHIS will have his/her identify protected under the relevant legal procedures.

### 5. Specific CHIS Records

In addition to records kept in accordance with section 11 below the following matters will be recorded and maintained in relation to every CHIS.

- The identity of the CHIS and the identity, where known, used by the CHIS;
- The date when and the circumstances in which the CHIS was recruited;
- Any significant information connected with the security and welfare of the CHIS;
- Confirmation that any person granting or renewing an authorisation for the conduct or use of a CHIS that the information referred to in 9.13.3 has been considered and that any identified risks have, where appropriate, been explained to and understood by the CHIS.
- The identifies of the persons who in relation to the CHIS are acting as a Designated Handler or controller and the periods during which those persons have so acted;
- All contact or communications between the CHIS and the person acting on behalf of the Investigating Officer, including all tasks given to and demands made of the CHIS; information received by the conduct or use of the CHIS and the dissemination of any information so obtained;
- In situations where the relevant investigating authority is different to the Council, the details of that investigation authority and the means by which the CHIS is referred to within each relevant investigating authority.

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### 6. Corporate Manager Records

The following information should be maintained by the relevant member of the Joint Management Team for the Service Team where the authorisation application originated from in relation to the source:

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- Any risk assessment in relation to the source;
- The Circumstances in which tasks were given to the source;
- The value of the source of the investigating authority;

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A 'Surveillance Log Book' should be completed by the Investigating Officer(s) to record all operational details of authorised covert surveillance or the use of a CHIS. Once completed, the Log Book will be passed to the relevant member of the Joint Management Team or to their designated RIPA coordinator for safe keeping in a secure—secure place. Each service will also maintain a record of the issue and movement \*\*\*\* of all Surveillance Log Books

## **H1. Authorisation Procedures**

1. Directed surveillance and the use of a CHIS can only be lawfully carried out if properly authorised and in strict accordance with the terms of the authorisation. Appendix (2) provides a flow chart of the authorisation process from application consideration to recording of information.
2. The Regulation of Investigatory Powers (Directed Surveillance and Cover Human Intelligence Sources) (Amendment) Order 2012 (made on 11 June 2012) comes into force on 1<sup>st</sup> November 2012 and will further restrict the Council's powers to grant a RIPA authorisation.
3. From this date authorisations can only be granted where the authorisation is for the purpose of preventing or detecting crime and that crime constitutes one or more criminal offences. Additionally the criminal offences being contemplated must be ones which are punishable by a prison sentence of at least six months. There are exceptions to this requirement covering various offences under s146 and s147 Licensing Act 2003 (effectively selling alcohol to children).
4. On 1<sup>st</sup> May 2012, the Protection of Freedoms Bill received Royal Assent to become the Protection of Freedoms Act 2012.
5. The Protection of Freedoms Act 2012 (Commencement No.2) Order 2012 (SI 2012/2075) ('the Order') was made on 7<sup>th</sup> August 2012 bringing in various provisions of the Protections of Freedoms Act 2012 into force during 2012.
6. Article 4 of the Order commences amendments to the Regulation of Investigatory Powers Act 2000 ("RIPA") on 1<sup>st</sup> November 2012.
7. The amendment in respect of RIPA authorisations is that when an authorisation is granted it will not take effect until such time (if any) as a Justice of the Peace has made an order approving the grant of the authorisation.

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### **Authorising Officers (AO's)**

8. Forms can only be signed authorised by ~~Authorised Officers~~AO who hold a Certificate of RIPA Eligibility from the Monitoring Officer as shown in Appendix (3). Authorised Officer posts are listed in Appendix (1). This Appendix will be kept up to date by the Monitoring Officer and added to as needs require. The Monitoring Officer has been duly authorised to add, delete or substitute posts listed in Appendix (1).
9. As already mentioned, RIPA authorisations are for specific investigations only, and they must be renewed or cancelled once the specific surveillance is complete or about to expire. The authorisations do not lapse with time!

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## Training Records

10. Proper training will be given or approved by the Monitoring Officer before ~~Authorised Officers~~AO are issued with a Certificate of RIPA Eligibility enabling them to sign any RIPA forms. The issue of a Certificate of RIPA Eligibility will also have the dual purpose of confirming that the Officer has been RIPA trained and a Corporate Register of all those individuals who have been issued with such Certificates will be kept by the Monitoring Officer.
11. If the Monitoring Officer feels at any time that an ~~Authorised Officer~~AO has not complied fully with the requirements of this document, or the training provided to him, the Monitoring Officer is duly authorised to retract that Officer's Certificate of RIPA Eligibility until s/he has undertaken further approved training. Were this to happen the Officer could no longer authorise RIPA Procedures.

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## Application Forms

12. Only the approved RIPA forms set out in this document must be used.

For the most up to date forms see:-

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<http://www.homeoffice.gov.uk/government/collections/ripa-forms-2>

## Grounds for Authorisation

13. Directed Surveillance or the Conduct and Use of the CHIS can be authorised by the Council only for the prevention or detection of crime or preventing disorder. Powers relating to directed surveillance were amended by the Protection of Freedoms Act 2012 to limit usage of the prevention of disorder element to the purpose of preventing or detecting a criminal offence where the potential punishment for a person over 21 years on a first offence is a term of at least six months imprisonment, or involving potential offences involving underage sales of alcohol or tobacco. This in relation to the prevention of disorder is unlikely within a Council to be achieved.

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## Assessing the Application Form

14. Before an Authorised Officer signs a form, they must:
  - (a) Be mindful of this Policy & Procedures Document, the training provided or approved by the Monitoring Officer and any other guidance issued, from time to time, by the Monitoring Officer on such matters;
  - (b) Satisfy themselves that the RIPA authorisation is:
    - (i) In accordance with the law;
    - (ii) Necessary in the circumstances of the particular case on one of the grounds mentioned in paragraph 13 above; and

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- (iii) Proportionate to what it seeks to achieve.
- (c) In assessing whether or not the proposed surveillance is proportionate, consider other appropriate means of gathering the information. The least intrusive method will be considered proportionate by the courts. It is important to balance the seriousness of the intrusion into the privacy of the subject of the operation (or any other person who may be affected) against the need for the activity in investigative or operational terms.
- (d) Take into account the risk of intrusion into the privacy of persons other than the specified subject of the surveillance (Collateral Intrusion). Measures must be taken wherever practicable to avoid or minimise (so far as is possible) unnecessary collateral intrusion into the lives of those not directly connected with the investigation or operation. This matter may be an aspect of determining proportionality;
- (e) Set a date for review of the authorisation and review on only that date;
- (f) Allocate a Unique Reference Number (URN) for the application as follows:  
*Year / Group / Number of Application*
- (g) Ensure that the RIPA Service Register Central Record of Authorisations is duly completed, and that a copy of the RIPA forms (and any review/cancellation of the same) is forwarded to the Monitoring Officer for inclusion in the Corporate Register within one week of the relevant authorisation, review, renewal, cancellation or rejection.

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### Additional Safeguards when Authorising a CHIS

15. When authorising the conduct or use of a CHIS, the Authorised Officer AO must also:
- (a) Be satisfied that the conduct and/or use of the CHIS is proportionate to what is sought to be achieved;
- (b) Be satisfied that appropriate arrangements are in place for the management and oversight of the CHIS and these arrangements must address health and safety issues through a risk assessment;
- (c) Consider the likely degree of intrusion of all those potentially affected;
- (d) Consider any adverse impact on community confidence that may result from the use or conduct or the information obtained; and
- (e) Ensure records contain particulars and that they are not available except on a need to know basis.
16. The Authorised Officer AO must record a clear description of what authority is being granted for by reference to subjects, property or location and the type of surveillance permitted. This may not be the same as what is being requested.

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17. If an application is granted, the ~~Authorising Officer AO~~ must set a date for its review, and ensure that it is reviewed on that date. Records must be kept in relation to all RIPA applications and authorisations.
18. By law, an ~~Authorising Officer AO~~ must not grant authority for the use of a CHIS unless they believe that there are arrangements in place for ensuring that there is at all times a person with the responsibility for maintaining a record of the use made of the CHIS. Certain particulars must be included in the records relating to each CHIS, and the records must be kept confidential. Further advice should be sought from the Monitoring Officer or the Deputy Monitoring Officer on this point if authority is proposed to be granted for the use of a CHIS.
19. A 'Surveillance Log Book' should be completed by the investigating officer(s) to record all operational details of authorized covert surveillance or the use of a CHIS. Once completed, the Log Book should be passed to their relevant RIPA coordinator for safe keeping in a secure place. Each group will also maintain a record of the issue and movement of all Surveillance Log Books.

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## Urgent Authorisations

20. Urgent authorisations should not be necessary. ~~However, in exceptional circumstances, urgent authorisations may be given orally if the time that will elapse before a written authorisation can be granted will be likely to endanger life or jeopardise the investigation or operation for which the authorisation is being given. The Protection of Freedoms Act 2012 Schedule 9 (9)(2) removed the possibility of oral authorisation. Now authorisations must be in writing and have judicial approval before they are effective.~~
21. It will not be urgent or an exceptional circumstance where the need for authorisation has been neglected or the situation is of the Officer's own making.
22. ~~Urgent authorisations last for no more than 72 hours. They must be recorded in writing on the standard form as soon as practicable and the extra boxes on the form must be completed to explain why the authorisation is urgent. In cases where emergency approval is required the AO must be visited by the applicant officer with two completed RIPA application forms. The AO will then assess proportionality and necessity and the legality of the application. If approved, the applicant officer must contact the out of hours HM Courts and Tribunal Service (HMCTS) representative to seek approval from a Magistrate.~~

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## Duration

23. The form must be reviewed in the time stated, and cancelled once it is no longer needed. The 'authorisation' to carry out/conduct the surveillance lasts for 3 months (from date of authorisation) for Directed Surveillance, ~~expiring at 23.59 hours the preceding day for operational purposes~~ and 12 months (from date of authorisation) for a CHIS. Any adjustments to the time period must be made by means of either a cancellation or a renewal.

