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To: MEMBERS OF THE STRATEGY & RESOURCES COMMITTEE  
Councillors Elias (Chair), M.Cooper (Vice-Chair), Botten, Bourne, Caulcott, Davies, Duck, Langton, Lee, Milton, Pursehouse and Sayer

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Substitute Councillors: Bloore, Jecks, Lockwood and Orrick

C.C. All Other Members of the Council

14 September 2020

Dear Sir/Madam

## **STRATEGY & RESOURCES COMMITTEE TUESDAY, 22ND SEPTEMBER, 2020 AT 7.30 PM**

The agenda for this meeting of the Committee to be hosted from the Council Offices via Zoom is set out below. If a member of the Committee is unable to attend the meeting, please notify officers accordingly.

Should members require clarification about any item of business, they are urged to contact officers before the meeting. In this respect, reports contain authors' names and contact details.

If a Member of the Council, not being a member of the Committee, proposes to attend the meeting, please let the officers know by no later than noon on the day of the meeting.

Yours faithfully,

Elaine Jackson  
**Acting Chief Executive**

### **AGENDA**

#### **1. Appointment of a 2nd Vice-Chair**

Subject to the Committee's recommendation from its previous meeting regarding the establishment of 2nd Vice Chair positions being adopted by Council on 16th September 2020.

#### **2. Minutes of the meeting held on the 17th August 2020 (Pages 3 - 8)**

#### **3. Apologies for Absence (if any)**

#### **4. Declarations of Interest**

All Members present are required to declare, at this point in the meeting or as soon as possible thereafter:

- (i) any Disclosable Pecuniary Interests (DPIs) and / or
- (ii) other interests arising under the Code of Conduct

in respect of any item(s) of business being considered at the meeting. Anyone with a DPI must, unless a dispensation has been granted, withdraw from the meeting during consideration of the relevant item of business. If in doubt, advice should be sought from the Monitoring Officer or his staff prior to the meeting.

5. **To deal with questions submitted under Standing Order no. 30**
6. **Review of Standing Orders for virtual meetings** (Pages 9 - 28)
7. **Annual RIPA report** (Pages 29 - 68)
8. **Budget monitoring report** (Pages 69 - 82)
9. **Q1 corporate performance and risk report** (Pages 83 - 94)
10. **Climate change action report** (Pages 95 - 98)
11. **Contribution towards funding for local government reorganisation** (Pages 99 - 100)
12. **Any other business which the Chairman is of the opinion should be considered at the meeting as a matter of urgency**
13. **To consider passing the following resolution to move into Part 2**

**RESOLVED** – that members of the press and public be excluded from the meeting for the following item of business under Section 100A (4) of the Local Government Act 1972 (as amended) on the grounds that:

- (i) it involves the likely disclosure of exempt information as defined in the paragraphs detailed below of Part 1 of Schedule 12A of the Act; and
- (ii) for the item the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

<b>Item No.</b>	<b>Nature of Exempt Information</b>
14	Paragraph 3 (“ <i>Information relating to the financial or business affairs of any particular person (including the authority holding that information)</i> ”).

14. **Applications for Community Infrastructure Levy funding** (Pages 101 - 150)

## TANDRIDGE DISTRICT COUNCIL STRATEGY & RESOURCES COMMITTEE

Minutes and report to Council of the virtual meeting of the Committee held on the 17<sup>th</sup> August 2020 at 7.00 p.m.

**PRESENT:** Councillors Elias (Chairman), M. Cooper (Vice Chairman), Botten, Bourne, Caulcott, Davies, Duck, Langton, Lee, Milton, Pursehouse and Sayer.

**ALSO PRESENT:** Councillors Allen, Bloore, Connolly, Farr, Gray, Lockwood, Vickers and N. White.

### 85. MINUTES

The minutes of the meeting held on the 28<sup>th</sup> July 2020 were approved as a correct record. It was noted that, regarding Minute 76 (Strategic Plan) the Local Government Association has since confirmed that, following an investigation of other potential data sources, the 2011 census is still the most up to date source for statistics about travelling to work. Officers could therefore confirm that, based on currently available evidence, it is correct to say that most (working age) residents travel to work outside the District by car.

#### **COMMITTEE DECISIONS** *(Under powers delegated to the Committee)*

### 86. INDEPENDENT REVIEW OF GOVERNANCE

This review, conducted by the Centre for Public Scrutiny (CfPS), was originally submitted to the Committee on 28<sup>th</sup> July 2020 (Minute 75 refers). Consideration of the matter had been deferred, hence the main reason for convening this meeting.

The accompanying officer report recommended that the committee:

- A. *discusses and notes the findings of the independent review of the Council's governance;*
- B. *endorses the statement by Group Leaders as set out at section 3.2 of the report;*
- C. *requires to see a separate Implementation Plan by September 1st that addresses the review's recommendations, with dates and owners for each activity; and*
- D. *agrees to review progress against this Plan.*

Councillor Sayer, seconded by Councillor Botten, proposed that with reference to recommendation A, *"the findings of the independent review of the Council's governance be noted, additionally noting the summary of the recommendations as per 2.5 of the covering report, subject to the 9<sup>th</sup> bullet point being amended to read:*

- *Developing a clearer understanding of members' roles, including the role of parties in opposition and ensuring that councillors lead on strategy and, where appropriate, officers lead on operational matters."*

Upon being put to the vote, this amendment was agreed.

Councillor Botten proposed that recommendations C and D be deleted and that a new C be inserted as follows:

*“That a Full Council meeting be convened as soon as possible to consider the following recommendations:*

- (1) Each Council Committee will have a second Vice Chair to be appointed at the next meeting of that committee, (drawing no special responsibility allowance) drawn from one of the main opposition groups*
- (2) All members agree to abide by the Nolan Principles which should be printed at the head of each Council and committee agenda paper, for the next committee cycle, and which should be agreed by each member signing a document setting them out on an annual basis, and on this occasion as soon as practicable*
- (3) Full Council meeting agendas should begin with Members Question Time, lasting no longer than sixty minutes, for which members give notice of questions to the Leader or Committee chairs, and may have up to two supplementary questions in response to their replies*
- (4) At full Council meetings, Committee minutes are, subject to the necessary legalities, agreed en bloc, rather than item by item*
- (5) A Task and Finish Group of three members drawn from each of the three major Groups shall review the production of committee papers and make recommendations to S&R at its meeting at the end of September”.*

This was seconded by Councillor Sayer, subject to (1) above (appointments of second Vice Chairs) being restricted to the Community Services, Housing, Planning, Planning Policy and Strategy & Resources Committees. Upon being put to the vote, the revised amendment was agreed.

Councillor Milton, seconded by Councillor Cooper, proposed that recommendation C be replaced with, *“a Committee Review Working Group (CRWG) be appointed to report to the Strategy & Resources Committee, formed of two Members from each main party and one from the Independent Group. The CRWG to consider action to promote the pre-eminent role of Committees in the decision-making framework of the Council and make recommendations, based on observations noted in the Hammond Report, to the Strategy & Resources Committee meeting on 22nd September”.* Upon being put to the vote, this amendment was lost.

**RESOLVED** – that:

- A. the findings of the independent review of the Council’s governance be noted, additionally noting the summary of the recommendations as per 2.5 of the covering report (Appendix A refers) subject to the 9<sup>th</sup> bullet point being amended to read:
  - “Developing a clearer understanding of members’ roles, including the role of parties in opposition and ensuring that councillors lead on strategy and, where appropriate, officers lead on operational matters”;

- B. the following statement by Group Leaders be endorsed:

*“As Group Leaders, we recognise that the Council is in a difficult position. The ongoing Covid-19 crisis presents us with significant difficulties which are exacerbated by the existing, deep-set issues about governance. These issues are not new and have been present in the Council for some time. The response and solution to these issues must lie with us acting collectively as leaders of each of the Council’s political groups, working with the Council’s senior officers. What we have in common is the desire to see local people served and supported by the work that both Members and Officers do together as a Council: we are committed to working together to address the issues.”*;

- C. a Full Council meeting be convened as soon as possible to consider the following recommendations:

- (i) the Community Services, Housing, Planning, Planning Policy and Strategy & Resources Committees will have a second Vice Chair, to be appointed at the next meeting of those committees (drawing no special responsibility allowance) drawn from one of the main opposition groups;
- (ii) all members shall agree to abide by the Nolan Principles which should be printed at the head of each Council and committee agenda paper for the next committee cycle, and which should be agreed by each member signing a document setting them out on an annual basis and, on this occasion, as soon as practicable;
- (iii) Full Council meeting agendas should begin with Members’ Question Time, lasting no longer than sixty minutes, for which members give notice of questions to the Leader or Committee chairs, and may have up to two supplementary questions in response to their replies;
- (iv) at full Council meetings, Committee minutes, subject to the necessary legalities, be agreed en bloc, rather than item by item; and
- (v) a Task and Finish Group of three members, drawn from each of the three major Groups, shall review the production of committee papers and make recommendations to the Strategy & Resources Committee at its meeting at the end of September.

## **73. LOCAL GOVERNMENT REORGANISATION**

It was anticipated that the forthcoming White Paper on recovery and devolution could result in the establishment of unitary authorities in place of the current two-tier structure of County Councils and Districts/Boroughs. Full Council, on 16<sup>th</sup> July 2020, had agreed a motion calling upon the Secretary of State to consider alternative models to the single Surrey unitary favoured by Surrey County Council. A letter, dated 22<sup>nd</sup> July, had been sent to the Secretary of State to this effect.

All eleven District and Borough Councils in Surrey had also agreed to work together to consider alternative delivery models, recognising that change was needed but that a single Surrey unitary was not practicable. These views had been expressed in a joint letter to the Secretary of State (23<sup>rd</sup> July 2020) signed by the eleven District / Borough Leaders.

The Committee was advised that, as part of a joint approach to scoping alternative restructuring options, each of the eleven Districts and Boroughs had been asked to contribute £10,000 towards engaging consultants. While the Committee supported the proposed contribution, Members expressed a wish for the identity of the consultants and the associated brief to be communicated as soon as possible.

**RESOLVED** – that a contribution of £10,000 be approved to support work on a joint District and Borough Council outline proposal for the development of alternatives to a single unitary structure for Local Government in Surrey.

Rising: 9.00 p.m.

**Centre for Public Scrutiny's (Ed Hammond) governance review of the Council****Summary of necessary actions (referred to in 2.5 of the Officers' covering report) as amended by the Committee (Recommendation A of Minute 86 refers)**

- Using the Annual Governance Statement to manage and champion the stabilisation and improvement of the Council's governance;
- Tightening up existing systems and procedures;
- Taking action to ensure that members' motivations and objectives are better understood by their peers and by officers;
- Members to sign up to the same values framework as officers;
- Creating a proportionate member development programme including training on the fundamentals of good governance (which should also be provided for officers);
- Amending rules of procedure for Full Council to reflect modern practice;
- Recasting the scrutiny committee, strengthening its audit functions and enabling scrutiny of cross-council financial matters;
- Strategy and Resources Committee to take direct ownership of the Council's long-term improvement;
- Developing a clearer understanding of members' roles, including the role of parties in opposition and ensuring that councillors lead on strategy and, where appropriate, officers lead on operational matters;
- Making improvements to officer-level governance;
- Supporting early member involvement in policy development;
- Confirming the information about strategic council performance and corporate activity members should receive;
- Identifying a proportionate and responsive way for member queries to be addressed;
- Developing a corporate risk framework and register, with appropriate member ownership and associated training for members and officers.

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<b>Strategy &amp; Resources Committee - Tuesday, 22 September 2020</b>	
<b>Review of Standing Orders for virtual meetings</b>	
Report of:	Lidia Harrison – Head of Legal Services and Monitoring Officer
ELT Lead	Elaine Jackson – Acting Chief Executive
Publication status:	Open
Recommendation:	It be recommended to Council that the revisions to Standing Orders, previously agreed at the 7 <sup>th</sup> May 2020 Council meeting, remain in force for as long as legislation permits the Council to hold virtual or part virtual meetings.
Appendices:	Appendix A - extract from Standing Orders to highlight the previous amendments made by Council, on 7 <sup>th</sup> May 2020, to facilitate virtual meetings.  Appendix B - temporary protocol for virtual meetings (adopted on 7 <sup>th</sup> May 2020).
Background papers defined by the Local Government (Access to Information) Act 1985	There are no papers

## 1. Executive Summary

- 1.1 This report enables the Committee to review the operation of Standing Orders in connection with virtual meetings. Such a review was requested by Council, at its meeting on 7<sup>th</sup> May 2020, when the Standing Orders were originally amended in light of the '*Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020*' ('The Flexibility Regulations').
- 1.2 The Flexibility Regulations came into force on the 4<sup>th</sup> April 2020 enabling local authorities to hold 'virtual' meetings during the COVID-19 crisis as a way of complying with social distancing requirements. These Regulations are only in force until the 7<sup>th</sup> May 2021.
- 1.3 The amended Standing Orders in connection with virtual meetings, adopted by Council on 7<sup>th</sup> May, are shown at Appendix A. The Council has been holding virtual committee and full council meetings in accordance with these Standing Orders ever since.

- 1.4 The Committee is invited to review the operation of the Standing Orders in light of the experience of the numerous virtual meetings held since May 2020. While this report does not recommend any amendments, the Committee is, of course, welcome to do so. The report reminds Members about the temporary protocol for virtual meetings, including rules of etiquette, which was also adopted on the 7<sup>th</sup> May 2020.
- 1.5 The report also reflects upon the implications of the Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020 which came into force on the 4<sup>th</sup> July 2020. Due to these Regulations and the subsequent advice received by the Local Government Association from Peter Oldham QC of 11KBW, Members have not been permitted to attend the Council Offices for full council or committee meetings. All local authorities in Surrey have followed Peter Oldham QC's advice and continued with remote meetings.
- 1.6 However, a flexible approach will be taken to future arrangements pending any changes in government guidance relating to public meetings. It is therefore possible that hybrid meetings may be held in future (with some Councillors attending in person and others joining virtually). Currently, none of the Surrey Boroughs or District are moving to in person or hybrid meetings. This situation is considered monthly by the Surrey Administrators and Solicitors ('SAS') group which the Head of Legal attends.
2. Experience of virtual meetings to date
- 2.1 The Authority has been able to transact business (via Zoom) in accordance with the previously scheduled timetable of full council and committee meetings since 7<sup>th</sup> May. Two committee meetings were unable to proceed due to circumstances beyond the Council's control, namely external damage to the internet connection to the offices and a local power failure. In both cases, the meetings were rearranged to take place a few days later.
- 2.2 The webcasting of two other meetings was affected by a loss of audio connection but the fault has since been rectified by the Council's webcasting supplier.
- 2.3 The application of the Standing Order 31(1) regarding representations at planning committees appears to have worked well. Applicants and objectors have been able to pre-record their 'three-minute' speeches and these have been replayed during the respective meetings.
- 2.4 Voting at some meetings has been somewhat protracted due to officers having to conduct roll calls. This has partly reflected the need to ensure that the results of votes are beyond doubt, especially at planning committees. A more efficient voting method is now in place, but officers have not had the opportunity to use it yet.
- 2.5 Some Members have had to overcome poor internet connectivity and /or personal IT device issues, e.g. by participating from alternative locations (other than their homes).
- 2.6 Members are reminded that, at the full council meeting on 7<sup>th</sup> May 2020, a temporary protocol, with rules of etiquette for virtual meetings, was adopted. This has since been incorporated within the Council's constitution (Part F) and a copy is attached at Appendix B.

3. Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020  
(“the No. 2 Regulations”)

3.1 These Regulations came into force on 4<sup>th</sup> July 2020. The No. 2 Regulations provide that during the emergency period, and subject to various exceptions: -

*5(1) ... no person may participate in a gathering which—*

*(a) consists of more than thirty persons, and*

*(b) takes place—*

*(i) in a private dwelling, including a houseboat,*

*(ii) on a vessel, other than a houseboat or a vessel used for public transport, or*

*(iii) [in certain types of public outdoor space] ... .*

*(6) For the purposes of this regulation—*

*(a) there is a gathering when two or more people are present together in the same place in order to engage in any form of social interaction with each other, or to undertake any other activity with each other; ...*

*5(3) sets out some exceptions (a to d) where larger gatherings will be permitted.*

*(a) applies to certain gatherings organised by “a business, a charitable, benevolent or philanthropic institution, a public body, or a political body” where the gathering organiser has carried out a risk assessment which would satisfy the requirements of regulation 3 of the Management of Health and Safety at Work Regulations 1999. A further condition is that the gathering organiser has taken all reasonable measures to limit the risk of transmission of the coronavirus, taking into account the risk assessment.*

*(b) the person concerned is an elite sportsperson, the coach of an elite sportsperson, or (in the case of an elite sportsperson who is a child), the parent of an elite sportsperson, and the gathering is necessary for training or competition,*

*(c) the gathering is reasonably necessary – (i) for work purposes, or for the provision of voluntary or charitable services, (ii) for the purposes of education or training, (iii) for the purposes of childcare provided by a person registered under Part 3 of the Childcare Act 2006, or as part of supervised activities provided for children, (iv) to provide emergency assistance, (v) to enable one or more persons in the gathering to avoid injury or illness or to escape a risk of harm, or*

*(d) the person concerned is fulfilling a legal obligation.*

3.2 Although, the No. 2 Regulations prevent gatherings (i.e. meetings) of over thirty people in private dwellings, on vessels, and in certain outdoor places, it does not prevent a meeting, of any number of people, which takes place in other places. This would include meetings in the Council offices.

3.3 However, the fact that the No. 2 Regulations do not expressly prevent local authorities from holding physical meetings, it is the view of Peter Oldham QC that they should not hold such meetings. Accordingly, it is felt that while the Government advice on the use of council buildings still applies remote meetings under the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 ('Flexibility Regulations') should continue.

3.4 As stated in para 3.3, on 30th June 2020, the Government published (non-statutory) guidance entitled "COVID-19: Guidance for the safe use of council buildings", at <https://www.gov.uk/government/publications/covid-19-guidance-for-the-safe-use-of-council-buildings/covid-19-guidance-for-the-safe-use-of-council-buildings>. Section 3d of that document which is headed 'Meetings and civic functions' provides the following:-

*"We continue to recommend that where meetings can take place digitally without the need for face-to-face contact, they should continue to do so. Where community facilities need to be used for physical meetings, these meetings should be managed within the social distancing guidance....."*

*The principles set out in the 'Safer workplaces' guidance apply, including but not limited to:*

- *meetings of civic, political or community groups (e.g. parish council meeting, ward meeting of political party; charity board of trustees);*
- *MP or councillor surgery/drop-in sessions. The government is discouraging unnecessary physical attendance at meetings. Where necessary to take place physically, participants should maintain 2 metres (or 1 metre with risk mitigation) separation throughout*
- *public meetings and local consultations (e.g. planning).*

*Local authorities in England have some powers to hold public meetings virtually by using video or telephone conferencing technology."*

3.5 If the Council has identified the need to hold a physical meeting, as it is unable to conduct Council business any other way, then it is possible to do so from 4th July 2020. These meetings must be managed within the social distancing and 'safer workplaces' guidance produced by Government, which includes the requirement to conduct a risk assessment to determine if it is feasible and safe to hold a physical meeting. It is important that this risk assessment is carried out, and any identified actions to reduce risk to attendees are implemented before any face to face meetings resume. The Council would need to keep documentation of this risk assessment and the reasons why it has taken the decision to return to face to face meetings.

3.6 Similarly, the Council owes health and safety obligations to Members, Officers and possibly others. These duties arise, for instance, in tort, in contract (as regards Officers), and under the Health and Safety at Work etc Act 1974 and are unaffected by the No. 2 Regulations. Therefore, there is a potential source of liability if things were to go wrong and individuals became infected. There is no reason why the Council would want to take any unnecessary risk to hold any physical meetings, whether hybrid or not, unless there was a real need to do so. Even if there was a real need of this nature, the numbers meeting physically should be as low as possible.

4. Climate Change implications

- 4.1 It is considered that there are no issues arising from the report which impact, positively or negatively, upon the carbon footprint of the Council or others.

5. Equality implications

- 5.1 It is important that Members consider the different groups in the community with protected characteristics (as defined by the Equality Act 2010). Any Member who falls into one of the more vulnerable categories (e.g. due to age, gender, underlying health conditions, etc.) would be potentially disadvantaged if the Council were to revert to physical meetings in the foreseeable future. This would be an equality issue for Members, Officers and members of the public.
- 5.2 It cannot be ignored however that some members of the public have not been confident, or able to, access remote meetings online.

6. Comments of the Chief Finance Officer

It is considered that there are no issues arising from the report which will have any financial implication for the Council

7. Comments of the Head of Legal Services

- 7.1 Any legal implications have been detailed in the main body of this report.

8. Conclusion

- 8.1 To date, it appears that the amended Standing Orders are suitable for the operation of virtual meetings and that, subject to the Committee's views, no changes are required. However, as the Flexibility Regulations are only in force until the 7th May 2021, statutory provisions will need to be placed on a more permanent footing for the Council to continue to hold virtual or part virtual (i.e. with some participants in the chamber and others attending remotely) meetings beyond that date.
- 8.2 Until the Government's advice has superseded or the other Surrey Boroughs or District have decided to move in person or hybrid meetings Members will not, unfortunately, be permitted to attend the Council Offices for committee or full council meetings. There is the availability of remote meetings and the Flexibility Regulations allow for Members to attend meetings by phone if it is 'not practicable' for a video link to be maintained. Consequently, the fact that a Member may be unable to establish or maintain a video link due to IT issues does not make it reasonably necessary to attend a meeting in person. In addition, the rules of quoracy may well permit a meeting to go ahead without a Member present in any event.

----- end of report -----

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## Extract from Standing Orders – provisions to facilitate virtual meetings

**PROCEDURES FOR COUNCIL MEETINGS****No. 1  
MEETINGS OF THE COUNCIL**

- (4) For as long as the **2020 [Coronavirus] Regulations** remain in force, **meetings may be held virtually, either in whole or in part**, whereby:
- (i) the term 'meeting' is not limited to a meeting of persons all of whom, or any of whom, are present in the same place;
  - (ii) the 'meeting place' can include reference to more than one place, **including electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone numbers**;
  - (ii) 'open to the public' includes access to the meeting via **remote** means, including (but not limited to) video conferencing, live webcast, and live interactive streaming and where a meeting is accessible to the public through such **remote** means;
  - (iv) Councillors are able to participate from **remote** locations and are deemed to be in attendance if they can:
    - hear, and where practicable see, and be so heard and, where practicable, be seen by, the other members in attendance,
    - hear, and where practicable see, and be so heard and, where practicable, be seen by, any members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting; and
    - be so heard and, where practicable, be seen by any other members of the public attending the meeting.

**No. 9  
MOTIONS AND AMENDMENTS WHICH MAY BE MOVED WITHOUT NOTICE**

The following motions and amendments may be moved without notice:-

- (15) A Motion under Section 100A (2) and (4) of the Local Government Act 1972 to exclude the public (either via exclusion from the physical meeting place, if any, **or by terminating remote access services**).
- (16) That a Member named under Standing Order No. 33(Disorderly Conduct) be not further heard or leave the meeting (either by leaving the meeting place if physically present **or by discontinuing remote access services**).

