



Kim Webber B.Sc. M.Sc.  
Chief Executive  
52 Derby Street  
Ormskirk  
West Lancashire  
L39 2DF

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Monday, 31 October 2016

**TO: COUNCILLORS I MORAN, Y GAGEN, T ALDRIDGE, J HODSON, J PATTERSON,  
K WILKIE, K WRIGHT AND C WYNN**

Dear Councillor,

A meeting of the **CABINET** will be held in the **CABINET/COMMITTEE ROOM - 52 DERBY STREET, ORMSKIRK L39 2DF** on **TUESDAY, 8 NOVEMBER 2016** at **7.00 PM** at which your attendance is requested.

Yours faithfully

A handwritten signature in black ink, appearing to be 'Kim Webber', written over a horizontal line.

Kim Webber  
Chief Executive

**AGENDA**  
**(Open to the Public)**

- 1. APOLOGIES**
- 2. SPECIAL URGENCY (RULE 16 ACCESS TO INFORMATION PROCEDURE RULES)/URGENT BUSINESS**

If, by virtue of the date by which a decision must be taken, it has not been possible to follow Rule 15 (i.e. a matter which is likely to be the subject of a key decision has not been included on the Forward Plan) then the decision may still be taken if:

- a) The Borough Solicitor, on behalf of the Leader, obtains the agreement

- of the Chairman of the Executive Overview and Scrutiny Committee that the making of the decision cannot be reasonably deferred,
- b) The Borough Solicitor, on behalf of the Leader, makes available on the Council's website and at the offices of the Council, a notice setting out the reasons that the decision is urgent and cannot reasonably be deferred.

**3. DECLARATIONS OF INTEREST** 843 -  
844

If a member requires advice on Declarations of Interest, he/she is advised to contact the Borough Solicitor in advance of the meeting. (For the assistance of members a checklist for use in considering their position on any particular item is included at the end of this agenda sheet.)

**4. PUBLIC SPEAKING** 845 -  
848

Residents of West Lancashire, on giving notice, may address the meeting to make representations on any item on the agenda except where the public and press are to be excluded during consideration of the item. The deadline for submissions is 5.00pm on Thursday 3 November 2016.

**5. MINUTES** 849 -  
860

To receive as a correct record the minutes of the last meeting of Cabinet held on 13 September 2016

**6. MATTERS REQUIRING DECISIONS**

6a RIPA Act - Annual Setting of the Policy and Review of use of Powers (Relevant Portfolio Holder: Councillor I Moran) 861 -  
890

6b Revised Capital Programme and Mid Year Review 2016/17 (Relevant Portfolio Holders: Councillors J Patterson and C Wynn) 891 -  
910

6c Use of Section 106 Monies in Skelmersdale (Relevant Portfolio Holders: Councillors Y Gagen & J Hodson) 911 -  
918

6d Review of Tenant Engagement Arrangements (Relevant Portfolio Holder: Councillor J Patterson)  
Report to follow

**7. EXCLUSION OF PRESS AND PUBLIC**

It is recommended that members of the press and public be excluded from the meeting during consideration of the following item of business in accordance with Section 100A(4) of the Local Government Act 1972 on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 3 (financial/business affairs) of Part 1 of Schedule 12A to the Act and as, in all the circumstances of the case the public interest in maintaining the exemption under Schedule 12A outweighs the public interest in disclosing the information.

(Note: No representations have been received about why the meeting should be open to the public during consideration of the following item of business).

**Part 2**  
**(Not open to the public)**

7a	Moor Street Gateway Project (Relevant Portfolio Holder: Councillor I Moran)	919 - 962
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**We can provide this document, upon request, on audiotape, in large print, in Braille and in other languages.**

**FIRE EVACUATION PROCEDURE: Please see attached sheet.**

**MOBILE PHONES: These should be switched off or to 'silent' at all meetings.**

For further information, please contact:-

Sue Griffiths on 01695 585097

Or email [susan.griffiths@westlancs.gov.uk](mailto:susan.griffiths@westlancs.gov.uk)

**FIRE EVACUATION PROCEDURE FOR:  
COUNCIL MEETINGS WHERE OFFICERS ARE PRESENT  
(52 DERBY STREET, ORMSKIRK)**

**PERSON IN CHARGE:** Most Senior Officer Present  
**ZONE WARDEN:** Member Services Officer / Lawyer  
**DOOR WARDEN(S)** Usher / Caretaker

**IF YOU DISCOVER A FIRE**

1. Operate the nearest **FIRE CALL POINT** by breaking the glass.
2. Attack the fire with the extinguishers provided only if you have been trained and it is safe to do so. **Do not** take risks.

**ON HEARING THE FIRE ALARM**

1. Leave the building via the **NEAREST SAFE EXIT**. **Do not stop** to collect personal belongings.
2. Proceed to the **ASSEMBLY POINT** on the car park and report your presence to the **PERSON IN CHARGE**.
3. **Do NOT** return to the premises until authorised to do so by the **PERSON IN CHARGE**.

**NOTES:**

Officers are required to direct all visitors regarding these procedures i.e. exit routes and place of assembly.

The only persons not required to report to the Assembly Point are the Door Wardens.

**CHECKLIST FOR PERSON IN CHARGE**

1. Advise other interested parties present that you are the person in charge in the event of an evacuation.
2. Make yourself familiar with the location of the fire escape routes and inform any interested parties of the escape routes.
3. Make yourself familiar with the location of the assembly point and inform any interested parties of that location.
4. Make yourself familiar with the location of the fire alarm and detection control panel.
5. Ensure that the zone warden and door wardens are aware of their roles and responsibilities.
6. Arrange for a register of attendance to be completed (if considered appropriate / practicable).

**IN THE EVENT OF A FIRE, OR THE FIRE ALARM BEING SOUNDED**

1. Ensure that the room in which the meeting is being held is cleared of all persons.
2. Evacuate via the nearest safe Fire Exit and proceed to the **ASSEMBLY POINT** in the car park.
3. Delegate a person at the **ASSEMBLY POINT** who will proceed to **HOME CARE LINK** in order to ensure that a back-up call is made to the **FIRE BRIGADE**.
4. Delegate another person to ensure that **DOOR WARDENS** have been posted outside the relevant Fire Exit Doors.

5. Ensure that the **ZONE WARDEN** has reported to you on the results of his checks, **i.e.** that the rooms in use have been cleared of all persons.
6. If an Attendance Register has been taken, take a **ROLL CALL**.
7. Report the results of these checks to the Fire and Rescue Service on arrival and inform them of the location of the **FIRE ALARM CONTROL PANEL**.
8. Authorise return to the building only when it is cleared to do so by the **FIRE AND RESCUE SERVICE OFFICER IN CHARGE**. Inform the **DOOR WARDENS** to allow re-entry to the building.

**NOTE:**

The Fire Alarm system will automatically call the Fire Brigade. The purpose of the 999 back-up call is to meet a requirement of the Fire Precautions Act to supplement the automatic call.

**CHECKLIST FOR ZONE WARDEN**

1. Carry out a physical check of the rooms being used for the meeting, including adjacent toilets, kitchen.
2. Ensure that **ALL PERSONS**, both officers and members of the public are made aware of the **FIRE ALERT**.
3. Ensure that **ALL PERSONS** evacuate **IMMEDIATELY**, in accordance with the **FIRE EVACUATION PROCEDURE**.
4. Proceed to the **ASSEMBLY POINT** and report to the **PERSON IN CHARGE** that the rooms within your control have been cleared.
5. Assist the **PERSON IN CHARGE** to discharge their duties.

It is desirable that the **ZONE WARDEN** should be an **OFFICER** who is normally based in this building and is familiar with the layout of the rooms to be checked.

**INSTRUCTIONS FOR DOOR WARDENS**

1. Stand outside the **FIRE EXIT DOOR(S)**
2. Keep the **FIRE EXIT DOOR SHUT**.
3. Ensure that **NO PERSON**, whether staff or public enters the building until **YOU** are told by the **PERSON IN CHARGE** that it is safe to do so.
4. If anyone attempts to enter the premises, report this to the **PERSON IN CHARGE**.
5. Do not leave the door **UNATTENDED**.



# Agenda Item 3

## MEMBERS INTERESTS 2012

A Member with a disclosable pecuniary interest in any matter considered at a meeting must disclose the interest to the meeting at which they are present, except where it has been entered on the Register.

A Member with a non pecuniary or pecuniary interest in any business of the Council must disclose the existence and nature of that interest at commencement of consideration or when the interest becomes apparent.

Where sensitive information relating to an interest is not registered in the register, you must indicate that you have an interest, but need not disclose the sensitive information.

Please tick relevant boxes

Notes

	General		Notes
1.	I have a disclosable pecuniary interest.	<input type="checkbox"/>	<i>You cannot speak or vote and must withdraw unless you have also ticked 5 below</i>
2.	I have a non-pecuniary interest.	<input type="checkbox"/>	<i>You may speak and vote</i>
3.	I have a pecuniary interest <b>because</b> it affects my financial position or the financial position of a connected person or, a body described in 10.1(1)(i) and (ii) <b>and</b> the interest is one which a member of the public with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice my judgement of the public interest or it relates to the determining of any approval consent, licence, permission or registration in relation to me or a connected person or, a body described in 10.1(1)(i) and (ii) <b>and</b> the interest is one which a member of the public with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice my judgement of the public interest	<input type="checkbox"/>        <input type="checkbox"/>	<i>You cannot speak or vote and must withdraw unless you have also ticked 5 or 6 below</i>        <i>You cannot speak or vote and must withdraw unless you have also ticked 5 or 6 below</i>
4.	I have a disclosable pecuniary interest (Dispensation 20/9/16) or a pecuniary interest but it relates to the functions of my Council in respect of:		
(i)	Housing where I am a tenant of the Council, and those functions do not relate particularly to my tenancy or lease.	<input type="checkbox"/>	<i>You may speak and vote</i>
(ii)	school meals, or school transport and travelling expenses where I am a parent or guardian of a child in full time education, or are a parent governor of a school, and it does not relate particularly to the school which the child attends.	<input type="checkbox"/>	<i>You may speak and vote</i>
(iii)	Statutory sick pay where I am in receipt or entitled to receipt of such pay.	<input type="checkbox"/>	<i>You may speak and vote</i>
(iv)	An allowance, payment or indemnity given to Members	<input type="checkbox"/>	<i>You may speak and vote</i>
(v)	Any ceremonial honour given to Members	<input type="checkbox"/>	<i>You may speak and vote</i>
(vi)	Setting Council tax or a precept under the LGFA 1992	<input type="checkbox"/>	<i>You may speak and vote</i>
5.	A Standards Committee dispensation applies (relevant lines in the budget – Dispensation 20/9/16 – 19/9/20)	<input type="checkbox"/>	<i>See the terms of the dispensation</i>
6.	I have a pecuniary interest in the business but I can attend to make representations, answer questions or give evidence as the public are also allowed to attend the meeting for the same purpose	<input type="checkbox"/>	<i>You may speak but must leave the room once you have finished and cannot vote</i>

**'disclosable pecuniary interest'** (DPI) means an interest of a description specified below which is your interest, your spouse's or civil partner's or the interest of somebody who you are living with as a husband or wife, or as if you were civil partners and you are aware that that other person has the interest.

### Interest

Employment, office, trade, profession or vocation

Sponsorship

### Prescribed description

Any employment, office, trade, profession or vocation carried on for profit or gain.

Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.

	This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either— (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

*"body in which the relevant person has a beneficial interest" means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest; "director" includes a member of the committee of management of an industrial and provident society;*

*"land" excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income; "M" means a member of a relevant authority;*

*"member" includes a co-opted member; "relevant authority" means the authority of which M is a member;*

*"relevant period" means the period of 12 months ending with the day on which M gives notice to the Monitoring Officer of a DPI;*

*"relevant person" means M or M's spouse or civil partner, a person with whom M is living as husband or wife or a person with whom M is living as if they were civil partners;*

*"securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.*

**'non pecuniary interest'** means interests falling within the following descriptions:

- 10.1(1)(i) Any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
- (ii) Any body (a) exercising functions of a public nature; (b) directed to charitable purposes; or (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
- (iii) Any easement, servitude, interest or right in or over land which does not carry with it a right for you (alone or jointly with another) to occupy the land or to receive income.
- 10.2(2) A decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a connected person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward, as the case may be, affected by the decision.

**'a connected person'** means

- (a) a member of your family or any person with whom you have a close association, or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in sub-paragraph 10.1(1)(i) or (ii).

**'body exercising functions of a public nature'** means

Regional and local development agencies, other government agencies, other Councils, public health bodies, council-owned companies exercising public functions, arms length management organisations carrying out housing functions on behalf of your authority, school governing bodies.

A Member with a personal interest who has made an executive decision in relation to that matter must ensure any written statement of that decision records the existence and nature of that interest.

**NB** Section 21(13) of the LGA 2000 overrides any Code provisions to oblige an executive member to attend an overview and scrutiny meeting to answer questions.