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24. However, whether or not the surveillance is carried out/conducted in the relevant period has no bearing on the authorisation becoming spent. In other words, the forms do not expire! The forms have to be reviewed and/or cancelled (once they are no longer required).
- ~~25. An urgent oral authorisation (if not already ratified in a written authorisation) will cease to have effect after 72 hours, beginning with the time when the authorisation was granted.~~
- 265 Authorisations shall be renewed in writing when the maximum period has expired. The ~~Authorising Officer~~ AO must consider the matter afresh, including taking into account the benefits of the surveillance to date and any collateral intrusion that has occurred.
- 276 The renewal will begin on the day when the authorisation would have expired. ~~In exceptional circumstances, renewals may be granted orally in urgent cases (but see above) and they last for a period of 72 hours.~~

## Reviewing Authorisations

- ~~287. Regular review of the all authorisations should be undertaken to assess the need for the surveillance or property interference activity to continue. The result of a review should be retained for at least three years. Particular attention is drawn to the need to review authorisations frequently where the surveillance or property interference involves a high level of intrusion into private life or significant collateral intrusion, or confidential information is likely to be obtained.~~
- ~~298. In each case the frequency of reviews should be considered at the outset by the AO or, for those subject to authorisation by the Secretary of State, the member or officer who made the application within public authority concerned. This should be as frequently as is considered necessary and practicable.~~
- ~~3029. In some cases it may be appropriate for an AO to delegate the responsibility for conducting any reviews to a subordinate officer. The AO must, however, usually be best placed to assess whether the facts upon which he based the original decision to grant an authorisation have changed sufficiently to cause the authorisation to be revoked. Support staff can do the necessary research and prepare the review process but the actual review is the responsibility of the original AO and should, as matter of good practice, be conducted by them or, failing that, by an officer who would be entitled to grant a bean authorisation in the same terms.~~
- ~~340. Any proposed or unforeseen changes to the nature or extent of the surveillance operation that may result in the further or greater intrusion into the private life of any person should also be brought to the attention of the AO by means of a review. The AO should consider whether the proposed changes are~~

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proportionate (bearing in mind any extra intended intrusion privacy or collateral intrusion), before approving or rejecting them.  
Any such changes must be highlighted at the next renewal if the authorisation is to be renewed.

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**Example:** A directed surveillance authorisation is obtained by the police to authorise surveillance of "X and his associates" for the purposes of investigating their suspected involvement in a crime. X is seen meeting with A in a café and it is assessed that subsequent surveillance of A will assist the investigation. Surveillance of A may continue (he is an associate of X) but the directed surveillance authorisation should be amended at a review to include "X and his associates, including A".

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## Cancellations

331. During a review, the AO who granted or last renewed the authorisation may amend specific aspects of the authorisation, for example, to cease surveillance against one of a number of named subjects or to discontinue the use of a particular tactic. They must cancel the authorisation if satisfied that the directed surveillance as a whole no longer meets the criteria upon which it was authorised.

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Where the original AO is no longer available, this duty will fall on the person who has taken over the role of AO or the person who is acting as AO (see Regulation of Investigatory Powers Act (Directed Surveillance and Covert Human Intelligence Sources) Order 2010).

342. As soon as the decision is taken that directed surveillance should be discontinued, the instruction must be given to those involved to stop all surveillance of the subject(s). The date the authorisation was cancelled should be centrally recorded and documentation of any instruction to cease surveillance should be retained. The AO must make a direction in respect of the surveillance product.

There is no requirement for any further details to be recorded when cancelling a directed surveillance authorisation. However, effective practice suggests that a record should be retained detailing the product obtained from the surveillance and whether or not objectives were achieved.

353. AO should not normally be responsible for authorising operations in which they are directly involved, although it is recognised that this may sometimes be unavoidable, especially in the case of small organisations, or where it is necessary to act urgently or for security reasons. Where an AO authorises such an investigation or operation the centrally retrievable record of authorisations should highlight this and the attention of a Commissioner or Inspector should be invited to it during his next inspection.

364. It is unlikely to be regarded as "not reasonably" (within the meaning of sections of the Acts specified above) for an AO to consider an application, unless he/she is too ill to give attention, on annual leave, is absent from his office and his/her home, or is for some reason not able within a reasonable time to obtain access to a secure telephone or fax machine.

Pressure of work is not to be regarded as rendering it impracticable for an AO to consider an application.

375. Where a designated deputy gives an authorisation the reason for the absence of the AO should be stated.

386. The absence of a collaboration agreement does not preclude the application seeking authorisation of actions by members of another organisation.

### 37. Process for obtaining Judicial Approval

Under S37 and S38 Protection of Freedoms Act 2012 a Local Authority who wishes to authorise the use of directed surveillance, and use of a CHIS under RIPA will need to obtain an Order approving grant/renewal of an authorisation from the Magistrates' Court before it can take effect.

If the JP (District Judge or lay magistrate) is satisfied that the statutory tests have been met and that the use of the technique is necessary and proportionate, he/she will issue an order approving the grant or renewal for the use of the technique as described in the application.

The process to be followed to obtain Judicial approval is set out in Appendix 2.

### 38. Authorised Activity

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Before surveillance commences, officers involved in the surveillance must read the authorisation and certify in writing that they have done so.

## **IJ Working With / Through Other Agencies**

1. When another agency has been instructed on behalf of the Council to undertake any action under RIPA, this document and its forms must be used by the Council Officers concerned (in accordance with the normal procedure), the agency advised and kept informed of the various RIPA requirements. They must be

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made explicitly aware of what they are authorised to do, preferably in writing (with a copy of the written instructions countersigned-by-the-agency-certified-by-the-officers-as-having-been-read by way of acknowledgement of their instructions and returned to the instructing officer). If for reasons of urgency oral instructions are initially given, written confirmation must be sent and acknowledged within 4 working days. Officers must be satisfied that agencies are RIPA competent & RIPA trained before they are used.

2. When some other agency (e.g. Police, Customs & Excise, Inland Revenue etc):
- (a) Wish to use the Council's resources (e.g. CCTV surveillance systems), that agency must use its own RIPA procedures and before any Officer agrees to allow the Council's resources to be used for the other agency's purposes s/he must obtain a copy of that agency's completed RIPA form for the Council's records (a copy of which must be passed to the Monitoring Officer for the Corporate Register)-Central Record of Authorisations or relevant extracts from the agencies RIPA form which are sufficient for the purposes of protecting the Council and use of its resources. The Council must only allow its equipment to be used in accordance with the authorisation.;
- (b) Wish to use the Council's premises for their own RIPA action, the Council Officer concerned should normally co-operate with such a request, 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 need to be sought from the other agency to protect the Council's legal position (the Council's insurance officer and/or the Monitoring Officer can advise on this issue). In such cases the Council's own RIPA forms should not be used as the Council is only 'assisting' and not being 'involved' in the RIPA activity of the external agency.
3. With regard to 2(a) above, 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 (and detailing the 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 insurance/indemnity considerations mentioned above may still need to be addressed.
4. In addition should any officer wish to work in partnership with any other agency where the Council intend to share with that other agency any evidence obtained through surveillance activities then the advice of the Monitoring Officer or the Deputy Monitoring Officer should be first sought.
5. If in doubt, please consult with the Monitoring Officer at the earliest opportunity.

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## **K. Covert use of the Internet and Social Networking Sites (SNS)**

Even if digital investigation can be routine or easy to conduct, this does not reduce the need for authorisation.

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The AO must consider each service provider and services provided on an individual basis.

If Access Controls are applied to data by the author, there is a reasonable expectation of privacy. Where privacy settings are available but not applied, data may be considered open source and authorisation is not normally required.

If there is no warrant authorising interception, in accordance with S48(4) 2000 Act, if it is necessary and proportionate to breach covertly access controls, an authorisation for directed surveillance will be needed as a minimum.

An authorisation for the use and conduct of a CHIS is necessary if a relationship is established or maintained by a member of the public or— by a person acting on its behalf.

If an officer wishes to set up a false identity for a covert purpose, authorisation must be obtained.

Use of photographs of third parties to support the false identity without the third party's permission is not permitted.

An officer should not adopt the identity of a person known or likely to be known by the subject of interest or users of the site, without authorisation and also the consent in writing of the person whose identity is to be used and details of what is agreed can be done and not done. The Officer must also consider the protection of that party.

## **JL. Records Management**

1. The Council must keep a detailed record of all authorisations, renewals, cancellations and rejections generated by officers and a Corporate Register of all Authorisation forms will be maintained and monitored by the Monitoring Officer. Original documents should go to the SRO/RIPA co-ordinator for central filing within the Central Record of Authorisations. Practitioners should work from copy documents at all times.

2. Records maintained by individual services

The following documents must be retained:

- a copy of any completed application form together with any supplementary documentation and notification of the approval given by the Authorised Officer; Formatted: Justified
- a record of the period over which the surveillance has taken place;
- the frequency of reviews prescribed by the Authorised OfficerAO;
- a record of the result of each review of the authorisation;
- a copy of any renewal of an authorisation, together with the supporting documentation submitted when the renewal was requested;
- a copy of any cancellation of an authorisation;
- the date and time when any instruction was given by the Authorised OfficerAO;
- the Unique Reference Number for the authorisation (URN).

3. Each form will have a URN. The cross-referencing of each URN takes place within the forms for audit purposes. Rejected forms will also have URN's. Formatted: Justified

### **Corporate RegisterCentral Record of Authorisation maintained by the Monitoring Officer**

4. Authorised OfficerAOs must forward details of each form to the Monitoring Officer for the Corporate Register within 1 week of the authorisation, review, renewal, cancellation or rejection. The Monitoring Officer will monitor the same and give appropriate guidance from time to time or amend this document, as necessary. Formatted: Justified
5. The Council will retain records for a period of at least three years from the ending of the authorisation. The Office of the Surveillance Commissioners (OSC) can

audit/review the Council's policies and procedures, and individual authorisations.