No. 12

**RULES OF DEBATE FOR COUNCIL MEETINGS**

*[Deletions of all references to Members having to stand up.]*

No. 13

**VOTING AT COUNCIL MEETINGS**

- (1) Subject to SO 12(6) below, the manner of voting at meetings of the Council shall be at the discretion of the Chairman, to ensure that the outcome of any vote is beyond doubt and **depending on whether all or some of the Members are participating remotely via conferencing facilities.**

*[Deletions within this, and other clauses, of references to Members having to stand and to raise their hands]*

No. 15

**COMMITTEES**

- (3) For as long as the 2020 Regulations remain in force, committee and sub-committee meetings may be held **virtually, as described in Standing Order 1(4).**

No. 16

**COMMITTEES - CONFIDENTIALITY OF PROCEEDINGS**

- (2) Proceedings at Committee / Sub-Committee meetings shall be conducted in public (including by way of public access to webcasting and/or conferencing facilities) unless a Committee / Sub-Committee passes a resolution to exclude the press and public on the grounds referred to in (1) above (via exclusion from the physical meeting place, if any, **or by terminating remote access to the meeting).**

No. 24

**ATTENDANCE OF MEMBERS AT MEETINGS OF  
COMMITTEES AND SUB-COMMITTEES OF WHICH THEY ARE NOT MEMBERS**

- (1) **Any Councillors may attend meetings (either in person or remotely via conferencing facilities)** of any Committee or Sub-Committee of which they are not members. However, in such cases, a Councillor must obtain the consent of the Chairman of the meeting concerned in order to speak.



**No. 25**  
**VOTING AT COMMITTEES AND SUB-COMMITTEES**

- (1) The manner of voting at meetings of Committees and Sub-Committees shall be at the discretion of the Chairman, to ensure that the outcome of any vote is beyond doubt and **depending on whether all or some of the Members are participating remotely via conferencing facilities.**

**PROVISIONS RELATING TO BOTH COUNCIL AND COMMITTEES**

**No. 27**  
**ATTENDANCES AT MEETINGS**

- (1) The clerk of the meeting or other appropriate officer shall record the names of every Member of the Council attending a meeting of the Council, or of any of its Committees or Sub-Committees.

*[No longer a need for Members to sign an attendance book]*

- (2) **The conditions for a Member's remote attendance are that s/he is able to:**
- (i) hear, and where practicable see, and be so heard and, where practicable, be seen by, the other members in attendance;
  - (ii) hear, and where practicable see, and be so heard and, where practicable, be seen by, any members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting; and
  - (iii) be so heard and, where practicable, be seen by any other members of the public attending the meeting.

**No. 28**  
**DISCLOSURE OF INTERESTS AND PARTICIPATION AT MEETINGS**

Members shall:

- (3) Not participate in any discussion or vote where they have a disclosable pecuniary interest in a matter and withdraw from the meeting, either by leaving the meeting room if physically present or by **remote** access being suspended, during consideration of the matter unless a dispensation has been granted.

**No. 30**  
**QUESTIONS AT MEETINGS**

- (1) Subject to (i) to (x) below, a Councillor, or a person resident, working or studying in the District, may put a question to any meeting of the Council (other than the Annual Meeting) or a Committee on any matter in relation to which the Council / Committee has powers or duties or which affects the District:
- (i) questions shall be e-mailed to all Members by 6.00pm on the working day prior to the meeting and either:
- read out at the meeting by the individual concerned from within the meeting room; or,
  - **if members of the public are not permitted to attend in person for health & safety reasons, the individuals concerned will be given the opportunity to pre-record their questions** (such recordings to be facilitated by the Council, limited to the individual speaking to camera, without additional augmentations to promote their views) and for the recordings to be replayed at the meeting. Otherwise, such questions will be read out by the Chief Executive or her nominated officer, **either from within a physical meeting place or from a remote location.**

**No. 31**  
**REPRESENTATIONS AT MEETINGS**  
(other than petitions – Standing Order 32 refers)

- (1) Representations at meetings of the Planning Committee
- 1.1 **In the case of virtual meetings when members of the public are not permitted to attend in person for health & safety reasons:**
- an objector;
  - a representative of the relevant parish or village council; and
  - the applicant or agent
- ... will be given the opportunity to pre-record their representations (such recordings to be facilitated by the Council, limited to the individual speaking to camera, without additional augmentations to promote his or her views) and for the recordings to be replayed at the meeting. Otherwise, such representations must be submitted in writing (including via e-mail) and read out at the meeting by the Chief Executive or her nominated representative, **either from within a physical meeting place or from a remote location.** In either case, the deadline for the receipt of such submissions shall be by noon on the working day before the meeting. The maximum time allowed for replaying or reading out each representation shall be three minutes. Such representations shall be tested for compliance with the three-minute rule and individuals will be asked to curtail their recordings if necessary.

1.2 **In the case of non-virtual or part virtual meetings when members of the public are permitted to attend in person:**

- an objector;
- a representative of the relevant parish or village council; and
- the applicant or agent

...may speak about a planning application from within the meeting room for up to three minutes each.

1.3 **In either case**, if more than one objector wishes to speak or have their representation recorded or read out, a single representative will normally be asked to speak or submit representations on behalf of fellow objectors. Professional agents may act on behalf of objectors. Supplementary written submissions, visual aids, hand-outs or other material will not be allowed. Representations should not seek to introduce new information or material not previously submitted with the application. This may result in the application being deferred for further consideration or public comment.

(2) Representations at other Committee meetings

2.1 Members of the public and other interested parties can make representations at meetings of any Policy Committee (or Sub-Committee thereof) or the Overview & Scrutiny Committee in connection with a particular agenda item. The maximum time allowed shall be three minutes per person. Unless the agenda already makes special provision for members of the public to participate at a particular meeting, such requests must be sent by email, or submitted in writing to the Chief Executive or her nominated Officer at least two working days prior to the Committee meeting in question. Acceptance of such requests, together with those received after the aforementioned deadline or at the meeting, shall be at the discretion of the Chairman of the relevant meeting, having due regard to the number of contributions, the potential for repetition of the subject matter and the likely length of the meeting. Members of the public or interested parties can either:

- read out their representations at the meeting from within the meeting room; or
- **when members of the public are not permitted to attend in person for health & safety reasons**, they will be given the opportunity to pre-record their representations (such recordings to be facilitated by the council, limited to an individual speaking to camera, without additional augmentations to promote his or her views) and for the recordings to be replayed at the meeting. Otherwise, such representations will be read out by the Chief Executive or her nominated representative, either from within a physical meeting place or from a **remote location**. Such representations shall be tested for compliance with the three-minute rule and individuals will be asked to curtail their submissions if necessary.

## No. 31

### PRESENTATION OF PETITIONS TO MEETINGS OF THE COUNCIL AND ITS COMMITTEES (excluding the Planning and Licensing Committees)

- (5) The presentation of a petition (to be by any one of the ten or more signatories specified in 2(ii) above or a Member of the Council) shall be in the form of a statement, limited to not more than three minutes, and shall be confined to the subject matter of the petition, indicating the number and description of the signatories, and making such further supporting remarks relevant to the petition. Spokespersons can either:
- read out their statements from within the meeting room; or
  - **when members of the public are not permitted to attend in person for health & safety reasons**, they will be given the opportunity to pre-record their statements and for the recordings (such recordings to be facilitated by the Council, limited to an individual speaking to camera, without additional augmentations to promote his or her views) to be replayed at the meeting. Otherwise, such statements will be read out by the Chief Executive or her nominated officer on behalf of the spokesperson, either from within a physical meeting place or from a **remote** location.

## No. 32

### DISORDERLY CONDUCT - MEMBERS

- (1) If at any meeting of the Council, a Committee, or Sub-Committee, any Member of the Council, in the opinion of the Chairman misconducts him/herself by persistently disregarding the ruling of the Chairman, or by behaving irregularly, improperly, or offensively, or by wilfully obstructing the business of the meeting, the Chairman or any other Member may move "that the Member named be not further heard", and the motion if seconded shall be put and determined without further discussion.

#### **Continuing misconduct by a named Member**

- (2) If the Member named continues his / her misconduct after a motion under the foregoing paragraph has been carried, the Chairman may :-

EITHER

Move "That the Member named do leave the meeting" in which case the motion shall be put and determined without seconding or discussion (if carried, the named Member shall be asked to leave the meeting place if physically present **or, in the case of virtual participation, the Chairman shall order the termination of the Member's on-line access**).

OR

Adjourn the meeting for such period, as s/he in her/his discretion considers expedient.

**No. 33**  
**DISTURBANCE BY THE PUBLIC**

- (1) The Chairman shall warn any member of the public who interrupts the proceedings at any meeting. If the individual continues the interruption, the Chairman may order his / her removal from the Council Chamber **or, in the case of virtual participation, the termination of his / her on-line access.** In the event of general disturbance in any part of the Chamber open to the public, the Chairman shall order that part to be cleared. Similarly, in event of general disturbance from members of the public participating remotely, the Chairman may order all such public access to be terminated.
  
- (2) The Chairman may adjourn the meeting as per SO 32(3) above.

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**TANDRIDGE DISTRICT COUNCIL - TEMPORARY VIRTUAL MEETING PROTOCOL  
FOR COUNCIL, COMMITTEE AND SUB-COMMITTEE MEETINGS****1.0 INTRODUCTION**

- 1.1 Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 make provision for remote attendance at, and remote access to Council meetings held on or before 7 May 2021.
- 1.2 The Regulations enable the Council to hold meetings without all, or any, of the Members being physically present in a room. They allow for remote meetings through electronic and digital means at virtual locations using video and telephone conferencing, live webcast and live interactive streaming.
- 1.3 The “place” at which the meeting may be held may be a council building, or where the organiser of the meeting is located, or an electronic, digital or virtual location, a web address or a conference call telephone number or could be a number of these combined. The meeting may also be held in a meeting room or Council Chamber with a proportion of the membership and any participating public additionally attending remotely.
- 1.4 In order for Members to be able to attend meetings of the Council remotely, they need not be physically present, provided they are able to hear and be heard (and where practicable, see and be seen by) other Members and members of the public attending remotely or in person.
- 1.5 This Protocol is intended to be a living document and any minor amendments will be amended as and when required by the Monitoring Officer. Any further relevant regulations issued under the Coronavirus Act 2020 (in so far as they may impact on virtual meetings) or further guidance and advice issued by the Government or changes proposed by Members will in the first instance be amended by the Monitoring Officer in conjunction with all Political Group Leaders and then considered by Full Council.

**2.0 MEETINGS OF COUNCIL, COMMITTEES AND SUB-COMMITTEES**

- 2.1 The meeting link with meeting ID and password will be set up prior to the Committee or Council meeting and members of the public and press who are entitled to attend must contact the Clerk or other relevant support officer (section 4 refers) to this effect by email.
- 2.2 Where health advice and the law permits, and if there are no adverse IT implications, Members may choose to meet in the Council building in-person, with or without an Officer present in the same room. Subject to those provisos, Members can either attend the meeting in person (exercising suitable physical distancing) or join remotely. Alternatively, all Members, officers and members of the public and press invited to do so may join remotely.

- 2.3 Meetings may be livestreamed and /or recorded for members of the public and the media to watch – with the exception of confidential items – which will be discussed in private as usual.

### **3.0 THE CHAIRMAN'S ROLE**

- 3.1 The Chairman will normally confirm at the outset of each meeting and at any reconvening of a meeting that they can see and hear all participating members. The Chairman or an Officer may perform a “roll call” of all Members present.
- 3.2 Once the “roll-call” has been completed, all attendees, other than the Chairman and key support Officers, must be muted.
- 3.3 The Chairman will, at the beginning of the meeting, explain the protocol for Member and public participation. The Chairman can decide a practical protocol for management of the debate and decision-making e.g. the way the vote is taken by Members. Such a protocol can be amended from time to time and does not require Council approval for any change.
- 3.4 Similar to hosting a physical meeting when Members get stuck in traffic, there will be occasions when a Member encounters a technical issue that cannot be resolved in time for the start of the meeting. Within a timely manner before the issue causes a distraction, the Chairman will decide if the meeting should go ahead without the Member.
- 3.6 The meeting will still be chaired in the normal manner. If Members speak over others, or if there is a time delay and matters are not heard, the Chairman will ask Members/ speakers to repeat, and to speak in turn.
- 3.7 The Chairman will follow the rules set out in the Standing Orders when determining who may speak, as well as the order and priority of speakers and the content and length of speeches in the normal way.
- 3.8 The Chairman's ruling during the debate will be final.

### **4.0 OFFICER SUPPORT**

- 4.1 Virtual meetings shall be serviced by one or more officers performing various support functions, including the roles traditionally undertaken by a committee clerk and other duties to ensure the IT runs as smoothly as possible.
- 4.2 The attendance of those Members at the meeting will be recorded by the Clerk or other support officer.
- 4.3 The Clerk or other support officer might have a greater input to guide the meeting to the next item, as some Members may not have access to an agenda for the duration of the meeting (if they do not have a printer).



- 4.4 Members are requested to use any 'chat function' which might be available to alert the Clerk or other appropriate officer if they encounter difficulties during the meeting (e.g. struggling to hear the debate). If the 'chat function' cannot be used, such messages to officers should be sent via other channels (contact details to be notified in advance of the meeting).

## **5.0 BEFORE THE MEETING**

- 5.1 If it is a Member's first online meeting using the remote meeting software, then the Member should ask for a meeting dry run to make sure that s/he is comfortable using the software.
- 5.2 It may be helpful to have a secondary messaging function, such as WhatsApp for example, set up to be able to communicate between group members. However, Members need to make sure any notifications are silenced so they do not disturb the meeting.
- 5.3 It will assist the meeting if those Members who wish to speak on a particular item could indicate their wish to speak to the Chairman and to the Clerk in advance of the start of the meeting where possible. Political groups are also encouraged to co-ordinate this activity where possible in respect of Council and other meetings likely to result in a high number of requests to speak.
- 5.4 Members need to remember that remote meetings could be viewed by members of the public, as we are already used to with our webcasting facility. Please make sure this is taken into consideration when preparing for the meeting.
- 5.5 Members should optimise their remote location area before the meeting as this will be visible during the meeting. Members need to consider what is in the background if they are unable to blur it. Members also need to consider the lighting in their room as participating in a video conference from a dimly lit room makes it difficult for other participants to see you.

## **6.0 ETIQUETTE FOR JOINING AND PARTICIPATING IN THE MEETING**

- 6.1 Members are encouraged to join the meeting promptly (i.e. at least fifteen minutes before the scheduled start time) in order to resolve any issues with joining and avoid disrupting the meeting.
- 6.2 Members should type their name on joining the meeting in full, e.g., "Cllr Joanne Smith" (where the conferencing platform enables this).
- 6.3 Microphones should be muted when not speaking. This is done in order to reduce feedback and background noise.
- 6.4 Any camera (video-feed) should show a non-descript background or, where possible, a virtual background and Members should be careful to not allow exempt or confidential papers to be seen in the video-feed.

- 6.5 Distractions make a significant impact during a remote meeting. To reduce potential distractions and stay engaged, Members should turn off or silence their phone (if you are not using it to call in). If you're connecting on your computer, close down all other apps and browser windows to eliminate notifications.
- 6.6 As this is a formal meeting, Members should be aware that interruptions e.g. family members moving around in the background, pets, phones ringing etc, will be distracting and potentially disruptive to the proceedings.
- 6.7 Once the meeting begins, Members should keep their eyes on their webcam – not on themselves. It may not feel natural at first but looking at your face on your computer screen while you're speaking limits eye contact and reduces feelings of engagement among other participants.
- 6.8 The chat facility must not be used for private conversations between Members.**
- 6.9 Members wishing to speak should indicate their wish to do so in the manner prescribed by the Chairman.
- 6.10 Only one person may speak at any one time and, unless raising a point of order or speaking in personal explanation, Members should not interrupt others.
- 6.11 Just before they speak, Members should unmute their microphone and activate the video-feed (if available or unless speaking to a diagram, presentation slide or drawing).
- 6.12 When you speak, the Chairman may ask you to state your name for the benefit of those who might not be able to see you. Members should avoid rustling papers etc in the background when talking.
- 6.13 When referring to a specific report, page, or slide, mention the report, page, or slide so that all Members have a clear understanding of what is being discussed at all times.
- 6.14 If you have to leave the meeting, let the Clerk or appropriate support officer know via the chat facility and notify them when you are back. Any Member returning is asked not to interrupt (e.g. please don't announce your return).
- 7.0 VOTING**
- 7.1 When the Chairman is satisfied that there has been sufficient debate and (if the rules of the meeting require) there is a proposer and seconder for the item being discussed he/she will progress to a decision.
- 7.2 The method of voting will be at the direction of the Chairman to ensure that the outcome is beyond doubt.

## **8.0 QUORUM**

- 8.1 The normal quorum requirements for meetings as set out in the Council's Standing Orders will also apply to a remote meeting.
- 8.2 In the event of any apparent failure of the video, telephone or conferencing connection, the Chairman should immediately determine if the meeting is still quorate:
- if it is, then the business of the meeting will continue; or
  - if there is no quorum, then the meeting shall adjourn for a period specified by the Chairman, expected to be no more than ten or fifteen minutes, to allow the connection to be re-established.

## **9. PART 2 REPORTS AND DEBATE**

- 9.1 There are times when meetings are not open to the public, when confidential, or "exempt" issues – as defined in Schedule 12A of the Local Government Act 1972 – are under consideration. It is important to ensure that there are no members of the public at remote locations able to hear or see the proceedings when such items are being discussed. Any Member in remote attendance could be in breach of the Council's Code of Conduct who fails to disclose that there are other persons present who may be able to see and/or hear the meeting if they are not entitled to do that.
- 9.2 If there are members of the public and press listening to the open part of the meeting, then the Chairman will remove those participants from the meeting at the appropriate time. Before this happens, the members of public and press must be made aware why they are being removed from the meeting.
- 9.3 It would be good practice to turn off smart speakers such as Amazon Echo (Alexa), Google Home or smart music devices. These could inadvertently record phone or video conversations, which would not be appropriate during the consideration of confidential items.

## **10.0 DECLARATION OF INTERESTS**

- 10.1 Any Member participating in a remote meeting who declares a disclosable pecuniary interest, or other declarable interest, in any item of business that would normally require them to leave the room, must also leave the remote meeting. Their departure will be confirmed by the Clerk or other relevant support officer who will arrange for the relevant Member to re-join the meeting at the appropriate time.

## **11.0 AFTER THE MEETING**

- 11.1 Participants should leave the meeting by activating the relevant "end meeting" function of the conferencing software. The Chairman or the Officer can also end the meeting for all participants. Minutes of the meeting will be published on the Council's website in the usual manner.

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<b>Strategy &amp; Resources Committee Tuesday, 22 September 2020</b>	
<b>Annual RIPA report</b>	
Report of:	Lidia Harrison, Head of Legal and Monitoring Officer <a href="mailto:lharrison@tandridge.gov.uk">lharrison@tandridge.gov.uk</a>
ELT Lead	Elaine Jackson, Acting Chief Executive <a href="mailto:EJackson@tandridge.gov.uk">EJackson@tandridge.gov.uk</a>
Publication status:	Unrestricted
Wards Affected:	All Wards
Recommendations:	That it be recommended that the Committee:  A. Notes the content of this Report; and B. Approves the Council's updated RIPA Policy.
Appendices:	Appendix 'A' - RIPA Policy (updated)  Appendix 'B' - RIPA Officer Guidance
Background papers defined by the Local Government (Access to Information) Act 1985	None

## 1. Executive Summary

- 1.1 This report provides an annual update and proposed amendments to the Council's current RIPA Policy.
- 1.2 As the Council received a visit from a member of the Investigatory Powers Commissioner's Office (**IPCO**) in early 2020, this report will also provide a summary of their recommendations and what action the Council is taking as a consequence.

## 2. Background

- 2.1 The Regulation of Investigatory Powers Act 2000 (**RIPA**) sets out the ways in which the Council can lawfully carry out investigations where it wants to employ surveillance techniques, ensuring that the right balance is achieved between public interest and individual human rights. RIPA requires the Council to have in place procedures to ensure that when required, surveillance is seen as necessary, proportionate and is properly authorised.

- 2.2 The Council is required to have a RIPA Policy and the current one was last approved by the Strategy & Resources Committee on 21<sup>st</sup> March 2019. The RIPA Policy must be reviewed annually.
- 2.3 This report provides (i) an annual update, and (ii) a revised RIPA Policy, for consideration and approval by the Committee.
- 2.4 At the start of 2020, an inspector from the IPCO visited the Council. The IPCO is the regulator in relation to RIPA and provides independent oversight and authorisation of the use of investigatory powers by intelligence agencies, police forces and other public authorities. The visit made to the Council was routine in nature and was not precipitated by any action/inaction by the Council. As the recommendations made by the inspector have fed into amendments made to the policy, and other actions taken by the Council, this report will deal with the IPCO findings in the first instance.

### 3. IPCO Findings

- 3.1 Firstly, it should be noted that the visit made by the inspector was of an informal nature. They noted that a full inspection by the IPCO is overdue, however, suggested conducting an informal review of the policies and procedures in place at the Council, to provide the Council time and opportunity to make any necessary changes to its existing practices. Following this, it is intended that when a full inspection is carried out, at a later date, the Council shall be fully compliant with all requirements.
- 3.2 Further, it is important to note that the inspector was, broadly speaking, satisfied with the Council's policies and practices in relation to RIPA. They did, however, have some recommendations to bring the Council in line with best practice. These are set out below.
- 3.3 The current policy refers to a number of "Authorising Officers". All of the named individuals have since left the Council. The inspector recommended that new officer details should be inserted. The new policy includes the following individuals/posts as "Authorising Officers":
- Elaine Jackson - Acting Chief Executive;
  - Charlotte Parker - Chief Planning Officer; and
  - Alison Boote - Executive Head of Communities.
- 3.4 In addition to updating the list of "Authorising Officers", the current policy has also been updated to include (i) an Impact Risk Assessment Form, (ii) details of the new Data Protection Officer, and (iii) some clarification in relation to social media and directed surveillance.
- 3.5 The inspector also recommended that, in addition to the RIPA policy, there should be some guidance notes for officers, to provide more practical guidance than is usually found in a formal policy document. They suggested that the guidance document could include a flowchart and information in relation to the

potential for social media monitoring to engage RIPA. The Council has addressed these points by drafting “Guidance Notes for Officers”, which can be found at Appendix B to this report. As this is not a formal policy document, it does not require ratification by the Committee but is included for information purposes only.

- 3.6 Lastly, the inspector strongly recommended that the Council commission an external provider to assist with appropriate training for staff, to include not just those mentioned within the RIPA policy but also officers who deal with enforcement, and revenue and benefits, for example. Home Office guidance also requires that officers are trained in RIPA in the future event that the Policy needs to be applied and authorisations granted.

#### 4 Training

- 4.1 Although the inspector was not permitted to suggest a particular training consultant, s/he offered to review those short-listed by the Council to confirm whether their course content covered what was likely to be required for the Council’s purposes.

- 4.2 Research was carried out on relevant RIPA training providers, and the one selected has been verified by the inspector as meeting the necessary requirements. The training was originally intended to be undertaken at the start of the financial year, however, this was postponed due to the Covid-19 pandemic. The training took place on 10<sup>th</sup> September 2020, at the Council’s offices (in the Chamber, to observe social distancing restrictions), with several delegates attending remotely. The training lasted one full day and those who attended will receive a certificate. In total, 16 delegates attended the course. They work in the following areas:

- Legal;
- Chief Executive;
- Chief Planning Officer;
- Head of Communities, Asset and Property Management;
- s.151 Officer;
- Revenues and Benefits;
- Localities;
- Planning enforcement; and
- Tree Preservation Orders.

- 4.2 All Officers who may be involved in the application, authorisation and management of covert activity will receive training. Legal Services will keep a record of those receiving training and will work with Human Resources to ensure that training is carried out as appropriate to account for staff turnover, legislative changes etc.