## **PUBLIC SPEAKING – PROTOCOL**

**(For meetings of Cabinet, Overview & Scrutiny Committees, Audit & Governance Committee and Standards Committee)**

### **1.0 Public Speaking**

- 1.1 Residents of West Lancashire may, on giving notice, address any of the above meetings to make representations on any item on the agenda for those meetings, except where the public and press are to be excluded from the meeting during consideration of the item.
- 1.2 The form attached as an Appendix to this Protocol should be used for submitting requests.

### **2.0 Deadline for submission**

- 2.1 The prescribed form should be received by Member Services by 5.00 pm on the Thursday of the week preceding the meeting. This can be submitted by e-mail to [member.services@westlancs.gov.uk](mailto:member.services@westlancs.gov.uk) or by sending to:

Member Services  
West Lancashire Borough Council  
52 Derby Street  
Ormskirk  
West Lancashire  
L39 2DF

- 2.2 Completed forms will be collated by Member Services and circulated via e-mail to relevant Members and officers and published on the Council website via the Council's Information System (CoInS). Only the name of the resident and details of the issue to be raised will be published.
- 2.3 Groups of persons with similar views should elect a spokesperson to speak on their behalf to avoid undue repetition of similar points. Spokespersons should identify in writing on whose behalf they are speaking.

### **3.0 Scope**

- 3.1 Any matters raised must be relevant to an item on the agenda for the meeting.
- 3.2 The Borough Solicitor may reject a submission if it:
- (i) is defamatory, frivolous or offensive;
  - (ii) is substantially the same as representations which have already been submitted at a previous meeting; or
  - (iii) discloses or requires the disclosure of confidential or exempt information.

#### **4.0 Number of items**

- 4.1 A maximum of one form per resident will be accepted for each Agenda Item.
- 4.2 There will be a maximum of 10 speakers per meeting. Where there are more than 10 forms submitted by residents, the Borough Solicitor will prioritise the list of those allowed to speak. This will be dependent on:
  - a. The order in which forms were received.
  - b. If one resident has asked to speak on a number of items, priority will be given to other residents who also wish to speak
  - c. If a request has been submitted in relation to the same issue.
- 4.3 All submissions will be circulated to relevant Members and officers for information, although no amendments will be made to the list of speakers once it has been agreed (regardless of withdrawal of a request to speak).

#### **5.0 At the Meeting**

- 5.1 Speakers will be shown to their seats. An item 'Public Speaking' will be included on the agenda to enable local residents to make their representations within a period of up to 30 minutes at the start of the meeting. Residents will have up to 3 minutes to address the meeting when introduced by the Chairman for that meeting. The address must reflect the issue included on the prescribed form submitted in advance.
- 5.2 Members may discuss what the speaker has said along with all other information, when the item is being considered later on the agenda and will make a decision then. Speakers should not circulate any supporting documentation at the meeting and should not enter into a debate with Councillors.
- 5.4 If residents feel nervous or uncomfortable speaking in public, then they can ask someone else to do it for them. They can also bring an interpreter if they need one. They should be aware there may be others speaking as well.
- 5.5 Speakers may leave the meeting at any time, taking care not to disturb the meeting.



## REQUEST FOR PUBLIC SPEAKING AT MEETINGS

**MEETING & DATE** .....

**NAME** .....

**ADDRESS** .....

.....

Post Code .....

**PHONE** .....

**Email** .....

Please indicate if you will be in attendance at the meeting

**YES/NO\***  
\*delete as applicable

Note: This page will not be published.

(P.T.O.)

PLEASE PROVIDE DETAILS OF THE MATTER YOU WISH TO RAISE

Agenda Item      Number .....

Title .....

Details .....

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Name .....                                  Dated .....

*Completed forms to be submitted by 5.00pm on the Thursday of the week preceding the meeting to:-*

*Member Services, West Lancashire Borough Council, 52 Derby Street,  
Ormskirk, Lancashire, L39 2DF or  
Email: [member.services@westlancs.gov.uk](mailto:member.services@westlancs.gov.uk)*

*If you require any assistance regarding your attendance at a meeting or if you have any queries regarding your submission please contact Member Services on 01695 585065 or 01695 585097*

Note: This page will be published.

# Agenda Item 5

**CABINET**

**HELD: Tuesday, 13 September 2016**

Start: 7.00 pm

Finish: 7.25 pm

**PRESENT:**

Councillor: Councillor I Moran  
(Leader of the Council, in the  
Chair)

Portfolio

Councillors:	Councillor Y Gagen	Deputy Leader of the Council and Portfolio Holder for Leisure & Human Resources
	Councillor T Aldridge	Portfolio Holder for Older People
	Councillor J Hodson	Portfolio Holder for Planning
	Councillor J Patterson	Portfolio Holder for Housing and Landlord Services
	Councillor K Wilkie	Portfolio Holder for Street Scene
	Councillor K Wright	Portfolio Holder for Health and Community Safety
	Councillor C Wynn	Portfolio Holder for Finance

In attendance: Furey, Owens, Pendleton and D Westley  
Councillors

Officers:

- Chief Executive (Ms K Webber)
- Director of Housing and Inclusion (Mr B Livermore)
- Director of Leisure and Wellbeing (Mr D Tilleray)
- Director of Development and Regeneration (Mr J Harrison)
- Borough Solicitor (Mr T Broderick)
- Borough Treasurer (Mr M Taylor)
- Borough Transformation Manager and Deputy Director of Housing and Inclusion (Mr S Walsh)
- Strategic Planning & Implementation Manager (Mr P Richards)
- Principal Member Services Officer (Mrs S Griffiths)

23 **APOLOGIES**

There were no apologies for absence.

24 **SPECIAL URGENCY (RULE 16 ACCESS TO INFORMATION PROCEDURE RULES)/URGENT BUSINESS**

The Leader advised that, in accordance with Rule 16 and 20 Access to Information Procedure Rules, he had obtained the agreement of the Chairman of the Executive Overview & Scrutiny Committee to consider a joint report from the Director of Development and Regeneration and Borough Solicitor in relation to the a Planning Appeal Decision Regarding Land to the East of Prescott Road, Aughton, as this item could not reasonably be deferred as the matter concerns a potential legal challenge, under Section 288 of the Town and Planning Act 1990, to a decision of the Secretary of State's Planning Inspectorate, with strict time limits, expiring on 29 September 2016, which will not be capable of being met if a decision is delayed.

The Leader also advised that, in accordance with Rule 20 Access to Information Procedure Rule, he had obtained the agreement of the Chairman of the Executive Overview and Scrutiny Committee to consider the report in Part 2 of the agenda, which is not open to the public, on the grounds that it involves the likely disclosure of exempt information, as defined in paragraphs 3 (business/financial affairs) and 5 (legal matters) of Schedule 12A to the Local Government Act 1972.

This item was considered at the end of the meeting (Minute 43 refers).

## 25 **DECLARATIONS OF INTEREST**

1. Councillors Aldridge declared a non-pecuniary interest in agenda item 6a (Garage Strategy) as he is a tenant of Council accommodation and a garage. Insofar as that interest becomes a disclosable pecuniary/pecuniary interest he declared that interest but considered that his was entitled to speak and vote by virtue of an exemption as nothing in this report relates particularly to the relevant tenancy or lease.
2. Councillor Aldridge declared a non-pecuniary interest in agenda item 6h (A Market Town Strategy for Ormskirk – Final Report of the Corporate & Environmental Overview and Scrutiny Committee) as a Member of Lancashire County Council, as did Councillor Gagen as an employee of Lancashire County Council.

## 26 **PUBLIC SPEAKING**

There were no items under this heading.

## 27 **MINUTES**

RESOLVED That the minutes of the Cabinet meeting held on 14 June 2016 be received as a correct record and signed by the Leader.

## 28 **MATTERS REQUIRING DECISIONS**

Consideration was given to the report relating to the following matters requiring decisions as contained on pages 463 – 786 and pages 801 - 806 of the Book of Reports.

**29 GARAGE STRATEGY 2016-20**

Councillor Patterson introduced the report of the Director of Housing and Inclusion which sought approval of the Garage Strategy 2016-20.

Minute no. 18 of the Landlord Services Committee (Cabinet Working Group) held on 8 September 2016 was circulated at the meeting.

In reaching the decision below, Cabinet considered the minute of the Landlord Services Committee (Cabinet Working Group) and the details set out in the report before it and accepted the reasons contained therein.

**RESOLVED** That the Garage Strategy 2016-2020 attached at Appendix A to the report, be approved.

**30 LOCAL PLAN REVIEW - THE LOCAL DEVELOPMENT SCHEME AND REGULATION 18 "SCOPING" CONSULTATION**

Councillor Hodson introduced the report of the Director of Development and Regeneration which advised of the commencement of work towards the Local Plan Review and sought authority to undertake an initial "scoping" consultation exercise with key stakeholders.

In reaching the decision below, Cabinet considered the details as set out in the report before it and accepted the reasons contained therein.

**RESOLVED (A)** That the commencement of a Local Plan Review in order to update the current West Lancashire Local Plan be endorsed and that the Local Development Scheme provided at Appendix 1 be adopted with effect from 1 October 2016.

**(B)** That the initial Regulation 18 "scoping" consultation on the Local Plan Review with key stakeholders described at paragraph 4.7 of the report be authorised.

**31 LIVERPOOL CITY REGION STATEMENT OF CO-OPERATION**

Councillor Hodson introduced the report of the Director of Development and Regeneration which sought endorsement of the Liverpool City Region Statement of Co-operation.

In reaching the decision below, Cabinet considered the details as set out in the report before it and accepted the reasons contained therein.

**RESOLVED** That the Liverpool City Region Statement of Co-operation provided at Appendix 1 be adopted.

32 **COMMUNITY INFRASTRUCTURE LEVY FUNDING PROGRAMME 2017/18**

Councillor Hodson introduced the report of the Director of Development and Regeneration which proposed options for consideration in respect of a Community Infrastructure Levy funding programme for 2017/18 based on the CIL monies anticipated to have been collected by the Council by 31 March 2017.

In reaching the decision below, Cabinet considered the details as set out in the report before it and accepted the reasons contained therein.

RESOLVED (A) That the updated Infrastructure Delivery Schedule provided at Appendix 2 to the report, be noted.

(B) That the public consultation on four possible options for spending CIL monies in 2017/18 as set out in paragraph 4.11 of the report be approved.

33 **USE OF SECTION 106 MONIES IN BURSCOUGH**

Councillor Gagen introduced the joint report of the Director of Leisure and Wellbeing and Director of Development and Regeneration which considered a proposal for the use of Section 106 monies received by the Council from housing developers, for the enhancement of public open space and recreation provision in Burscough.

Cabinet was advised that the grant of £8,000 had been secured from 'Tesco Bags of Help' (paragraph 7.2 of the report refers) and confirmed that £12,000 was requested from the S106 funds for this project.

In reaching the decision below, Cabinet considered the comments from the Deputy Leader and Portfolio Holder for Leisure and Human Resources and details as set out in the report before it and accepted the reasons contained therein.

RESOLVED That the proposed project to enhance the public open space on the former landfill site adjacent to Mill Dam Lane, known as Burscough Brickpits, be approved and £12,000 of the Section 106 sum of £17,672 generated in Burscough West, be used for this project.

34 **FORMING A DEVELOPMENT COMPANY - OPTIONS APPRAISAL SUPPORTING CONSTRUCTION DEVELOPMENT**

Councillor Patterson introduced the report of the Director of Housing and Inclusion which sought authority to further investigate the benefits of the formation of a development company in order to drive forward the ambitions of the Council.



Minute no. 17 of the Landlord Services Committee (Cabinet Working Group) held on 8 September 2016 was circulated at the meeting.

In reaching the decision below, Cabinet considered the minute of the Landlord Services Committee (Cabinet Working Group) and the details as set out in the report before it and accepted the reasons contained therein.

**RESOLVED (A)** That the Director of Housing and Inclusion investigate further the benefits of forming a Development Company or other appropriate vehicle for delivery of achievement of the Council's ambitions for development and facilitating development as set out in paragraph 5 of the report.

(B) That up to £50,000 be made available to carry out initial investigations as set out in paragraph 6 of the report.

35 **RISK MANAGEMENT**

Councillor Wynn introduced the report of the Borough Treasurer which set out details on the Key Risks facing the Council and how they are managed.

In reaching the decision below, Cabinet considered the details as set out in the report before it and accepted the reasons contained therein.

**RESOLVED** That the progress made in relation to the management of the risks shown in the Key Risks Register (Appendix A to the report) be noted and endorsed.

36 **A MARKET TOWN STRATEGY FOR ORMSKIRK - FINAL REPORT OF THE CORPORATE & ENVIRONMENTAL OVERVIEW AND SCRUTINY COMMITTEE**

The Leader introduced the report of the Director of Leisure and Wellbeing which considered the final report and recommendations of the review entitled "A Market Town Strategy for Ormskirk" undertaken by the Corporate and Environmental Overview and Scrutiny Committee.

In reaching the decision below, Cabinet considered the details as set out in the report before it and accepted the reasons contained therein.