## **KM. Material obtained during investigations**

1. Generally, all material (in whatever media) obtained or produced during the course of investigations subject to RIPA authorisations should be processed, stored and destroyed in accordance with the requirements of the Data Protection Act 1998, the Freedom of Information Act 2000, any other legal requirements including those of confidentiality. The following paragraphs give guidance on some specific situations, but advice should be sought from the Monitoring Officer or the Data Protection Officer where appropriate.
2. Where material is obtained during the course of an investigation which might be relevant to that investigation, or another investigation, or to pending or future civil or criminal proceedings, then it should not be destroyed, but retained in accordance with legal disclosure requirements.
3. Where material is obtained, which is not related to a criminal or other investigation or to any person who is the subject of the investigation, and there is no reason to suspect that it will be relevant to any future civil or criminal proceedings, it should be destroyed immediately.
4. Material obtained in the course of an investigation may be used in connection with investigations other than the one that the relevant authorisation was issued for. However, the use or disclosure of such material outside the Council, unless directed by any court order, should only be considered in exceptional circumstances, and in accordance with advice from the Monitoring Officer or the Deputy Monitoring Officer.
5. Where material obtained is of a confidential nature then the following additional precautions should be taken:
  - Confidential material should not be retained or copied unless it is necessary for a specified purpose;
  - Confidential material should only be disseminated in accordance with legal advice that it is necessary to do so for a specific purpose;
  - Confidential material which is retained should be marked with a warning of its confidential nature. Safeguards should be put in place to ensure that such material does not come into the possession of any person where to do so might prejudice the outcome of any civil or criminal proceedings;
  - Confidential material should be destroyed as soon possible after its use for the specified purpose.

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If there is any doubt as to whether material is of a confidential nature, advice should be sought from the Monitoring Officer.

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## **NL. Amendments to this guidance document**

1. The Monitoring Officer is duly authorised to keep this guidance document up to date, and to amend, delete, add or substitute any provisions as s/he deems necessary. For administrative and operational effectiveness, s/he is also authorised to amend the list of 'Authorising Officer Posts' set out in Appendix 1, by adding, deleting or substituting any posts.
2. The RIPA Corporate Officers Working Group shall supplement any training requirements with exchanges of experiences in the operation of this document and any recommendations to improve this document will be considered by the Council's Monitoring Officer.

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## **MO. Complaints Handling**

### **1. Taunton Deane Borough Council's Surveillance Complaints Procedure**

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Complaints concerning breaches of the code may be made to the Council's Chief Executive, Taunton Deane Borough Council, The Deane House, Belvedere Road, Taunton, Somerset, TA1 1HE.

If a complaint is received from a member of the public or a person who has been subject to any form of surveillance the complaint will be referred to the Monitoring Officer for investigation.

Thereafter a decision will be taken, as to what action, if any, should be taken in line with the Council's Complaints Policy.

## 2. Independent Tribunal

The Regulation of Investigatory Powers Act 2000 also establishes an independent tribunal made up of Senior Members of the Judiciary and the Legal Profession and is independent of the government. The tribunal has full powers to investigate and decide any case within its jurisdiction. If a complaint is therefore received from an individual who has been subject to surveillance or by a member of the public then that person or persons should be referred immediately to the Investigatory Powers Tribunal.

The address for the Investigatory Powers Tribunal is PO Box 33220 London SW1H 9ZQ.

### **PN** Useful contacts

- 6.1 Local Authorities Coordinators of Regulatory Services (LACORS) -  
[www.lacors.gov.uk](http://www.lacors.gov.uk)
- 6.2 Office of the Surveillance Commissioner –  
<https://osc.independent.gov.uk/>
- 6.3 RIPA forms-  
<https://www.gov.uk/government/collections/ripa-forms-2>
- 6.4 RIPA codes of practice-  
<https://osc.independent.gov.uk/>
- 6.5 RIPA home office guidance –  
<https://www.gov.uk/government/publications/changes-to-local-authority-use-of-ripa>

## **Q. Concluding Remarks of the Monitoring Officer**

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1. Where there is an interference with the right to respect for private and family life guaranteed under Article 8 of the European Convention on Human Rights, and where there is no other source of lawful authority for the interference, or if it is held not to be necessary or proportionate to the particular circumstances, the consequences of not obtaining or following the correct authorisation procedure set out in RIPA and this document may be that the action taken (and the evidence obtained) will be held to be unlawful by the Courts pursuant to Section 6 of the Human Rights Act 1998. This could result in the Council losing a case and having costs (and possibly damages) awarded against it.
2. Obtaining an authorisation under RIPA and following the procedures set out in this document will ensure that the particular action taken is carried out in accordance with the law and subject to stringent safeguards against abuse of anyone's human rights.
3. ~~Authorised Officers~~ **AO** will be suitably trained and they must exercise their minds every time they are asked to sign a form authorise a course of action. They must

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never sign or rubber stamp form(s) without thinking about both their personal responsibilities and the Council's responsibilities under RIPA and the European Convention.

4. Any boxes not needed on the form(s) must be clearly marked as being 'NOT APPLICABLE', 'N/A' or a line put through the same. Great care must also be taken to ensure that accurate information is used and inserted in the correct boxes. Reasons for any refusal of an application must also be kept on the form and the form retained for future audits.
5. Those carrying out surveillance must inform the Authorising Officer AO if the investigation or operation unexpectedly interferes with the privacy of individuals who are not covered by the authorisation.
6. For further advice and assistance on RIPA, please contact the Monitoring Officer. Details are provided on the front of this document.

## APPENDIX 1

### List of Authorising Officer Posts

OVERALL RESPONSIBILITY: BRUCE LANG, ASSISTANT CHIEF EXECUTIVE/MONITORING OFFICER.

Authorising Officer's Name	Designation
Penny James	Chief Executive
Bruce Lang	Assistant Chief Executive & Monitoring Officer
James Barrah	Director of Housing & Communities
Tim Burton	Assistant Director of Planning & Environment
Paul Fitzgerald	Assistant Director of Resources
Chris Hall	Assistant Director of Operational Development
Simon Lewis	Assistant Director of Housing & Communities
Heather Tiso	Head of Revenues and Benefits Service

#### IMPORTANT NOTES

- A. Even if a post is identified in the above list the persons currently employed in such posts are not ~~authorised to sign RIPA forms~~ permitted to authorise any RIPA application forms (including a renewal or cancellation) unless s/he has been certified by the Monitoring Officer to do so by the issue of a Certificate of RIPA Eligibility.
- B. Only the Chief Executive and the Assistant Chief Executive & Monitoring Officer (Bruce Lang as of January 2014) are authorised ~~to sign forms~~ determine RIPA applications relating to Juvenile Sources and Vulnerable Individuals (see paragraph GH of this document).
- C. Particular care should be taken in cases where the subject of the investigation or operation might reasonably expect a high degree of privacy, or where confidential information is involved. Confidential information consists of matters subject to legal privilege, confidential personal information or confidential journalistic material. In cases where through the use of surveillance it is likely that knowledge of confidential information will be acquired, the use of surveillance is subject to a higher level of authorisation; such authorisations will

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only be given by the CEO or by Bruce Lang.

- D. If in doubt, ask the Monitoring Officer before any directed surveillance and/or CHIS is authorised, renewed, rejected or cancelled.

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## APPENDIX 2

### RIPA FLOW CHART

**Requesting Officer ('The Applicant') must:**

- Read the RIPA Policy & Procedures Document and be aware of any other guidance issued by the Monitoring Officer.
- Determine that directed surveillance and/or a CHIS is required.
- Assess whether authorisation will be in accordance with the law. Assess whether authorisation is necessary under RIPA and whether the surveillance could be done overtly.
- Consider whether surveillance will be proportionate.
- If authorisation is approved - review regularly

If a less intrusive option is available and practicable use that option!

If authorisation is necessary and proportionate, prepare and submit an approved form to the Authorisation Officer

**Authorising Officer must:**

- Consider in detail whether all options have been duly considered, including the RIPA Policy & Procedures Document and any other guidance issued by the Monitoring Officer.
- Consider whether surveillance is considered by him/her to be necessary and proportionate.
- Authorise only if an overt or less intrusive option is not practicable.
- Set an appropriate review date (can be up to 3 months after Authorisation date) and conduct the review.

**The Applicant must:**  
Review regularly (complete Review Form) and submit to Authorised Officer on date set.

**The Applicant must:**  
If operation is no longer necessary or proportionate, complete CANCELLATION FORM and submit to Authorised Officer

Essential:-  
Send all original Authorised (and any rejected) Forms, Review, Renewals and Cancellations to the Monitoring Officer within 1 week of the relevant event.

**Authorising Officer must:** If surveillance is still necessary and proportionate:

- Review authorisation
- Set an appropriate further review date

**Authorising Officer must:** Cancel authorisation when it is no longer necessary or proportionate to need the same.

NB: If in doubt, ask the Monitoring Officer before any directed surveillance and/or CHIS is authorised, renewed, cancelled, or rejected.

## PROCEDURE FOR MAGISTRATES COURT

Once authorisation has been granted, an application must be made to the Magistrates Court for a hearing. The Investigating Officers must contact HCTIMS HMCTS administration as soon as possible to request a hearing.

The Investigating Officers must be authorised to appear in order to give evidence, or provide information required by the JP.

The Magistrates will need a copy of the original authorisation/ notice and supporting documents and two copies of the partially completed judicial application/order. The original authorisation should be shown to the JP but retained by the Investigating Officer(s) so that it is available for inspection by the Commissioner's Officers and in the event of a legal challenge or investigations by the Investigatory Powers Tribunal.

The hearing will be held in private by one Justice of the Peace and the application must stand on its own.

If granted the Justice of the Peace will complete and sign the order and this a copy must be retained as the official record of the JP's decision.

If out of hours access to a JP is required, the Investigating Officer(s) must make local arrangements with the relevant HMCTS legal staff.

Two partially completed judicial application forms will be needed, one will be retained by the JP. The Investigating Officer(s) will provide the Court with a copy of the signed judicial application form the next working day.

Advice and assistance can be sought from the Monitoring Officer or the Deputy Monitoring Officer and reference should be made to the Home Office guidance before making the application.

**APPENDIX 3**



**TAUNTON DEANE BOROUGH COUNCIL**

**RIPA AUTHORISING OFFICER CERTIFICATE**

No. [    ] / 200-

I HEREBY CERTIFY that the Officer whose personal details are given below is an Authorising Officer for the purposes of authorising covert surveillance and the use and/or conduct of Covert Human Intelligence Sources ('CHIS') under the provisions of the Regulation of Investigatory Powers Act 2000.

It is further certified that this Officer has received training to perform such authorisation procedures.