- 4.3 In terms of cost, the price for the course was £1,800 (excluding VAT, travelling costs and officer time). Quotations from three companies were obtained. The company selected, Bond Solon, agreed to reduce their usual costs on request

by the Council. As the cost is under £5,000 no formal procurement process is required, nor a Procurement Activity Request. However, a Request for Quote Award Recommendation (below £5,000) has been completed and signed. The price secured represents good value to the Council as Bond Solon is one of the UK's leading legal and investigative training company and has been delivering training for over 20 years. They are specialists in providing RIPA and intelligence training to police forces and local and central government authorities. They deliver thousands of courses each year and these courses are designed specifically for local authorities to ensure that those attending have the knowledge, skills and confidence to competently make critical decisions affecting sensitive operational activity and are able to effectively gather and secure intelligence and evidence.

4.4 In terms of structure and content, the Council arranged for a bespoke training day, which was divided into two halves; the first half dealt with the work carried out by a RIPA Applicant, and the second half covered the work to be carried out by an Authorising Officer. Those attending were asked to stay for the whole course to obtain a better overall understanding of the process.

#### 5. Other options considered

5.1 An alternative option is that Committee do not consider the feedback in respect of the RIPA inspection. This would go against the Council's RIPA Policy which requires annual review of the Council's Policy and procedure by Members.

5.2 Members could choose not to approve the amendments to the RIPA Policy or suggest alternative amendments. The Policy, if unamended, would remain in its current format and would not reflect recommendations from the IPCO nor be up to date and fit for purpose. The amendments proposed align with recommendations from the IPCO, any alternative recommendations may not be in line with IPCO requirements.

5.3 In terms of other options in relation to training providers, two other training providers were considered and short-listed, however, the course content and quality of training offered by Bond Solon was considered to be far superior to any other training consultant that had been shortlisted. The option of not providing a training consultant was not considered. The option of using an online training course was quickly discounted, as RIPA is a highly specialised area and requires robust and preferably, in-person, and tailored training for RIPA Applicants and Authorising Officers. Online training, where individuals carry out a brief multiple-choice test at the end, is not sufficient to meet the Council's requirements in relation to RIPA training.

#### 6. Climate Change implications

6.1 RIPA training is of a specialist nature, and commands granular legal oversight considering its sensitivity and importance with regard to complying with the Council's statutory role in this arena. The training consultant company stated a preference for in-person training as in-person group participation yields better



learning outcomes in this specialist area. Making virtual attendance compulsory would therefore not be appropriate in this case. However, the RIPA training held on Thursday 10th September 2020 was hybrid in nature, encompassing both onsite and remote delegates. It is worth noting that most of the onsite delegates would be coming into the office anyway on that date. The RIPA training involved focussed sessions for e.g. the Authorising Officers, and RIPA Applicants. If the Council decides to roll out more generalist RIPA training, on an organisation-wide basis to all staff, it is intended that this would be delivered by way of an e-learning module, with a decreased carbon footprint. The training that was held on 10th September 2020 was delivered to those members of staff whose roles have a significant nexus with RIPA (e.g. RIPA Applicants and Authorising Officers) – in which case specific and in-depth training is required. In relation to staff whose roles do not have a close nexus with RIPA, but may in certain circumstances trigger the application of RIPA, an e-learning course will be appropriate.

## 7. Equality implications

- 7.1 In line with the Public-Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
- 7.2 The contents of this report do not directly impact on equality, in that it is not making proposals that will have a direct impact on equality of access or outcomes for diverse groups.

## 8. Any other corporate implications where applicable

- 8.1 Not applicable.

## 9. Comments of the Chief Finance Officer

- 9.1 The Costs incurred for the RIPA training are £1,800 plus staff time. There is sufficient funding available to fund the training from the corporate training budget.

## 10. Comments of the Head of Legal Services

- 10.1 As the Council has recently been inspected by the IPCO, the attached policy has been drafted to reflect their recommendations. The Guidance Note for Officers also addresses further recommendations from the IPCO. This, together with the training provided, should ensure the Council is fully compliant with all its obligations in relation to RIPA, and should also provide Officers with the practical knowledge and confidence to be able to utilise RIPA, where relevant.

10.2 The key risks to the Council are that without clear and robust policies and procedures in place, there would be a risk that Officers/Members would fail to comply with the relevant legislation and associated codes of practice. Consequently, complaints may be made against the Council by aggrieved persons, which may proceed to investigation by the independent tribunals set up by the Office of the Surveillance Commissioner. The Tribunals have the power to cancel authorisations, order the destruction of any records obtained in exercise of the powers conferred by RIPA and award compensation as they see fit. The IPCO would also severely criticise such failure and the adverse publicity arising therefrom could damage the Council's reputation and not serve in its best interests.

11. Conclusion

11.1 Following the recommendations of the IPCO inspector in early 2020, the Council has (i) revised its policy in relation to the use of covert surveillance to ensure compliance with the provisions of RIPA, (ii) published Officer Guidance, and (iii) arranged for in-house training for relevant members of staff. Members are asked to note this compliance.

----- end of report -----



# **Surveillance under the Regulation of Investigatory Powers Act 2000 (RIPA)**

## **Policy and Procedure**

# September 2020

## Document Location

This document is held by Tandridge District Council, and the document owner is Senior Responsible Officer.

Printed documents may be obsolete. An electronic copy will be available on Tandridge District Council Intranet. Please check for current version before using.

## Document Review Plans

This document is subject to a scheduled annual review. Updates shall be made in accordance with business requirements and changes and will be with agreement with the document owner.

## Distribution

The document will be available on the Intranet and the Council's website.

Date	22 <sup>nd</sup> September 2020
Version	V2
Review date	September 2021
Owner	Lidia Harrison – Monitoring Officer

## Record of amendments

Amended Month/Year	Version	Details	Amended by	Date Issued
March 2019	V.1		Jason Thomas	21st March 2019
September 2020	v.2		Lucinda Capel	22 <sup>nd</sup> September 2020

## DEFINITIONS

Unless the context otherwise requires, in this document the expressions in the first column shall have the meaning in the second column and any reference to a statute or statutory instrument or code of practice within the document shall include amendments to it.

<b>Act</b>	means RIPA.
<b>Authorising Officer</b>	RIPA refers to “ <b>Designated Officers</b> ”. For ease of understanding and application this document refers to Authorising Officers. These are those posts referred to in Annex A and any that are duly added to or substituted by the Senior Responsible Officer.
<b>Council</b>	means Tandridge District Council.
<b>Surveillance</b>	means monitoring, observing or listening to persons, their movements, conversations, other activities or communications, recording anything monitored, observed or listened to in the course of surveillance and surveillance with a surveillance device (which means anything designed or adapted for surveillance use).
<b>Covert Surveillance</b>	means surveillance carried out in a manner calculated to ensure that the persons subject to the surveillance are unaware that it is taking place (Section 26(9) (a) of RIPA). It can be either directed or intrusive.
<b>Directed Surveillance</b>	means surveillance which is covert but not intrusive and which is undertaken for the purpose of a specific investigation or specific operation in such a manner as is likely to result in obtaining private information about an individual (whether or not that person is specifically targeted for purposes of an investigation (section 26(10) of RIPA)). Directed surveillance may only be undertaken in the investigation of a criminal offence attracting a criminal sentence of not less than 6 months imprisonment or the investigation of offences relating to the sale of alcohol or tobacco to children.
<b>Intrusive Surveillance</b>	as defined in section 26(3) of RIPA as covert surveillance that:  a) is carried out in relation to anything taking place on any residential premises or in any private vehicle; and  b) involves the presence of an individual on the premises or in the vehicle or is carried out by means of a surveillance device.

Where surveillance is carried out in relation to anything taking place on any residential premises or in any private vehicle by means of a device, without that device being present on the premises, or in the vehicle, it is not intrusive unless the device consistently provides information of the same quality and detail as might be expected to be obtained from a device actually present on the premises or in the vehicle.

<b>CHIS</b>	means Covert Human Intelligence Source.
<b>RIPA</b>	means the Regulation of Investigatory Powers Act 2000.
<b>RIPA Authorising Officer Certificate</b>	means the form in Annex B.
<b>Senior Responsible Officer</b>	means the Monitoring Officer.

## **1. Introduction**

- 1.1** The Council is committed to improving the quality of life for the communities of the District which includes benefiting from an attractive place to live, meeting the needs of local people and employers with opportunities for all to engage in community life. It also wishes to maintain its position as a low crime district and a safe place to live, work and learn. Although most of the community comply with the law, it may be necessary to carry out enforcement action against those that flout it. Any enforcement action will be conducted in a fair, practical and consistent manner to help promote a thriving local economy.
- 1.2** There are many reasons why the Council might need to carry out investigations for example, investigating anti-social behaviour, fly tipping, nuisance control, planning (contraventions), fraud, licensing and food safety legislation. This list is not intended to be exhaustive. In most cases, Council officers carry out investigations openly and in a way which does not interfere with a person's right to a private life. However, there may be instances where it is necessary for officers to use covert surveillance techniques to undertake a specific investigation.
- 1.3** As all surveillance is likely to intrude upon someone's human rights, it is important that the Authorising Officer is able to justify that the breach of privacy is: necessary, proportionate and lawful. It is also essential that the reasoning is fully-documented and the correct authorisations gained (in order that the Council is able to justify its actions if challenged).
- 1.4** Surveillance therefore plays a necessary part in modern life as a means of detecting criminals and of preventing crime and disorder. Parliament passed RIPA to ensure that public bodies charged with these duties use their investigatory powers in accordance with the Human Rights Act 1998 (**HRA**) and the Data Protection Act 2018 (**DPA**).
- 1.5** This Policy and Procedure document sets out the means of compliance with, and use of, RIPA by the Council in its capacity as a local authority. It is based upon the requirements of RIPA and the national Codes of Practice issued by the Home Office and the Investigatory Powers Commissioner's Office.
- 1.6** The Council's Policy is operational forthwith and applies to all Council staff employed under a permanent, temporary, fixed term or casual contract. It also applies to any contractors and/or subcontractors employed by the Council. It is also important that the Authorising Officer is aware of the abilities of its operatives to ensure they are capable of undertaking the surveillance.
- 1.7** If the correct procedures are not followed, evidence may be disallowed by the courts, a complaint of maladministration could be made to the Ombudsman and/or the Council could be ordered to pay compensation.
- 1.8** Members have also a role to play in reviewing the Council's use of RIPA to ensure that it is being used consistently with this Policy. They will also ensure that it is fit for purpose. However, Members will not be involved in making decisions on individual authorisations.
- 1.9** The authoritative position on RIPA is, of course, the Act itself and any officer who is unsure about any aspect of RIPA should contact, at the earliest possible opportunity, the Senior Responsible Officer or the RIPA Co-ordinating Officer.

## **2. Policy Statement**

- 2.1** The Council will comply with RIPA, appropriate codes of practice and any other relevant statutory provisions when it undertakes Covert Surveillance.
- 2.2** To this end, Covert Surveillance will only be undertaken if the procedures contained in this document have first been complied with.

## **3. Internal Governance**

- 3.1** The Council has implemented a governance structure for the RIPA process to ensure that appropriate roles and responsibilities are in place and to enable effective oversight.
- 3.2** The Senior Responsible Officer will have overall responsibility for RIPA within the Council and will be responsible for ensuring the integrity of the process, compliance with RIPA, engagement with the Investigatory Powers Commissioner's Office at inspections and for overseeing the implementation of any recommendations made by an inspection. In addition s/he is required to ensure the standard of Authorising Officers. This means that s/he exercises ultimate overall oversight over the RIPA process.
- 3.3** The Senior Responsible Officer will not be responsible for authorising RIPA applications as this would affect his/her objectivity.
- 3.4** The Senior Responsible Officer will also be responsible for updating this Policy to ensure that it reflects any changes to legislation which the Council will need to adhere to. To ensure transparency, the Senior Responsible Officer will report to the Council's Strategy and Resources Committee annually so that the committee can ensure that RIPA use is consistent with the Policy and that the Policy remains sound.
- 3.5** The annual report will include details of the overall number and type of authorisations granted and the outcome of the case, where known. In addition, the annual report should also include the findings and recommendations of the most recent inspection carried out by a representative of the Investigatory Powers Commissioner's Office, where applicable (inspections may not take place annually). The Investigatory Power's Commissioner's Office has committed to try and visit local councils at least once in every three year period.
- 3.6** The role of Senior Responsible Officer will be undertaken by the Council's Monitoring Officer.
- 3.7** The officers named in Annex A shall be the only officers within the Council who can authorise applications under RIPA for onward consideration by a Magistrate. Each Authorising Officer may authorise renewals and cancellations, and undertake reviews, in relation to any investigation carried out, or proposed to be carried out, by officers. Authorising Officers may not carry out an authorisation (including a renewal or cancellation), until they have been certified by either the Senior Responsible Officer or the RIPA Co-ordinating Officer. Prior to obtaining authorisation, and throughout the term of any authorisation, Authorising Officers must follow the procedure at Annex D. Authorising Officers may not sub-delegate their powers in relation to RIPA to other officers.



**3.8** The officer who authorises a RIPA application should also carry out the review, renewal and cancellation. If the original Authorising Officer is not available to undertake the review, renewal or cancellation, this can be undertaken by any other Authorising Officer.

**3.9** Authorising Officers must be properly trained in the relevant areas of authorisation and must be in a post of Director, Senior Manager or equivalent, or be undertaking a statutory appointment.

**3.10** Authorising Officers will be removed from the list if they do not attend the required training programme(s) or if they fail to meet the required nationally recognised standards. The Annex will be kept up to date by the RIPA Co-ordinating Officer and amended as needs require. In addition, the RIPA Co-ordinating Officer has delegated authority to add, delete or substitute posts as required. If any of the Authorising Officers considers that a post should be added, deleted or substituted at Annex A, they shall refer such requests to the RIPA Co-ordinating Officer, for his/her consideration.

**3.11** It is expected that the RIPA Co-ordinating Officer will undertake four functions:

- Maintenance of a central record of authorisations; collation of all original RIPA documentation;
- Day to day oversight of the RIPA process, particularly of the submitted documentation;
- Organising corporate training for RIPA; and
- Raising RIPA awareness within the Council.

**3.12** All forms should be passed through the RIPA Co-ordinating Officer to ensure that there is a complete record of all authorisations. Content of the forms will be monitored to ensure they are correctly filled in and the RIPA coordinator will supply quarterly statistics to the Senior Responsible Officer.

#### **4. What RIPA does and does not do**

##### **4.1 RIPA does:**

- Require prior authorisation and judicial approval of directed surveillance;
- Prohibit the Council from carrying out intrusive surveillance;
- Require authorisation for the conduct and use of a CHIS; and
- Require safeguards for the conduct and use of a CHIS.

##### **4.2 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 Land Registry as to the ownership of a property.

**4.3** If the Authorising Officer or any officer is in any doubt, s/he should ask the Senior Responsible Officer before any directed surveillance and/or CHIS is authorised, renewed, cancelled or rejected.

## **5. What is meant by Surveillance?**

**5.1** “Surveillance” includes the following activities:

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

**5.2** Surveillance may be either overt or covert. Surveillance is “covert” if it is carried on without the knowledge of the subject. Surveillance is “overt” if it is carried on with the knowledge of the subject. Planning enforcement staff may need to observe the activities of people suspected of breaching the planning laws, but such surveillance is done openly and is therefore overt.

**5.3** Overt surveillance does not need RIPA authorisation. Covert Surveillance needs RIPA authorisation if it constitutes “directed surveillance” or “intrusive surveillance”.

**5.4** Surveillance is “directed” if it is (i) Covert, and (ii) is undertaken:-

- for the purposes of a specific investigation or operation;
- in such a manner as is likely to result in the obtaining of private information about a person or persons; and
- otherwise than by way of an immediate response to urgent circumstances, which would make it impracticable to obtain an authorisation for the surveillance.

**5.5** An example of directed surveillance would be secretly keeping a person under observation in a public place or using a hidden camera to observe his or her movements or actions. If the person is aware that he or she is being observed or filmed the surveillance is overt and therefore is not “directed surveillance” for the purposes of RIPA. Regular viewing of a particular individual’s social media account may also be regarded as “directed surveillance” for the purposes of RIPA, even if the social media account is unrestricted i.e. allows anyone to view its content.

**5.6** Surveillance is “intrusive” if it is covert and

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

**5.7** An example of “intrusive surveillance” would be the use of a bugging device in a private home or private vehicle. Local authorities are not authorised to carry out intrusive surveillance.

## **6. Covert Human Intelligence Sources**

**6.1** A CHIS is a person who establishes or maintains a relationship with someone in order to covertly obtain information, to provide another person with access to information or to disclose information as a result of that relationship. An example of a CHIS would be an undercover police officer or an informant, or a child used to make a test purchase from a shop suspected of the underage sale of alcohol or tobacco. The use of a CHIS requires authorisation under RIPA.

**6.2** An authorisation for the use of a CHIS may not be granted unless it is necessary:

- a) in the interests of national security;
- b) for the purpose of preventing or detecting crime or of preventing disorder;
- c) in the interests of the economic well-being of the United Kingdom;
- d) in the interests of public safety;
- e) for the purpose of protecting public health;
- f) for the purpose of assessing or collecting any tax, duty, levy or other imposition, contribution or charge payable to a government department; or
- g) for any purpose (not falling within paragraphs (a) to (f)) which is specified for the purposes of this subsection by an order made by the Secretary of State.

## **7. Use of directed surveillance and CHIS**

**7.1** The Council will not carry out “directed surveillance” or make use of a CHIS until it has been authorised by an Authorising Officer and an order approving the authorisation has been made by a Magistrates’ Court.

**7.2** Council officers can apply to an Authorising Officer for a RIPA authorisation for directed surveillance or the use of a CHIS if it is necessary to help them undertake their duties.

**7.3** The role of the officer is to present to the Authorising Officer the following facts relating to the directed surveillance to be carried out:

- The crime being investigated;
- The reason why it is proposed to conduct the operation covertly;
- What covert tactics it is intended to use, and why; and
- The person who is to be the subject of the directed surveillance.

If the operation involves use of a CHIS, the officer must also present the following facts to the Authorising Officer:

- The person who is to be used as the CHIS;
- What steps have been, or will be, taken to secure the welfare of the person used as the CHIS.

**7.4** Officers seeking authorisation from an Authorising Officer for the use of directed surveillance or of a CHIS shall do so using the appropriate Home Office application form. The draft application form should be discussed with the Senior Responsible Officer, and the final wording checked with him/her before authorisation is sought.

**7.5** The Authorising Officer will not authorise the use of directed surveillance unless the authorisation can be shown to be necessary for the purpose of preventing or detecting a criminal offence which either carries a maximum sentence of at least 6 months imprisonment or relates to the underage sale of alcohol or tobacco.

**7.6** The Authorising Officer will not authorise the use of a CHIS unless the authorisation can be shown to be necessary for one of the purposes set out in section 6.2 of this Policy.

**7.7** In addition, the Authorising Officer must believe that the use of directed surveillance or the use of a CHIS is necessary, reasonable and proportionate to what it seeks to achieve. In making this judgment, the Authorising Officer will consider whether the information can be obtained using other methods and whether efforts have been made to reduce the impact of the surveillance on people other than the person who is the subject of the operation.

**7.8** Publicly available social media may be used to collect evidence, but officers must not use any false identity and must view a profile only on an ad hoc basis. Regular viewing of the same profile for the purposes of an investigation will need an authorisation for directed surveillance. Officers should seek to verify the information collected by other means.

**7.9** It is the policy of the Council to be open and transparent in the way that it works and delivers its services. To that end, a well-publicised complaints procedure is in place and information on how to make a complaint to the Investigatory Powers Tribunal will be provided on request by the Senior Responsible Officer.

## **8. Use of the Council's CCTV System**

**8.1** The Council's CCTV systems shall not be used for directed surveillance unless a valid authorisation is in place. Regard should also be had to the provisions of the Protection of Freedoms Act 2012 relating to surveillance cameras and to any Code of Practice made thereunder.

## **9. Obtaining Judicial Approval of Authorisations**

**9.1** Authorising Officers must, when making authorisations, be aware that each authorisation (or renewal of an authorisation) for the use of directed surveillance or for the use of a CHIS will be subject to the need for approval by the Magistrates' Court. The Council will be required to make an application, without notice, to the Magistrates' Court.

**9.2** The Magistrates will give approval if and only if, they are satisfied that if at the date of the grant of authorisation or renewal of an existing authorisation there were reasonable

grounds for believing that directed surveillance or use of a CHIS was necessary, reasonable and proportionate, that these grounds still remain and that the "relevant conditions" were satisfied in relation to the authorisation.

**9.3** The relevant conditions referred to in the above paragraph are that:

- the relevant person was designated as an Authorising Officer;
- it was necessary reasonable and proportionate to believe that using directed surveillance or a CHIS was necessary, reasonable and that the relevant conditions have been complied with;
- the grant or renewal of any authorisation or notice was not in breach of any restrictions imposed under section 25(3) of RIPA; and
- any other conditions provided for by an order made by the Secretary of State were satisfied.

**9.4** Where the authorisation is for directed surveillance, the Magistrates' Court will also need to be satisfied that the directed surveillance is for the purpose of preventing or detecting a criminal offence which:

- is punishable by a maximum term of a least six months' imprisonment: or
- constitutes an offence under sections 146, 147 or 147A of Licensing Act 2003 (sale of alcohol to children) or section 7 of the Children and Young Persons Act 1933 (sale of tobacco to children under 18 years old); or
- constitutes an offence under section 92 Children and Families Act 2014 (sale of nicotine inhaling products to children under 18 years old) or proxy purchasing of tobacco, including nicotine inhaling products to children under 18 years old under section 91 Children and Families Act 2014.

**9.5** Where the authorisation is for the use of a CHIS, the Magistrates' Court will also need to be satisfied that such use is for the one of the purposes set out in section 6.2 of this Policy.

**9.6** If the Magistrates' Court refuses to approve the grant of the authorisation, then it may make an order to quash that authorisation.

**9.7** No activity permitted by the authorisation granted by the Authorising Officer may be undertaken until the approval of the Magistrates' Court to that authorisation has been obtained. To ensure compliance with this requirement, any Authorising Officer who proposes to approve an application for the use of directed surveillance or for the use of a CHIS must immediately inform the Senior Responsible Officer by telephone or e-mail of the details of the authorisation. The Senior Responsible Officer will then make the necessary arrangements for an application for an order to approve the authorisation to be made to the Magistrates' Court. The Authorising Officer and the investigating officer may be required to attend the Magistrates' Court to support the application.

## **10. Use of personal data obtained through the use of directed surveillance or of a CHIS**

**10.1** All personal data and sensitive personal data obtained using directed surveillance or a CHIS must be dealt with according to the provisions of the General Data Protection Regulation (**GDPR**) and of the DPA.

## **11. Impact Risk Assessment**

**11.1** When considering whether to carry out surveillance it is recommended that an 'impact risk assessment' (Annex C) is carried out and recorded to establish if the proposed course of action is a proportionate response to the problem it seeks to address. An impact risk assessment should be carried out on all activities including those that will not require RIPA authorisation. The form should be completed and submitted to an Authorising Officer.

**11.2** The impact risk assessment involves:

- Identifying clearly the purpose(s) behind the monitoring arrangements and the benefits it is likely to deliver.
- Identifying any likely adverse impact of the monitoring arrangement.
- Considering alternatives to monitoring or different ways in which it might be carried out.
- Taking into account the obligations that arise from monitoring (especially on collateral intrusion)
- Judging whether the monitoring is justified.