**RESOLVED (A)** That the Corporate and Environmental Overview and Scrutiny Committee be complimented on their work.

(B) That the following recommendations contained in the final report of the Corporate and Environmental Overview and Scrutiny Committee on A Market Town Strategy for Ormskirk be endorsed.

- (1)** That Lancashire County Council (LCC), as the Highways Authority, give due consideration to the following:
- (i) the impact of heavy goods traffic in the refurbished area of Ormskirk Town Centre.
  - (ii) the on-going maintenance of the gullies and the monitoring of the effectiveness of the aggregate resin within them.
  - (iii) the refurbishment of Aughton Street to tie-in with the Moor Street improvements.
  - (iv) the impact of town centre congestion, including the bottle necks at Derby/Stanley Street/Wigan Road/Moor Street/Moorgate and Park Road.
  - (v) the on-going improvements to the rail bridge and cycle link from the Town Centre to Edge Hill University, as contained in the West Lancashire Highways and Transport Masterplan.
  - (vi) encourage effective enforcement of the Traffic Regulation Orders (TROs) operating in Ormskirk Town Centre, particularly on Market Days by exploring:
    - (a) the provision of more clearer signage to alert drivers to the restrictions of the TROs;
    - (b) breaches of on-street parking.
  - (vii) in relation to finding a permanent solution to traffic management safety in the pedestrian area of Ormskirk by exploring:
    - (a) the provision of Gates at access points (Aughton Street, Church Street and Burscough Street with a “lift assist” bollards to Moor Street/Moorgate.)
    - (b) Hydraulic “lift assist” bollards in Church Street, Aughton Street, Burscough Street and Moor Street/Moorgate.
    - (c) Automatic Rise and Fall Bollards in the areas referred to above.
    - (d) the narrowing of the access points
- (2)** That the Portfolio Holder for Transformation and Regeneration, in consultation with the Director of Development and Regeneration give due consideration to the findings within the report to add to the emerging Ormskirk Town Centre Strategy to include the following:
- (i) In relation to ‘Events Square that it:
    - (a) is a flexible and multi-functional space;
    - (b) is adaptable for day and evening events.
    - (c) provides an opportunity for wider community use
    - (d) is adaptable and able to embrace new and emerging technologies.
    - (e) is well-managed and there is provision for a semi or permanent cover of the ‘Square’.

- (ii) In relation to the Market Stalls that the:
  - (a) stall canopies be replaced with matching/branded ones.
  - (b) there is provision for a mixture of traditional and non-traditional stalls.
  - (c) there is adequate space around each stall
  
- (iii) In relation to Car Parking that
  - (a) on-going discussions with Merseyrail continue in respect of car parking arrangements at Ormskirk rail station.
  - (b) alternative ways of paying for parking be considered as part of any future assessment of these facilities including cashless machines; CCTV and advances in technology.
  - (c) the revised Ormskirk Car Park Map be included on the web-site.
  
- (iv) In relation to Technology and Marketing by exploring:
  - (a) the positioning of the Market and Town Centre locally and in the wider community.
  - (b) methods of promotion and advertising: Ormskirk's historical and special character; embracing traditional and emerging technologies.
  - (c) improvements to the Visitor Map of Ormskirk Town Centre with locations and insertion of the defibrillator icon inserted, as appropriate.
  - (d) digital signage as an alternative to A-boards outside shops.
  - (e) cultural tourism through its visitor attractions- Chapel Gallery; Vintage and Handcraft Fairs and exhibitions.
  - (f) promoting Ormskirk as a tourist destination, to include promotion with the bus and tour operators as a visitor destination.
  
- (v) In relation to Edge Hill University (EHU), continue the close association with EHU as a contributor to the economy.
  
- (3)** That the final report of the Corporate and Environmental Overview and Scrutiny Committee's review to be circulated to Love Ormskirk, Ormskirk Community Partnership, Marketing Lancashire, Edge Hill University, Edge Hill Students' Union and Business in the Community (BITC), scrutiny at Lancashire County Council and published on the Council and Centre for Public Scrutiny (CfPS) web-sites.
  
- (4)** That the Corporate and Environmental Overview and Scrutiny Committee review its recommendations in December 2016.

- (C) That the final report of the Corporate and Environmental Overview and Scrutiny Committee on A Market Town Strategy for Ormskirk, attached at Appendix A, be approved.
- (D) That the final report and recommendations (approved, subject to resources) be submitted to Council for approval on 19 October 2016.
- (E) That call-in is not appropriate for this item as it has previously been considered by the Corporate and Environmental Overview and Scrutiny Committee.

**37 QUARTERLY PERFORMANCE INDICATORS Q1 2016-17**

The Leader introduced the report of the Borough Transformation Manager and Deputy Director of Housing and Inclusion which presented performance monitoring data for the quarter ended 30 June 2016.

In reaching the decision below, Cabinet considered the details as set out in the report before it and accepted the reasons contained therein.

**RESOLVED (A)** That the Council's performance against the indicator set for the quarter ended 30 June 2016 be noted.

- (B) That the call-in procedure is not appropriate for this item as the report is being submitted to the Corporate & Environmental Overview and Scrutiny Committee on 13 October 2016.

**38 CAPITAL PROGRAMME OUTTURN 2015-16**

Councillor Wynn introduced the report of the Borough Treasurer which provided a summary of the capital outturn position for the 2015/2016 financial year.

In reaching the decision below, Cabinet considered the details as set out in the report before it and accepted the reasons contained therein.

**RESOLVED (A)** That the final position, including slippage, on the Capital Programme for the 2015/2016 financial year be noted and endorsed.

- (B) That call-in is not appropriate for this item as the report is being submitted to the next meeting of the Executive Overview and Scrutiny Committee on 29 September 2016.

**39 CAPITAL PROGRAMME MONITORING 2016-17**

Councillor Wynn introduced the report of the Borough Treasurer which provided an overview of the current progress on the Capital Programme.

In reaching the decision below, Cabinet considered the details as set out in the report before it and accepted the reasons contained therein.

- RESOLVED (A) That the current progress on the Capital Programme as at the end of July 2016 be noted.
- (B) That call-in is not appropriate for this item as the report is being submitted to the next meeting of the Executive Overview and Scrutiny Committee on 29 September 2016.

**40 EXCLUSION OF PRESS AND PUBLIC**

RESOLVED That under Section 100A(4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraphs 3 (financial/business affairs) & 5 (legal matters) of Part 1 of Schedule 12A of that Act and as, in all the circumstances of the case, the public interest in maintaining the exemption under Schedule 12A outweighs the public interest in disclosing the information.

**41 MATTERS REQUIRING DECISION**

Consideration was given to the report relating to the following matters requiring decisions as contained on pages 787 - 800 and 809 – 842 of the Book of Reports.

**42 HALL GREEN - OPTION APPRAISAL**

Councillor Patterson introduced the report of the Director of Housing and Inclusion which provided an update on the continued work in respect of the redevelopment of the Hall Green Sheltered accommodation site.

Minute no. 19 of the Landlord Services Committee (Cabinet Working Group) held on 8 September 2016 was circulated at the meeting.

In reaching the decision below, Cabinet considered the minute of the Landlord Services Committee (Cabinet Working Group) and the details set out in the report before it and accepted the reasons contained therein.

- RESOLVED (A) That the current position be noted.

- (B) That a Cabinet Working Group be established consisting of 6 Members in order to consider the range and cost of options for the site and recommend a preferred scheme.
- (C) That Hall Green tenants be updated on progress to date.
- (D) That no further lettings be made to Hall Green.

43

**PLANNING APPEAL DECISION REGARDING LAND TO THE EAST OF  
PRESCOT ROAD, AUGHTON**

Councillor Hodson introduced the joint report of the Director of Development and Regeneration and Borough Solicitor which provided an update on the current position in regard to the planning appeal decision in respect of development proposals on the above-mentioned site and advised on the merits and associated risks in relation to a potential legal challenge to the Planning Inspectorate's Decision.

Cabinet was advised that the final sentence of paragraph 5.6 of the report should be amended to read £75,000 rather than £100,000.

A motion was moved and seconded in the following terms:-

“(A) That subject to (B) below, the Borough Solicitor and the Director of Development and Regeneration, in consultation with the Portfolio Holders for Planning and Finance, be authorised to issue and conduct proceedings in the High Court under Section 288 of the Town and Country Planning Act 1990, to challenge the appeal decision issued by the Planning Inspectorate on 19 August 2016, relating to land to the east of Prescott Road, Aughton.

(B) That an extraordinary meeting of Council is called on Thursday 22 September 2016 to consider the matter of virement of Council budgets, as the Council's potential financial exposure in pursuing resolution (A) above is likely to exceed £50,000.

(C) That call-in is not appropriate for this item as this matter is one where urgent action is required because the deadline for submitting a legal challenge to the Planning Inspectorate's Decision falls on 29 September 2016.”

In reaching the decision below, Cabinet considered the comments from the Borough Solicitor, the motion from the Portfolio Holder for Planning and the details as set out in the report before it and accepted the reasons contained therein.

**RESOLVED** (A) That subject to (B) below, the Borough Solicitor and the Director of Development and Regeneration, in consultation with the Portfolio Holders for Planning and Finance be authorised to issue and conduct proceedings in the High Court, under Section 288 of the Town and Country Planning Act 1990, to challenge the appeal

decision issued by the Planning Inspectorate on 19 August 2016, relating to land to the east of Prescot Road, Aughton.

- (B) That an Extraordinary meeting of Council is called on Thursday 22 September 2016 to consider the matter of virement of Council budgets, as the Council's potential financial exposure in pursuing resolution (A) above is likely to exceed £50,000.
- (C) That call-in is not appropriate for this item as this matter is one where urgent action is required because the deadline for submitting a legal challenge to the Planning Inspectorate's Decision falls on 29 September 2016.

Note

No representations had been received in relation to the above items being considered in private.

.....  
**Leader**







**AUDIT AND GOVERNANCE  
COMMITTEE:  
27 SEPTEMBER 2016**

**CABINET:  
8 NOVEMBER 2016**

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**Report of: Borough Solicitor**

**Relevant Portfolio Holder: Councillor I Moran, Leader**

**Contact for further information: Mr T P Broderick (Ext 5001)**  
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**SUBJECT: REGULATION OF INVESTIGATORY POWERS ACT – ANNUAL  
SETTING OF THE POLICY AND REVIEW OF USE OF POWERS**

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Wards affected: Borough Wide Interest

## **1.0 PURPOSE OF THE REPORT**

1.1 To report on the Council's use of its powers under the Regulation of Investigatory Powers Act 2000 (RIPA) and to present an updated RIPA Policy document for approval.

## **2.0 RECOMMENDATION TO AUDIT AND GOVERNANCE COMMITTEE**

2.1 That the Council's RIPA activity and the updated RIPA Policy, at Appendix 1, be noted.

## **3.0 RECOMMENDATION TO CABINET**

3.1 That the updated RIPA Policy at Appendix 1 be approved.

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## **4.0 BACKGROUND**

4.1 The Regulation of Investigatory Powers Act 2000 (RIPA) came into force in 2000. Both the legislation and Home Office Codes of Practice strictly prescribe the situations in which and the conditions under which councils can use their RIPA powers. All authorities are required to have a RIPA policy and procedure that they adhere to in using their RIPA powers.

- 4.2 The Council's current approved RIPA Policy is made available on the Council's Intranet and is a working document to assist investigating and co-ordinating officers within the Council. Paragraph 5 of the RIPA Policy stresses that grantors of authorisations must believe the authorised activity is (1) necessary for preventing and detecting crime and (2) is proportionate to what is sought to be achieved in carrying out the surveillance activity (e.g. the 24/7 watching of premises where private individuals may go about their lawful business, for the possibility of gaining collateral evidence for a very minor technical infraction of a byelaw would not in all likelihood be proportionate). If it fails either test, authorisations should not be granted.

## **5.0 MONITORING OF RIPA ACTIVITY**

- 5.1 In the last quarter up to the date of the writing of this report (6 September 2016) and in the last 12 months no covert surveillance has been authorised.
- 5.2 The Senior Responsible Officer proactively seeks to ensure that the use of covert surveillance in this authority is well regulated. Applications for authorisation to use covert surveillance must be rejected when the Authorising Officer is not satisfied that the surveillance is necessary or proportionate and legal advice should be sought by Authorising Officers in appropriate cases.
- 5.3 A programme of training is in place and a RIPA guidance note is circulated within the Council at regular intervals to raise awareness. Whenever a new Code of Practice is issued by the Government, Officers are notified accordingly.

## **5 THE RIPA POLICY**

- 6.1 The updated RIPA Policy is presented to Cabinet for approval each year as required by guidance (Section 3.35 of the Home Office Covert Surveillance and Property Interference Code of Practice of December 2014 and section 3.27 of the Home Office Covert Human Intelligence Sources Code of Practice of December 2014). Officers ensure the use of RIPA is consistent with the Council's Policy and regularly report on activity, again as is required.
- 6.2 The Council's updated RIPA Policy is annexed in Appendix 1. This contains (in Appendix 3 of the policy) the current RIPA management structure which has been amended with other textual changes to reflect this change in the body of the Policy. The updates do not include any substantive changes to the Policy.
- 6.3 The OSC (Office of the Surveillance Commissioner) is currently conducting its review of the Council as regards the use of RIPA. The Council has complied with the inspection requirements of the OSC and their decision is awaited.