Certificate issued to:  
[Full name of Officer] \_\_\_\_\_

Job Title: \_\_\_\_\_

Service: \_\_\_\_\_

Location: \_\_\_\_\_

Certificate date: \_\_\_\_\_

(signed) \_\_\_\_\_

Bruce Lang  
Monitoring Officer  
(Taunton Deane Borough Council)

(Please note:- This certificate and the authorisation granted by it is personal to the officer named in it and cannot be transferred. Any change in personal details must be notified in writing to the Monitoring Officer immediately. This certificate can be revoked at any time by the Monitoring Officer by written revocation issued to the officer concerned. It is the named officer's personal responsibility to ensure full compliance with RIPA authorisation procedures and to ensure that s/he is fully trained in such procedures and that such training is kept up to date).

## APPENDIX 4

For the latest forms please go to this link

<https://www.gov.uk/government/collections/ripa-forms-2>

## APPENDIX 5

### EXAMPLES OF COVERT SURVEILLANCE

The following are examples of covert surveillance operations that may be conducted by Council staff, with indications as to whether RIPA authorisation may be needed.

If there are any special circumstances to an operation which, in general terms, matches one of the examples below, then the need for authorisation should be reassessed by the Case Officer.

#### Example 1—

Use of fixed CCTV cameras to record fly tipping in the area around Recycling Centres in Council Car Parks.

Points to consider:

- a) The cameras are in plain view and are therefore not covert, even if they are being used as part of a defined and pre-planned Operation.
- b) By definition, these are well-used public areas and any expectation as to privacy would be minimal.
- c) Collateral intrusion and the opportunity to obtain private information is unlikely.

Recommendation:

Unless there are additional and unusual features to the Operation, RIPA Authorisation would not be required.

#### Example 2—

Use of temporary surveillance cameras to record fly tipping in a public area such as a layby or a wooded area close to a road.

Points to consider:

- a) Cameras and recording equipment would be deliberately concealed from view.
- b) Although the area is accessible to the public, it is likely to be less frequented than, for example, a Council car park. There would therefore be a heightened expectation as to privacy.

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c) The fact that fly-tipping is an illegal act does not reduce the perpetrators' rights to be protected.

d) Collateral intrusion and the opportunity to obtain private information, are more likely than in Example 1, above.

**Recommendation:**

On balance, RIPA authorisation for Directed Surveillance should be obtained.

This could be avoided by the publication in the local press beforehand of an article explaining that a given area would be placed under surveillance for a given period of time. However, this would largely negate the usefulness of the Operation.

**Example 3**

Use of noise recording equipment, in a complainant's property, with the tape recorder being operated by the complainant when noise events occur.

Points to consider:

a) The equipment is concealed from the occupants of the premises under surveillance (the Object). It is therefore a covert operation, unless the occupants of the premises under audio surveillance had been warned, in writing, that surveillance may be carried out within a given period of time.

b) The premises under surveillance are not public in any sense, and the expectation as to privacy would be very high.

c) Noise events coming from the premises under surveillance and affecting the complainant's premises might be regarded as no longer being private, as boundaries into other areas had been crossed by the time the noise was recorded.

However, there may well be instances (for example between poorly insulated flats or rooms within bedsits) where this consideration does not apply.

d) The possibility of collateral intrusion and the opportunity to obtain private information, are likely.

e) As the tape recording is operated by the complainant, it is possible (s)he is acting as a Covert Human Intelligence Source (CHIS).

**Recommendation:**

a) RIPA authorisation for Directed Surveillance should be sought by the Case Officer when the premises under surveillance are residential, unless:

i) The occupants of the premises under surveillance had been warned, in writing and in advance, that audio surveillance may be used, and/or

ii) There is such separation between the complainant's property and the property under surveillance that it could not be claimed that noise events passing from one to the other were of a private nature.

b) RIPA authorisation of the complainant as a CHIS should be considered if there was any form of relationship between the complainant and the occupants of the premises under surveillance. A relationship may include, for example, long-term neighbours who regularly speak to each other and who may, generally, be on good terms.

However, the need for Authorisation would only seem to apply if it is the clear intention to use this relationship, covertly, for the express purpose of obtaining confidential information. Clearly, in practically every case, this would not be the intention.

However, if the complainant may be able to influence the onset of a noise event from the object premises by using their relationship with the object, then the use of monitoring equipment, with or without RIPA Authorisation(s) would be inappropriate. To give an extreme example, the complainant may say to the object "...we are going out tonight, so you can play your music as loud as you like!".

**Note:** If the complainant, including any member of their household who may operate noise recording equipment, is judged to be acting as a CHIS, then it is immaterial whether or not the object has been informed of the likelihood of audio surveillance. Authorisation as a CHIS would still be required.

As part of the CHIS Authorisation, careful consideration must be given to the conditions to be imposed to prevent misuse of the relationship between complainant and object.

#### **Example 4**

Covert observation of a Night Club entrance to determine the number of patrons in the premises.

#### **Points to consider:**

a) No image or sound recording equipment is in use, so the opportunities for either collateral intrusion or of obtaining private information do not apply.

b) No individual person is under surveillance.

c) The queue that forms outside a Night Club is, by its nature, in a public place and is likely to be one that is well used.

Expectations as to privacy by any person outside the Club premises would therefore be very low.

#### **Recommendation:**

~~Unless there are additional and unusual features to the Operation, RIPA Authorisation would not be required.~~

~~**Example 5**~~

~~Asking a disabled person to book a taxi and complete a journey to determine whether the taxi driver was discriminatory and to report back to Licensing for possible enforcement action.~~

~~**Points to consider:**~~

- ~~a) The purpose of the journey would be to gather information.~~
- ~~b) It would be pre-planned.~~
- ~~c) It would be designed to be covert.~~
- ~~d) The nature and duration of the exercise make it likely that that a relationship, in legal terms, would be formed.~~
- ~~e) The expectation as to privacy would be high.~~
- ~~f) It is likely that, whether planned or not, confidential information would be obtained.~~

~~**Recommendation:**~~

- ~~a) It is considered that an Authorisation for Directed Surveillance would be required.~~
- ~~b) It is also considered that the disabled person would qualify as a CHIS, so that additional Authorisation would be required specifically for that aspect.~~
- ~~e) If it were intended to record conversation between the parties, this would constitute Intrusive Surveillance. Authorisation would not be possible and the surveillance itself would be unlawful.~~

~~**END**~~

~~March 2014~~



# Taunton Deane Borough Council

## Corporate Governance Committee – 8<sup>th</sup> December 2014

### Voluntary code for a self-financing Housing Revenue Account

#### Report of Stephen Boland – Housing Services Lead

(This matter is the responsibility of Executive Councillor Mrs J Adkins)

#### 1. Executive Summary

This report presents the Voluntary Code for a self-financed Housing Revenue Account published in October 2013 by the Chartered Institute of Public Finance and Accountancy (CIPFA) in collaboration with the Chartered Institute of Housing (CIH).

The code is voluntary and there are therefore no sanctions for not following it. The principles of the code are designed to be self-regulatory and represent a key tool in assisting Taunton Deane Borough Council (TDBC) to account for the management of its Housing Revenue Account (HRA) to members, tenants and government.

This report provides members with a description of the code and a summary of the key findings of a self-assessment of our performance to date against the code principles.

We will continue to review our performance against the code as part of an annual review and refresh of the HRA Business Plan and our progress against improvement activities will be monitored and reported.

#### 2. Background

- 2.1 The introduction of HRA self-financing in April 2012 gave local authorities the freedom to develop and deliver a more positive, less constrained, vision for council housing. The change to self-financing also meant that councils had to take on greater responsibility for ensuring that their housing operations are run on sound financial principles.
- 2.2 In 2012, we undertook extensive preparations in the lead up to taking on new HRA debt and making a payment to the Treasury. We produced a detailed HRA Business Plan factoring in loan repayments alongside our income and expenditure plans.
- 2.3 The change to self-financing has allowed significant additional investment in our housing stock, housing services, and new build/acquisitions. We have adopted a more business-like approach to budgeting and asset management; risk assessment

and financial modelling to ensure that our business plan remains relevant, up to date, and optimises opportunity.

2.4 The Chartered Institute of Public Finance and Accountancy and the Chartered Institute of Housing believe it is vital that local authorities have effective governance and financial management frameworks in place in order for self-financing to be a success. In order to support local authorities in assessing and developing these frameworks the two institutions have worked together to produce a voluntary code of practice for the housing sector.

2.5 The principles and provisions of the voluntary code aim to:

- Assist housing authorities in ensuring effective governance, finance and business planning;
- Provide transparency to tenants, members and officers on how the housing business is being managed. The code gives tenants and members a framework against which to hold the authority to account; and
- Allow housing authorities to assess where they may need further support and assistance.

2.6 A meeting of our Tenant Services Management Board (TSMB) in January 2014 recommended to adopt the use of the voluntary code i.e. that we adhere to the principles and provisions in the management of our HRA to keep our business plan strong and focused on good asset management, housing and community services that our tenants value.

2.7 A meeting of the Community Scrutiny Committee on the 7<sup>th</sup> January 2014 considered and recommended to the Executive that the adoption and use of the code be approved.

2.8 A meeting of the Executive on the 15<sup>th</sup> January 2014 approved the adoption and use of the code.

### **3. Voluntary code for a self-financed Housing Revenue Account**

3.1 The need for effective and sensible management, effective governance and financial and business planning is not new and TDBC has had these in place before self-financing was introduced. However, the code provides a useful checklist for ensuring that all these things are in place.

3.2 The code is based on the following six principles:

- a) Co-regulation – The housing authority complies with the principles of co-regulation as set out in The Regulatory Framework for Social Housing in England from April 2012;

- b) Financial viability – The housing authority has put in place arrangements to monitor the viability of the housing business and takes appropriate actions to maintain viability;
- c) Communication and governance – The housing authority keeps under review the communications and governance arrangements with regards to the operating environment and adopts governance arrangements appropriate to supporting viability and accountability of the housing business;
- d) Risk management – The housing authority has in place an effective system for the on-going management, monitoring and reporting of risks to the HRA;
- e) Asset management – The housing authority has in place arrangements to maintain its assets to maximise their value into the future. The housing authority complies with the principles of good asset management as they apply to HRA assets; and
- f) Financial and treasury management – The housing authority complies with proper accounting practices including CIPFA’s Code of Practice on Local Authority Accounting in the United Kingdom and CIPFA’s Treasury Management in the Public Services Code of Practice.

3.3 Each of the six principles contains provisions, and there are a total of twenty-seven provisions, as set out in Appendix 1: Voluntary Code for a self-financed Housing Revenue Account.