**11.3** Adverse Impact- consideration should be given to:

- What intrusion, if any will there be into the private lives of workers and others, or interference with their private activities, emails, telephone calls or other correspondence.
- Whether those who do not have a business need to know will see information that is confidential, private or otherwise sensitive.
- In the case of surveillance on an employee, what impact, if any, will there be on the relationship of mutual trust and confidence that should exist between workers and their employer?

**11.4** Alternatives – questions that should be asked:

- Are there other methods of obtaining the required evidence/information without carrying out covert surveillance, e.g. intelligence gathered from elsewhere.
- Has consideration been given to writing to the individual(s) informing them of the issue and advising that monitoring will be carried out over a specified period? (remember collateral intrusion could still apply to their colleagues or family etc)

- Has consideration been given to carrying out overt surveillance as part of officers' normal duties?
- Can established or new methods of supervision, effective training and or clear communication from managers, rather than electronic or other systemic monitoring, deliver acceptable results?
- Can monitoring be limited to those individuals and workers about whom complaints have been received, or about whom there are other grounds to suspect of wrongdoing?
- Can monitoring be automated? If so, will it be less intrusive, e.g. does it mean that private information will be 'seen' only by a machine rather than by other workers?
- Can spot-checks be undertaken instead of using continuous monitoring?

#### **11.5 Obligations – means considering the following:**

- Whether and how individuals or employees will be notified about the monitoring arrangements.
- How information about the individual or employee collected through monitoring will be kept securely and handled in accordance with RIPA and DPA requirements.
- The implications of the rights that individuals have to obtain a copy of information about them that has been collected through monitoring.

#### **11.6 Justified – involves considering:**

- The benefit of the method of monitoring/surveillance
- Any alternative method of monitoring/surveillance
- Weighing these benefits against any adverse impact
- Placing particular emphasis on the need to be fair to the individual worker or person
- Ensuring, particularly where monitoring electronic communications of employees' is involved, that any intrusion is no more than absolutely necessary.

### **12. Documentation and Central Register of Authorisations**

**12.1** Authorising Officers or Council officers may keep whatever records they see fit to administer and manage the RIPA application process. This will not replace the requirements under the Codes of Practice for the Council to hold a centrally held and retrievable record.

**12.2** As cited in para 3.11 of this Policy, a central register of authorisations will be held by the RIPA Co-ordinating Officer and updated whenever an authorisation is refused, granted, renewed or cancelled.

**12.3** Authorising Officers shall notify the RIPA Coordinating Officer within 48 hours of the grant, renewal or cancellation of any authorisation and the name of the applicant officer to ensure the accuracy of the central register.

**12.4** The record will be made available to the relevant Commissioner or an Inspector from Investigatory Powers Commissioner's Office, upon request. These records should be retained for at least five years from the ending of the authorisation or for the period stipulated by the Council's document retention policy, whichever is greater.

### **13. Training**

**13.1** As stated in para 3.11 of this Policy, the RIPA Co-ordinating Officer will have responsibility for ensuring appropriate training is given to Authorising Officers, other senior managers and all likely applicants and for retaining a record of that training.

**13.2** Any organised training may be by way of a briefing to Authorising Officers, an e-learning module or in-house training provided by external training consultants.

**13.3** Refresher training for both applicants and Authorising Officers will be conducted at 18 monthly intervals.

**13.4** Each Authorising Officer will receive a RIPA Authorising Officer Certificate following attendance at a training course.

### **14. Forms**

**14.1** The RIPA forms are available at [www.gov.uk/government/collections/ripa-forms--2](http://www.gov.uk/government/collections/ripa-forms--2). If you do not have access to the internet, copies of these materials can be obtained from the RIPA Co-ordinating Officer.

### **15. Reviews**

**15.1** The Authorising Officer should review all authorisations at intervals determined by him/her. This should be as often as necessary and practicable but in any event not less than monthly during the life of the authorisation for directed surveillance. The reviews should be recorded.

**15.2** If the directed surveillance authorisation provides for the surveillance of unidentified individuals whose identity is later established, the terms of the authorisation should be refined at review to include the identity of these individuals.

**15.3** The results of all such reviews shall be recorded on the central register of authorisations.

### **16. Renewals**

**16.1** Renewals must take place prior to the authorisation expiring; otherwise, the authorisation will automatically expire after three months. Please note, Judicial Approval is required for a Renewal. Please factor in sufficient time to obtain it well before the authorisation expires.

### **17. Cancellations**

**17.1** The Authorising Officer must cancel the authorisation if satisfied that the activity no longer meets the criteria upon which it was or could have been authorised or satisfactory arrangements for the source's case no longer exist. Where necessary, the safety and welfare of the CHIS should be considered after cancellation. At that point all directed surveillance must cease.



**17.2** Records of cancellation are required to be kept.

**18. Where Can I Get More Advice?**

**18.1** This Policy cannot provide a definitive statement of the law, in all situations, nor a full description of all aspects of the Codes. If you have any doubt about whether a particular activity is lawful, you should always seek further advice from the RIPA Coordinating Officer contacting Lucinda Capel, tel. 01883 732865, email [lcapel@tandridge.gov.uk](mailto:lcapel@tandridge.gov.uk), in the first instance.

## Annex A

<b>ROLE</b>	<b>POST</b>	<b>POST HOLDER</b>
<b>RIPA Co-ordinating Officer</b>	<b>Legal Specialist and Data Protection Officer</b>	<b>Lucinda Capel</b>
<b>Senior Responsible Officer</b>	<b>Head of Legal</b>	<b>Lidia Harrison</b>
<b>Authorising Officer</b>	<b>Acting Chief Executive</b>	<b>Elaine Jackson</b>
<b>Authorising Officer</b>	<b>Chief Planning Officer</b>	<b>Charlotte Parker</b>
<b>Authorising Officer</b>	<b>Executive Head of Communities</b>	<b>Alison Boote</b>

## Annex B



### RIPA AUTHORISING OFFICER CERTIFICATE

No:

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:

Location:

Certificate date:

(signed) .....

(PLEASE NOTE: This certificate and the authorisation granted by it is personal to the officer named in it cannot be transferred. Any change in personal details must be notified in writing to the **RIPA Co-ordinating Officer** immediately. This certificate can be revoked at any time by **Senior Responsible 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).

**ANNEX C**  
Impact Risk Assessment Form

Date and Time:

Name and Title:

Details of the operation / investigation

Details of the offence(s) / Breach(s)

Proposed actions

Purpose of the proposed actions and benefits it is likely to deliver

Identify any likely adverse impact of these actions

Are there any alternatives i.e. different ways in which the desired outcome could be achieved?

Are there any obligations that arise from the proposed actions?

How are these actions justified?

Does RIPA need to be considered?

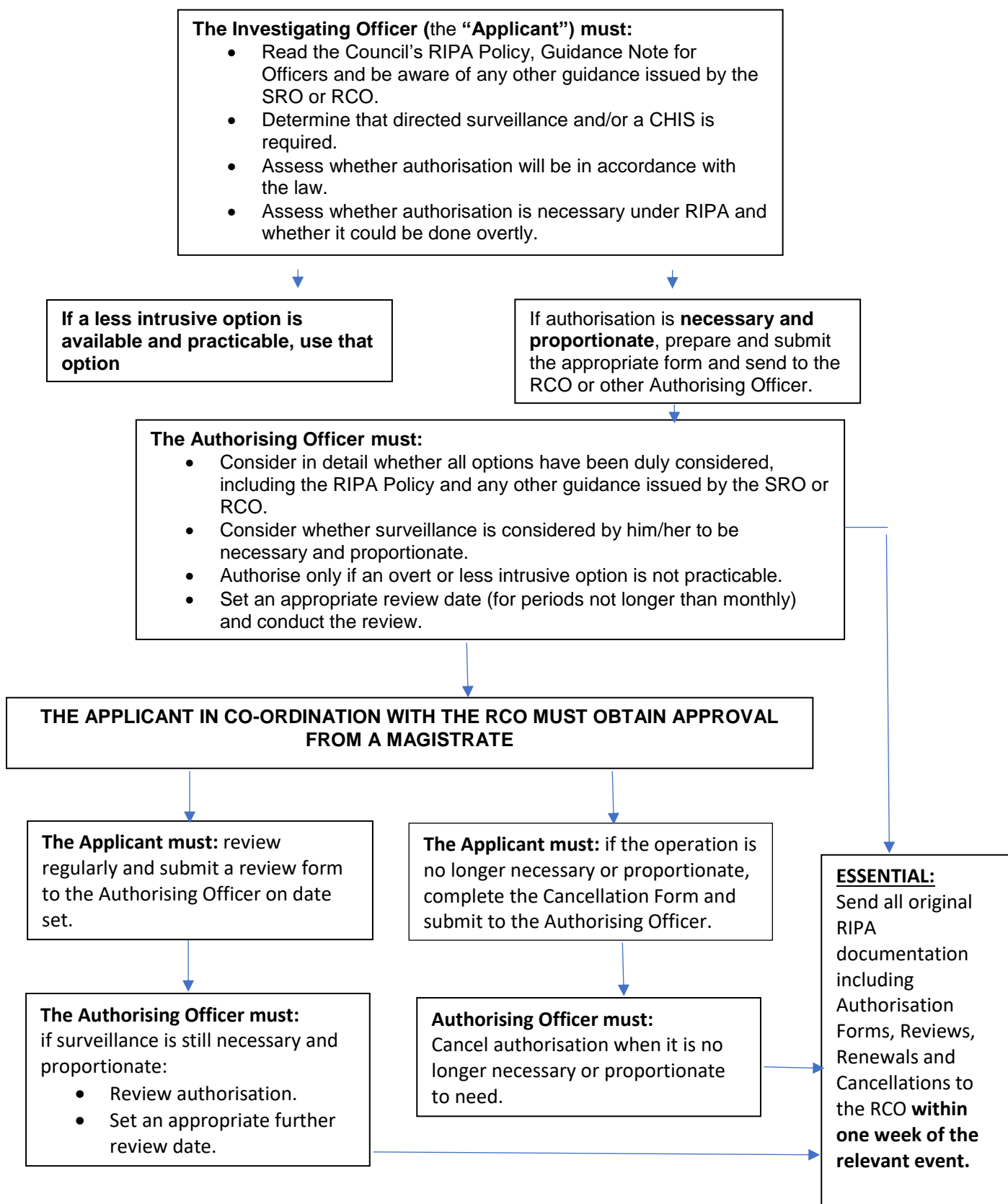
Signature

Name of Officer

Date and Time

# ANNEX D

## RIPA Procedural Flowchart



## **Officer Guidance on RIPA**

This Guidance supplements the Council's [RIPA Policy](#) and should be read in conjunction with it. Both documents are available on the Hub.

### **Definitions:**

**“Authorising Officers”** means senior officers of the Council who have received training in the application of RIPA. Only Authorising Officers have the power to authorise the use of a covert human intelligence source. Authorising Officers are listed at Annex A of the Council's RIPA Policy.

**“Code of Practice”** means Home Office Covert Human Intelligence Sources Revised Code of Practice (August 2018) or any code of practice issued in replacement of this code.

**“Directed Surveillance”** means surveillance which:

- is covert;
- is not intrusive surveillance;
- is undertaken for the purpose of a specific investigation or operation;
- is undertaken in such a manner that it is likely that private information about an individual is obtained (whether or not that person is specifically targeted for the purposes of the investigation or operation); and
- is not carried out by way of an immediate response to events, which would make seeking authorisation under the Act reasonably impracticable

**“RIPA Co-ordinating Officer” or “RCO”**

means the Data Protection Officer and is the person responsible for the day-to-day oversight of applications, the maintenance of the central register and reporting to the Senior Responsible

Officer of any failings, training needs or improvements to the system.

**“Senior Responsible Officer” or “SRO”**

means the Head of Legal and Monitoring Officer for Tandridge District Council.

**“Surveillance”**

includes the following:

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

Surveillance can be overt or covert.

**“Overt Surveillance”**

Surveillance will be overt if the act of surveillance is not calculated to be hidden from view, even if the motives of the person undertaking the surveillance remain concealed.

**“Covert Surveillance”**

Surveillance will be covert if it is carried out in a manner calculated to ensure that the person subject to the surveillance is unaware of it taking place.

**Background**

The Regulation of Investigatory Powers Act 2000 (“**RIPA**” or the “**Act**”) is an Act of Parliament which regulates the powers of public bodies, including local authorities, to carry out surveillance and investigation. It was originally introduced to take account of technological changes such as the growth of the Internet. s

The purpose of this guidance is to explain the scope of RIPA, the circumstances where it applies and provide guidance on the use of covert surveillance, including use of social networking websites and Covert Human Intelligence Sources (“**CHIS**”).



The Council has had regard to the Codes of Practice produced by the Home Office in preparing this guidance and the Legal Department has copies to which staff can refer. The relevant Codes of Practice and associated guidance that relate to authorised Council activities are:

- a. Home Office Code of Practice – Covert Surveillance;
- b. Home Office Code of Practice – Covert Human Intelligence Sources;
- c. Guidance from the Office of Surveillance Commissioners;
- d. Protection of Freedoms Act 2012 - changes to provisions under the Regulation of Investigatory Powers Act 2000: Home Office Guidance for Magistrates' Courts in England and Wales for a local authority application seeking an order approving the grant or renewal of a RIPA authorisation or notice; and
- e. Guidance on Investigatory Powers Act 2016.

## **Review**

RIPA and this document are important for the effective and efficient operation of the Council's actions in relation to surveillance. This document will therefore be kept under yearly review by the Senior Responsible Officer and the outcomes of this review will be presented to the Senior Management Team.

Authorising Officers must bring any suggestions for continuous improvement of this document to the attention of the Senior Responsible Officer at the earliest opportunity.

## **How Has the Council Implemented RIPA?**

The SRO will have overall responsibility for RIPA within the Council and will be responsible for ensuring the integrity of the process, compliance with RIPA, engagement with the Investigatory Powers Commissioner's Office at inspections and for overseeing the implementation of any recommendations made by an inspection. In addition, s/he is required to ensure the standard of Authorising Officers. This means s/he exercises overall oversight over the RIPA process. The SRO will not be responsible for authorising RIPA applications as this would affect his/her objectivity. A list of individuals who may authorise a RIPA application for onward consideration by a magistrate, can be found at Annex A of the Council's RIPA Policy.

The RCO is responsible for (i) collating all RIPA documentation and maintaining a central record of authorisations, (ii) day-to-day oversight of the RIPA process, particularly of the

submitted documentation, (iii) arranging RIPA training for staff, and (iv) raising RIPA awareness within the Council.

All forms should be sent to the RCO to ensure that there is a complete record of all authorisations. Contents of the forms will be monitored to ensure that they are correctly filled in and the RCO will supply quarterly statistics to the SRO.

Any officer who is unsure about any aspect of RIPA should contact the SRO or the RCO for clarification.

The relevant Code recommends that elected Members of a local authority should review the authority's use of RIPA and set the policy at least once a year. Members should also consider internal reports on the use of RIPA on a regular basis to ensure it is being used consistently with the authority's policy and that the policy remains fit for purpose. This role is performed by the Council's Strategy and Resources Committee, which receives an annual assurance report about the use of RIPA powers and any recommended policy changes about the use (or not) of RIPA powers.

### **What does surveillance mean?**

RIPA says "surveillance" means monitoring, observing and listening to persons, including their movements, communications, conversations and any other activities. It also includes the recording of anything being monitored in the course of surveillance, and the use of any listening device or photographic equipment. Note that regular viewing of an individual's social media profile in the context of an investigation also constitutes surveillance under RIPA. Surveillance should be distinguished from the use of a CHIS (defined above), which is covered separately by the Act. RIPA defines two types of surveillance in relation to councils: these are directed surveillance and intrusive surveillance.

## **DIRECTED SURVEILLANCE**

Surveillance becomes "directed surveillance" when:

1. **It is covert, but not intrusive:** directed surveillance takes place within a public/quasi-public place, or where the tools used for surveillance are remote from the physical location. For example, a hotel lobby is deemed a public place, but a hotel room is private and therefore outside the scope of directed surveillance.

2. **It is for the purpose of a specific investigation**, rather than for a general purpose. Several Council sites have CCTV operating for a general purpose of crime prevention and this is not subject to RIPA. However, if the same camera was used by a police officer for a specific purpose, RIPA would apply.
3. **It is used to obtain private information about a person.**
4. **It is not an immediate response to events.**

#### **EXAMPLES OF SURVEILLANCE WHICH WOULD NOT BE “DIRECTED SURVEILLANCE”**

- Council officers openly observing the activities of residents whilst patrolling the streets, as part of activities to combat anti-social behaviour. Note “openly” means there must not be any deliberate effort to make sure individuals are unaware that this is taking place.
- Generally, the use of CCTV cameras, where these are properly signed.
- Routine planning enforcement visits, e.g. to check up on the physical development of a site.
- Covert surveillance of premises (as opposed to individuals) by environmental health officers, as part of their routine duties to detect statutory nuisances.
- The covert surveillance of suspected noise nuisance where the intention is only to record excessive noise levels from adjoining premises, and the recording device is calibrated accordingly.
- Covert surveillance for the purposes of an “ordinary function”, for example surveillance of an employee as part of a disciplinary process, (as opposed to covert surveillance for the purposes of a “specific public function” undertaken by the Council).

#### **DOES DIRECTED SURVEILLANCE REQUIRE AUTHORISATION?**

Directed surveillance will always require authorisation. RIPA states that directed surveillance may only be authorised if it is both **necessary** and **proportionate** to what is sought to be achieved by carrying it out. Authorisation is a two-stage process; provisional authorisation must first be obtained from one of the Council’s Authorising Officers, however, this will require judicial approval before any directed surveillance can be commenced. Section 28(3) RIPA defines “**Necessity**” as falling within one of the following categories:

- *In the interests of national security.*
- *Preventing or detecting crime or of preventing disorder.*

- *In the interests of the economic well-being of the UK.*
- *In the interests of public safety.*
- *Protecting public health.*
- *Assessing or collecting any tax, duty, levy or other imposition, contribution or charge payable to a government department.*
- *For any purpose other than those mentioned above which is specified by an order made by the Secretary of State.*

## **WHEN CAN AUTHORISATION PROPERLY BE GIVEN?**

For local authority investigations, provisional authorisation for surveillance is deemed “necessary” in the circumstances of the particular case if it is for the purpose of the **prevention or detection of crime(s) punishable by 6 months imprisonment or more, or relates to the sale of alcohol or tobacco to underage persons**, and if that objective could not be achieved without the information sought.

Conduct is not deemed “proportionate” if the pursuance of the legitimate aim listed in section 28(3) RIPA (in italics, above) will not justify the interference, i.e. if the means used to achieve the aim are excessive. Any conduct must meet the objective in question and must not be arbitrary or unfair nor must the impact on any individuals or group be too severe. The conduct must also be the least invasive

Officers considering that the necessary thresholds of necessity and proportionality have been met, should contact one of the Authorising Officers (at Annex A of the Council’s RIPA Policy) in order to obtain provisional RIPA authorisation. If the Authorising Officer concurs that the necessary thresholds have been met, he/she may grant “provisional” authorisation to make use of any of the RIPA powers. This provisional authorisation must be approved by the Magistrates’ Court before the use of the RIPA power in the investigation commences. All applications to the Magistrate’s Court will need to be made through the legal department.

## **PROCESS FOR OBTAINING AUTHORISATION**

If in doubt as to whether authorisation will be required, officers should contact the RCO to discuss the case in question. If the RCO considers that authorisation is required, the investigating officer will be asked to complete the following RIPA Authorisation Form and submit this to the RCO:

*Form for the use of directed surveillance:*

<https://www.gov.uk/government/publications/application-for-use-of-directed-surveillance>

*Form for the renewal of the use of directed surveillance:*

<https://www.gov.uk/government/publications/renewal-form-for-directed-surveillance>

*Form for the cancellation of the use of directed surveillance:*

<https://www.gov.uk/government/publications/cancellation-of-use-of-directed-surveillance-form>

The forms are self-explanatory, however, guidance on completing the forms can be found by contacting the RCO or the RIPA team by email: [commsdata@homeoffice.x.gsi.gov.uk](mailto:commsdata@homeoffice.x.gsi.gov.uk)

The RCO will log the case and will process the application his/herself or pass the matter to one of the other Authorising Officers to process.

The RCO or other Authorising Officer may only grant a “provisional” authorisation or renewal to make use of any of the RIPA powers. All provisional authorisations and renewals must be approved by the Magistrates’ Court before the use of the RIPA power in the investigation commences. Certain provisional authorisations, namely those relating to confidential information, vulnerable individuals and juvenile sources, can only be granted by the Chief Executive Officer, or, in her genuine absence, another statutory officer.

The RCO or other Authorising Officer must apply to the local Magistrates Court for judicial approval of an authorisation or a renewal of an authorisation. It is not necessary to give notice of the application to the person(s) subject to the application or their legal representatives. If the Magistrates’ Court refuses to approve the application, they may also make an order quashing the provisional authorisation.

The Authorising Officer will provide the magistrate with a copy of the original RIPA provisional authorisation or notice and the supporting documents setting out the case. This forms the basis of the application and should contain all the information that is relied upon. The Magistrates will consider the provisionally authorised application or renewal, and will need to satisfy themselves that:

1. At the time of provisional authorisation, there were reasonable grounds for believing that the tests of necessity and proportionality were satisfied in relation to the authorisation, and that those grounds still exist;
2. That the person who granted provisional authorisation was an appropriately designated person;

3. The provisional grant or renewal of any authorisation or notice was not in breach of any restrictions imposed under RIPA; and
4. Any other conditions provided for by an order made by the Secretary of State were satisfied.

The applicant in liaison with legal services is responsible for tabling the application in writing for judicial approval in the Magistrates' Court before the use of the RIPA powers commence. The order section of the application form will be completed by the magistrate and will be the official record of his/her decision. The Council will need to obtain judicial approval for all initial RIPA authorisations / applications and renewals and will need to retain a copy of the judicial application order form after it has been signed by the magistrate. There is no need for the magistrate to consider either cancellations or internal reviews. The duration of an authorisation is three months. Cancellation is a positive act for which diary dates must be set. Authorisations can be reviewed at any time and should be cancelled as soon as they are considered to be no longer necessary or appropriate. Forms are available for the cancellation and renewal of surveillance, as required.

All RIPA forms can be found at: <https://www.gov.uk/government/collections/ripa-forms--2>

## INTRUSIVE SURVEILLANCE

Surveillance is deemed to be intrusive if it takes place either in:

- **Residential premises** or any **private vehicle**
- If it involves the **presence of an individual** on the premises or is carried out by means of a **surveillance device**.

Those authorising need to give careful consideration as to whether technology might make otherwise directed surveillance intrusive. An observation post outside residential premises which provides a limited view compared to that which would be achievable from within the premises does not constitute intrusive surveillance. However, the use of a zoom lens, for example, which achieves imagery of the same quality as that which would be visible from within the premises, would constitute intrusive surveillance.

### **When can intrusive surveillance be used?**

As the name suggests, intrusive surveillance has a greater impact on an individual than directed surveillance, and consequently there are greater restrictions on the circumstances in

which it can be deployed and the persons who may authorise it. **RIPA prohibits local councils from carrying out intrusive surveillance.**

## **SOCIAL MEDIA CONSIDERATIONS**

Social media can allow us to accumulate a sizeable amount of information about an individual's life. It can therefore be a very useful tool when investigating alleged offences. It is crucial that the provisions of RIPA are considered when using social media in investigations, as depending on the actions of the investigator, this may cross over into the realm of directed surveillance. If correct authorisation is not obtained, then the Council's actions would become unauthorised surveillance, and in doing so, breach an individual's right to privacy under Article 8 of the Human Rights Act 1998. Even, where the surveillance has not breached Article 8, if the provisions of RIPA have not been properly followed, then the evidence obtained may be rendered inadmissible.