## **7.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY**

- 7.1 There are no significant sustainability impacts associated with this report and, in particular, positive impacts on crime and disorder will be achieved by adhering to RIPA and the RIPA Policy. The report has no significant links with the Sustainable Community Strategy.

## **8.0 FINANCE AND RESOURCE IMPLICATIONS**

8.1 There are no significant financial and resource implications arising from this report.

## **9.0 RISK ASSESSMENT**

9.1 The Council could be in breach of the relevant legislation if it does not follow the procedures set out in the RIPA Orders and Codes. This could result in the inadmissibility

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### **Background Documents**

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

### **Equality Impact Assessment**

This will be considered in relation to any particular authorisation.

### **Appendices**

1. Appendix 1 – Updated Policy
2. Minute of Audit & Governance Committee held on 27 September 2016



# **WEST LANCASHIRE BOROUGH COUNCIL**

## **Guide for Compliance with the**

### **Regulation of Investigatory Powers Act 2000**

#### **In respect of**

#### **Directed Surveillance, Use of Covert Human Intelligence Sources and Accessing Communications Data**

Version : No.6 - 2016

TPBRIPAGUIDELINESVERSION6-2016

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# 1 INTRODUCTION

- 1.1. The Regulation of Investigatory Powers Act 2000 (the 2000 Act) regulates covert investigations by a number of bodies, including local authorities. It was introduced to ensure that individuals' rights are protected consistent with the obligations under The Human Rights Act 1998, while also ensuring that law enforcement and security agencies have the powers they need to do their job effectively.
- 1.2. West Lancashire Borough Council is therefore included within the 2000 Act framework with regard to the authorisation of Directed Surveillance, the use of Covert Human Intelligence Sources (CHIS) and the obtaining of communications data through a single point of contact (SPOC).
- 1.3 The purpose of this guidance is to:

- explain the scope of the 2000 Act and the circumstances where it applies
- provide guidance on the authorisation procedures to be followed.

This continues to be a developing area of law and the Courts are yet to fully define the limits of the powers. This should be borne in mind when considering this Guide.

- 1.4 The Council has had regard to the Codes of Practice on covert surveillance, CHIS and accessing communications data produced by the Home Office in preparing this guidance and each Service should hold copies to which staff can refer. These documents are available at [www.homeoffice.gov.uk/ripa](http://www.homeoffice.gov.uk/ripa).
- 1.5 In summary the 2000 Act requires that when the Council undertakes “directed surveillance”, uses a “covert human intelligence source or accesses communications data (defined below at paragraphs 2, 3 and 4 below) these activities must only be authorised by an officer with delegated powers when the relevant criteria are satisfied.
- 1.6 The Chief Executive, Director Housing and Inclusion, Director of Leisure and Wellbeing and Borough Solicitor can authorise these activities (in relation to communications data, they shall be known as Designated Persons and shall seek the advice of the SPOC, see further paragraphs 4 and 5.1.3 below). Such nomination permits officers to grant authority for any purpose under the terms of the 2000 Act across all Council Services and service areas.
- 1.7 **Once an authorisation is granted for the use (or renewal) of directed surveillance, or acquisition of communications data, or covert human intelligence source it cannot take effect without an order approving the grant (or renewal) being obtained from a single Justice of the Peace (Magistrate, District Judge) (under amendments made by the Protection of Freedoms Act 2012, to s.32A and s.32B of the 2000 Act). This order must be sought from the Magistrates’ Court, but when the Court is not in session. The arrangements for seeking the order will be made in consultation with Legal Services.**
- 1.8 Authorisation under the 2000 Act gives lawful authority to carry out surveillance and the use of a source. Obtaining authorisation helps to protect the Council and its officers from complaints of interference with the rights protected by Article 8(1)

of the European Convention on Human Rights, i.e. the right to respect for private and family life which is now enshrined in English law through the Human Rights Act 1998. This is because the interference with the private life of citizens will be “in accordance with the law”. Provided activities undertaken are also “reasonable and proportionate” they will not be in contravention of Human Rights legislation.

- 1.9 Authorising Officers and investigators within the Local Authority are to note that the 2000 Act does not extend to powers to conduct intrusive surveillance. Investigators should familiarise themselves with the provisions of Sections 3, 4 and 5 of the Code of Practice on Directed Surveillance to ensure a good understanding of the limitation of powers within the 2000 Act.
- 1.10. Deciding when authorisation is required involves making a judgment **and assessing whether specific conditions apply to the investigation target**. Paragraph 3.4 explains this process in detail. If you are in any doubt, seek the advice of an Authorising Officer, if they are in doubt they will seek advice from the Borough Solicitor/Senior Responsible Officer. However, in those cases where there is doubt as to the need for an authorisation it may be safer to consider seeking/granting an authorisation: a broader reading of the application of the Act’s requirements is encouraged.
- 1.11. In the case of CHIS authorisations for vulnerable people or juveniles, or where surveillance involves communication subject to legal privilege, confidential personal information or confidential journalistic material authorisation must be obtained from the Chief Executive only, **together with the necessary application for an order giving effect to authorisation from a Justice of the Peace**.
- 1.12 Only the Chief Executive should be requested to authorise directed surveillance involving the covert filming of any Council member or employee to the extent that this falls within RIPA.

## **2. DIRECTED SURVEILLANCE**

2.1 **The Council must apply to a Justice of the Peace for an order that gives effect to the authorisation for the use of directed surveillance prior to undertaking the activity.**

### 2.2 What is meant by Surveillance?

"Surveillance" includes:

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



### 2.3 When is surveillance directed?

Surveillance is 'Directed' for the purposes of the 2000 Act if it is covert, but not intrusive and is undertaken:

- a) for the purposes of a specific investigation or a specific operation.
- b) in such a manner as is likely to result in the obtaining of private information about a person (whether or not one is specifically identified for the purposes of the investigation or operation); and
- c) otherwise than by way of an immediate response to events or circumstances the nature of which is such that it would not be reasonably practicable for an authorisation to be sought for the carrying out of the surveillance.

2.4 In certain circumstances, use of social media sites such as Facebook, or using the internet in other ways could need authorisation as directed surveillance. The Office of Surveillance Commissioners has given guidance on when the use of social media and the internet might need authorisation on RIPA. The guidance can be read at appendix 4.

### **2.5 Surveillance Threshold**

**2.5.1 Before directed surveillance can be undertaken and the requisite order from a Justice of the Peace applied for, the Council must be satisfied that they are investigating a criminal offence that carries a maximum sentence of 6 months or more imprisonment.**

**2.5.2 The exception to the 6 month sentence threshold is specific offences of sale of alcohol or tobacco to an underage person which does not fall within the Council's range of regulatory activities.**

**2.5.3 During the course of an investigation, should the Council become aware that the criminal activity under investigation falls below the 6 month sentence threshold, then use of directed surveillance should cease.**

**2.5.4 This 6 month sentence threshold does not apply to use of covert human intelligence or communications data techniques.**

**2.6 The Council cannot undertake intrusive surveillance.**

2.6.1 Surveillance becomes intrusive if the covert surveillance:

- 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; or
- c) is carried out by means of a surveillance device in relation to anything taking place on any residential premises or in any private vehicle but is carried out without that device being present on the premises or in the vehicle, where the device is such that it 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.

2.7 Before any officer of the Council undertakes any surveillance of any individual or individuals they need to assess whether the activity comes within the 2000 Act. In order to do this the following key questions need to be asked.

2.7.1 Is the surveillance covert?

Covert surveillance is that carried out in a manner calculated to ensure that subjects of it are unaware it is or may be taking place.

If activities are open and not hidden from the subjects of an investigation, the 2000 Act framework does not in general apply. However, if there is any doubt in respect of this matter, an officer must consider whether it may be appropriate to seek a RIPA authorisation.

2.7.2 Is it for the purposes of a specific investigation or a specific operation?

For example, are Civic building CCTV cameras which are readily visible to anyone walking around the building covered?

The answer is not if their usage is to monitor the general activities of what is happening in the car park. If that usage, however, changes, the 2000 Act may apply.

For example, if the CCTV cameras are targeting a particular known individual, and are being used in monitoring his activities, that has turned into a specific operation which may require authorisation.

2.7.3 Is it in such a manner that is **likely** to result in the obtaining of private information about a person?

"Private information" is any information relating to a person's private or family life and aspects of business or professional life.

For example, if part of an investigation is to observe a member of staff's home to determine their comings and goings then that would be covered.

If it is likely that observations will not result in the obtaining of private information about a person, then it is outside the 2000 Act framework. However, the use of 'test purchasers' may involve the use of covert human intelligence sources (see later).

If in doubt, it is safer to consider getting authorisation.

2.7.4 Is it undertaken otherwise than by way of an immediate response to event or circumstances where it is not reasonably practicable to get authorisation?

The Home Office gives the example of an immediate response to something happening during the course of an observer's work, which is unforeseeable.

However, if as a result of an immediate response, a specific investigation subsequently takes place that brings it within the 2000 Act framework.

### 2.7.5 Is the Surveillance Intrusive?

Directed surveillance turns into intrusive surveillance if it is carried out involving anything that occurs on residential premises or any private vehicle and involves the presence of someone on the premises or in the vehicle or is carried out by means of a (high quality) surveillance device.

If the device is not on the premises or in the vehicle, it is only intrusive surveillance if it consistently produces information of the same quality as if it were.

Commercial premises and vehicles are therefore excluded from intrusive surveillance. **The Council is not authorised to carry out intrusive surveillance.**

### 2.7.6 Does the offence under investigation meet the 6 month threshold?

## 3 COVERT USE OF HUMAN INTELLIGENCE SOURCE (CHIS)

3.1 A person is a Covert Human Intelligence Source if:

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

3.2. 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 that purpose.

3.3. The above clearly covers the use of professional witnesses to obtain information and evidence. It is not Council practice to use such witnesses. It can also cover cases such as a Council officer making a test purchase when there is a need to cultivate a relationship with the seller, which would not usually be the case.

3.4. There is a risk that an informant may be, or become, a CHIS. A member of the public giving information will be a CHIS if the information which he covertly passes to the authority has been obtained in the course of (*or as a consequence of the existence of*) a personal or other relationship. See paragraph 2.22 of the CHIS Code of Practice, and paragraph 270 of OSC Procedures and Guidance 2011, which refers to the risk of "status drift". When an informant gives repeat information about a suspect or about a family, and it becomes apparent that the informant may be obtaining that information in the course of a family or neighbourhood relationship, alarm bells should begin to ring. It probably means that the informant is in reality a CHIS, to whom a duty of care is owed if the information is then used. In such circumstances officers should refer any such instance for legal advice before acting on the information received from such an informant.

3.5 In this context (of authorising CHIS) ANY information (ie not confined to private information alone) to be gained by the covert manipulation of a relationship will

require authorisation.

**3.6 The Council must apply to a Justice of the Peace for an order that gives effect to the authorisation for the use of covert human intelligence source (see 1.7 above).**

3.7 In certain circumstances, use of social media sites such as Facebook, or using the Internet for research in other ways could need authorisation as the use of a covert human intelligence source. The guidance can be read at appendix 4.

#### **4 COMMUNICATIONS DATA**

4.1 The Council may also access certain communications data under the 2000 Act, provided this, like all other surveillance, is **for the purpose of preventing or detecting crime**.

4.2 Following the passage of the Data Retention and Investigatory Powers Act 2014 the Home Office has revoked all accreditation which enabled local authority staff to acquire communications data with effect from 1 December 2014. The Council is now required to use the National Anti-Fraud Network's (NAFN's) Single Point of Contact services to acquire communications data under RIPA, if approved by a magistrate. The Acquisition and Disclosure of Communications Data Code of Practice shall be followed at all times. Council staff are not permitted to obtain telecommunications and internet use data other than as provided for by the Act.

**4.3 The Council must apply to a Justice of the Peace for an order giving effect to the authorisation of the use of communications data.**

4.4 The accredited SPoCs at NAFN will scrutinise the applications independently. They will provide advice to applicants and designated persons ensuring the Council acts in an informed and lawful manner.

#### **5. AUTHORISATIONS, RENEWALS AND DURATION**

**5.1 The Council must apply to a Justice of the Peace for an order that gives effect to the authorisation for the use of directed surveillance, communications data and covert human intelligence source (see 1.7 above).**

5.1.1 The Conditions for Authorisation

5.1.2 Directed Surveillance

5.1.1.3 For directed surveillance no officer shall grant an authorisation **and make an application to a Justice of the Peace** for the carrying out of directed surveillance unless he believes:

- a) that an authorisation is necessary for the purpose of preventing or detecting crime and
- b) the authorised surveillance is proportionate to what is sought to be achieved by carrying it out.