#### **4. TDBC Housing Revenue Account Self-Assessment**

4.1 Since January 2014 we have undertaken a self-assessment of our performance against the codes principles and provisions. To assist us in this work we acquired the CIPFA self-assessment toolkit. The toolkit has provided us with an analysis of our performance, giving us an indication of where our strengths and weaknesses lie, and where any major risks need better management or further support and assistance.

#### **4.2 Self-assessment – The key findings**

4.2.1 A summary of the key findings of our self-assessment with the code is set out below and we have tried to relay the positive findings i.e. where we are doing things already, but also where we have further work to do:

##### **4.2.2 Co-regulation**

- The service has a proactive approach to co-regulation with ambitions for housing and the wider community which are devised in collaboration with tenants, residents and stakeholders;

- The service has a genuine commitment to empowering tenants which is supported by appropriate resources; and
- The service is open to change and seeks to continuously improve upon the range and extent of tenant engagement and involvement.

#### 4.2.3 Financial viability

- The service has taken ownership of its HRA business plan; and
- As part of the work the service currently undertakes in reviewing its business plan, consideration will also need to be given to modelling a range of detailed options scenarios for the 30 year plan. For example: Modelling variations to the plans assumed inflation rates i.e. Consumer Price Index inflation and repairs and maintenance costs. Such work will help to provide added assurance and evidence that the plan is being robustly managed.

#### 4.2.4 Communications and governance

- The service can demonstrate accountability at all levels, transparency and strong performance in the way it manages risk; and
- To fully comply with the principles of the self-financing code the service needs to undertake further work involving a review of internal control procedures (standing orders; financial regulations; contract procedures) and implement any recommended changes.

#### 4.2.5 Risk management

- The service has taken action to ensure risks (and opportunities) that self-financing presents are well governed; and
- To fully comply with the principles of the self-financing code the service should undertake a full review of its resourcing of risk management, processes and protocols.

#### 4.2.6 Asset management

- To fully comply with the principles of the self-financing code the service needs to continue in its work to develop an asset management framework that supports the delivery of effective housing asset management planning;
- The service has effective communications between its housing and asset management officers; and
- The service has a modern proactive approach to environmental improvements.



#### 4.2.7 Treasury and financial management

- The service meets the requirements of the latest CIPFA Prudential Code which is linked up with its business plan and asset management strategy;
- The service is advised to undertake a review of its service charges to ensure that they cover the cost of services; and
- The service needs to continue its work in moving towards using a componentised basis for depreciation in its accounting systems, as set out in CIPFA guidance 'Calculation of the depreciation charge to be applied to the Housing Revenue Account'.

#### 4.2.8 Value for money

- The service is committed to delivering 'Value for Money'; and
- The service needs to ensure it has good practices in place to cost benchmark its performance across all service areas and engage tenants in 'Value for Money' issues.

#### 4.2.9 Stakeholder management

- The service is committed to engaging with stakeholders and believes that it uses that engagement to drive decisions; and
- The service is committed to equality and transparency in the way it manages communications with its tenants and residents and needs to continue in its work to address issues of importance to stakeholders.

#### 4.2.10 Housing strategy

- The service has a clear linked up strategy between its business plan, its rent policy and its wider tenancy strategy, asset management strategy and allocations policy.

### 4.3 **Key findings action plan**

4.3.1 Based on the self-assessment findings, at Appendix 2, we have created an activities plan that sets out what needs to happen to further the services compliance with the code. The service will continue to review its performance against the code as part of an annual review and refresh of the HRA Business Plan and progress against improvement actions will be monitored and reported.

### 5.0 **Finance comments**

5.1 The move to HRA self-financing has been significant to the Council. Under self-financing responsibility for the long term business planning and debt financing moved from central to local government, representing a significant shift in risk.

5.2 TDBC Finance supports the principles of the voluntary code in providing a framework to help the HRA remain viable. The finance team continues to work with

senior management under the councils normal reporting and budgeting arrangements. Any costs as a result of our work in relation to the voluntary code would come under existing budgets.

## **6. Legal comments**

6.1 The legal requirements are referred to in the CIPFA/CIH guidance which accompanies this report.

## **7. Links to Corporate Aims**

7.1 HRA services aim to support the delivery of the Council's corporate priorities and wider housing and community objectives as follows:

- Housing and Communities provides a service that assists the council in delivering Corporate Aim 1: Quality sustainable growth and development i.e. Facilitate a significant increase in the number, quality and range of available houses within the Borough, including the highest achievable proportion of affordable housing.
- Housing and Communities provides a service that assists the council in delivering Corporate Aim 3: A vibrant social, cultural and leisure environment i.e. Working with partners to improve the lives of our most vulnerable households.

## **8. Environmental implications**

Not appropriate.

## **9. Community safety implications**

Not appropriate.

## **10. Equalities impact**

Not appropriate.

## **11. Risk management**

11.1 The risks associated with HRA services are monitored effectively through the Senior Management Team that monitors performance at their regular meetings.

## **12. Partnership implications**

Not appropriate.

### **13. Recommendations**

- 13.1 The Corporate Governance Committee is invited to make any comments on the voluntary code and our self-assessed performance to date.

**Contact:** Stephen Boland  
Housing Services Lead – Housing and Communities  
01823 356446  
Ext: 2608  
[s.boland@tauntondeane.gov.uk](mailto:s.boland@tauntondeane.gov.uk)

**Appendix A – CIPFA Voluntary Code for Self-Financing HRA**

**Appendix B – Voluntary Code for Self-Financing HRA Activities Plan**

Appendix 1

Appendix 2





Voluntary code for a

# self-financed housing revenue account



**CIPFA**, the Chartered Institute of Public Finance and Accountancy, is the professional body for people in public finance. Our 14,000 members work throughout the public services, in national audit agencies, in major accountancy firms, and in other bodies where public money needs to be effectively and efficiently managed.

As the world's only professional accountancy body to specialise in public services, CIPFA's qualifications are the foundation for a career in public finance. We also champion high performance in public services, translating our experience and insight into clear advice and practical services. Globally, CIPFA shows the way in public finance by standing up for sound public financial management and good governance.

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# Foreword

The introduction of Housing Revenue Account (HRA) self-financing has given local authorities the freedom to develop and deliver a more positive, less constrained, vision for council housing. The Chartered Institute of Public Finance and Accountancy and the Chartered Institute of Housing believe that it is vital that local authorities have effective governance and financial management frameworks in place in order for self-financing to be a success.

In order to support local authorities in assessing and developing these frameworks the two institutes have worked together to produce a voluntary code of practice for the sector. The principles and provisions of this voluntary code will:

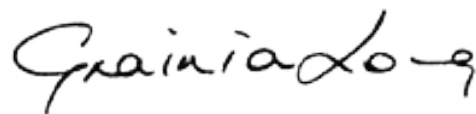
- assist housing authorities in ensuring effective governance, finance and business planning
- provide transparency to tenants, members and officers on how the housing business is being managed. The code will give tenants and members a framework against which to hold the authority to account
- allow housing authorities to assess where they may need further support and assistance.

In some cases, these principles are already covered through other regulatory or professional guidance. These are highlighted along with any specific provisions relating to a self-financed HRA.

These principles are designed to be self-regulatory and we believe that they represent a key tool in assisting local authorities to account for the management of the HRA to tenants and residents and those charged with governance.



**Ken Lee**  
Chair, CIPFA Housing Panel



**Grania Long**  
Chief Executive, Chartered Institute of Housing

# Acknowledgements

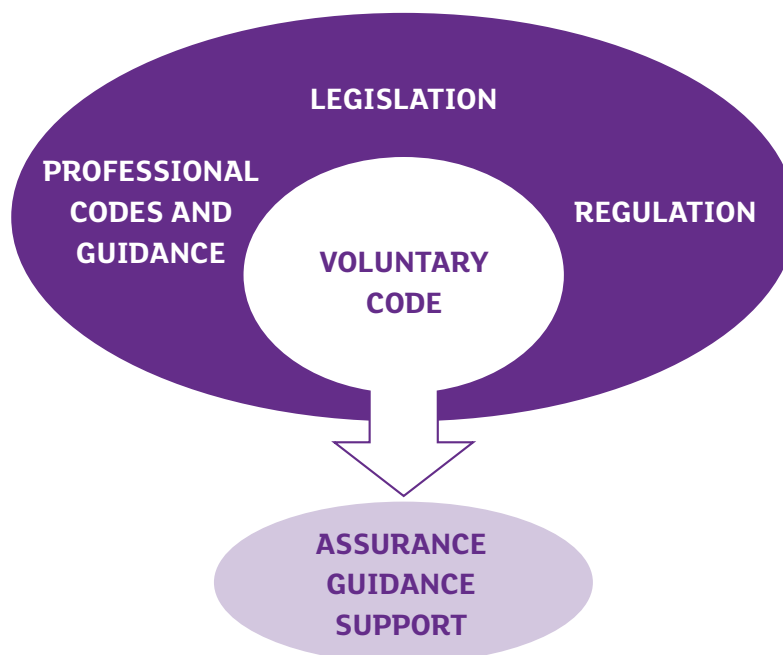
The Chartered Institute of Public Finance and Accountancy (CIPFA) and the Chartered Institute of Housing (CIH) are grateful to the authors, Louise Dunne and Ben Taylor, and to the members of the project team who undertook the background research:

Julie Crook	<i>St Leger Homes of Doncaster</i>
Louise Dunne	<i>CIPFA</i>
Steve Partridge	<i>Chartered Institute of Housing</i>
Peter Pennekett	<i>Portsmouth City Council</i>
Ben Taylor	<i>Chartered Institute of Housing</i>

# Introduction

Housing Revenue Account (HRA) self-financing commenced in April 2012. For the first time in generations, local housing authorities are able to fully retain the money they receive in rent in order to plan and provide services to their current and future tenants. This represents a monumental shift in outlook from the previous financial system, replacing an annual short-term focus with a longer term planning horizon with the freedom to develop and deliver a more positive, less constrained, vision for council housing.

With freedom and flexibility comes responsibility. Councils are keen to make the most of this opportunity and do so in a prudent, viable and measured way. There are already a number of checks and balances in the system, including formal regulation of consumer standards in housing by the Homes and Communities Agency and the financial and accounting framework operating for local government. This document is designed to support councils in their aim to ensure effective and sensible management of the housing business and to be consistent with existing frameworks.