The definition of "private information" under RIPA includes "any information relating to a person's private or family life and should be taken generally to include any aspect of a person's private or personal relationship with others, including family and professional or business relationships".

### **Privacy Settings**

By setting a private profile, a user restricts access to their content and respect should be shown to that person's right to privacy under Article 8 of the Human Rights Act 1998. This does not, however, extend to instances where a third party takes information and shares it on their own profile. For example, Person A has a private profile but a friend of theirs, Person B, takes something from Person A's page and shares it on their public page. This cannot be used from Person A's page, but could from Person B's page.

### **Ad hoc viewing vs persistent viewing**

Provided officers are careful only to gather information that is relevant to proving the offence they are investigating, then it is possible to view a public profile without requiring authorisation under RIPA. One off visits or infrequent visits to an individual's Social Media profile spread over time cannot be considered "directed surveillance" for the purposes of RIPA. However, if the viewing becomes repeated, planned or directed, then Legal Services or the DPO should

be consulted in advance to obtain the relevant authorisation. It is important to note that even if an individual's social media profile is unrestricted/in the public domain, this does not allow for repeated viewing of the site unless the correct authorisation has been obtained.

Each viewing of a company or individual's social media profile for the purpose of an investigation must be recorded on the case log.

Unlike the GDPR, which is concerned with "personal information", the provisions of RIPA apply to both businesses and individuals.

Officers must not use their own personal accounts when accessing social media sites for investigation purposes. **Only Council accounts should be used.** Interaction and dialogue of any kind should be avoided.

Evidence that is of a readable form, i.e. text, status updates or photographs should be copied directly from the site or captured via screenshot, onto a hard drive and subsequently printed to a hardcopy. The hardcopy of evidence should then be exhibited to a prepared witness statement in the normal way.

If evidence is audio or video then efforts should be made to download that content onto a hard drive or CD/DVD. Those CDs/DVDs should then be exhibited to a suitably prepared witness statement in the normal way.

Screenshots – should display the time and date in order to provide when the evidence was captured. Without this information the effectiveness of the evidence is potentially lost as it may not be admissible in court.

When capturing evidence from a Social Media profile steps should be taken to minimise the collateral damage of inadvertently capturing innocent third parties' information. This might be particularly prevalent on Social Media profiles promoting events.

Where recorded material (in any form or media) 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 be retained in accordance with the Data Protection Act 2018, the Freedom of Information Act 2000 and any other legal requirements including the Council's Information Asset Register and the Retention Schedule.

## **WHEN WILL AN INVESTIGATION USING SOCIAL MEDIA REQUIRE AUTHORISATION?**

Officers must keep in mind whether they will require a RIPA authorisation prior to accessing an individual's social media profile. Any viewing which is (i) more than "one-off" viewing, and



(ii) is in connection with an investigation / trying to ascertain information about an individual, will require a RIPA authorisation. The RIPA form should be submitted to the RCO as soon as possible to start the process of obtaining authorisation.

## The use of a CHIS

A CHIS is a covert human intelligence source. A person is a source if:

- (a) they establish or maintain a personal or other relationship with a person for the covert purpose of facilitating the doing of anything falling within paragraph (b) or (c);
- (b) they covertly use such a relationship to obtain information or to provide access to any information to another person; or
- (c) they covertly disclose information obtained by the use of such a relationship or as a consequence of the existence of such a relationship.

A purpose is covert, in relation to the establishment or maintenance of a personal or other relationship, if and only if, the relationship is conducted in a manner that is calculated to ensure that one of the parties to the relationship is unaware of the purpose. The use of a source involves inducing, asking or assisting a person to engage in the conduct of a source, or to obtain information by means of the conduct of such a source. This covers the use of professional witnesses to obtain information and evidence. For example, it will include professional witnesses retained by Housing to pose as tenants to obtain information and evidence against alleged nuisance perpetrators.

The Protection of Freedoms Act 2012 amended RIPA to make CHIS authorisations by local authorities subject to judicial approval. These changes mean that local authorities need to obtain an order approving the grant or renewal of a CHIS authorisation from a magistrate before it can take effect. If the magistrate is satisfied that the statutory tests have been met and that the use of the technique is necessary and proportionate, they will issue an order approving the grant or renewal for the use of the CHIS as described in the application. The amendment means that local authorities are no longer able to orally authorise the use of CHIS.

### **WHO CAN PROVIDE CHIS AUTHORISATIONS?**

The Council can authorise the use or conduct of a CHIS. Most CHIS authorisations will be for both use and conduct because authorities will usually task the CHIS to take covert action, and

because the CHIS will be expected to take action, such as responding to the particular tasking. Care must be taken to ensure that the CHIS is clear on what is/is not authorised at any given time, and that all the CHIS's activities are properly risk assessed.

The relevant Code explains that, "the use or conduct of a CHIS can be a particularly intrusive and high-risk covert technique, requiring dedicated and sufficient resources, oversight and management". Whether or not the use or conduct of a CHIS relates to private information, the covert manipulation of a relationship to gain information of any kind will engage the Article 8 rights, and therefore authorisation must be sought.

The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 as amended permits a "Director, Head of Service, Service Manager or equivalent" to grant authorisations. This will also include anyone in a more senior position. A list of Authorising Officers can be found at Annex A of the Council's RIPA policy.

The Home Office prescribed forms must be used (links to these can be found on page 12, below). The authorising officer must believe that an authorisation for the use or conduct of a CHIS is "necessary" in the circumstances of the particular case on one of the grounds specified in section 29(3) of RIPA, which are as follows:

- (a) in the interests of national security;
- (b) for the purpose of preventing or detecting crime or of preventing disorder;
- (c) in the interests of the economic well-being of the United Kingdom;
- (d) in the interests of public safety;
- (e) for the purpose of protecting public health;
- (f) for the purpose of assessing or collecting any tax, duty, levy or other imposition, contribution or charge payable to a government department; or
- (g) for any purpose (not falling within paragraphs (a) to (f)) which is specified for the purposes of this subsection by an order made by the Secretary of State.

If deemed necessary, the authorising officer must also believe that it is "proportionate" to what is sought to be achieved by carrying it out. This involves, amongst other considerations, balancing the seriousness of the intrusion into the private or family life of the subject of the operation (or person who may be affected) against the need for the activity in investigative and operational terms. The following matters should also be considered in relation to "proportionality":

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

The relevant Code says that any public authority deploying a CHIS should take into account the safety and welfare of that CHIS when carrying out actions in relation to an authorisation or tasking, and the foreseeable consequences to others of that tasking. Before authorising the use or conduct of a CHIS, the authorising officer should ensure that a risk assessment is carried out to determine the risk to the CHIS of any tasking and the likely consequences should the role of the CHIS become known. The ongoing security and welfare of the CHIS, after the cancellation of the authorisation, should also be considered at the outset. Also, consideration should be given to the management of any requirement to disclose information tending to reveal the existence or identity of a CHIS to, or in, Court.

The Council must appoint a “handler” who will have day-to-day responsibility for dealing with the CHIS on behalf of the Council, directing the day-to-day activities of the CHIS, recording the information supplied by the CHIS, and monitoring the CHIS’s security and welfare. Further, the Council must also appoint a “controller” who will be responsible for the management and supervision of the “handler” and for general oversight of the use of the CHIS.

Note also that an authorisation cannot take effect until such time as a magistrate has made an order approving the authorisation. The magistrate can only give approval if satisfied that there were, and still are reasonable grounds for the authorisation, and also that certain relevant conditions were satisfied. Legal will deal with the application to the magistrate, and will notify you once such an order has been made. Legal will retain copies of the judicial application/order forms after they have been signed by the magistrate, and these will be kept in the Central Record together with the original authorisation.

## PROCESS FOR OBTAINING CHIS AUTHORISATIONS

The process for obtaining authorisation for the use of a CHIS is similar to the process for obtaining authorisation for the use of directed surveillance. If the officer is satisfied that the twin requirements of necessity and proportionality (explained above) been met in the circumstances, he/she must complete the relevant form (below) and submit this to the RCO for review by one of the Authorising Officers.

*Form for applying for the use of a covert human intelligence source:*

<https://www.gov.uk/government/publications/application-for-the-use-of-covert-human-intelligence-sources-chis>

If the investigating officer has any issues with completing the form, he/she should consult the RCO or email the RIPA team: [commsdata@homeoffice.x.gsi.gov.uk](mailto:commsdata@homeoffice.x.gsi.gov.uk)

As with the directed surveillance procedure, this authorisation (if given) is only provisional, and no action can be taken in relation to using/instructing the CHIS until approval has been obtained from the Magistrates' Court.

A written authorisation will, unless reviewed, cease to have effect at the end of 12 months, beginning with the day it took effect, except in the case of juvenile CHIS when it lasts for one month.

<b>Report to the Strategy &amp; Resources Committee – 22<sup>nd</sup> September 2020</b>	
<b>Monthly Financial Report (Period 4 July) 2020/21</b>	
Report of:	Elaine Jackson – Acting Chief Executive, Director of Resources <a href="mailto:ejackson@tandridge.gov.uk">ejackson@tandridge.gov.uk</a> Anna D’Alessandro – Chief Finance Officer (Section 151) <a href="mailto:adalessandro@tandridge.gov.uk">adalessandro@tandridge.gov.uk</a>
Purpose of Report:	This report provides the details of the Council’s 2020/21 financial position as at 31st July 2020 (Period 4) for revenue and capital budgets and the expected outlook for the remainder of the financial year taking into account the financial implications from the COVID-19 pandemic.
Publication status:	Unrestricted
Recommendation:	That the Committee notes the Council’s overall financial position for Revenue, Capital and Housing Revenue Account (HRA)
Appendices	<b>Appendix A:</b> Council’s Revenue Budget as at Period 4 (July 2020)
Background papers*	None

\*defined by the Local Government (Access to Information) Act 1985

## 1. Introduction

- 1.1. The Council has, over the last 2-3 years, sustained a very challenging financial position. The impact of COVID-19 has exacerbated this. Planning for the 2021/22 Budget and MTFs to 2023/24 has indicated that our finances are likely to become more precarious in the medium-term, with General Fund Reserves dangerously low projected at c£1.5m at end of 2020/21. A Reserves rebuild strategy is required as part of the 2021/22 Budget setting to provide the Council with medium-term financial resilience.
- 1.2. At Period 3 (July), the Council was forecasting a year-end deficit of c£2m which was largely due to COVID-19 related costs/income loss. At P4 (July) we are pleased to report **an improved financial position of c£0.7m**, due in the main to changes in the assumption on the impact of COVID-19 on waste service c£0.3m, additional New Homes Bonus c£0.3m, improvements in salary costs £0.1m, receipt of tranche 3 COVID-19 grant c£0.1m, offset by increases in Local Plan spend £0.1m. This is discussed in detail below.
- 1.3. Over the last six months the CEX and Finance team have made a number of changes to ameliorate the financial position and to provide support and resilience to ensure a more sustainable medium-term outlook. More specifically, they have:
  - Initiated dialogue with MHCLG to keep them informed of our financial position and the Council’s challenges. Officers have had three conversations with them, most latterly on 5<sup>th</sup> August. As a result, a further meeting towards the end of September has been agreed whereby there will be a discussion regarding our re-baselined 2020/21 finances. This process is currently being undertaken;
  - Recruited a new interim CFO (s151), on secondment from Surrey County Council for an initial period of six months to January 2021. She has been in post for approximately seven weeks at the time of writing and has already made a number of significant changes.
  - The key changes are listed below:
    - Undertaking a baseline of 2020/21 finances (a line-by-line review of all budgets in the Council, by Department). This is essential to ensure the Council has a robust base on which to set the 2021/22 Budget and Medium-Term Financial Strategy (MTFS). The aim is to have this completed for end of September to support a

further meeting with MHCLG. Results of this review will be more fully incorporated in next month's financial report;

- Post the baselining, work will commence with the Departments on the 2021/22 budget setting and MTFS to 2023/24 (using the 2020/21 baseline as the basis);
- Based on feedback from Members and senior Officers we have reviewed our monthly financial reports to make them more streamlined and comprehensible with key messages and actions clearly articulated. The start of these changes is reflected in this monthly report to S&R Committee, however there are more to come. This will include the introduction of a Council-wide savings programme and risk and opportunity reporting, supported by activities for risk mitigation and opportunity generation;
- We will be reporting finances monthly to Departments through their Departmental Leadership Teams (DLTs), to ELT and to Members (irrespective if a Committee is held);
- Implementing a business partnering approach in Finance where every Department and Committee is aligned to a partner in Finance who will work with them in a strategic, value-added and supportive way. We are also exploring various options for review and recalibration of the numerous transactional activities that the Business Partners (BPs) undertake;
- We are in the process of reviewing our financial sign-off protocols so that every number in finance is signed off by a senior Finance officer (Deputy CFO or CFO) before it is reported to CEX or Members to ensure consistency in reporting;
- A good budget is one which has been fully integrated – revenue and capital. So far, the focus has been on revenue (rightly so), however over the coming months we will be undertaking a review/re-baseline of our Capital Programme for 2021/22 to 2024/25 to ensure complete alignment with the revenue budget and ensuing affordability of the programme;
- The Local Government Association (LGA) has been instructed to undertake a review of how the Council capitalises its project costs to ensure that all the costs that should be charged to capital are, and not to revenue. Simultaneously, a review of the balance sheet (e.g. MRP policy) and working capital has been commissioned to determine any improvements in the management of cash;
- We have initiated a review of all Procurement activities in the Council. This has included a review of all contract and off-contract to identify areas of saving; and
- The CEX and the CFO meet weekly to ensure they are aligned with all financial requirements and can act quickly to ensure plans are on track.

1.4 The improvements emanating from above plan will be included in monthly financial reports to Members over the coming months.

## **2. Key Messages – General Fund Revenue**

- 2.1. For P4 we have split the Council's finances into Business as Usual (BAU) budget, as approved by Council in February 2020, and COVID-19 (**see Table 1 below**). The aim is to show clearly to Members the impact of COVID-19 on the Council's bottom line.
- 2.2. At the end of **July (P4) the Council is forecasting an overall Council deficit of c£1.3m** against the £10.6m budget approved by Council in February 2020. The deficit consists of a c£0.6m improvement in the BAU position and a £1.9m adverse movement in COVID-19 related costs and income loss. (Refer to **Tables 2 and 3 for details of variances by Committee** on BAU budgets and COVID-19 and **APPENDIX A**).

2.3. **From P3 to P4 there has been an improvement of £0.7m** in the position. This is due to the following:

- £0.3m - changes in assumptions on the impact of COVID-19 on Waste Service with respect to additional costs of social distancing in refuse vehicles which are now unlikely to occur;
- £0.3m - additional New Homes Bonus of c£0.3m;
- £0.1m - improvement in forecast salaries outturn of c£0.1m
- £0.1m - receipt of tranche 3 COVID-19 grant of c£0.1m.

Offset by:

- £0.1m – increase in Local Plan costs.

**TABLE 1 – P4 Financial Position (BAU & COVID-19)**

	2020/21 COVID19	2020/21 BAU	2020/21 Outturn Forecast	2020/21 Annual Budget	2020/21 Variance against Budget
	£	£	£	£	£
<b>P03 (June) Outturn Forecast</b>	2,298,350	10,252,132	12,550,482	10,559,732	1,990,750
<b>P04 (July) Outturn Forecast</b>	1,882,950	9,934,632	11,817,582	10,559,732	1,257,850
<b>Movement in Outturn Forecast 20/21</b>	<b>(415,400)</b>	<b>(317,500)</b>	<b>(732,900)</b>	n/a	<b>(732,900)</b>

- 2.4. On the 2<sup>nd</sup> July the Government announced a further tranche (tranche 3) of COVID-19 funding. The Council's share of the additional £500m national allocation was c£120k. This takes the **total COVID-19 grant allocated to Tandridge to c£1.1m**. Against this funding, there is still a shortfall of £1.9m. If there is no additional Government funding the deficit will need to be mitigated by additional in-year savings and/or the use of Reserves to achieve a balanced budget.
- 2.5. The full impact of COVID-19 on the Council remains very much dependent on Government policy on lockdowns and social distancing and additional Government funding. **Details are set out in Table 3.** Further information is expected from MHCLG in September/October on funding relating to sales, fees and charges income compensation scheme announced in July. The next round of monthly data collection to MHCLG (DELTA 5 return) is due on Friday 4<sup>th</sup> September.
- 2.6. The improvement in the forecast reflects ongoing work to ensure robust plans are in place to deal with the impact of the crisis on the Council's finances. This work needs to continue in order to ensure the impact on the Council's Reserves is minimised.
- 2.7. At P4, **the current year-end forecast for salaries is £72,000 underspend.** If the current tight control on staffing costs is maintained it is possible the year-end underspend could increase. This also relies on the outcome of the current review by LGA into our ability to capitalise the costs of staff working on capital and transformation projects. This does not factor in any of the work currently being undertaken by the LGA.

**3. Key Messages – Capital (General Fund and Housing Revenue Account (HRA))**

- 3.1. The Council’s approved Capital budget for 2020/21, including both the General Fund and HRA, is c£120m including slippage from 2019/20.
- 3.2. At P4, the Council’s Capital Programme is forecasting an underspend of c£102m. This remains unchanged from June (P3), of this:
- c£98m is due to the General Fund Capital Programme, the majority of which is related to the Property Development Fund; and
  - c£4m relates to the HRA Capital Programme, predominantly due to delays in the Council House building programme and the programme of planned repairs and maintenance as a result of COVID-19.
- 3.3 Refer to Table 5 below for details.

**4. Key Messages – HRA (Revenue)**

- 4.1. At the end of July (P4) the HRA is forecasting a surplus of c£137k against the c£10.6m budget approved by Council in February 2020.
- 4.2. This forecast is a result of savings on interest payments and repairs and maintenance costs, which more than offsets the anticipated reduction in income resulting from COVID-19.
- 4.3. Refer to Table 4 below.

**5. General Fund Revenue (detailed Revenue variances)**

- 5.1. Table 2 below shows the forecast BAU revenue budget outturn by Committee, excluding COVID-19 related spend. Further details of the Councils budgetary position can be seen at Appendix A.

**TABLE 2 – P4 Summary Business as Usual (BAU) Revenue Budget Forecast variances**

Business As Usual (BAU) (excluded COVID-19 impact)	2020/21 Annual Budget  £	2020/21 Outturn forecast at P4 (July)  £	2020/21 Forecast Variance at P4 (July)  £	Change in Forecast since P3 (June)  £
<b>Strategy and Resources Committee</b> Committee Chair: Councillor T Elias Officers: J King/L Harrison/A D’Alessandro	2,411,531	2,243,231	(168,300)	(393,000)
<b>Planning Policy Committee</b> Committee Chair: Councillor K Jecks Officer: C Parker	1,338,038	966,138	(371,900)	138,800
<b>Community Services Committee</b> Committee Chair - Cllr B Connolly Officer - A Boote	6,351,100	6,334,500	(16,600)	23,900
<b>Housing Committee</b> Committee Chair: L Parker Officers: A Boote	459,063	390,763	(68,300)	(87,200)
<b>General Fund Total</b>	<b>10,559,732</b>	<b>9,934,632</b>	<b>(625,100)</b>	<b>(317,500)</b>



5.2. The **BAU forecast surplus of c£0.6m** predominantly consists of the following:

#### **Strategy and Resources Committee**

**A net underspend of £168,300 consisting of:**

- **£250,000 additional income relating to New Homes Bonus (NHB).** This is a combination of receiving additional monies above budget and choosing to use all NHB to support the revenue budget rather than some being used to fund capital as originally budgeted.
- **£42,000 saving on printing, stationery and postage** due to reduced occupancy in the building and thereby reducing demand for these services.
- **£83,300 salaries underspend.** This is comprised of numerous over and underspends.

**Offset by:**

- **£197,000 reduction in interest receivable** due to a decision to not proceed with an agreed property purchase through Gryllus.
- **£10,000 contribution to Public Sector Reform** to pay for consultancy costs in response to Government consultation, as agreed at Strategy and Resources Committee on 17<sup>th</sup> August 2020.

#### **Planning Policy Committee**

**A net underspend of £371,900 consisting of:**

- **£400,000 underspend on the Local Plan.** Work on delivering the Local Plan is continuing in 2020/21, and the budget for the year was set accordingly. Included in that budget were costs associated with work on the delivery of the South Godstone Garden Community, such as early work on the Area Action Plan (AAP). Whilst it was reasonable assumption that savings against this budget would be identifiable as the year progressed (and the timetable of the Local Plan became clearer) the removal of £500k from a total budget of £621k at such an early point in the year was premature and did not capture all projected expenditure for 2020/21. Based on the information currently available regarding the progression of the Local Plan to adoption, in addition to the £127k currently budgeted for it is estimated that a further £100k needs to be identified for expenditure during 2020/21 therefore bringing the total forecast outturn for 2020/21 of £227k. Throughout the remainder of the year we will be keeping in regular contact with the Project Manager to ensure our forecast outturn reflects the Planning Inspector's expectations of where the Local Plan has progressed. This will mean that the outturn numbers can be refined as the year progresses. Members should be advised that any slippages in progress in 2020/21 may impact future years. We will be undertaking a complete review of all costs as part of the 2021/22 budget setting process.

**Offset by**

- **£28,100 salaries overspend.**

#### **Community Services Committee**

- **£16,600 salaries underspend.**

#### **Housing Committee**

- **£68,300 salaries underspend.**

**6. COVID-19 Costs**

6.1. **Table 3** below analyses the **COVID-19 forecasts by Committee with a deficit of c£1.9m** forecast at the year-end after taking account of Government funding received to date.

**TABLE 3 – Covid 19 Forecast costs analysed by Committee as at 31<sup>st</sup> July 2020.**

<b>COVID-19</b>	<b>2020/21 Outturn forecast at P3 (June) £</b>	<b>2020/21 Outturn forecast at P4 (July) £</b>	<b>Change in Forecast since P3 (June) £</b>
<b>Strategy and Resources Committee</b> Committee Chair: Councillor T Elias Officers: J King/L Harrison/A D'Alessandro	747,300	745,550	(1,750)
<b>Planning Policy Committee</b> Committee Chair: Councillor K Jecks Officer: C Parker	784,400	785,800	1,400
<b>Community Services Committee</b> Committee Chair - Cllr B Connolly Officer - A Boote	1,735,800	1,438,800	(297,000)
<b>Housing Committee</b> Committee Chair: L Parker Officers: A Boote	33,600	34,700	1,100
<b>General Fund Total</b>	<b>3,301,100</b>	<b>3,004,850</b>	<b>(296,250)</b>
Covid-19 Government Grant	(1,002,750)	(1,121,900)	(119,150)
<b>General Fund Total after Grant</b>	<b>2,298,350</b>	<b>1,882,950</b>	<b>(415,400)</b>

6.2. The forecast deficit for COVID-19 has improved by £0.4m since P3. This is primarily due to a reduction in the forecast costs of social distancing on the waste contract (£245k) and additional grant received from Government (£120k).