5.1.1.4 The onus is therefore on the person authorising such surveillance to satisfy

themselves it is:

- a) necessary for the ground stated above and;
- b) proportionate to its aim.

5.1.1.5 In order to ensure that authorising officers have sufficient information to make an informed decision **about whether to make an application to a Justice of the Peace for an order to give effect to any authorisation**, it is important that detailed records are maintained. As such the forms in the Appendix and the accompanying Guidance on Completing RIPA Authorisation Forms are to be completed where relevant.

It is also sensible to make any authorisation sufficiently wide enough to cover all the means required as well as being able to prove effective monitoring of what is done against that which has been authorised.

An Authorising Officer may partially approve or partially refuse an application for authorisation. If an Authorising Officer does not authorise all that was requested, a note should be added explaining why.

#### 5.1.2 Covert Use of Human Intelligence Sources

5.1.2.1 The same principles as Directed Surveillance apply. (see paragraph 5.1.1.3 above)

5.1.2.2 The conduct so authorised is any conduct that:

- a) is comprised in any such activities involving the use of a covert human intelligence source, as are specified or described in the authorisation;
- b) relates to the person who is specified or described as the person to whose actions as a covert human intelligence source the authorisation relates; and
- c) is carried out for the purposes of, or in connection with, the investigation or operation so specified or described.

5.1.2.3 In order to ensure that authorising officers have sufficient information to make an informed decision it is important that detailed records are maintained. As such the forms attached are to be completed where relevant.

It is also sensible to make any authorisation sufficiently wide enough to cover all the means required as well as being able to prove effective monitoring of what is done against that is authorised.

#### 5.1.3 Communications Data

Section 22(4) of RIPA allows the Council to request “communications data” from Communication System Providers (CSPs). The access allowed under these powers is limited to telephone, postal and email subscriber and billing information. Any access must be obtained through the use of an authorised single point of contact (SPOC). (See Code on Acquisition and Disclosure of Communications Data paragraphs 3.85, 3.86 and 3.87.) The Council does not have the right to obtain the content of the communication, but can obtain details of the source and

destination of a message. The only ground for Local Authorities is the prevention or detection of crime. CSPs must be provided with a Notice Requiring Disclosure of Communications Data, which must have been duly authorised. The only officers who are allowed to authorise such requests are those accredited by the Home Office (the “Designated Persons” (DPs)). The DP is an individual at the level of Chief Executive and Director and will scrutinise all applications for Communications Data.

The authorisation or grant of a notice to obtain communications data require judicial approval on each occasion.

## 5.2 Further Requirements of the 2000 Act

### 5.2.1 **An application must be made to the Justice of the Peace for an order that gives effect to the authorisation for the use of Directed Surveillance, Communications Data and CHIS. This process is in addition to the Council’s existing authorisation procedure (see 1.7 above).**

5.2.2 In light of the changes to the regime applications for urgent grants or renewal, must be in writing. In the Guidance on Completing RIPA Authorisation Forms document which accompanies this Guide are standard forms, which must be used. Officers must direct their mind to the circumstances of the individual case with which they are dealing when completing the form.

5.2.3 Although it is possible to combine two authorisations in one form the Council’s practice is for separate forms to be completed to maintain the distinction between Directed Surveillance and the use of a CHIS.

5.2.4 Authorisations lapse, if not renewed:

- 12 months - if in writing/non-urgent - from date of last renewal if it is for the conduct or use of a covert human intelligence source or
- in all other cases (ie directed surveillance) 3 months from the date of their grant or latest renewal.

5.2.5 Any person entitled to grant a new authorisation can renew subject to judicial approval being obtained an existing authorisation in the same terms at any time before it ceases to have effect.

But, for the conduct of a covert human intelligence source, an Authorised Officer should not renew **or make an application to a Justice of the Peace to renew** unless a review has been carried out and that person has considered the results of the review when deciding whether to renew or not. A review must cover what use has been made of the source, the tasks given to them and information obtained.

5.2.6 The benefits of obtaining an authorisation are described in paragraph 7 below.

5.2.7 Factors to Consider (see further guidance the Guidance on Completing Forms document)

Any person giving an authorisation should first satisfy him/herself that the authorisation is necessary on particular grounds and that the surveillance is proportionate to what it seeks to achieve. The proportionate test involves balancing the intrusiveness of the activity on the target and others who might be affected by it against the need for the activity in operational terms. The activity will not be proportionate if it is excessive in the circumstances of the case or if the information which is sought could reasonably be obtained by other less intrusive means. All such activity should be carefully managed to meet the objective in question and must not be arbitrary or unfair.

5.2.8 Particular consideration should be given to collateral intrusion on or interference with the privacy of persons other than the subject(s) of surveillance. Such collateral intrusion or interference would be a matter of greater concern in cases where there are special sensitivities, for example in cases of premises used by lawyers or for any form of medical or professional counselling or therapy.

5.2.9 An application for an authorisation should include an assessment of the risk of any collateral intrusion or interference. The authorising officer will take this into account, particularly when considering the proportionality of the surveillance and whether measures to avoid can be stipulated.

5.2.10 Those carrying out the covert surveillance should inform the Authorising Officer if the operation/investigation unexpectedly interferes with the privacy of individuals who are not the original subjects of the investigation or covered by the authorisation in some other way. In some cases the original authorisation may not be sufficient and consideration should be given to whether a separate authorisation is required.

5.2.11 Any person giving an authorisation will also need to be aware of particular sensitivities in the local community where the surveillance is taking place or of similar activities being undertaken by other public authorities which could impact on the deployment of surveillance.

### **Home Surveillance**

5.2.12 The fullest consideration should be given in cases where the subject of the surveillance might reasonably expect a high degree of privacy, for instance at his/her home (NB. the Council cannot undertake intrusive surveillance) or where there are special sensitivities.

### **Spiritual Counselling**

5.2.13 No operations should be undertaken in circumstances where investigators believe that surveillance will lead them to intrude on spiritual counselling between a Minister and a member of his/her faith. In this respect, spiritual counselling is defined as conversations with a Minister of Religion acting in his/her official capacity where the person being counselled is seeking or the Minister is imparting forgiveness, or absolution of conscience.

## **Confidential Material**

5.2.14 The 2000 Act allows in exceptional circumstances for authorisations to gather 'confidential material' (see the definitions in Appendix 1). Such material is particularly sensitive, and is subject to additional safeguards under this code. In cases where the likely consequence of the conduct of a source would be for any person to acquire knowledge of confidential material, the deployment of the source should be subject to special authorisation (by the Chief Executive).

5.2.15 In general, any application for an authorisation which is likely to result in the acquisition of confidential material should include an assessment of how likely it is that confidential material will be acquired. Special care should be taken where the target of the investigation is likely to be involved in handling confidential material. Such applications should only be considered in exceptional and compelling circumstances with full regard to the proportionality issues this raises.

5.2.16 The following general principles apply to confidential material acquired under authorisations:

- Those handling material from such operations should be alert to anything that may fall within the definition of confidential material. Where there is doubt as to whether the material is confidential, advice should be sought from the Borough Solicitor/Senior Responsible Officer before further dissemination takes place;
- Confidential material should not be retained or copied unless it is necessary for a specified purpose;
- Confidential material should be disseminated only where an appropriate officer (having sought advice from the Borough Solicitor/Senior Responsible Officer) is satisfied that it is necessary for a specific purpose;
- The retention or dissemination of such information should be accompanied by a clear warning of its confidential nature. It should be safeguarded by taking reasonable steps to ensure that there is no possibility of it becoming available, or its content being known, to any person whose possession of it might prejudice any criminal or civil proceedings related to the information;
- Confidential material should be destroyed as soon as it is no longer necessary to retain it for a specified purpose;
- Any covert surveillance concerning premises on which legal consultations take place are to be regarded as intrusive surveillance and may not be undertaken by the Council.

## **Combined authorisations**

5.2.17 Although it is possible to combine two authorisations in one form the Council's practice is for separate forms to be completed to maintain the distinction between Directed Surveillance and the use of a CHIS.



5.2.18 In cases of joint working with other agencies on the same operation, e.g. by a Housing Benefit Investigator authority for directed surveillance should be given by the lead agency.

5.2.19. On occasion, several Council Services may be included in the same investigation. One authorisation from the Lead Service should cover all activities.

### **Handling and disclosure of product**

5.2.20 Authorising Officers are reminded of the guidance relating to the retention and destruction of confidential material as described in paragraph 5.2.16 above.

5.2.21 Authorising Officers are responsible for ensuring that authorisations undergo timely reviews and are cancelled promptly after directed surveillance activity is no longer necessary.

5.2.22 Authorising Officers must ensure that the relevant details of each authorisation are sent to the Borough Solicitor/Senior Responsible Officer as described in paragraph 9 below.

5.2.23 The originals of applications for authorisations, reviews, renewals and cancellations for directed surveillance and the use of a CHIS should be submitted to and thereafter retained by the RIPA Co-ordinator, for a period of 3 years and at least between inspections. Copies are to be retained by the authorising officer for a commensurate period. Where it is believed that the records could be relevant to pending or future criminal proceedings, they should be retained for a suitable further period, commensurate to any subsequent review.

5.2.24 Any personal data collected during the course of a covert surveillance operation must be stored as per data protection guidelines set out in the Council's Data Protection Policy below.

- Analysis of data from the operation must be carried out by the officers who carried out the investigation and should be done in a private office to avoid personal material being accessible to other council employees.
- The authorising officer may also be included in analysis of the data collected.
- Data must be kept in a secure environment with limited access.
- Data must be labelled with the reference of the case and the date of collection.
- Data collected which is not appropriate or useful as evidence in the investigation and subsequent formal action must be deleted as soon as this fact is determined or when the case is closed, whichever is the sooner. Consideration of whether or not this material should be destroyed is the responsibility of the senior authorising officer. Care must be taken in this respect, as it must be considered that even if this information is not to be used as evidence, it may be "unused material" for the purposes of criminal proceedings.

- If there is any reason to believe that the data obtained during the course of an investigation might be relevant to that investigation, or to another investigation, or to pending or future civil or criminal proceedings, then it should not be destroyed but retained in accordance with established disclosure requirements and may be disclosed.

5.2.25 There is nothing in the 2000 Act that prevents material obtained through the proper use of the authorisation procedures from being used in other investigations. However, the use outside the Council, of any material obtained by means of covert surveillance and, other than in pursuance of the grounds on which it was obtained, should be authorised only in the most exceptional circumstances.

### 5.3 **The Use of Covert Human Intelligence Sources**

5.3.1 The Council will not normally use an external or professional source for the purpose of obtaining information. It is not the Council's usual practice to seek, cultivate or develop a relationship through an external or professional source although this may occur where circumstances require it. In these circumstances appropriate authorisations must be obtained. It is potentially possible, though highly unlikely, that the role of a Council employee may be that of a source, for example, as contemplated in paragraph 3.3 above, please cross refer for detail.

5.3.2 Nothing in the 2000 Act prevents material obtained by an employee acting as a source being used as evidence in Court proceedings.

5.3.3 The Authorising Officer must consider the safety and welfare of an employee acting as a source, and the foreseeable consequences to others of the tasks they are asked to carry out. A risk assessment should be carried out before authorisation is given. Consideration from the start for the safety and welfare of the employee, even after cancellation of the authorisation, should also be considered.

5.3.4 The Authorising Officer must believe that the authorised use of an employee as a source is proportionate to what it seeks to achieve. Accurate and proper records should be kept about the source and tasks undertaken.

5.3.5 The Council's practice is not to use an employee acting as a source to infiltrate existing criminal activity, or to be a party to the commission of criminal offences, even where this is within the limits recognised by law.

5.3.6 Before authorising the use of an employee as a source, the authorising officer should believe that the conduct/use including the likely degree of intrusion into the privacy of those potentially affected is proportionate to what the use or conduct of the source seeks to achieve. He should also take into account the risk of intrusion into the privacy of persons other than those who are directly the subjects of the operation or investigation (collateral intrusion). Measures should be taken, wherever practicable, to avoid unnecessary intrusion into the lives of those not directly connected with the operation.

5.3.7 Particular care should be taken in circumstances where people would expect a high degree of privacy or where, as a consequence of the authorisation, "confidential material" is likely to be obtained.

- 5.3.8 Additionally, the Authorising Officer should make an assessment of any risk to an employee acting as a source in carrying out the proposed authorisation.

## 6. REVIEWS

- 6.1. The Home Office Code of Practice on directed surveillance makes specific reference to reviews at paragraph 3.23. It recommends regular reviews be undertaken to see if the need for the surveillance is still continuing. Results of reviews should be recorded in a central record of authorisations (see paragraph 8.1). Reviews should be more frequent when access to confidential information or collateral intrusion is involved. Review frequency should be as often as the authorising officer deems necessary or practicable.
- 6.2. Similar provisions appear at paragraphs 7.1 – 7.2 of the code of practice for CHIS, save that tasks given to the source and information obtained should also be included.
- 6.3. Each authorising officer will therefore determine in each case how often authorisations should be reviewed. They will ensure records of the review will be supplied on the relevant form in Section 9 and send copies to the RIPA Co-ordinator to keep the central register up to date. Good practice requires that this should be done monthly at least.