Viable and sustainable council housing relies upon effective governance, financial and business planning. Decisions about appropriate arrangements for effective management of long-term housing business plans need to be decided and democratically accountable at the local level. However, there is an appetite within the sector for some guiding principles to assist in establishing those arrangements, and to demonstrate that councils are managing self-financing in a responsible and appropriate way.

# Purposes

Councils have responded to the move to self-financing by putting in place formal and comprehensive objectives, policies and practices, strategies and reporting arrangements for the effective management and control of their self-financed HRA.

To support this work CIPFA and the CIH have produced this voluntary code of practice and accompanying provisions to assist the local authority in its management of the HRA in the following ways:

- To assist councils in ensuring effective governance, finance and business planning.
- To provide transparency to tenants, members and officers on how housing business is being managed. The principles will give tenants and members a framework against which to hold the authority to account.
- To allow housing authorities to assess where they may need further support and assistance.

## HOW THE CODE WORKS

---

This is a voluntary code of practice covering six principles. Along with these high level principles, the code comprises a series of supporting provisions which together describe what the sector considers as essential elements for the continued sustainability of a self-financed HRA. In some cases, these principles are already covered through other regulatory or professional guidance. In these cases, this is stated along with any specific provisions relating to a self-financed HRA.

The code is designed to be self-regulatory and compliance is not formally required. As such there are no formal entry level requirements and no formal sanctions for non-compliance. It will be for a housing authority to determine how it wishes to assess its compliance with the code on an on-going basis and this reflects our belief that this code is a tool to assist the authority to account for the management of the HRA to its stakeholders. One option available to housing authorities is to undertake reviews of compliance with the code and report these reviews to the appropriate scrutiny groups and include them within the authority's Annual Governance Statement. Where an authority does not feel it is complying with the code, it is a prompt to review its approach and question whether different things need to happen.

## STATUS

---

The voluntary code has the support of a wide range of organisations, including those who work alongside tenants and residents – this set of principles and provisions is intended to support these groups and individuals to better challenge and scrutinise the performance of the HRA under self-financing.

Finally, it is not intended that any of the Principles or Provisions as set out in this code will override or countermand Statute.

# The Principles

1. **Co-regulation.** The housing authority complies with the principles of co-regulation as set out in *The Regulatory Framework for Social Housing in England from April 2012*<sup>1</sup>.
2. **Financial viability.** The housing authority has put in place arrangements to monitor the viability of the housing business and takes appropriate actions to maintain viability.
3. **Communications and governance.** The housing authority keeps under review the communications and governance arrangements with regards to the new operating environment and adopts governance arrangements appropriate to supporting viability and accountability of the housing business.
4. **Risk management.** The housing authority has in place an effective system for the on-going management, monitoring and reporting of risks to the HRA.
5. **Asset management.** The housing authority has in place arrangements to maintain its assets to maximise their value into the future. The authority complies with the principles of good asset management as they apply to HRA assets.
6. **Financial and treasury management.** The housing authority complies with proper accounting practices including CIPFA's *Code of Practice on Local Authority Accounting in the United Kingdom*<sup>2</sup> and CIPFA's *Treasury Management in the Public Services Code of Practice*<sup>3</sup>.

## PRINCIPLE: CO-REGULATION

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The housing authority complies with the principles of co-regulation as set out in *The Regulatory Framework for Social Housing in England from April 2012*.

### Existing provisions:

There are six provisions outlined in the Regulatory Framework:

- Councillors and boards who govern providers are responsible and accountable for delivering their organisation's social housing objectives.
- Providers must meet the regulatory standards.
- Transparency and accountability is essential to co-regulation.
- Tenants should have opportunities to shape service delivery and to hold the responsible boards and councillors to account.

<sup>1</sup> *The Regulatory Framework for Social Housing in England from April 2012*, Homes and Communities Agency, March 2012

<sup>2</sup> *The Code of Practice on Local Authority Accounting in the United Kingdom*, CIPFA, annual

<sup>3</sup> *Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance Notes*, CIPFA, 2011

- Providers should demonstrate that they understand the particular needs of their tenants.
- Value for money goes to the heart of how providers ensure current and future delivery of their objectives.

## **Voluntary code provisions**

Financial and other performance information is presented in a format that is inclusive to all.

## **PRINCIPLE: FINANCIAL VIABILITY**

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The housing authority has arrangements in place to monitor the viability of the housing business and takes appropriate actions to maintain viability.

## **Voluntary code provisions**

### **Provision 1:**

The housing authority has put in place a business planning process underpinned by appropriate financial modelling that allows the cash flows of the business to be forecast. The process incorporates an appropriate set of assumptions relating to forecast:

- rent levels
- general income and expenditure levels
- interest rates on investment and borrowing, and associated costs
- levels of void properties and bad debts.

### **Provision 2:**

The housing authority tests the viability of proposed major capital expenditure projects against the resources generated in the business plan. This ensures that additional activity (for example the development of new housing) is fully integrated into the business planning process and does not introduce liabilities that are unable to be fully funded within an appropriate timescale.

### **Provision 3:**

The housing authority ensures that sufficient resources are allocated for the long-term maintenance of the stock and other assets, adopting an appropriate mechanism to transfer resources from revenue to a reserve ensuring that the peaks and troughs of lifecycle investment needs are able to be met.

### **Provision 4:**

Assumptions are kept under regular review and tested against actual financial performance. Alterations to underlying assumptions are made in direct relation to the impact on the overall plan.

### **Provision 5:**

The housing authority maintains accurate data about the cost of its services, and regularly reviews these in relation to its procurement and commissioning strategies. The business plan allocates resources to ensure the continued viability of high quality management services.

## PRINCIPLE: COMMUNICATIONS AND GOVERNANCE

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The housing authority keeps under review the communication and governance arrangements with regards to the new operating environment and adopts governance arrangements appropriate to supporting viability of the housing business.

### Voluntary code provisions

#### Provision 1:

The housing authority undertakes to achieve openness in communication and sharing of information, and expresses all internal and governance communications in clear language.

#### Provision 2:

The housing authority engages in appropriate levels of consultation with tenants, members, officers and other stakeholders in a way that ensures it delivers efficient management and control of its business plan.

#### Provision 3:

The housing authority reviews on a regular basis the quality, accuracy and utility of all information pertaining to the management of its housing business including financial and performance based sources.

#### Provision 4:

The housing authority has an appropriate mechanism to assess its on-going compliance with the key principles and accounts to residents on this compliance. One option could be to undertake to publish a commentary on its compliance as part of its Annual Governance Statement or through other appropriate channels.

#### Provision 5:

The housing authority has adopted suitable governance arrangements consistent with the effective operation of a housing business, paying attention to the long-term nature of the business: incorporating for example the need to plan maintenance and investment over the long term and the need to manage large levels of long-term housing debt.

#### Provision 6:

The housing authority ensures that resources are appropriately allocated between investment, maintenance and management priorities in line with business plan objectives and that the balance of priorities is agreed with tenants, members and other stakeholders as appropriate.

## PRINCIPLE: RISK MANAGEMENT

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The housing authority has in place an effective system for the on-going management, monitoring and reporting of risks to the HRA. A different set of risks have been transferred to the housing authority from central government within the self-financing system.

## Voluntary code provisions

### Provision 1:

The housing authority carries out appropriate sensitivity analysis across the business plan to identify potential high, medium and low level risks to the financial viability of the HRA. In particular, attention is given to evaluating risks arising from: changes in government policy; treasury management risks; inflation; income recovery rates; void levels; changes to rent policy; changes in the composition of the stock; investment return; right to buy; debt levels and grants.

### Provision 2:

The housing authority has a risk management system in place which, as a minimum, includes the following processes:

- identification of risk
- quantification of risk
- management of risk
- reassessment of risk
- communication of risk to appropriate decision-makers.

### Provision 3:

The housing authority identifies appropriate mitigating actions where higher level risks to the overall sustainability of the business plan are identified, to ensure the long term viability of the HRA. These may include:

- an active treasury management strategy and procedures to manage treasury management risks in accordance with CIPFA's *Treasury Management in the Public Services Code of Practice*
- a suitable level of balance of reserves maintained by the HRA as a contingency against risks on inflation and income, bad debt increases as well as investment risk
- performance management frameworks effectively enforced to manage the risks of poor performance in voids, income collection and investment scheme delivery.

## PRINCIPLE: ASSET MANAGEMENT

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The housing authority has in place arrangements to maintain its assets to maximise their value into the future. The authority complies with the principles of good asset management as they apply to HRA assets.

## Voluntary code provisions

### Provision 1:

The housing authority takes a strategic approach to asset management ensuring that the long-term strategic vision for the authority is underpinned by a thorough understanding of current and future needs.



**Provision 2:**

The housing authority's strategic asset management and business planning processes are fully integrated. The business plan supports the maintenance and development of the asset base which in turn provides value to the business plan.

**Provision 3:**

The housing authority has agreed asset management standards with tenants, members and other stakeholders having regard to the financial resources generated within the business plan.

**Provision 4:**

The housing authority maintains accurate information relating to the condition, maintenance and investment needs of its housing stock and other HRA assets.

**Provision 5:**

Asset management information forms the basis for the asset investment programme of the housing authority driven by the business plan and set out over an appropriate medium-term financial period.

## PRINCIPLE: FINANCIAL AND TREASURY MANAGEMENT

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### Existing provisions:

The housing authority complies with proper accounting practices including CIPFA's *Code of Practice on Local Authority Accounting in the United Kingdom* and CIPFA's *Treasury Management in the Public Services Code of Practice*.

### Voluntary code provisions

There are two specific provisions in relation to the operation of a self-financed HRA relating to accounting for interest charges and depreciation.

**Provision 1:**

Housing is a long-term investment and HRA borrowing policy needs long term stability to ensure long-term planning is undertaken on a reasonable and consistent basis. The housing authority has set out a policy stating how a reasonable charge for borrowing costs of the HRA will be calculated, set for the long-term such that it enables long-term planning of HRA resources and borrowing.

**Provision 2:**

The depreciation charge to the HRA is calculated on a componentised basis in line with proper accounting practices<sup>4</sup>. The housing authority is moving to a full depreciation accounting charge in line with the transitional arrangements set out by the Department for Communities and Local Government.