6.3. At P4, the forecast COVID-19 pressures of c£3m (as per above table before the application of central grant funding) consist of:

**Expenditure of c£1.3m, primarily due to:**

- **£567,000 – Estimated cost of support to Freedom Leisure.** A package of proposals has been received from Freedom Leisure and is currently under consideration by Officers and Members.
- **£265,000 – Forecast expenditure on Waste Services.** Costs relate to additional H&S requirements, cleaning and disinfecting of equipment and personnel, social distancing of workers, professional fees in relation to extension of existing waste contract, increased cost of maintaining old vehicles where renewal has been delayed and hire of vehicles.
- **£227,500 – Expenditure for meeting Tandridge’s share of expected loss that will be made by Southern Building Control** as a result of reduced business activity. Income will be significantly lower due to fall in business as a direct result of the lockdown. The full impact has been reduced by vacant posts not being filled. The partnership is currently undergoing a review into the sustainability of the service and any changes resulting from this review will be reflected in the coming months.

- **£75,000 – Forecast additional interest payable on short term borrowing** to manage cash flow due to the reduced collection of Business Rates and Council Tax.
- **£68,100 – Staff overtime expenditure in relation to COVID-19.** This includes staff making shielding calls, work paying grants to local businesses, finance officers time and time of the Covid response taskforce.
- **£19,500 – Expenditure on Neighbourhood Plan.** A delay in the plan going to referendum will result in the grant to cover the cost of the examiner being received in later years, whereas the costs has been incurred in this financial year.
- **£17,100 – Cumulative miscellaneous expenditure on multiple budget lines relating to COVID-19.**
- **£15,000 – Expenditure on support grants paid to Parish and volunteer agencies.**
- **£12,500 – Expenditure on Private Sector Enabling** as the contractor (Millbrook) has redeployed staff for a 12-week period to support Surrey County Council's overall COVID-19 response.
- **£10,000 – Purchase of IT Software and Hardware** to accommodate the need for staff to work from home.
- **£8,600 – Additional costs of housing rough sleepers** during the pandemic.

**Loss of Income of c£1.7m, primarily due to:**

- **£491,300 – Reduced income on Planning Applications and advice.** We are now starting to see a downturn in the level of planning applications received.
- **£300,000 – Reduction in interest receivable following the cut in the Bank of England base rate** from 0.75% to 0.1% influencing the return on investments. Lower returns are now forecast on fund investments.
- **£248,000 – Loss of income for Tandridge Commercial Services** as the operational team is working within the boundaries of COVID-19, social distancing and Health & Safety restriction with having to wear PPE and staff sickness means the team are unable to work at normal capacity. This will all have a knock-on effect on the team's capabilities to deliver a normal service of maintaining the HRA housing stock and therefore will lead to less billable work for the team.
- **£247,250 – Reduction in Investment Property Income.** Due to the enforced closedown some tenants have requested rent holidays, this primarily affects Quadrant House.
- **£124,900 – Loss of income for Car Parking off-street.**
- **£63,200 – Parks and Open Spaces decrease in revenue from sports facilities.**
- **£54,800 – Loss of income for Car Parking on-street.**
- **£51,600 – Loss of income from Hackney Carriages taxi driver licencing.**
- **£48,700 – Loss of income for Garden Waste Club due to COVID-19 delaying the start date of the new waste contract.**
- **£45,000 – Loss of 5% admin fee for Community Infrastructure Levy work** due to slowdown in development.
- **£34,000 – Reduction in Land Charge searches income** as the lockdown resulted in the reduction of property purchases.
- **£10,800 – Lost sales commission at Meadowside** as fewer people look to move.

6.4. To date the Council has received £1,147,755 of grant to help offset the cost of COVID-19. Of this £25,698 was used to fund 2019/20 COVID-19 costs, with the balance of £1,121,900 being used to reduce the impact of COVID-19 in 2020/21. Details on the co-payment mechanism for irrecoverable Sales, Fees and Charges income, which in theory may cover up to 71% (75% of the remaining 95% of income loss) of our lost income, are still awaited and no account of this additional support has been included in this monitoring report. We are expected to hear from Central Government on this in September.

**7. 2020/21 HRA Revenue**

7.1. At the end of **July (P4) the HRA is forecasting a year end surplus of c£137k** before transfers to Reserves. This surplus will be added to the planned transfer to Reserves at the year end to balance the HRA to zero.

7.2. Details of the key variances are shown in the **Table 4** below.

**TABLE 4 - HRA Budget Forecast variances as at 31<sup>st</sup> July 2020**

<b>KEY HRA REVENUE VARIANCES</b> Committee Chair - Councillor L Parker Officer - A Boote	<b>Annual Budget 2020/21</b>  <b>(£)</b>	<b>Budget Variances June (Period 4)</b>  <b>(£)</b>	<b>Forecast Variance at year end (31/3/2021) BAU</b>  <b>(£)</b>	<b>Forecast Variance at year end (31/3/2021) COVID-19</b>  <b>(£)</b>	<b>Forecast Variance at year end (31/3/2021) Total</b>  <b>(£)</b>
Salaries	1,722,400	22,500	19,800	2,700	<b>22,500</b>
Services costs	5,951,600	0	0	100	<b>100</b>
Corporate Support Services	1,441,800	0	0	0	<b>0</b>
Repairs and Maintenance	2,640,500	0	0	<b>(100,000)</b>	<b>(100,000)</b>
Interest Charges on loan	1,912,100	0	<b>(264,000)</b>	0	<b>(264,000)</b>
Rental Income Dwellings	<b>(14,200,500)</b>	0	0	200,000	<b>200,000</b>
Rental Income Garages	<b>(279,700)</b>	0	0	10,000	<b>10,000</b>
Other Income	<b>(226,000)</b>	0	0	<b>(5,500)</b>	<b>(5,500)</b>
<b>Forecast outturn before transfer to reserves</b>	<b>(1,037,800)</b>	<b>0</b>	<b>(244,200)</b>	<b>107,300</b>	<b>(136,900)</b>
Transfer to reserves	1,037,800	0	244,200	<b>(107,300)</b>	<b>136,900</b>
<b>Forecast outturn after transfer to reserves</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

7.3. There are two key variances within **HRA BAU**.

- **An underspend of £264,000 on interest payable.** This is partly due to loans being refinanced as a lower than expected interest rate due to the introduction of the PWLB HRA certainty rate, essentially a 1% discount on PWLB rates for HRA borrowing, and partly due to lower than forecast borrowing to fund HRA capital expenditure.
- **An overspend of £22,500 on salaries.**

7.4. There are two key variances within **HRA COVID-19 expenditure**

- **An overspend of £210,000 on rent loss from bad debts** as HRA arrears are expected to increase significantly and an increased revenue contribution to the bad debts reserve is forecast as a result of COVID-19. At this stage it is assumed that an increase of £210,000 will be required. This forecast included both dwellings and garages. The situation will become clearer over the coming months as the level of direct debit cancellation and increase in arrears becomes known.

- **An underspend of £100,000 on repairs and maintenance expenditure** is being forecast. Due to the lockdown and required social distancing measures planned repairs and maintenance have been postponed. It is thought that some of the delayed work can be caught up with during the year, depending on the weather, but not all planned expenditure is likely to occur this financial year.

- 7.5. The level of HRA rent arrears will be closely monitored throughout the year. A reduced level of repairs and maintenance work is likely to alleviate the in-year impact of an increased transfer to the bad debts provision however the repairs and maintenance work will still need to be undertaken in future years.
- 7.6. Any government assistance available to tenants to help them deal with the financial impact of COVID-19 on their ability to pay their rent will signposted to tenants. Discretionary Housing Payments may be used to clear tenant arrears in some cases if additional funds are made available.

## 8. 2020/21 Capital Budget

- 8.1. In February 2020 the Council approved a capital budget, both General Fund and HRA, of £81,972,800. On the 9th July this committee approved £38,139,248 of slippage from 2019/20 to be added to the 2020/21 budget taking the revised budget to £120,112,048.

**Table 5 – Capital Programme Forecast at P4 (July)**

	Budget 2020/21 £	Budget YTD P4 £	Actual YTD P4 £	Variance YTD P4 £	Forecast Variance 2020/21 £	Variance %
<b>Community Services - Committee Chair: Councillor B Connolly - Officers: A Boote</b>						
Waste and Recycling	2,991,308	997,000	16,000	(981,000)	(40,800)	-1%
Parks, Playgrounds and Open Spaces	530,900	177,000	6,403	(170,597)	(120,200)	-23%
Community infrastructure and assets	1,194,040	398,000	31,452	(366,548)	(277,200)	-23%
<b>Total Community Services</b>	<b>4,716,248</b>	<b>1,572,000</b>	<b>53,855</b>	<b>(1,518,145)</b>	<b>(438,200)</b>	<b>-9%</b>
<b>Housing General Fund - Committee Chair: Councillor L Parker - Officer: A Boote</b>						
Social Housing Grants	100,000	8,300	0	(8,300)	(8,300)	-8%
Disabled Facilities Grants	426,000	35,500	28,689	(6,811)	(35,500)	-8%
<b>Total Housing GF</b>	<b>526,000</b>	<b>175,300</b>	<b>42,246</b>	<b>(133,054)</b>	<b>(206,500)</b>	<b>-39%</b>
<b>Strategy &amp; Resources - Committee Chair: Councillor T Elias - Officers: J King/L Harrison/A D'Alessandro</b>						
Property Development Fund	98,841,500	32,947,200	29,125	(32,918,075)	(97,860,500)	-99%
Council Offices Buildings	100,000	33,300	13,096	(20,204)	(25,000)	-25%
IT - Hardware/Infrastructure	873,600	291,200	37,575	(253,625)	(180,900)	-21%
<b>Total Strategy &amp; Resources</b>	<b>99,815,100</b>	<b>33,271,700</b>	<b>79,796</b>	<b>(33,191,904)</b>	<b>(98,066,400)</b>	<b>-98%</b>
<b>Total-General Fund</b>	<b>105,057,348</b>	<b>35,019,000</b>	<b>175,897</b>	<b>(34,843,103)</b>	<b>(98,711,100)</b>	<b>-94%</b>
<b>Housing Revenue Account - Committee Chair: Councillor L Parker - Officer: A Boote</b>						
Council House Building	11,376,700	1,827,600	1,484,430	(343,170)	(1,827,600)	-16%
Improvements to Housing Stock	3,608,000	3,169,000	(457,985)	(3,340,369)	(1,810,400)	-50%
Housing Management Software	70,000	21,700	70,000	48,300	(21,700)	-31%
<b>Housing Revenue Account</b>	<b>15,054,700</b>	<b>5,018,300</b>	<b>1,096,445</b>	<b>(3,635,239)</b>	<b>(3,659,700)</b>	<b>-24%</b>
<b>Total Capital Programme</b>	<b>120,112,048</b>	<b>40,037,300</b>	<b>1,272,342</b>	<b>(38,478,342)</b>	<b>(102,370,800)</b>	<b>-85%</b>

8.2. The forecast underspend of £102,370,800 consists of:

### **Community Services**

Total underspend of £445,200 consisting of:

- £137,500 – Public Conveniences Capital Works.
- £136,000 – Vehicle Fleet Renewal.
- £73,000 – Children’s Playground Equipment.
- £47,200 – Park, Pavilions & Open Spaces.
- £27,700 – Garden Waste Bins.
- £14,600 – Refuse, Recycling and Food Waste bins.
- £5,500 – Litter Bins.
- £3,700 – Land Drainage works.

Offset by:

- £7,000 – Overspend on Waste & Recycling Contract Equipment.

### **Housing General Fund**

Total underspend of £206,500 consisting of:

- £106,500 – Disabled Facilities Grants.
- £100,000 – Social Housing Grants.

### **Strategy & Resources**

Total underspend of £98,066,400 consisting of:

- £97,860,500 – Property Development Fund.
- £180,900 – IT Hardware/Infrastructure.
- £25,000 – Council Offices maintenance.

## **9. Impact on Cash Flow as a result of COVID-19**

9.1. There is a concern amongst all Billing Authorities about the extent to which COVID-19 reduces the money received in respect of Council Tax and Business Rates. As many billing authorities only retain a small proportion, with the majority collected being paid to preceptors. The concern is as precepts were set well before the start of the financial year, prior to the onset of COVID-19 collection rates will be significantly below expectation as the finances of residents and local businesses deteriorate. As precept payments to Surrey County Council, Surrey Police and the Government were set in line with statute the gearing effect will particularly reduce the Council’s cashflow.

### **9.2. Council Tax**

As a billing authority, the Council collects £79m in Council Tax for 2020/21, on behalf of preceptors. This is distributed approximately Surrey 75%, Surrey Police 12.5% and Tandridge 12.5%.

A cashflow modelling exercise based on Council Tax collected indicates that the **shortfall in collection in 2020/21 will be 4.7% less than the budgeted amount**, assuming that the current level of collection is replicated for the remainder of 2020/21. The modelling shows that the **negative impact upon the Council’s cash flow would be c£3.7m for the whole year.**

### 9.3. **Business Rates**

As a billing authority, the Council would collect £21.9m in Business Rates for 2020/21, on behalf of preceptors. However, as a result of COVID-19 additional Business Rate Relief of 100% has been granted to the Retail, Hospitality and Leisure sectors. This is distributed as Central Government - Central Share, 50%, Tandridge 40% and Surrey 10%. However out of the 40% the Council receives it has to pay a Tariff Payment to Central Government of £7.9m with it only retaining £0.8m in cash.

A cashflow modelling exercise based on **Business Rates collected indicates that the shortfall in collection in 2020/21 will be 16% less than the budgeted amount**, assuming that the current levels of collection is replicated for the remainder of 2020/21. The **negative impact upon the Council's cash flow would be c£1.8m for the year**.

- 9.4. Overall the cash flow modelling indicates that because Council Tax receipts are received in advance of precept payments, the forward Council Tax receipts will mitigate the impact of the shortfall Business Rate receipts until the end of the year. **The impact of the overall forecast shortfall of £5.5m in combined Council Tax and Business Rate will not impact until February 2021. The cost of borrowing to meet cashflow needs is estimated at £75k and is included in the COVID-19 expenditure costs above.**

## **10. Comments of the Chief Finance Officer (s151)**

- 10.1. The Council has a duty to ensure its expenditure does not exceed resources available. The short and medium-term financial outlook is uncertain. The pandemic has resulted in increased costs which are not fully funded in the current year.
- 10.2. Financial planning over the medium-term has indicated that the Council is expected to spend beyond the resources that it has available, all exacerbated by the pandemic. This will increasingly deteriorate the Council's Reserves in 2020/21 and beyond, to a negative level, in order to set a legally balanced budget. If this trend continues the s151 will have no alternative but to issue a s114 notice requiring all non-statutory spend to cease immediately.
- 10.3. Without clarity on future Government funding, our working assumption is that financial resources will continue to be constrained, as they have been for the majority of the past decade. This subsequently places an onus on the Council to continue to consider issues of financial sustainability as a matter of urgency in order to ensure stable provision of services in the future. Within this context the Council will continue to develop and implement plans to ensure that the delivery of services are contained within resources and we work towards closing the medium-term gap.
- 10.4. The Section 151 Officer confirms the financial information presented in this report has been based on reasonable working assumptions, taking into account all material, financial and business issues and risks.

## **11. Comments of the Head of Legal Services (Monitoring Officer)**

- 11.1. The Council is required to set and operate within a balanced budget. Section 114 of the Local Government Finance Act 1988 requires the Chief Finance Officer (CFO), in consultation with the Council's Monitoring Officer, to make a report under this section if it appears to her that the expenditure of the authority incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure. In practice, this is most likely to be required in a situation in which reserves have become depleted and it is forecast that the Council will not have the resources to meet its expenditure in a particular financial year.
- 11.2. This mechanism, in issuing a S114 notice would require all non-statutory spend to cease immediately, a situation which could exacerbate the Council's current situation. Nevertheless, should the statutory S151 Officer, at any time, not be satisfied that appropriate strategies and controls are in place to manage expenditure within the in-year budget then she will need to formally draw this to the attention of Members and take further action.

- 11.3. On the 11th June, the Chartered Institute of Public Finance and Accountancy (CIPFA) issued modifications to their Section 114 Guidance, to allow authorities under budgetary pressure due to COVID-19 the time and space to explore alternatives to freezing spending via a Section 114 notice. The guidance also acknowledges these are unprecedented circumstances and the usual mitigating actions required to balance an authority's budget following the issuing of a section 114 notice would damage the coronavirus response required by Government from local authorities. It suggests that CFO's should "at the earliest possible stage" make "informal confidential contact with MHCLG to advise of financial concerns and a possible forthcoming Section 114 requirement" and communicate the potential unbalanced budget position due to COVID-19 to MHCLG, at the same time as giving a potential Section 114 scenario report to Members and the external auditor. Whilst the position set out in this report presents an extremely serious challenge, it is the view of the statutory S151 Officer that a Section 114 notice is not required at the current time although this will be kept under constant review.

## **12. Climate Change Implications**

- 12.1. This report does not contain proposals that would impact on the Council's commitments to taking action on climate change.

## **13. Equality Impacts**

- 13.1. Any impacts of the budget monitoring actions will be evaluated by the individual services as they implement the management actions necessary. In implementing individual management actions, the Council must comply with the Public Sector Equality Duty in section 149 of the Equality Act 2010 which requires it to have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 13.2. Services will continue to monitor the impact of these actions and will take appropriate action to mitigate additional negative impacts that may emerge as part of this ongoing analysis.

## **14. Conclusion**

- 14.1. At the current time a net deficit of c£1.3m for the General Fund is forecast due to the reasons highlighted above. The overspend will necessitate funding from the Council's Reserves at the end of the financial year although it is hoped that a further part of the COVID-19 related expenditure will be funded by additional government grant above that already received.
- 14.2. As previously discussed, the COVID-19 situation is constantly changing and the Council updates it's plans and projections regularly to take account of the latest guidance from Government. The overspend forecast between P3 and P4 has reduced by as c£0.7m in light of the most recent information, additional government grant and management action. Future monitoring report will continue to be updated based on the most up to date understanding of the situation and guidance available.

----- end of report -----



<b>KEY GENERAL FUND REVENUE VARIANCES</b>	<b>Annual Budget 2020/21</b>	<b>Budget Variances July (Period 4)</b>	<b>Forecast Variance at year end (31/3/2021) Non-Covid-19</b>	<b>Forecast Variance at year end (31/3/2021) Covid-19</b>	<b>Overall Forecast Variance at year end (31/3/2021)</b>	<b>Change in Forecast since last month</b>
	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>
<b>Strategy and Resources Committee</b>						
Salaries	5,166,671	(36,100)	(83,300)	47,200	(36,100)	(93,800)
<u>Non Salaries</u>						
Interest Payable	1,889,000	0	0	75,000	75,000	0
Investment Property Income	(989,000)	0	0	247,250	247,250	0
Interest Receivable	(2,764,200)	0	197,000	300,000	497,000	0
IT - Software and hardware	10,400	0	0	10,000	10,000	0
Covid 19 Grants	0	0	0	15,000	15,000	0
Land Charges	(135,000)	0	0	34,000	34,000	0
Other Variances less than £10k	988,833	0	0	17,000	17,000	(18,950)
Public Sector Reform funding	0	0	10,000	0	10,000	10,000
Corporate Items	(1,755,173)	0	(250,000)	100	(249,900)	(250,000)
Printing, Stationary and Postage	185,900	0	(42,000)	0	(42,000)	(42,000)
<b>Resources Total</b>	<b>2,411,531</b>	<b>(36,100)</b>	<b>(168,300)</b>	<b>745,550</b>	<b>577,250</b>	<b>(394,750)</b>
<b>Planning Policy</b>						
Salaries	1,510,700	30,600	28,100	2,500	30,600	40,200
<u>Non Salaries</u>						
Planning Application and Advice	(634,562)	61,638	0	491,300	491,300	0
Local Plan	439,500	(128,997)	(400,000)	19,500	(380,500)	100,000
Community Infrastructure Levy	0	0	0	45,000	45,000	0
Building Control Chargeable	0	0	0	227,500	227,500	0
Other net items of less than £10,000	22,400	(2,324)	0	0	0	0
<b>Planning Policy Total</b>	<b>1,338,038</b>	<b>(39,083)</b>	<b>(371,900)</b>	<b>785,800</b>	<b>413,900</b>	<b>140,200</b>
<b>Community Services Committee</b>						
Salaries	2,235,300	(1,000)	(16,600)	15,600	(1,000)	31,200
<u>Non Salaries</u>						
Car Parking-Off Street	17,100	0	0	124,900	124,900	0
Car Parking-On Street	0	0	0	54,800	54,800	0
Hackney Carriage/Private Hire	(17,600)	0	0	51,600	51,600	0
Leisure & Community Grants	468,200	0	0	567,000	567,000	0
Waste Services	3,736,800	0	0	313,700	313,700	(245,000)
Environmental Services	0	0	0	0	0	(71,800)
Cesspool Services	0	0	0	0	0	(75,600)
Operational Services	(244,400)	0	0	248,000	248,000	91,500
Parks and Open Spaces	1,025,600	0	0	63,200	63,200	0
Other Variances less than £10k	(869,900)	0	0	0	0	(3,400)
<b>Community Services Total</b>	<b>6,351,100</b>	<b>(1,000)</b>	<b>(16,600)</b>	<b>1,438,800</b>	<b>1,422,200</b>	<b>(273,100)</b>
<b>Housing - General Fund</b>						
Salaries	775,800	(65,500)	(68,300)	2,800	(65,500)	(86,100)
<u>Non Salaries</u>						
Meadowside Mobile Homes	(109,500)	(12,564)	0	10,800	10,800	0
Housing of the Homeless	(59,900)	(23,126)	0	8,600	8,600	0
Private Sector Enabling	63,863	(17,521)	0	12,500	12,500	0
Other net items of less than £10,000	(211,200)	(153,083)	0	0	0	0
<b>Housing General Fund Total</b>	<b>459,063</b>	<b>(271,794)</b>	<b>(68,300)</b>	<b>34,700</b>	<b>(33,600)</b>	<b>(86,100)</b>
Covid-19 Grant	0	0	0	(991,900)	(991,900)	(119,150)
Covid-19 New Burdens Grant	0	0	0	(130,000)	(130,000)	0
<b>Council GF Position at 31/03/2021</b>	<b>10,559,732</b>	<b>(347,977)</b>	<b>(625,100)</b>	<b>1,882,950</b>	<b>1,257,850</b>	<b>(732,900)</b>

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<b>Strategy &amp; Resources Committee Tuesday, 22 September 2020</b>	
<b>Q1 corporate performance and risk report</b>	
Report of:	William Mace - Performance Specialist wmace@tandridge.gov.uk
ELT Lead	Jackie King - Executive Head of Corporate Resources jking@tandridge.gov.uk
Publication status:	Unrestricted.
Recommendations:	That the Quarter 1 2020/21 performance and risks for the Strategy & Resources Committee be noted.
Appendices:	Appendix 'A' – S&R Quarter 1 2020-21 Performance and Risk Report
Background papers defined by the Local Government (Access to Information) Act 1985	None.

1. Executive Summary

- 1.1 The appendix to this report contains data on the Committee's key performance indicators and risks for Quarter 1 2020/21, to enable the Committee to monitor how the Council is delivering the services for which it is responsible.
- 1.2 The performance indicators and risks in Appendix A were previously reported in the Strategy & Resources Performance & Risks reports (formerly Delivery Plan) 2019/20. However, as the corporate delivery plans came to end in March 2020, and whilst we arrange Councillor consultation workshops on performance and risk, this interim report has been produced to provide the Committee with up-to-date data.
- 1.3 The format of the performance data has been revised to provide a clearer picture of the Council's performance over time and in relation to its targets, in comparison to the previous delivery plans.