## 7. RENEWALS

- 7.1. An authorising officer may renew an authorisation before it would cease to have effect if it is necessary for the authorisation to continue for the purpose for which it was given. **An application for a renewal to the Justice of the Peace is also required (see above).**
- 7.2. The Home Office Code of Practice for directed surveillance at paragraph 5.12 - 5.16 refers. A renewal of the authorisation in writing can be made for 3 months. Applications for renewal should detail how many times an authorisation has been renewed; significant changes to the original application for authority; reasons why it is necessary to renew; content and value of the information obtained so far and results of regular reviews of the investigation or operation.
- 7.3. Similar provisions apply in the code of practice for CHIS except that a renewal here can last for a further 12 months, a review must have been carried out on the use of the source and an application should only be made to renew when the initial authorisation period is drawing to an end. Applications to renew a CHIS also should contain use made of the source and tasks given to the source during the previous authorised period.
- 7.4. Each application to renew should be made at least 7 days before the authorisation is due to expire on the relevant form in Appendix 2. A record of the renewal should be kept within the applying service and supplied centrally to the Borough Solicitor/Senior Responsible Officer - see Section 8 to update the central register of authorisations.

## **8. CANCELLATIONS**

- 8.1. All authorisations, including renewals should be cancelled if the need for the surveillance is no longer justified. This will occur in most cases where the purpose for which the surveillance was required has been achieved.
- 8.2. Requesting officers should ensure they inform authorising officers if this is the case before the next review. If, in the opinion of the authorising officer at the next review, the need for surveillance is no longer justified, it must be cancelled.
- 8.3. The cancellation forms at Appendix 2 will be used to record a cancellation; the original will be sent to the RIPA Co-ordinator to update the central register of authorisations and the authorising officer will retain a copy - see Section 8.
- 8.4. The Home Office Codes of Practice for both directed surveillance and CHIS make it clear that authorisations must be cancelled if the original authorising criteria are not met. With CHIS, it must be cancelled if satisfactory arrangements for the source no longer exist. Consideration for the safety and welfare of a source continues after cancellation of any authorisation.

## **9. CENTRAL REGISTER OF AUTHORISATIONS**

- 9.1. The Codes of Practice under the 2000 Act require a central register of all authorisations to be maintained. The Senior Responsible Officer or nominated representative shall maintain this register.
- 9.2. Whenever an authorisation is granted renewed or cancelled the Authorising Officer must arrange for the following details to be forwarded by e-mail to the Senior Responsible Officer or nominated representative. Receipt of the e-mail will be acknowledged.
  - Whether it is for Directed Surveillance or CHIS ;
  - Applicants name and Job Title (manager responsible);
  - Service and Section;
  - Applicant's address and Contact Number;
  - Identity of 'Target';
  - Authorising Officer and Job Title; (in line with delegation scheme)
  - Date of Authorisation.
  - A unique reference number for the investigation or operation
  - 
  - Whether confidential information is likely to be reviewed as a consequence of the investigation /operation.
  - The date the authorisation was cancelled

Details should be provided to the Senior Responsible Officer in respect of when an authorisation is refused.

### **See Appendix 2 for the Form of Notification**

The original of the authorisation should also be provided; the authorising officer should retain a copy. The Chief Executive will review authorisations every 6 months. It is suggested that authorising officers supply these directly.

- 9.3. The original authorisations shall be securely retained within the RIPA Co-ordinator's Service. It is each Service's responsibility to securely retain all copy authorisations within their Service. Authorisations should only be held for as long as it is necessary. Once the investigation is closed (bearing in mind cases may be lodged some time after the initial work) the records held by the Service should be disposed of in an appropriate manner (e.g. shredded).

## **10 CODES OF PRACTICE**

There are Home Office codes of practice that expand on this guidance. All relevant Services hold a copy.

The codes do not have the force of statute, but are admissible in evidence in any criminal and civil proceedings. As stated in the codes, "if any provision of the code appears relevant to a question before any Court or tribunal considering any such proceedings, or to the tribunal established under the 2000 Act, or to one of the commissioners responsible for overseeing the powers conferred by the 2000 Act, it must be taken into account".

Staff should refer to the Home Office Codes of Conduct for supplementary guidance. These should be available to all relevant officers (see earlier).

## **11 BENEFITS OF OBTAINING AUTHORISATION UNDER THE 2000 ACT.**

### **11.1 Authorisation of surveillance and human intelligence sources**

The 2000 Act states that

- if authorisation confers entitlement to engage in a certain conduct and
- the conduct is in accordance with the authorisation, then
- it shall be "lawful for all purposes".

Part II of the 2000 Act does not impose a requirement on public authorities to seek or obtain an authorisation where, under the 2000 Act, one is available (see section 80 of the 2000 Act). Nevertheless, where there is an interference by a public authority with the right to respect for private and family life guaranteed under Article 8 of the European Convention on Human Rights, and where there is no other source of lawful authority, the consequence of not obtaining an authorisation under the 2000 Act may be that the action is unlawful by virtue of section 6 of the Human Rights Act 1998.

Public authorities are therefore strongly recommended to seek an authorisation where the surveillance is likely to interfere with a person's Article 8 rights to privacy by obtaining private information about that person, whether or not that person is the subject of the investigation or operation. Obtaining an authorisation will ensure that the action is carried out in accordance with law and subject to stringent safeguards against abuse.

- 11.2 The 2000 Act states that a person shall not be subject to any civil liability in relation to any conduct of his which -

- a) is incidental to any conduct that is lawful by virtue authorisation; and
- b) is not itself conduct for which an authorisation is capable of being granted under a relevant enactment and might reasonably be expected to have been sought in the case in question

## **12. SCRUTINY AND TRIBUNAL**

12.1. To effectively "police" the 2000 Act, Commissioners regulate conduct carried out thereunder. The Chief Surveillance Commissioner will keep under review, among others, the exercise and performance by the persons on whom are conferred or imposed, the powers and duties under the Act. This includes authorising directed surveillance and the use of covert human intelligence sources.

12.2. A tribunal has been established to consider and determine complaints made under the 2000 Act if it is the appropriate forum. Complaints can be made by persons aggrieved by conduct e.g. directed surveillance. The forum hears application on a judicial review basis. Claims should be brought within one year unless it is just and equitable to extend that.

The tribunal can order, among other things, the quashing or cancellation of any warrant or authorisation and can order destruction of any records or information obtained by using a warrant or authorisation, and records of information held by any public authority in relation to any person. The Council is, however, under a duty to disclose or provide to the tribunal all documents they require if:

- A Council officer has granted any authorisation under the 2000 Act.
- Council employees have engaged in any conduct as a result of such authorisation.
- A disclosure notice requirement is given.

12.3 The Senior Responsible Officer will ensure that a quarterly report is submitted to the Council's Audit and Governance Committee and that an annual report is submitted to Cabinet. The reports will include details of the overall number and type of authorisations granted and the outcome of the case, where known. In addition, the reports will provide a breakdown of the same information by service or groups of services, as appropriate. In order to comply with Data Protection and Code of Practice requirements, no specific details of individual authorisations will be provided.

12.4 The RIPA Co-ordinator will maintain and check the central register of all RIPA authorisations, reviews, renewals, cancellations and rejections. It is the responsibility of the authorising officer, however, to ensure the RIPA Co-ordinator receives the original of the relevant forms as soon as possible and in any event within 1 week of authorisation, review, renewal, cancellation or rejection. The authorising officer should retain copies.

12.5 The management structure for RIPA is set out in Appendix 3.

**Definitions from the 2000 Act**

- **“2000 Act”** means the Regulation of Investigatory Powers Act 2000.
- **“Confidential Material”** consists of:
  - a) matters subject to legal privilege;
  - b) confidential personal information; or
  - c) confidential journalistic material.
- **Matters subject to legal privilege”** includes both oral and written communications between a professional legal adviser and his/her client or any person representing his/her client, made in connection with the giving of legal advice to the client or in contemplation of legal proceedings and for the purposes of such proceedings, as well as items enclosed with or referred to in such communications. Communications and items held with the intention of furthering a criminal purpose are not matters subject to legal privilege (see Note A below)
- **“Confidential Personal Information”** is information held in confidence concerning an individual (whether living or dead) who can be identified from it, and relating:
  - a) to his/her physical or mental health; or
  - b) to spiritual counselling or other assistance given or to be given, and

which a person has acquired or created in the course of any trade, business, profession or other occupation, or for the purposes of any paid or unpaid office (see Note B below). It includes both oral and written information and also communications as a result of which personal information is acquired or created. Information is held in confidence if:

- c) it is held subject to an express or implied undertaking to hold it in confidence; or
  - d) it is subject to a restriction on disclosure or an obligation of secrecy contained in existing or future legislation.
- **“Confidential Journalistic Material”** includes material acquired or created for the purposes of journalism and held subject to an undertaking to hold it in confidence, as well as communications resulting in information being acquired for the purposes of journalism and held subject to such an undertaking.
  - **“Covert Surveillance”** means surveillance which is carried out in a manner calculated to ensure that the persons subject to the surveillance are unaware that it is or may be taking place.
  - **“Authorising Officer”** means a person designated for the purposes of the

2000 Act to grant authorisations for directed surveillance. (see the Regulation of Investigatory Powers (Prescription of Offices, Ranks and Positions) Order) SI 2000/2417.

**Note A.** *Legally privileged communications will lose their protection if there is evidence, for example, that the professional legal adviser is intending to hold or use them for a criminal purpose; privilege is not lost if a professional legal adviser is properly advising a person who is suspected of having committed a criminal offence. The concept of legal privilege shall apply to the provision of professional legal advice by any agency or organisation.*

**Note B.** *Confidential personal information might, for example, include consultations between a health professional or a professional counsellor and a patient or client, or information from a patient's medical records.*



**Notification to Central Register of Authorisations under RIPA**

Whether it is for Directed Surveillance or CHIS	
Applicants name and Job Title (manager responsible)	
Service and Section	
Applicant's address and Contact Number	
Identity of 'Target'	
Authorising Officer and Job Title; (in line with delegation scheme)	
Date of Authorisation	
Whether confidential information is likely to be reviewed as a consequence of the investigation/operation	
The date the authorisation was cancelled	
Whether the authorisation is renewed.	

A copy of the authorisation shall also be sent (See above, Paragraph 9.2).

A unique reference number for the investigation or operation will be allocated by the Borough Solicitor upon receipt of this notification. This reference must be used in subsequent correspondence regarding this authorisation.



### APPENDIX 3

Kim Webber, Chief Executive xx\*

Community Services – Street Scene  
Legal Services, Land Charges, Member Services  
Procurement  
Civic Services  
Member Development  
Elections, Admin and  
Accountancy, Treasury Management  
Audit, Insurance, Risk Management

Kim Webber, Chief Executive xx\*

Planning Services, Regeneration Asset Management  
Economic Regeneration  
Area Regeneration, Tourism, Estates & Valuation  
External Funding, Investment Centre  
Technical Services, Ormskirk Market  
Off-Street Parking, Ormskirk Market, Decriminalised Parking

Bob Livermore, Director Housing and Inclusion \*

Housing & Housing Options, Estate Management  
Rent & Money Advice, Sheltered Housing  
Property Management  
Caretaking & Gardening  
Housing Policy & Strategy, Communication/Consultation  
Partnership/Performance  
Customer Services/OR

Dave Tilleray, Director of Leisure and Wellbeing \*

Leisure, Arts & Culture Services  
Environmental Protection, Public Protection & Licensing  
Commercial Safety, Corporate Health & Safety Community Safety, Emergency  
Planning  
Private Sector Housing & Homelessness  
Home Care Link

Terry Broderick – Borough Solicitor, Senior Responsible Officer \*  
Supported by Judith Williams – Assistant Solicitor, RIPA Coordinator and SPOC  
Co-ordinator  
Sarah Mooney – Legal Assistant/RIPA Register Officer

\* Authorising Officer

xx Authorisations when knowledge of confidential information likely to be acquired or vulnerable individual or juvenile is to be used as a source.

## The Office of Surveillance Commissioner's Guidance

### Covert surveillance of Social Networking Sites (SNS)

The fact that digital investigation is routine or easy to conduct does not reduce the need for authorisation. Care must be taken to understand how the SNS being used works. Authorising Officers must not be tempted to assume that one service provider is the same as another or that the services provided by a single provider are the same.

Whilst it is the responsibility of an individual to set privacy settings to protect unsolicited access to private information, and even though data may be deemed published and no longer under the control of the author, it is unwise to regard it as "open source" or publicly available; the author has a reasonable expectation of privacy if access controls are applied. In some cases data may be deemed private communication still in transmission (instant messages for example). Where privacy settings are available but not applied the data may be considered open source and an authorisation is not usually required. Repeat viewing of "open source" sites may constitute directed surveillance on a case by case basis and this should be borne in mind.