<sup>4</sup> For more information see *Housing Finance under Self-financing*, CIPFA, 2013.

# Glossary

**Co-regulation:** the principle that underpins the Homes and Communities Agency's regulatory approach. Councillors who govern providers' service delivery are responsible for meeting the regulatory standards and being transparent and accountable for their organisation's delivery of its social housing objectives.

**Housing authority:** the same meaning as in the Housing Act 1985.

**Housing business:** the housing activity that is accounted for in the Housing Revenue Account.

**Housing Revenue Account (HRA):** the Housing Revenue Account of the local housing authority as defined by the Local Government and Housing Act 1989 (as amended).

**Proper accounting practices:** in relation to the accounts of a local authority these are defined in accordance with section 21 of the Local Government Act 2003.

**Self-financing:** a system for financing council housing introduced in April 2012 that replaced the Housing Revenue Account subsidy system.





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Appendix 2

**Voluntary Code for a self-financed Housing Revenue Account Activities Plan at 2014/15**

<b>Principle</b>	<b>Provision/Activity</b>	<b>By when</b>	<b>Lead Officer</b>	<b>Status/comments</b>
Financial Viability	<ul style="list-style-type: none"> <li>As part of the work the service currently undertakes in reviewing its business plan, consideration will need to be given to modelling a range of detailed options scenarios for the 30 year plan.</li> </ul>	2015/2016	Kerry Prisco Lucy Clothier	
Communications and Governance	<ul style="list-style-type: none"> <li>Undertake a review of internal control procedures (standing orders; financial regulations; contract procedures) and implement any recommended changes.</li> </ul>	2015/2016	Bruce Lang	
Risk Management	<ul style="list-style-type: none"> <li>The service to undertake a review of its resourcing of risk management, processes and protocols.</li> </ul>	2015/2016	James Barrah	
Asset Management	<ul style="list-style-type: none"> <li>The service to continue in its work to develop an asset management framework that supports the delivery of effective housing asset management planning.</li> </ul>	2015/2016 ongoing	Tim Child	
Treasury and Financial Management	<ul style="list-style-type: none"> <li>The service to undertake a review of its service charges to ensure that they cover the cost of services.</li> </ul>	2015/2016	Stephen Boland	

	<ul style="list-style-type: none"><li>• The service needs to continue its work in moving towards using a componentised basis for depreciation in its accounting systems</li></ul>	2016/2017	Lucy Clothier Sue Williamson	
Value for Money	<ul style="list-style-type: none"><li>• The service needs to ensure it has good practices in place to cost benchmark its performance across all service areas and engage tenants in 'Value for Money' issues.</li></ul>	2015/2016	Sharri Hallet Martin Price	

**08/12/2014, Report:HRA Self-Financing Code Self Assessment Outcome**  
Reporting Officers:James Barrah

**08/12/2014, Report:Pensions Deficit Presentation**  
Reporting Officers:Anton Sweet

**08/12/2014, Report:Health and Safety Update Report**  
Reporting Officers:Catrin Brown

**08/12/2014, Report:Grant Thornton - Annual Audit Letter 2012/13**  
Reporting Officers:Peter Barber

**08/12/2014, Report:Grant Thornton - External Audit Update**  
Reporting Officers:Peter Barber

**08/12/2014, Report:Internal Audit Plan - Progress Report**  
Reporting Officers:Alistair Woodland

**08/12/2014, Report:Corporate Governance Action Plan Update**  
Reporting Officers:Paul Harding

**08/12/2014, Report:Regulation of Investigatory Powers Act - Update following inspection**  
Reporting Officers:Bruce Lang

**09/03/2015, Report:Health and Safety Update Report**  
Reporting Officers:Catrin Brown

**09/03/2015, Report:Grant Thornton External Audit - Certification of Grant Claims**  
Reporting Officers:Ashley Allen,Peter Barber

**09/03/2015, Report:Grant Thornton External Audit - Audit Progress**  
Reporting Officers:Anton Sweet,Peter Barber

**09/03/2015, Report:Risk Management Update Report**  
Reporting Officers:Paul Harding

**09/03/2015, Report:SWAP Internal Audit - Progress Report 2014/15**  
Reporting Officers:Alistair Woodland

**09/03/2015, Report:SWAP Internal Audit Plan 2015/16**  
Reporting Officers:Alistair Woodland

**22/06/2015, Report:Grant Thornton External Audit - External Audit Fees 2015/16**  
Reporting Officers:Ashley Allen,Peter Barber

**22/06/2015, Report:Grant Thornton External Audit Plan 2014/15**  
Reporting Officers:Ashley Allen,Peter Barber

**22/06/2015, Report:Grant Thornton External Audit Update**

Reporting Officers:Ashley Allen,Peter Barber

**22/06/2015, Report:Draft Annual Governance Statement 2014/15**

Reporting Officers:Paul Harding

**22/06/2015, Report:Health and Safety Update Report**

Reporting Officers:Catrin Brown

**22/06/2015, Report:SWAP Internal Audit - Annual Report**

Reporting Officers:Alistair Woodland

**22/06/2015, Report:SWAP Internal Audit - Review of Effectiveness**

Reporting Officers:Shirlene Adam

**22/06/2015, Report:Annual Governance Statement 2014/15**

Reporting Officers:Paul Harding

**28/09/2015, Report:Corporate Governance Action Plan Update**

Reporting Officers:Paul Harding

**28/09/2015, Report:Corporate Risk Update Report**

Reporting Officers:Paul Harding

**28/09/2015, Report:Grant Thornton External Audit - Audit Findings**

Reporting Officers:Ashley Allen,Peter Barber

**28/09/2015, Report:Grant Thornton External Audit - Certification Plan**

Reporting Officers:Ashley Allen,Peter Barber

**28/09/2015, Report:Approval of the Statement of Accounts**

Reporting Officers:Paul Fitzgerald

**28/09/2015, Report:SWAP Internal Audit - Progress Update Report 2014/15**

Reporting Officers:Alistair Woodland

**28/09/2015, Report:Corporate Counter-Fraud Update**

Reporting Officers:Heather Tiso,Paul Fitzgerald

**28/09/2015, Report:Going Concern Assessment**

Reporting Officers:Paul Fitzgerald

**07/12/2015, Report:Health and Safety Update Report**

Reporting Officers:Catrin Brown

**07/12/2015, Report:Grant Thornton External Audit - Annual Audit Letter 2014/15**

Reporting Officers:Ashley Allen,Peter Barber

**07/12/2015, Report:Grant Thornton External Audit Update**

Reporting Officers:Ashley Allen,Peter Barber



**07/12/2015, Report:SWAP Internal Audit - Progress Report 2014/15**

Reporting Officers:Alistair Woodland

## **Corporate Governance Committee – 8 December 2014**

**Present:** Councillor D Reed (Chairman)  
Councillor Coles (Vice-Chairman)  
Councillors Beaven, Hall, Hunt, Miss Smith, P Smith, Mrs Stock-Williams,  
Mrs Waymouth and A Wedderkopp.

**Officers:** Catrin Brown (Senior Environmental Health Officer – Health and Safety),  
Jo Nacey (Finance Manager), Paul Harding (Corporate and Client Lead),  
Bruce Lang (Assistant Chief Executive), Richard Sealy (Assistant Director  
- Corporate Services), Shirlene Adam (Director of Operations and Section  
151 Officer) and Emma Hill (Corporate Support Officer).

**Also Present:** Councillor Morrell  
Anton Sweet (Funds and Investment Manager, Somerset County Council)  
Peter Barber (Grant Thornton)  
Ashley Allen (Grant Thornton)  
Ian Baker from South West Audit Partnership (SWAP)

(The meeting commenced at 6.15 pm)

### **50. Apologies**

Councillors Gaines, Horsley and Mrs Lees

### **51. Minutes**

The minutes of the meeting held on 22 September 2014 were taken as read and were signed.

### **52. Declaration of Interests**

Councillors Coles, Hunt and A Wedderkopp declared personal interests as Members of Somerset County Council. Councillor A Wedderkopp also declared a personal interest as a Member of Wessex Water's Environmental Panel. Councillor Hunt also declared a personal interest as a Member of Somerset County Council's Pensions Committee.

### **53. Update on Health and Safety Performance and Strategy for 2014-2015**

Considered report previously circulated, which provided an update on the progress of a range of Health and Safety matters across the organisation.

Below was a summary of topics which included:-

- Accident and Incident data for the part of the financial year 2014-2015 was as follows:-

<b>TDBC Accident Totals 1st April 2014 - 31st October 2014</b>				
Classification	TDBC	DLO & Crematorium	Public	Tenants (public areas)
Reportable	0	2	0	0
Non-reportable	5	25	3	2
Near Miss	0	1	0	0
Period Total	<b>5</b>	<b>28</b>	<b>3</b>	<b>2</b>

- There had been two accidents and one incident reported under the Reporting of Injuries Diseases and Dangerous Occurrences Regulations 2012 (RIDDOR).
- Key performance indicator monitoring from 1 April 2014 had shown two of the four indicators were green and on target as well as one red and one amber.
- Copies of the reviewed and updated Joint Health and Safety Policies had been circulated for consultation. The policies continued to be reviewed to a dated schedule.
- The first part of Health Surveillance Talks had been delivered by the Health and Safety Team to 76 DLO Building Services employees. The Parks and Open Spaces Teams would be covered in forthcoming weeks.
- Asbestos Awareness Training had been delivered to DLO employees and TDBC visiting officers by G&L Consultancy Asbestos Specialists.

During the discussion of this item, Members made comments and statements and asked questions which included: - (Responses are shown in italics)

- Discarded needles were a hot topic at the moment. Would the officers be receiving refresher or top up training on regular basis?  
*Yes, when this was required. The Council, including Deane DLO, had a training matrix stating when individual training was either out of date or near the point where more training was required.*

**Resolved** that the progress made on the implementation of the Health and Safety Strategy and the initiatives to improve the Council's operating culture be noted.

#### **54. Presentation on Pensions Deficit**

The Committee received a presentation from Mr Anton Sweet (Funds and Investment Manager, Somerset County Council) concerning the Somerset Fund of the Local Government Pension Scheme.

This was a statutory scheme which had set benefits and set member contributions also covering multiple employers and as at 31 March 2014, there were 149 separate employers in the Somerset Scheme.