2. Background

- 2.1 The Council previously reported its performance and risk data across its four service committees via committee delivery plans. The Strategy & Resources plan came to an end after Quarter 2 2019/20, followed by the three other committees in March 2020, with a view that their replacement would be formulated as part of the process to create the

Council's new Strategic Plan. However due to the Covid-19 epidemic, progress on the performance reporting aspect of the plan has been delayed, in that the workshops for Councillors to provide their feedback on performance and risk reporting are still to be arranged. Consequently, this report has been generated to provide this Committee with relevant performance and risk information, whilst the Council's performance and risk reporting process is reviewed.

### 3. Performance and risk data

3.1 See Appendix A for the Strategy & Resources Committee performance data and risks for Quarter 1 2020/21.

3.2 Please note that wherever possible the most recent performance data has been included in Appendix A. For instance, for some indicators July 2020 data is available, and therefore this has been included to provide the most up-to-date picture for Councillors, despite the fact it technically falls in Quarter 2 2020/21.

### 4. Climate Change implications

4.1 This report contains no proposals that would impact on the Council's commitment to climate change.

### 5. Equality implications

5.1 This report contains no proposals that would disadvantage any individuals or groups.

### 6. Any other corporate implications where applicable

6.1 None.

### 7. Comments of the Chief Finance Officer

7.1 Projects are individually costed as they come forward and are monitored throughout the life of the project. It is possible that the impact of Covid-19 will add additional costs to projects and delay the speed of implementation.

7.2 The key risks, their likelihood, impact and mitigation are identified in the Risk section of the appendix.

### 8. Comments of the Head of Legal Services

8.1 As the Council is accountable to the community, it is also important that it is able to demonstrate it is monitoring and managing performance effectively. The review will assist elected Members to examine performance indicator targets that this Committee are responsible for. It will highlight which ones have not been achieved, the reasons why, the decisions taken on what, and if any, action is needed to bring key activities or indicators back on track to meet the targets set. If performance is not managed effectively by the Council at both Committee and management level, there is a risk that the Council will not achieve its stated priorities and outcomes.

### 9. Conclusion

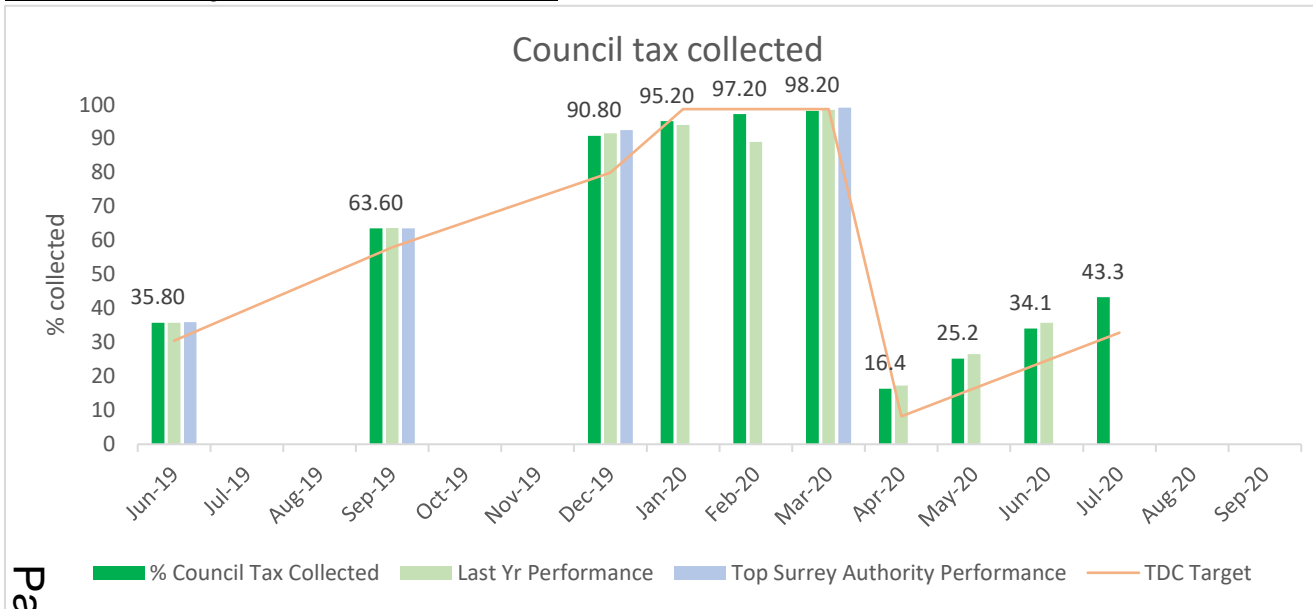
9.1 It is recommended that the Committee note the Strategy & Resources' performance and risks for Quarter 1 2020/21.

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## APPENDIX A – Strategy & Resources Performance Charts

### SR1 - Percentage of Council Tax collected

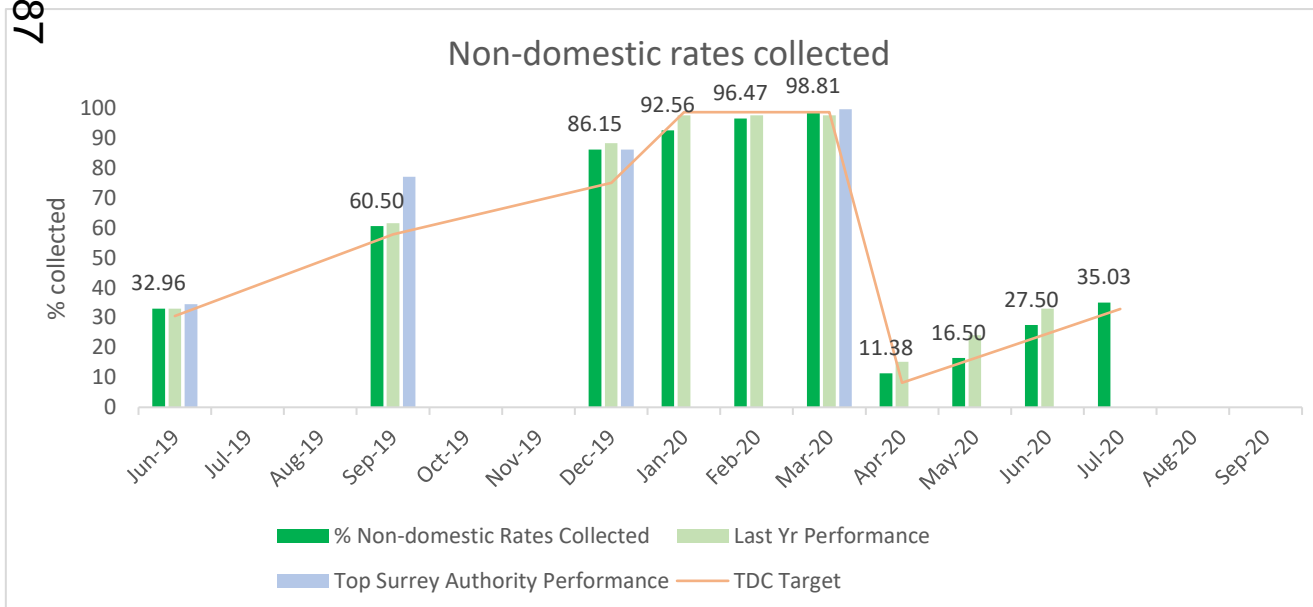


#### Performance Summary

- Collection performance is 10.42% above the increasing monthly target which at the end of July stood at 32.88%. Performance remains down by 1.7% compared to the same period in 2019/20 with a collection rate at that stage of 45.00%.
- The collection rate this year is impressive given the additional work the team have taken on in relation to the Councils COVID-19 response. The team continues to proactively monitor accounts and work with customers who may be suffering financial hardship due to COVID-19.

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### SR2 - The percentage of non-domestic rates due for the financial year which were received by the Council

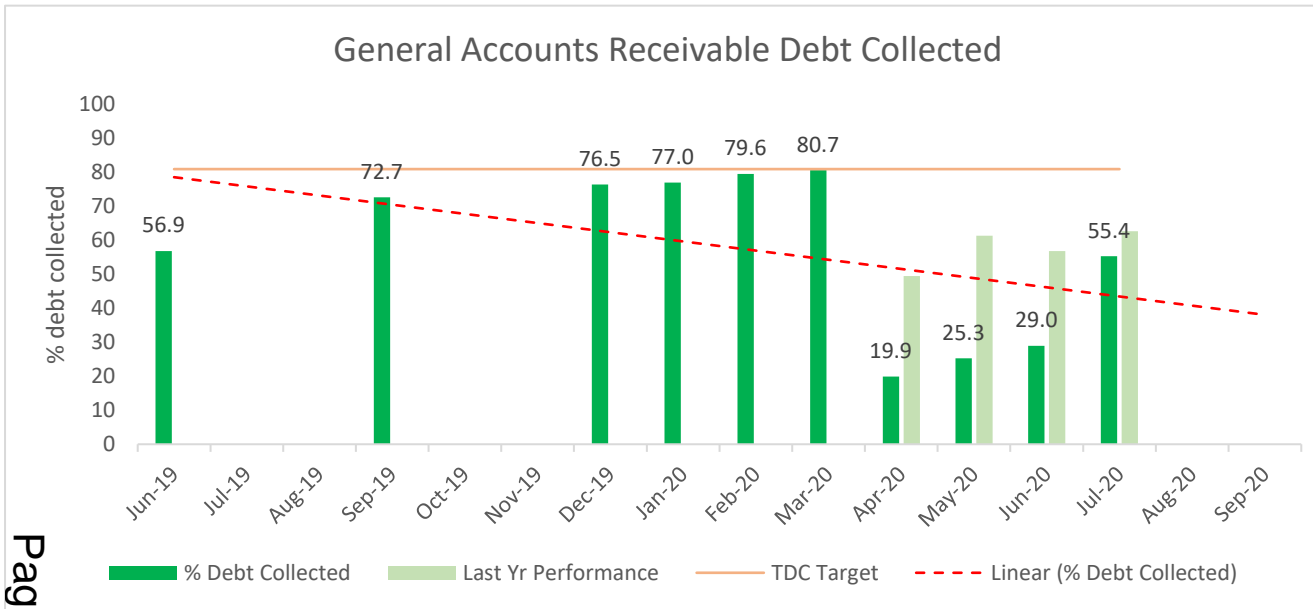


#### Performance Summary

- Collection performance is 2.19% above the increasing monthly target which at the end of July stood at 32.84%. Performance is down by 6.22% compared to the same period in 2019/20 with a collection rate at that stage of 41.25%
- Performance is still above target despite the team having the additional work of administering grants.
- Various types of Business support grants have been allocated to local business following COVID-19, these schemes stop on 28 August 2020.

**APPENDIX A – Strategy & Resources Performance Charts**

**SR2b - General Accounts Receivable Debt Collected**

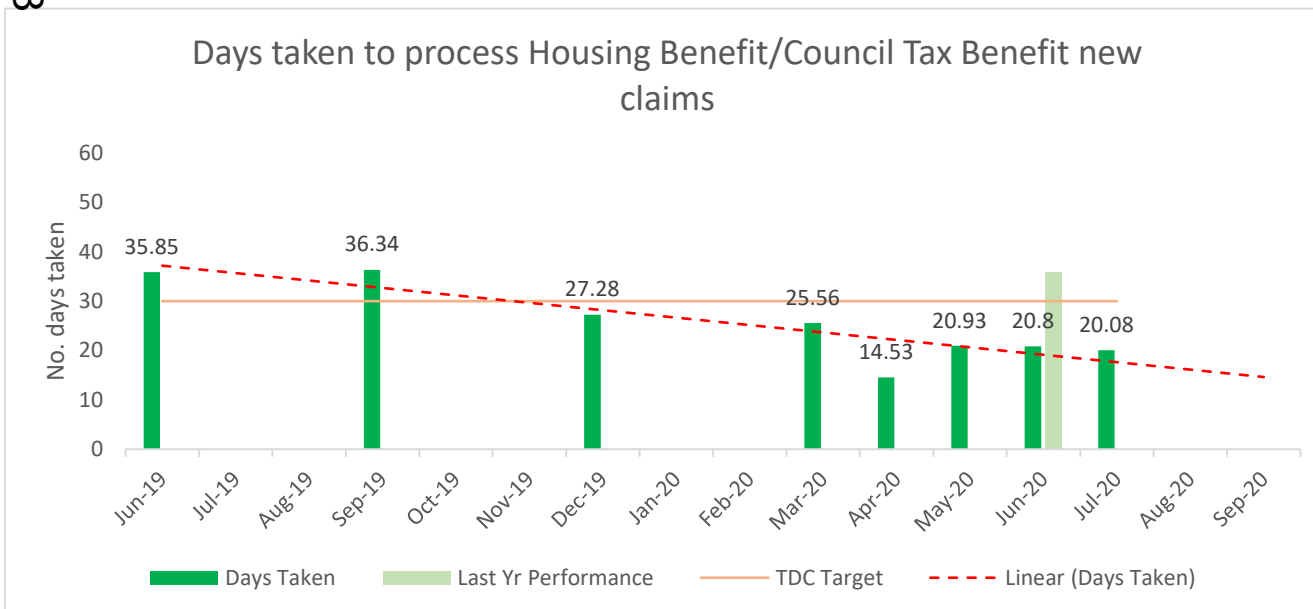


Performance Summary

- Due to Covid-19 all recovery and enforcement (Bailiff) action ceased at the start of lockdown as per government guidelines and continued to do so until now, authorities up and down the country had withheld issuing reminders /recovery notices too, due to the current pandemic.
- Since the restriction, 650+ reminders were mailed before the end of July 20. These are now beginning to bring in significant capital over the last few weeks.

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**SR3a - Days taken to process Housing Benefit/Council Tax Benefit new claims**



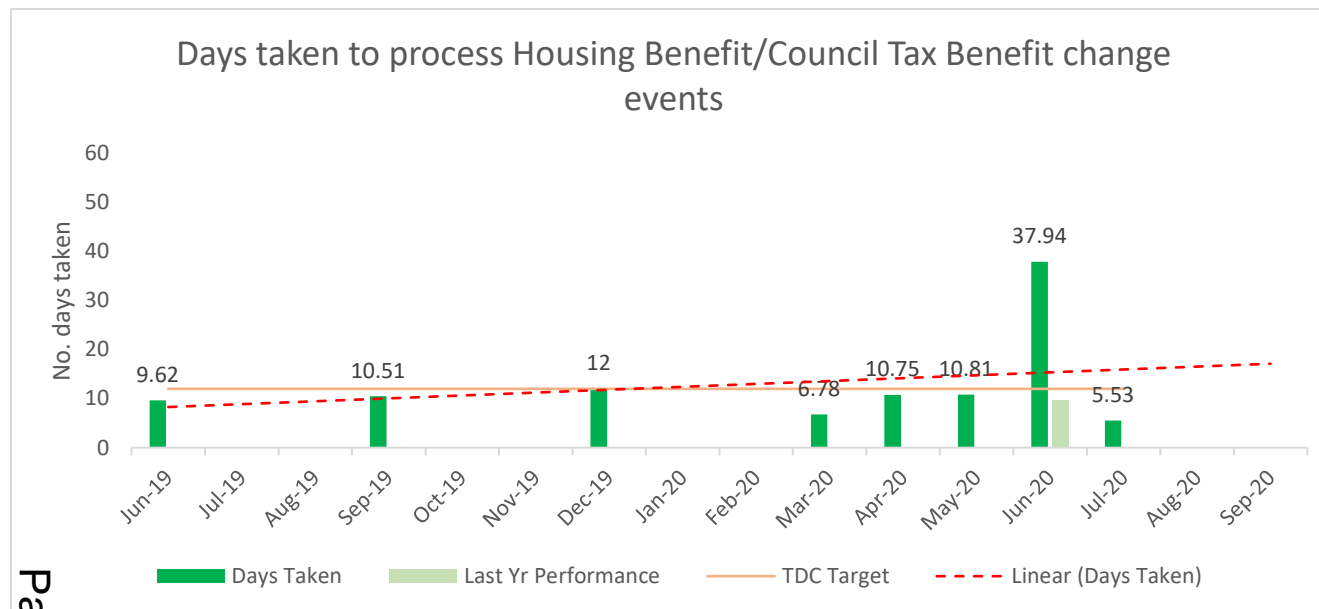
Performance Summary

- Target has been achieved for the last six periods, being approximately 5 days improved on target for July 2020.



## APPENDIX A – Strategy & Resources Performance Charts

### SR3b - Days taken to process Housing Benefit/Council Tax change events

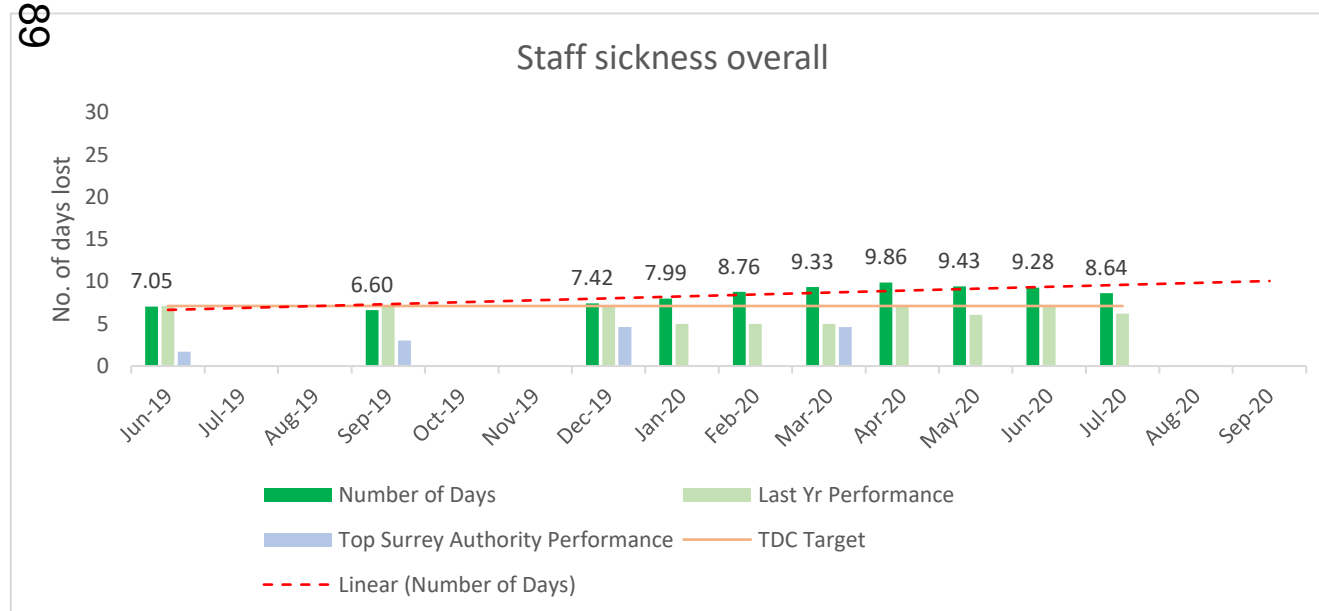


#### Performance Summary

- Performance has consistently achieved target from June 2019 – July 2020, with an anomalous result in June 2020 due to Covid-19.

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### SR4 – The number of working days/shifts lost due to sickness absence (long and short-term)

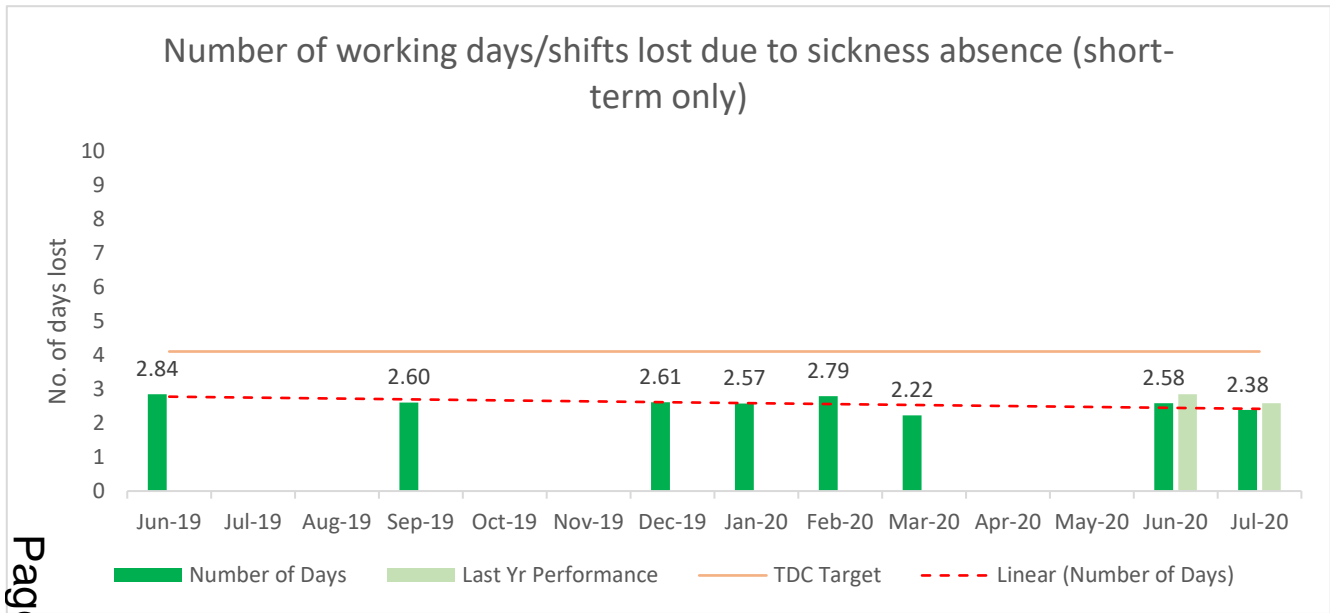


#### Performance Summary

- Despite being off-target for July 2020, the rolling annual sickness absence figure continues to reduce from last month.
- Like-on-like, 2020 is higher by 2.45 days per employee, but the trend continues to reduce. This difference is primarily due to an increase of the days lost to long term sickness. Musculoskeletal being the most frequently cited reason for long term sickness absence.
- A significant number of sickness days are included in July 2020, due to either Covid-19 self-isolation/Shielding or unable to work from home.

**APPENDIX A – Strategy & Resources Performance Charts**

**SR5 – The number of working days/shifts lost due to sickness absence (short-term only – 20 days or less)**

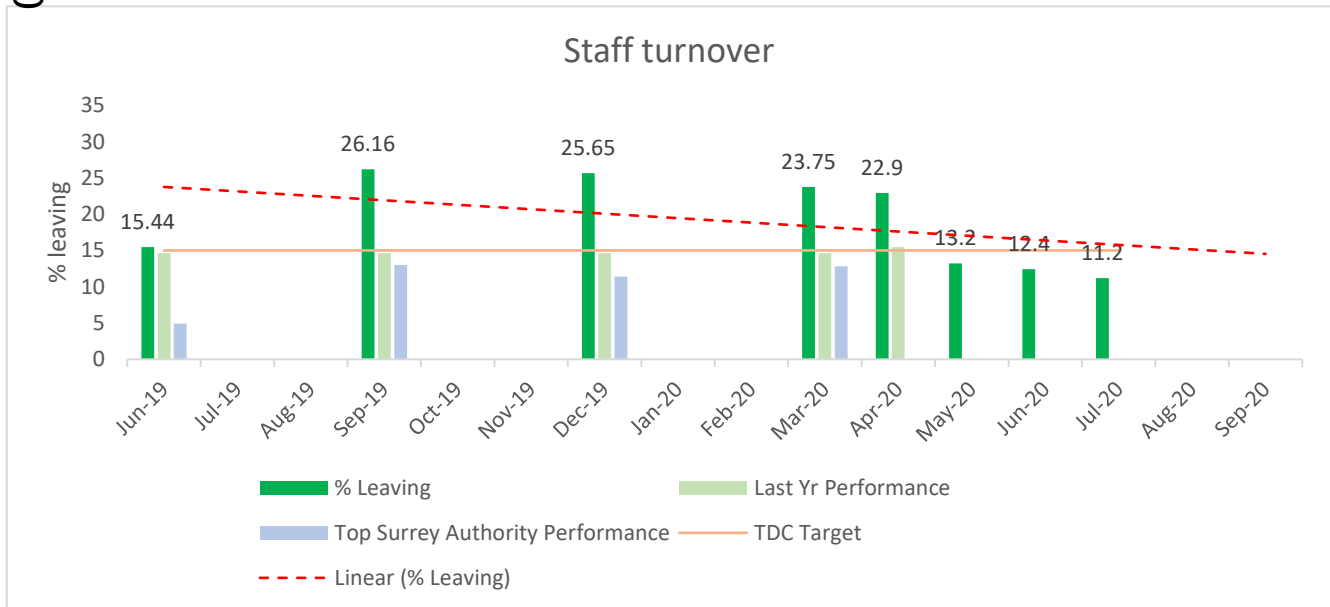


Performance Summary

- We continue to perform on target for July 2020, with a comparable like-on-like performance with the same period last year.