Providing there is no warrant authorising interception in accordance with section 48(4) of the 2000 Act, if it is necessary and proportionate for a public authority to breach covertly access controls, the minimum requirement is an authorisation for directed surveillance. An authorisation for the use and conduct of a CHIS is necessary if a relationship is established or maintained by a member of a public authority or by a person acting on its behalf (i.e. the activity is more than mere reading of the site's content).

It is not unlawful for a member of a public authority to set up a false identity but it is inadvisable for a member of a public authority to do so for a covert purpose without authorisation. Using photographs of other persons without their permission to support the false identity infringes other laws.

A member of a public authority should not adopt the identity of a person known, or likely to be known, to the subject of interest or users of the site without authorisation, and without the consent of the person whose identity is used, and without considering the protection of that person. The consent must be explicit (i.e. the person from whom consent is sought must agree (preferably in writing) what is and is not to be done).

## Appendix 2

### Minute of Audit & Governance Committee held on 27 September 2016

#### 22 **REGULATION OF INVESTIGATORY POWERS (RIPA) ACT - ANNUAL SETTING OF THE POLICY AND REVIEW OF USE OF POWERS**

Consideration was given to the report of the Borough Solicitor as contained on pages 85 – 114 of the Book of Reports on the Council's use of its powers under the Regulation of Investigatory Powers Act 2000 (RIPA) and presented an updated RIPA Policy document. He reported that there had been no relevant activity to bring to the attention of the Committee.

RESOLVED                      That the Council's RIPA activity and the updated RIPA Policy, at Appendix 1, be noted.





CABINET: 08 November 2016

EXECUTIVE OVERVIEW &  
SCRUTINY COMMITTEE:  
24 November 2016

COUNCIL: 14<sup>th</sup> December 2016

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Report of: Borough Treasurer

Relevant Portfolio Holder: Councillor C. Wynn and Councillor J. Patterson

Contact for further information: Liz Fearn (Ext. 5605)  
(E-mail: [liz.fearn@westlancs.gov.uk](mailto:liz.fearn@westlancs.gov.uk))

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**SUBJECT: REVISED CAPITAL PROGRAMME AND MID YEAR REVIEW 2016/2017**

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Wards affected: Borough wide

## **1.0 PURPOSE OF REPORT**

1.1 To agree a Revised Capital Programme for 2016/2017 and provide Members with an overview on the progress against it at the mid-year point.

## **2.0 RECOMMENDATIONS TO CABINET**

2.1 That the Revised Capital Programme, including the re-profiling, virements and budget adjustments contained within Appendix A, be approved for consideration by Council.

2.2 That the progress against the Revised Capital Programme at the mid-year point be noted.

2.3 That Call In is not appropriate for this item as the report is being submitted to the next meeting of the Executive Overview and Scrutiny Committee on 24<sup>th</sup> November and Council on 14<sup>th</sup> December.

## **3.0 RECOMMENDATIONS TO EXECUTIVE OVERVIEW AND SCRUTINY COMMITTEE**

3.1 That the Revised Capital Programme and progress against it at the mid-year point be noted.

## **4.0 RECOMMENDATIONS TO COUNCIL**

- 4.1 That the revised Capital Programme, including the re-profiling, virements and budget adjustments contained within Appendix A, be approved.
  - 4.2 That progress against the Revised Capital Programme at the mid-year point be noted.
- 

## **5.0 BACKGROUND**

- 5.1 The GRA Capital Programme is set on a three-year rolling basis and the Programmes for 2016/2017, 2017/2018 and 2018/2019 were approved by Council in February 2016. A one year HRA Capital Programme was agreed by Council in February 2016 as a result of the difficult financial position facing the HRA. This programme will be reviewed in the light of the HRA Policy Options report agreed by Council in October 2016.
- 5.2 In accordance with best practice, the Capital Programme is subject to revision at the mid-year point to ensure that it is based on the latest available information and to make monitoring of the Programme more meaningful. It enables Managers to review their schemes with the most up to date information and to review the resources available. It also provides a base upon which to build future Capital Programmes.
- 5.3 Members are kept informed of the financial position of the Capital Programme through regular monitoring reports. The last such report was presented to Cabinet in September 2016 and reported on a total Capital Programme of £21.569m for 2016/2017. This comprised a GRA Programme of £5.734m and a Housing Public Sector Capital Programme of £15.835m.

## **6.0 REVISED CAPITAL PROGRAMME**

- 6.1 Heads of Service have reviewed their respective schemes and are now proposing that changes are made as a result of more up to date information that has become available. This review process has incorporated a number of considerations including:
  - Re-profiling of schemes
  - Changes to external funding availability
  - Levels of anticipated funding required and available
  - Anticipated levels of demand
- 6.2 The proposed changes to the 2016/2017 Programme are analysed in Appendix A. This shows an overall increase of £2.082m for the GRA, primarily as a result of the inclusion of the purchase of the Wearsheaf Walk site in Ormskirk, which was agreed by Council in May 2016.
- 6.3 The revised GRA Capital Programme totals £7.816m for 2016/2017 following these changes. This is analysed by service in Appendix B along with a summary of the revised capital resources available.



- 6.4 The proposed changes to the HRA would reduce the size of the programme from £15.835m to £14.750m, primarily as the result of re-profiling expenditure on the Bathroom replacement scheme into the next financial year.

## 7.0 CAPITAL EXPENDITURE

- 7.1 Generally, capital schemes are profiled with relatively low spending compared to budget in the early part of the financial year with increased spending as the year progresses. This reflects the fact that many new schemes have considerable lead in times, for example, because of the need to undertake the tendering process and award contracts at the start of the scheme. Other schemes are dependent on external partner funding and schemes can only begin once their funding details have been finalised. Other schemes include contract retentions or contingencies that will only be spent some time after completion of the contract. Most schemes then progress and spend in line with their approval by the year end.
- 7.2 For the current year, £4.581m (59%) of expenditure has been incurred by the mid-year. This is higher than the position of the previous 3 financial years due to £3.014m expenditure on the Wicketsheaf Walk site purchase. It is anticipated that most schemes will be largely completed by the end of the financial year. Comparisons to previous years' programmes are shown in Table 1.

Year	Expenditure £m	Budget £m	% spend against Budget
2016/2017	4.581	7.816	59%
2015/2016	2.177	10.127	21%
2014/2015	0.795	3.467	23%
2013/2014	1.057	4.421	24%

- 7.3 Appendix B details spending on the HRA Capital Programme by scheme. This shows total spending of £4.749m by September 2016, which represents 32% of the total budget for the year. In the previous year spending was £4.823m or 29% by the mid year point.
- 7.4 Appendix C provides Heads of Service comments on the progress of schemes against the revised programme.

## 8.0 CAPITAL RESOURCES

- 8.1 There are sufficient resources identified to fund the 2016/2017 Revised Capital Programme as shown in Appendix B.
- 8.2 The main area of the capital resources budget that is subject to variation is in relation to capital receipts. These are the useable proceeds from the sale of Council assets (mainly houses under Right to Buy legislation) that are available to fund capital expenditure. These receipts can vary significantly depending on the number and value of assets sold.

- 8.3 The budget for useable capital receipts to be generated from Council House sales in the year is set at £0.480m from 30 sales. However at the mid-year point 36 sales had been completed generating £0.656 m of useable capital receipts.
- 8.4 Retained proceeds generated by Council House sales are now split between general useable capital receipts (detailed above), and one for one Replacement funding. At the mid year point £0.188m of additional 141 funding has also been generated, which can only be used on new housing schemes.
- 8.5 In addition to receipts from council house sales the Council also has a programme to sell plots of its land and other assets under the Strategic Asset Management Plan (SAMP). The budget for this in the 2016/2017 Programme is £550,000. To date there has been 5 land sales generating £146,000.
- 8.6 Useable Capital Receipts generated to date are analysed in Table 2:

Category	Estimate £'000	Actual £'000	% Received against Budget
Right to Buy Sales	480	656	137%
SAMP Sales	550	146	27%
Total	1030	802	78%

- 8.7 The level of receipts generated at the mid-year point is above the budget target to date, and consequently it can be expected that the budget target for the year will be exceeded.

## 9.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

- 9.1 The Capital Programme includes schemes that the Council plans to implement to enhance service delivery and assets. Individual project plans address sustainability and Community Strategy issues and links to Corporate Priorities. The Capital Programme also achieves the objectives of the Prudential Code for Capital Finance in Local Authorities by ensuring capital investment plans are affordable, prudent, and sustainable. This report provides an updated position on project plans and shows progress against them.

## 10.0 RISK ASSESSMENT

- 10.1 Capital assets shape the way services are delivered for the long term and, as a result, create financial commitments. The formal reporting of performance against the Capital Programme is part of the overall budgetary management and control framework that is designed to minimise the financial risks facing the Council. Schemes within the Programme that are reliant on external contributions and/or decisions are not started until funding is secured. Other resources that are subject to fluctuations are monitored closely to ensure availability. The Capital receipts position is scrutinized on a regular basis and managed over the medium term to mitigate the risk of unfunded capital expenditure.

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### **Background Documents**

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

### **Equality Impact Assessment**

The majority of the budget issues set out in this report have been the subject of previous reports to committees and consequently an Equality Impact Assessment has already been prepared for them where relevant.

### **Appendices**

- A Summary of changes to the 2016/2017 GRA Capital Programme
- B 2016/2017 Revised GRA Capital Programme Expenditure and Resource Budgets and Mid Year Performance
- C Heads of Service Comments
- D Minute of Cabinet 8 November 2016 (Executive Overview and Scrutiny Committee and Council) – to follow
- E Minute of Executive Overview and Scrutiny Committee 24 November 2016 (Cabinet only) – to follow



**2015/2016 REVISED CAPITAL PROGRAMME**  
**SUMMARY OF CHANGES**

SCHEME	REASON FOR AMENDMENT	2016/17	2017/18	2018/19
		£'000	£'000	£'000
<b><u>Capital programme totals included in report to Cabinet in September 2016</u></b>		<b>5734</b>	<b>805</b>	<b>805</b>
<b><u>Re-profiled Expenditure</u></b>				
Website Contract Management System	unallocated programme	-23	23	
Renovation Grants	Demand reduced following a change in qualifying criteria.	-40	40	
Disabled Facilities Grants	Allocation not required in current year due to change in overall funding of DFGs	-89	89	
Bowling Greens	Retention for scheme.	-11	11	
Abbey Lane playing fields	Retention on drainage works.	-20	20	
Park Pool changing room refurbishment	On hold pending outcome of new Leisure Partnership.	-150	150	
WL Play strategy improvements	Upgrades to Stanley Coronation Park dependent on match funding being available	-30	30	
Hesketh Avenue MUGA	Consultation delayed pending new house builds.	-40	40	
CCTV Phase 3	Retention	-3	3	
		-406	406	0
<b><u>Other Adjustments</u></b>				
Call Centre	Merged to support the move to the new CRM system and meeting PSN compliance.	-18		
CRM Management System	Merged to support the move to the new CRM system and meeting PSN compliance.	18		

**2015/2016 REVISED CAPITAL PROGRAMME**  
**SUMMARY OF CHANGES**

ICT Development / e government	Contribution to Gallery Website	-5		
Website Contract Management System	Gallery Website	10		
Dock Brook	Additional payments identified	2		
Disabled Facilities Grants	Allocation not required due to change in overall funding of DFGs	-100		
Acquisition of Land Buildings		3014		
Westhead Playing Fields	Works completed under budget	-3		
Corronation Park/Ruff Lane	Additional works funded from underspend on Westhead Playing Fields.	3		
Chequers Lane play area	Final phase of project.	10		
<b><u>Previously Approved Adjustments now included in the Capital Programme</u></b>				
Allotments	New scheme approved at Cabinet for second site in Skelmersdale.	20		
Crafword Village Play Equipment	Grant towards new play equipment in Crawford Village.	9		
Burscough Brickpits	Public Open Space enhancements on former landfill site at Mill Dam Lane	12		
<b><u>Total Expenditure Adjustments</u></b>		2566	406	0
<b><u>Funded By:</u></b>				
Re-profiling		-406	406	
Strategic Investment fund		500		
Unallocated spend from Revenue 2015/16		329		
Changes in Grant funding		2		
Changes to Revenue Funding		5		

**2015/2016 REVISED CAPITAL PROGRAMME**  
**SUMMARY OF CHANGES**

Changes to Prudential Borrowing	2085		
Changes to Capital Receipt funding	0		
Section 106 funding	31		
CIL	20		
	2566	406	0
<b><u>Revised Capital Programme totals</u></b>	<b>8,300</b>	<b>1,211</b>	<b>805</b>