The deficit facing the Somerset Scheme, which had existing liabilities for the next 80 years was £455,000,000 and the deficit for the Council was £31,000,000. An

explanation was provided as to the possible causes for the deficit and how this deficit was calculated as well as when this was calculated.

Details were provided as to how the Council would pay back the pension scheme deficit, which would be achieved by an annual lump sum over the next 25 years along with 13.5% of pay to cover new service.

During the discussion of this item, Members made comments and statements and asked questions which included: - (Responses were shown in italics)

- The chart was based at 6.1%. Were the officers sure the Council would be able to maintain this level of investment return?  
*There were two elements to the return, which were taken from the Actuary's assumptions. Since 31 March 2014, the Council was receiving a greater return than 6.1%. Looking at the historic figures, the Council had generally achieved over the 6.1%.*
- Had the Iceland issue had a bearing on this?  
*This did not currently have a direct effect but it had had a 'knock on' effect at the time. There were no direct investments in Iceland. Forecasting investment returns was very difficult and ever changing. There had also been periods of negative return. But the Council had recouped this deficit and then some. Most of the FTSE 100 companies had had pension deficits but they had chosen to pay the deficit back in one go.*
- Surprise was expressed about the size of the deficit. Were the Actuary figures based on future life expectancy?  
*The actuary had based their assumptions on the most up to date figures.*
- Looking at the Annual Lump Sum pay back; what was the benefit or was there no benefit to the Council to equalise payments until 2016/2017?  
*The Actuary had set a minimum payment within the year. Paying off the debt earlier in the year would reduce the charge. This was possible to do but it was a question of affordability but it would get lost in the next round of figures.*
- The idea was making the payments equal while the interest rates were low and on fixed annual payments. *The 6.1% rate was relatively unaffected by interest rate changes.*
- How much did the fund cost to administrate?  
*It was less than £5,000,000 annually. The 13% employer's contribution and the separate employee contribution were set by Central Government. The range was between 4.5% and 11% but the average was 6.3% (nationally).*
- Looking at the trend moving forward with a reduction of staff, how would this affect the pensions deficit?  
*A reduction in staffing levels would mean a reduction in liabilities sums for the Council and the 13.5% would reduce thus. The lump sums produced would not be affected by the reduction of staff.*

**Resolved** that the information presentation should be noted.

## **55. Grant Thornton External Audit – Annual Audit Letter 2013/2014**

Considered report previously circulated, on the Council's Annual Audit Letter which summarised the key findings arising from the work that had been carried out for the year ended 31 March 2014:-

- No material errors were found during the course of the audit in the draft accounts presented for audit;
- A recommendation was made in relation to property, plant and equipment revaluation; and
- The Auditors were satisfied that the Council's arrangement to ensure Value for Money by a secure economy, efficiency and effectiveness in its use of resources.

The Audit fees for 2013/2014 were £67,505. This was slightly higher than anticipated.

**Resolved** that the Auditor's report be noted.

#### **56. Grant Thornton External Audit – Audit Update**

Considered report previously circulated, which provided a progress update from the Council's external auditors, Grant Thornton, in respect of the 2013/2014 audit work for Taunton Deane and on emerging national issues, which might be relevant to the Council.

Each year Grant Thornton were required to carry out "set" audit work and the report provided a useful progress update in relation to that work.

The report updated Members on the status and progress on the auditor's programme of work as at November 2014.

In July, there had been the release of Code Changes by Chartered Institute of Public Finance and Accountancy (CIPFA) / Local Authority Scotland Accounts Advisory Committee (LASAAC) regarding the 2015/2016 Code of Practice on Local Authority Accounting. This had been the subject of public consultation.

**Resolved** that the report be noted.

#### **57. SWAP (South West Audit Partnership) Internal Audit - Progress Report on Internal Audit Plan**

Considered report previously circulated, which summarised the Council's Internal Audit Service progress with the 2014-2015 Internal Audit Plan and included:-

- Details of any new significant weaknesses identified during internal audit work completed since the last report to the Committee in September 2013; and

- A schedule of audits completed during the period, detailing their respective assurance opinion rating, the number of recommendations and the respective priority ranking of these.

Reported that there were some high priority recommendations identified since the June update. The recommendations had been assessed at service level.

The Internal Audit Service were making steady progress against the 2014-2015 plan. It was recognised that significant changes had occurred over the last few months at the Council with regard to officer responsibilities. Whilst this had caused movement in the Audit Services timings of some of the audits, SWAP still anticipated full delivery of the plan.

Progress had been made with SWOne on the ICT audits and the audit engagement protocol with SWOne was out for final approval and should be a live document for the end of the year.

It was also reported that although SWAP had returned to partial assurance audits, no significant corporate risks had been identified.

**Resolved** that the SWAP Progress Report be noted.

## **58. Corporate Governance Action Plan Update**

Considered report previously circulated, which provided details of the progress made against the Corporate Governance Action Plan as at the end of November 2014.

The action plan captured recommendations/actions which had emerged from external audits.

At the previous update report in June 2014, there were four 'open' actions. Two actions were 'green' (on track) and the remaining two were 'amber' (of some concern).

Since the last report, one further external audit recommendation had arisen and this had been included in the Action Plan.

The latest review process (December 2014) had revealed:-

- Four actions had been carried forward as well as the inclusion of one new action'; and
- Three of these actions were at 'amber' (of some concern) and two actions at 'green' (on track).

Looking specifically at employee absence, the Local Government Association (LGA) had updated their Local Government Workforce Survey to reflect the position for the year 2012/2013. This most current benchmarking survey had reported an average 8.2 days per annum per FTE employee for all Councils. Taunton Deane's average sickness for 2014/2015 was 8.2 days per FTE. This was 2 days per FTE lower than recorded for 2012/2013.

During the discussion of this item, Members made comments and statements and asked questions included: - (Responses were shown in italics)

- It was good news about the reduction in staff sickness days for the Council. Should this now be 'closed' or shown as 'green' on the Action Plan? Should this continue as a work in progress?  
*This was not the only forum where sickness levels were monitored by officers and Members. The Council had listened and dealt with the auditors concerns after they had previously flagged this issue. The Council monitored and reviewed this every quarter and would continue to do so. The Council could say they had dealt with the concern and completed it, satisfying the external auditors.*
- What period was the reduction over and were the Council looking at benchmarks to compare how the Council was doing?  
*This was the previous year. The starting point was in excess of 10 days.*

**Resolved that:-**

- (1) The progress with the Corporate Governance Action Plan be noted; and
- (2) Action No.2 (The Council should consider what further measures it needed to undertake to reduce the high level of sickness absence), be closed.

**59. Regulation of Investigatory Powers Act (RIPA) – Update following an Inspection.**

Reported that an Inspector acting on behalf of the Chief Surveillance Commissioner, had visited the Council recently to undertake a review of the Council's management of covert activities under the powers conferred by RIPA.

The Commissioner had subsequently written to the Council which recognised that the recommendations made following the previous inspection of the Council's activities three years ago had been largely discharged with good practice being identified with the formal designation of authorising officers.

The report was generally very positive and confirmed that the Inspector was satisfied that the Council took its responsibilities under this legislation seriously and that there were appropriate systems and processes in place to use it effectively.

There were two recommendations from the report which were currently being actioned. These were:-

1. That RIPA training should continue to be formally delivered to Council staff who were likely to engage the legislation to ensure it was applied to an appropriate standard; and
2. The policy/guidance document should be further amended in accordance with details set out in the inspection report to ensure it was fit for purpose and up-to-date with all the relevant legislation.

During the discussion of this item, Members made comments and statements and asked questions included: - (Responses were shown in italics)

- How often was the Council expected to provide training? Was this being provided in-house to save money and was a register of those who were trained and when being kept?  
*The Council would look at an annual refresh for training. Currently the training was outsourced as the Council did not have the ability to complete this in-house. A training record would be kept.*
- What circumstances would the RIPA powers be used and who would authorise it?  
*Only in circumstances when a serious criminal offence was being investigated which was likely to lead to prosecution action. Authorisation for this would come from the Joint Management Team.*
- It was felt that this should be included on the Corporate Risk Register and a monitor it.

**Resolved that:-**

- (1) The outcome of the inspection by the Office of Surveillance Commissioners be noted and the provision of appropriate training relating to the Regulation of Investigatory Powers Act 2000 (RIPA) process;
- (2) Approval of the updated Corporate Policies and Procedures on the RIPA as set out in the report be approved; and
- (3) It be noted that the local protocol would be followed whereby the Senior Responsible Officer for the RIPA process would ensure that the Chairman and Vice-Chairman of the Committee and Executive Portfolio Holder be kept appropriately informed with regard to any potential and/or actual authorisations for the undertaking covert surveillance.

## **60. Report on Voluntary Code for Self-Financing Housing Revenue Account**

Considered report previously circulated, concerning the Voluntary Code for a self-financed Housing Revenue Account (HRA) published in October 2013 by the CIPFA in collaboration with the Chartered Institute of Housing (CIH).

The code was voluntary and there were no sanctions for not following it. The principles of the code were designed to be self-regulatory and represented a key tool in assisting Taunton Deane to account for the management of its Housing Revenue Account (HRA) to Members, tenants and the Government.

A description of the code was provided together with a summary of the key findings of a self-assessment of the Council's performance to date against the code principles.

The Council and Members would continue to review performance as part of an annual review and refresh of the HRA Business Plan and Taunton Deane's



progress against improvement activities would be monitored and reported back to the appropriate Committee.

The code was based on the following six principles:-

- a) Co-regulation;
- b) Financial Viability;
- c) Communication and Governance;
- d) Risk Management;
- e) Asset Management; and
- f) Financial and Treasury Management

During the discussion of this item, Members made comments and statements and asked questions included: - (Responses were shown in italics)

- Was this document subject to a regular or annual review process and a stress test every three years?  
*It would be subject to a regular review process. The Council was making adjustments to HRA Business Plan when necessary.*
- It was good that the HRA Business Plan had this flexibility and it was hoped that an annual update could be provided to the Committee.

**Resolved** that the report be noted.

#### **61. Corporate Governance Committee Forward Plan**

Submitted for information the proposed Forward Plan of the Corporate Governance Committee.

**Resolved** that the Corporate Governance Committee Forward Plan be noted.

(The meeting ended at 8.00pm).