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**SR6 – Staff turnover**

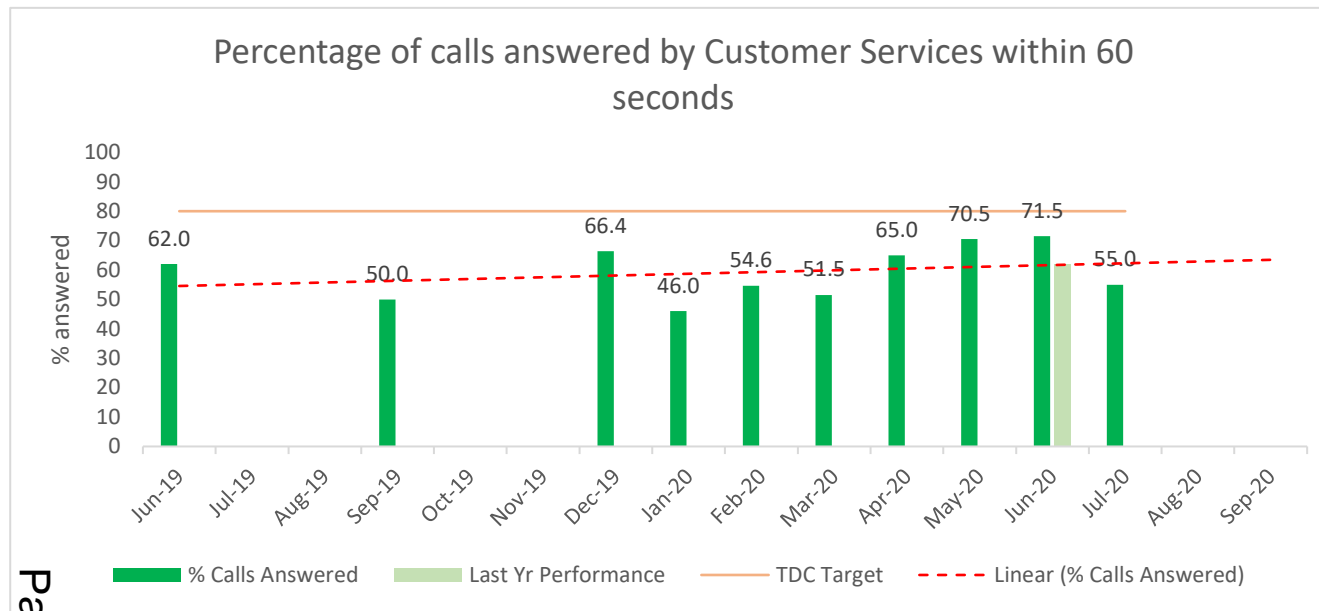


Performance Summary

- The overall figure has improved by approximately 2% since the beginning of Quarter 1 2020/21.
- There was only 1 voluntary leaver in July 2020, and none in the previous 3 months.
- When looking at turnover from a performance perspective the important figure to monitor is the voluntary leavers, as these can provide useful feedback on staff morale, engagement and motivation. Effective from end-April 2020, turnover figures are reported monthly and only voluntary figures reported in the performance graph.

## APPENDIX A – Strategy & Resources Performance Charts

### SR7 - The percentage of calls answered within 60 seconds by Customer Services

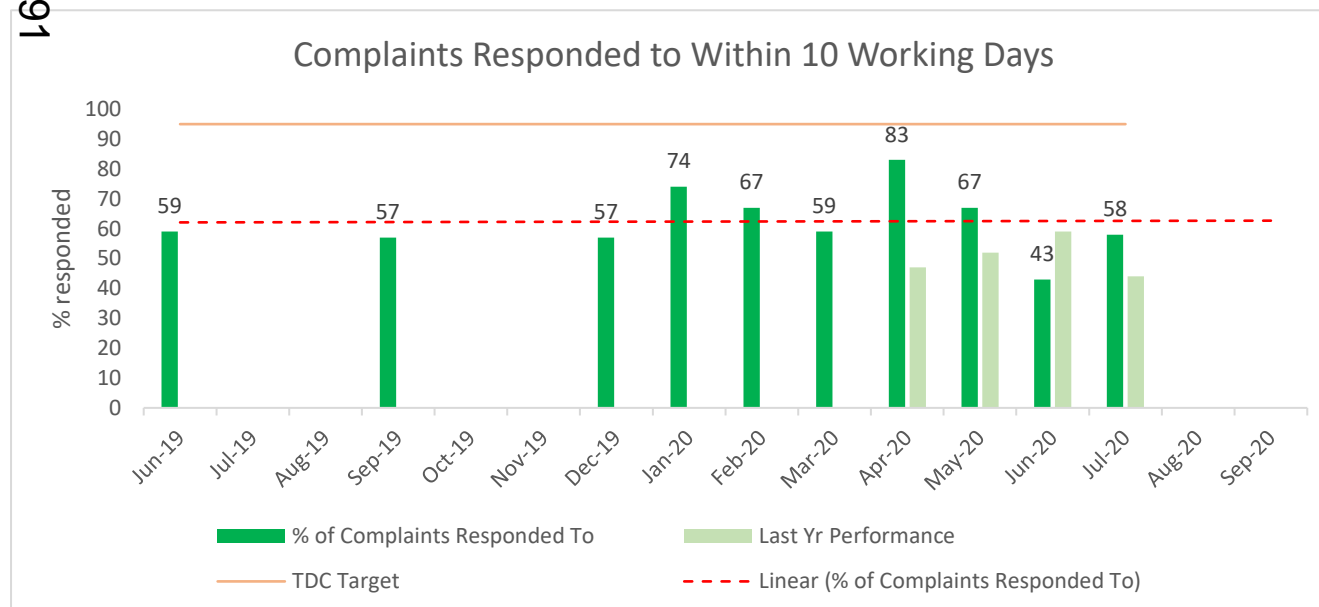


#### Performance Summary

- Although this KPI was off-target for July 2020, the average speed of answer was 1 minute 45 seconds, which we are pleased with considering there were 3 vacancies that could not be recruited during lockdown. Additionally, customer services have received increased call volumes due to Covid-19 and the requirement for residents to contact the Council by phone / digitally, rather than in person.
- Despite the challenges in Quarter 1 of this year, June 2020 performance was an improvement compared to the same period last year.

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### SR8 - Complaints Responded to Within 10 Working Days

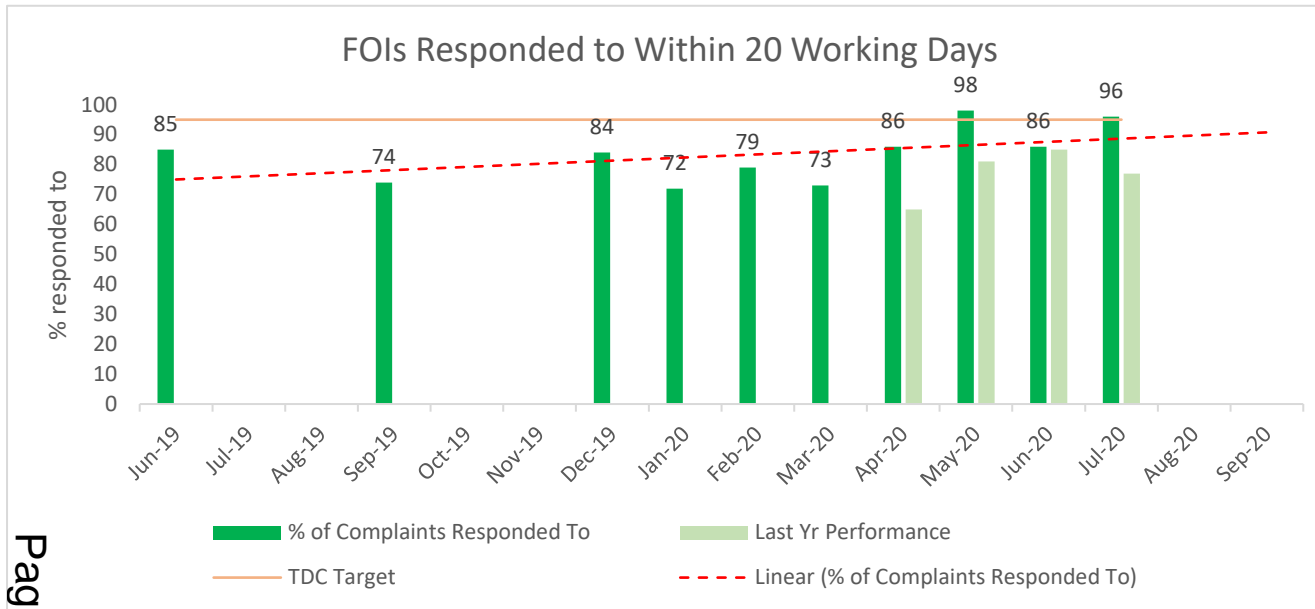


#### Performance Summary

- The number of complaints received remains low, however they are complex and detailed.
- Complaints will now be a standing item on the Senior Leadership Team's agenda.

**APPENDIX A – Strategy & Resources Performance Charts**

**SR9 - FOIs Responded to Within 20 Working Days**



Performance Summary

- Target was achieved for July 2020.

APPENDIX A - Corporate Risk Register

Ref:	Risk cause and event	Risk consequences	Risk Owner	Likelihood	Impact	RAG	Mitigating actions and responsibility
2	Lack of suitable low risk investment properties	<ul style="list-style-type: none"> <li>* Reduced cash flow.</li> <li>* Negative impact on budget.</li> <li>* Loss of reputation to the Council.</li> </ul>	Executive Head of Communities	5	5	25	<ul style="list-style-type: none"> <li>* Continue to keep close attention on market conditions.</li> <li>* Managing ongoing relationships with Investment Agents.</li> </ul>
56	No five year housing land supply, including gypsy and traveller land	<ul style="list-style-type: none"> <li>* Inability to meet government's standard methodology figure.</li> <li>* Potential to lose control of where development takes place with risk to amount of affordable housing and minimum infrastructure.</li> <li>* Travellers could be granted permission within the greenbelt.</li> </ul>	Head of Strategy	5	4	20	<ul style="list-style-type: none"> <li>* Council assess planning applications against the development plan.</li> <li>* Ongoing discussion with the Inspector via the Programme Officer.</li> </ul>
54	Inability of Council to make savings as identified in the MTFs and to balance the Council Budget in 2021/22 and 2022/23	<ul style="list-style-type: none"> <li>* Failure to make the savings required will result in the Council exhausting reserves to balance the budget. This could ultimately lead to an untenable budget position and the issuing of a Section 114 notice by the Chief Financial Officer.</li> <li>* All non-essential expenditure would need to cease.</li> <li>* Discretionary services would need to stop and remaining services would be provided at a minimum level.</li> <li>* There would be wide national media attention.</li> </ul>	Section 151 Officer	4	5	20	<ul style="list-style-type: none"> <li>* Reserves can be used to buy more time to achieve savings but the lower reserves become the greater the risk of financial failure and the less resilience the council has.</li> <li>* Recruitment and overtime freeze can be put in place but will place pressure on already stretched teams.</li> <li>* Arbitrary cuts to budgets can be enforced but this is a blunt instrument and better done in a targeted way.</li> </ul>
8	Lack of ability of commercial tenants to pay rent	<ul style="list-style-type: none"> <li>* Reduced cash flow.</li> <li>* Negative impact on budgets.</li> <li>* Reputational risk to the Council.</li> </ul>	Executive Head of Communities	4	4	16	<ul style="list-style-type: none"> <li>* Continue to keep close contact with tenants and understand their cashflow issues.</li> <li>* Consider offering short-term rent free periods and deferred payment schemes for previously strong tenants.</li> <li>* Consider the cost benefit of empty rate/refurbishment costs alongside rent considerations if tenants were to vacate.</li> </ul>
63	No ICT disaster recovery solution in place	<ul style="list-style-type: none"> <li>* Inability to recover IT services if a potential disaster occurred.</li> <li>* IT services not recovered promptly.</li> <li>* Recovery of IT systems not effective.</li> </ul>	Business Improvement and Service Delivery Manager	2	5	10	<ul style="list-style-type: none"> <li>* Fireproof cabinets in the server room.</li> <li>* Air conditioning unit in the server room.</li> <li>* Fire alarms in building tested weekly.</li> <li>* Some functions backed up in cloud currently.</li> </ul>
55	Local plan is found unsound by the Inspector	<ul style="list-style-type: none"> <li>* Inability to meet statutory requirement.</li> <li>* Withdraw current Plan and prepare a new one.</li> <li>* Reputational implications.</li> <li>* More challenge to provide affordable housing and infrastructure in the District.</li> </ul>	Head of Strategy	2	4	8	<ul style="list-style-type: none"> <li>* Ongoing discussion with the Inspector via the Programme Officer.</li> <li>* Committee updates.</li> </ul>

**APPENDIX A - Risk Matrix**

<b>Likelihood</b>	<b>Almost Certain</b>	5	5	10	15	20	25
	<b>Likely</b>	4	4	8	12	16	20
	<b>Probable</b>	3	3	6	9	12	15
	<b>Possible</b>	2	2	4	6	8	10
	<b>Remote</b>	1	1	2	3	4	5
			<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
			<b>Negligible</b>	<b>Minor</b>	<b>Moderate</b>	<b>Significant</b>	<b>Severe</b>
<b>Impact</b>							

Likelihood criteria

Risk Level		Controls
1	Remote	Sufficient controls in place
2	Possible	Conditions exist for occurrence
3	Probable	Controls not fully effective
4	Likely	No effective measures
5	Almost Certain	No effective measures at all

Impact criteria

Risk Level		Impact
1	Negligible	No or negligible impact or disruption to finances, reputation & strategic priorities
2	Minor	Minor impact or disruption to finances, reputation & strategic priorities
3	Moderate	Moderate impact or disruption to finances, reputation & strategic priorities
4	Significant	Major & medium term impact or disruption to finances, reputation & strategic priorities
5	Severe	Severe & medium to long term impact or disruption to finances, reputation & strategic priorities

<b>Strategy &amp; Resources Committee Tuesday, 22 September 2020</b>	
<b>Climate Change Update Report</b>	
Report of:	William Mace - Performance Specialist wmace@tandridge.gov.uk
ELT Lead	Jackie King - Executive Head of Corporate Resources jking@tandridge.gov.uk
Publication status:	Unrestricted.
Recommendations:	That the Committee note the progress made against the Council's declaration of a climate change emergency in February 2020.
Appendices:	None.
Background papers defined by the Local Government (Access to Information) Act 1985	None.

1. Executive Summary

- 1.1 On the 13<sup>th</sup> February 2020 the Council resolved to declare a climate emergency. This recognised the consequences of global temperatures rising above 1.5 degrees Celsius and the duty of all governments to prevent this from happening and limit the negative impacts of an increasingly erratic climate.
- 1.2 The initial target set out in the motion was for this committee to formally agree a climate change action plan as soon as practicable. Due to staff being redeployed as part of the Council's Covid-19 response, this work has been delayed. As a consequence, this report will provide an update on the Council's climate change workstream but does not include a draft climate change action plan. The draft action plan will be brought to this committee once consultation has been held with Officers and Councillors on the proposed actions.

2. Background

- 2.1 The Council has undertaken activities that serve to reduce its carbon footprint for many years (for instance, its head office had solar panels installed on its roof over a decade ago). However, its formal recognition of climate change began with a presentation and discussion on climate change in January 2020 (see minutes of Strategy & Resources Committee Thursday, 23<sup>rd</sup> January, 2020 7.30 pm). This was followed by a motion proposed by Councillor Botten, at the Council Meeting on 13<sup>th</sup> February 2020, for the

Council to declare a climate emergency and establish its own climate change action plan.

2.2 At the Full Council meeting in February, the climate change motion was agreed by Councillors, thus providing a formal mandate for Officers to progress with a dedicated climate change workstream.

2.3 Included in the climate change motion was the proposal that the Council will establish its own climate change action plan, with targets to cut its environmental impact and become carbon neutral by 2030. In addition, the motion specified that the Council will engage with other councils in the South East, and its residents, businesses, and young people in the District to mitigate and adapt to climate change.

### 3. Update on climate change activities

3.1 In order to maintain momentum with the climate change workstream during the Covid-19 epidemic, and also to progress the climate change action plan, several activities have been undertaken since the declaration of the motion:

- Feasibility work related to the installation of electric vehicle (EV) charging points is in progress, and schemes discussed with other local authorities in Surrey, including different options for funding this work.
- The Council held a climate change event with a local primary school to begin its engagement with younger people in the District. The event yielded several ideas from the pupils of the school, which will be considered in the Council's action plan.
- The Council's climate change officer continues to regularly attend climate change partnership meetings with officers from other local authorities in Surrey, and with other partners and stakeholders such as Surrey Hills and High Weald AONBs, Surrey Climate Commission and Surrey Air Alliance.
- A report to establish the organisational emissions of the Council is also being drafted, and work is underway to ascertain the data the Council has available to inform this work, such as the energy efficiency/energy consumption of its key property assets. In addition, the report will also include district-level emissions data from the Department for Business, Energy and Industrial Strategy, to provide further insight into key emissions sources.
- The Council renewed its support of Action Surrey, who assist residents with improving the energy efficiency of their homes.
- Scoping work has been undertaken with regard to bringing new Council property developments to an operationally net zero standard.
- The Council has successfully capitalised on its previous ICT investments to enable a significantly larger amount of its staff to work from home.
- The Council met with the Surrey County Council Cabinet Member for Environment & Climate Change.
- The Council has conducted a staff commuting survey, which has provided primary data that can inform future policy development in this area.



#### 4. Action Plan update

- 4.1 A climate change action plan for the Council is being drafted and will soon enter its consultation phase with Officers and Councillors. Unfortunately, progress has been delayed due to staff redeployment related to the Council's response to Covid-19.
- 4.2 Officers will invite Councillors to register their interest with Democratic Services, to attend a climate change workshop to discuss and review the draft action plan in October 2020.
- 4.3 After the workshop, Councillors feedback related to the proposed actions in the plan and their strategic priorities will be incorporated into a revised version. The revised plan will then be brought to the next scheduled Strategy & Resources Committee for Councillors to formally consider for approval.
- 4.4 Once the action plan has been approved, it will serve as a roadmap for the Council to progress towards achieving its climate change objectives.

#### 5. Climate Change implications

- 5.1 The Council's climate change action plan will clearly have implications related to its commitments in this area. Further details will be available once the plan has been approved by Councillors.

#### 6. Equality implications

- 6.1 There are no proposals in this update report. Furthermore, specific equality implications will be investigated in relation to each target in the forthcoming climate change action plan. Yet it is expected that a healthy climate and reduced carbon emissions across the district will benefit all residents.

#### 7. Any other corporate implications where applicable

- 7.1 The climate change workstream will impact all areas of the Council's operations. There will likely be resourcing implications (staff and capital) related to the delivery of the climate change action plan. However, it is appropriate to consider these during the scoping and prioritisation work related to the proposed actions in the climate change action plan.

#### 8. Comments of the Chief Finance Officer

- 8.1 There are no specific finance implications arising from this report, no additional costs have been identified and there is no expected impact on the Council's financial position.
- 8.2 With the Council's financial constraints, any financial spend identified from the Action Plan must be contained within the current set budgets.
- 8.3 All opportunities of external funding and support must be considered and used to aid

and help the Council achieve the goals of meeting the climate change emergency. If any of the schemes are outside the set budget, then income and or grants from outside parties must be found so the set budget is not overspent.

9. Comments of the Head of Legal Services

9.1 There are no legal implications arising from this report, but the Head of Legal and her staff will provide advice to Officers on any legal and governance issues arising during development of the action plan.

9.2 The report proposes a comprehensive action plan for consultation. This satisfies the requirements set out in case law, namely that:

- The consultation must be at a time when proposals are still at a formative stage;
- The Council must give sufficient reasons for any proposal to enable intelligent consideration and response;
- Adequate time must be given for consideration and response; and
- The product of consultation must be conscientiously taken into account in finalising the proposal.

9.3 Further consultation may be required on specific measures which result from the formalised action plan, in accordance with the Council's established practice and legal obligations.

10. Conclusion

10.1 This report recommends that the Committee note the progress and updates related to the Council's climate change workstream. Councillors can contact Democratic Services to register their interest in the October climate change workshop, where the draft action plan will be discussed. It is expected that Climate Change will next feature in the Strategy & Resources committee in November 2020, where the draft action plan will be offered for committee approval.

----- end of report -----

<b>STRATEGY &amp; RESOURCES COMMITTEE - 22<sup>ND</sup> SEPTEMBER 2020</b>	
<b>Contribution towards funding for local government reorganisation</b>	
Report of:	Paul Smith – Transformation Lead <a href="mailto:psmith@tandridge.gov.uk">psmith@tandridge.gov.uk</a>
Executive Team Lead Head:	Paul Smith – Transformation Lead
Publication status:	Unrestricted
Recommendations:	That the Committee approves a further a contribution of £20,000 for consultancy and PR support work on a joint District and Borough Council outline proposal for the development of alternatives to a single unitary structure for Local Government in Surrey.
Appendices:	None
Background papers defined by the Local Government (Access to Information) Act 1985	None

1. Background

- 1.1 Members will be aware that at the meeting of this Committee on 17<sup>th</sup> August 2020, it was agreed that the sum of £10,000 be made towards engaging with consultants to carry out work on behalf of the 11 District and Borough Councils to prepare a case for a model for unitary Local Government in Surrey.
- 1.2 Further work has now been undertaken by the District and Borough Councils on both the scope of the work required and the likely costs. As a result of this, each District or Borough Council has been asked to contribute a further £20k to fund the consultancy work and also to engage a PR company to ensure that the Districts and Borough's case is effectively communicated and articulated to key stakeholders including of course, residents.

2. Financial / risk implications

- 2.1 Being involved in this joint working with all the District and Borough Council proposal on alternative options to a single unitary council for Surrey is of importance however, there is currently no budget to accommodate the £20,000 contribution and will result in a further overspend. The total overspend would be £30,000

3. Legal implications

- 3.1 The outline proposals and recommendations under consideration in this report are a matter for this committee.

4. Equality impacts

- 4.1 A key part of the commissioned work will involve carrying out equality impact assessments of the different models of Local Government in Surrey.

5. Conclusion

- 5.1 This report requests approval for a further contribution of £20,000 towards the work set out in this report

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