**APPENDIX A - HRA 2016/17 REVISED CAPITAL PROGRAMME SUMMARY OF CHANGES**

<b>Scheme</b>	<b>Current Budget £000</b>	<b>Re-Profiling £000</b>	<b>Virements £000</b>	<b>No Longer required £000</b>	<b>Revised Budget £000</b>	<b>Commentary</b>
FIRBECK REVIVAL	2,767		-630		2,137	Virement to Beechtrees revival project to part finance additional resource requirements
KITCHEN REPLACEMENTS	2,315				2,315	
BATHROOM REPLACEMENT	2,175	-1,075			1,100	Will be delivered in 2017-18
HEATING SYSTEM UPGRADES & HEAT METERS	1,675				1,675	
UPVC WINDOW REPLACEMENT	927				927	
SHELTERED UPGRADES	793				793	
DISABLED ADAPTATIONS	780		-170	-10	600	Demand led budget not required in 2016-17 being allocated to support other schemes
PROFESSIONAL FEES	664				664	
BEECHTREES REVIVAL	568		630		1,198	Virement from Firbeck revival project to part finance additional resource requirements
WALLS	470				470	
ELECTRICAL UPGRADES	413		100		513	Additional budget to ensure delivery of electrical testing and some remedial electrical work
ENERGY EFFICIENCY MEASURES	317				317	
COMMUNAL AREAS IMPROVEMENTS	275		50		325	
CONTINGENCY	409				409	
LIFTS	231		-31		200	
STRUCTURAL WORKS	176		50		226	
EVENWOOD COURT RE-MODELLING	151				151	
INVEST. TO DELIVER OR RECOMMENDATIONS	125				125	
GARAGE IMPROVEMENTS	113				113	
ENVIRONMENTAL IMPROVEMENTS	125				125	
RE ROOFING WORKS	88				88	
LAUNDRY EQUIPMENT	53		-18		35	
WHEELIE BIN STORAGE IMPROVEMENTS	39				39	
PENNINGTON AVENUE SHELTERED PROPERTY	30				30	
REPLACEMENT OF BALCONY SURFACES & ASSOCIATED WORKS	54		-14		40	
UPGRADE COMMUNAL DOOR ENTRY SYSTEMS	28				28	
WINDOW REPLACEMENT, BEACON CROSSING	25		-7		18	
DIGITAL INCLUSION INITIATIVES	19				19	
PAINTING & RENDERING "NO FINES" PROPERTY	15				15	
ROOF SPACES IN SHELTERED PROPERTIES	10				10	
STUBB BLOCK REFURBISHMENT EGERTON/ENSTONE	5				5	
FLOOD RESILIENCE	0		40		40	
<b>Total Expenditure</b>	<b>15,835</b>	<b>-1,075</b>	<b>0</b>	<b>-10</b>	<b>14,750</b>	

APPENDIX A - HRA 2016/17 REVISED CAPITAL PROGRAMME SUMMARY OF CHANGES

Funding of Programme	Current Budget	Re-Profiling	Virements	No Longer required	Revised Budget
HRA Funding	7,817				7,817
Borrowing	8,018	-1,075		-10	6,933
<b>Total Funding</b>	<b>15,835</b>	<b>-1,075</b>	<b>0</b>	<b>-10</b>	<b>14,750</b>

**2016/2017 CAPITAL PROGRAMME  
EXPENDITURE AND RESOURCES BUDGET  
as at MID-YEAR**

Service	Budget Approval	Actual		Variance	
	£'000	£'000	%	£'000	%
<b>EXPENDITURE</b>					
<b>Central Items</b>					
Financial Services	61	0	0%	61	100%
Central Schemes	799	1	0%	798	100%
<b>Leisure and Wellbeing</b>					
Leisure and Wellbeing - General	1,078	520	48%	558	52%
Housing Private Sector	1,066	241	23%	825	77%
<b>Development and Regeneration</b>					
Planning	86	3	3%	83	97%
Regeneration & Estates	3,834	3,717	97%	117	3%
Housing Strategy	398	0	0%	398	100%
<b>Housing and Inclusion</b>					
Corporate Property	286	91	32%	195	68%
Transformation	692	8	1%	684	99%
	<b>8,300</b>	<b>4,581</b>	<b>55%</b>	<b>3,719</b>	<b>45%</b>
<b>RESOURCES</b>					
Strategic Investment Fund	500				
CIL	20				
Capital Grants	1,345				
HRA	111				
GRA Reserve	621				
GRA Prudential Borrowing	2,905				
Capital Receipts	2,798				
	<b>8,300</b>				



**APPENDIX B - HRA CAPITAL EXPENDITURE AND BUDGETS IN SEPTEMBER 2016**

Scheme	Revised Budget	Mid Year Spend	Variance	Mid Year Spend
	£000	£000	£000	%
FIRBECK REVIVAL	2,137	1,440	697	67%
KITCHEN REPLACEMENTS	2,315	483	1,832	21%
BATHROOM REPLACEMENT	1,100	166	934	15%
HEATING SYSTEM UPGRADES & HEAT METERS	1,675	677	998	40%
UPVC WINDOW REPLACEMENT	927	155	772	17%
SHELTERED UPGRADES	793	172	621	22%
DISABLED ADAPTATIONS	600	170	430	28%
PROFESSIONAL FEES	664	279	385	42%
BEECHTREES REVIVAL	1,198	146	1,052	12%
WALLS	470	0	470	0%
ELECTRICAL UPGRADES	513	43	470	8%
ENERGY EFFICIENCY MEASURES	317	284	33	90%
COMMUNAL AREAS IMPROVEMENTS	325	94	231	29%
CONTINGENCY AND OTHER MISCELLANEOUS SYSTEMS	414	193	221	47%
LIFTS	200	152	48	76%
STRUCTURAL WORKS	226	77	149	34%
EVENWOOD COURT RE-MODELLING	151	126	25	83%
INVEST. TO DELIVER OR RECOMMENDATIONS	125	32	93	26%
GARAGE IMPROVEMENTS	113	0	113	0%
ENVIRONMENTAL IMPROVEMENTS	125	1	124	1%
RE ROOFING WORKS	88	0	88	0%
LAUNDRY EQUIPMENT	35	0	35	0%
WHEELIE BIN STORAGE IMPROVEMENTS	39	20	19	51%
PENNINGTON AVENUE SHELTERED PROPERTY	30	0	30	0%
REPLACEMENT OF BALCONY SURFACES	40	29	11	73%
UPGRADE COMMUNAL DOOR ENTRY SYSTEMS	28	0	28	0%
WINDOW REPLACEMENT, BEACON CROSSING	18	0	18	0%
DIGITAL INCLUSION INITIATIVES	19	2	17	11%
PAINTING & RENDERING "NO FINES" PROPERTY	15	0	15	0%
ROOF SPACES IN SHELTERED PROPERTIES	10	8	2	80%
FLOOD RESILIENCE	40	0	40	0%
<b>Total Expenditure</b>	<b>14,750</b>	<b>4,749</b>	<b>10,001</b>	<b>32%</b>



**REVISED CAPITAL PROGRAMME 2016/2017**  
**HEADS OF SERVICE COMMENTS**

<b>Corporate Property</b>
Works are progressing well and we expect to complete our planned expenditure for this financial year.
<b>Transformation</b>
<p>The Call Centre System has been merged into the CRM Replacement System where preparatory works are progressing and the phasing of implementation is being discussed with BTLS. The initial phases of the Gallery Website project are being finalised with BTLS.</p> <p>The ICT Development budget funds an agreed ICT Strategy as well as service-specific developments as appropriate. No changes are proposed for this capital budget. Often projects with committed expenditure are lengthy and complex areas of work and may therefore run over certain financial years. Several key pieces of work are due to conclude this year. There has been significant progress with the ICT capital funded work during 2016/17 with benefits across the Council including:</p> <ul style="list-style-type: none"> <li>• Public Sector Network (PSN) accreditation 2016 meeting standards set by government (which then, for example, enables us to continue to deliver the Revenues and Benefits Service)</li> <li>• Non-Microsoft application review of over 700 applications and 21,000 installs to help manage e.g. upgrade and licensing costs</li> <li>• Migration, destruction or archiving of databases for the new SQL Server</li> <li>• Work on establishing new access for public and corporate Wi-Fi</li> <li>• Council finance system upgrade (Civica Financials)</li> </ul>
<b>Housing Public Sector</b>
Expenditure on the Housing Public Sector capital programme is progressing steadily and is slightly higher than at the same point last year. Details on spending against individual schemes is set out in Appendix B.

**REVISED CAPITAL PROGRAMME 2016/2017**  
**HEADS OF SERVICE COMMENTS**

**Housing Strategy**

The Affordable Housing budget is committed to our Partnership with Regenda Housing Group. Three sites have now been completed resulting in 47 units being developed. A fourth scheme consisting of 14 units is currently being built and estimated to complete in March / April 2017.

The partnership has helped attract £1.5m to date of additional HCA investment to our Borough. New Homes Bonus at the higher rate will also be achieved when the affordable units are completed.

**Regeneration and Estates**

The Greenshoots units are nearing completion and will be commissioned in the Autumn of 2016. Four units have been pre-let and this represents more than 50% of the lettable square footage.

The Wheatsheaf Walks retail units were purchased earlier in the year for £3.014m. A review of the units has been undertaken with property services to gauge their condition and to establish a programme of improvements to the units. The Council is awaiting the full service charge account from the vendor of Wheatsheaf Walks and until finalised this will hinder the progress of firming up a programme of improvements. Occupancy levels are good and there is firm interest in the empty units, one of these has progressed to the point of agreeing terms and obtaining references.

The procurement of a contractor for the Gorsey Place rebuild project is nearly completed, although the loss adjusters have raised a number of queries on the rebuild details prior to finalisation. Once this is completed work can commence and it is envisaged this will go into the next calendar year.



**REVISED CAPITAL PROGRAMME 2016/2017**  
**HEADS OF SERVICE COMMENTS**

**Planning**

The free tree scheme runs in October and November and expenditure is expected to be in line with the budget.

The CIL/S106 database has been implemented with further plans this year to interface with the land charges system.

Additional scanning equipment will be needed to support the EDM system with plans in place to provide this by the end of the year.

Expenditure on implementing the OR recommendations is dependent upon the Planning ICT upgrade, and the budget is expected to be spent.

To date, there is no expenditure against the Skelmersdale Vision programme with delays due to legal issues. There will be a variety of potential costs associated with moving the project forward.

All remaining planning schemes are demand led and as yet there are no commitments for buildings at risk, and conservation area enhancement grants expenditure is below expected budget spend to date.

**Technical Services**

Works will be completed before the end of the financial year on Dock Brook, Abbey Brook and East Quarry.

Retentions are outstanding on Ormskirk Car Park Improvements.

**REVISED CAPITAL PROGRAMME 2016/2017**  
**HEADS OF SERVICE COMMENTS**

<p><b>Leisure and Wellbeing - Private Sector Housing</b></p>
<p>The funding for Disabled Facilities Grants has changed for the current year and plans are being put into place to spend the allocations in accordance with new criteria. Demand has reduced for Renovation Grants but the remaining budget should be spent in year.</p>
<p><b>Other Leisure and Wellbeing</b></p>
<p>Works will be completed before the end of the financial year on Richmond Park, Allotments, Leisure Trust, Parish Council Play Area Grants, Chequer Lane Play Area, Station Approach, Playing Fields and Beacon Park Entrance Road.</p> <p>Retentions have been re-profiled on Ormskirk Bowling Green, Abbey Lane Playing Field Drainage, and CCTV although works will mainly be completed this financial year.</p> <p>Works on the Play Strategy Programme may slip into the new financial year as some replacements are demand led. Works may also slip on the Gallery Lift Installation where project costings are being reviewed and finalised.</p>
<p><b>Financial Services</b></p>
<p>Expenditure on Parish Council Capital Grants is dependent on spending by Parish Councils and is not within the direct control of the Borough Council.</p>
<p><b>Central Schemes</b></p>
<p>This includes the Environmental/Town and village centre improvement fund which has been fully allocated to projects including support for the Economic Development Strategy and Skelmersdale Public Realm improvements.</p>



CABINET: 8 November 2016

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**Report of: Director of Leisure and Wellbeing  
Director of Development and Regeneration**

**Relevant Portfolio Holders: Councillor Y Gagen/Councillor J Hodson**

**Contact for further information: Mr S Kent (Extn. 5169)  
(E-mail: [Stephen.kent@westlancs.gov.uk](mailto:Stephen.kent@westlancs.gov.uk))**

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**SUBJECT: USE OF SECTION 106 MONIES IN SKELMERSDALE**

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Wards affected: Ashurst, Birch Green and Skelmersdale North wards

## **1.0 PURPOSE OF THE REPORT**

- 1.1 To consider a proposal regarding the use of section 106 monies received by the Council from housing developers, for the enhancement of public open space and recreation provision in Skelmersdale.

## **2.0 RECOMMENDATION**

- 2.1 That the use of £6,254 of S106 monies to help fund the proposed project to upgrade public access in Tawd Valley Park be approved.
- 

## **3.0 BACKGROUND**

- 3.1 Members will recall that under policy LE13 of the Local Plan, developers must provide open space facilities as part of housing developments. Where developments are less than 20 dwellings or on sites where it is not reasonable to expect a development to provide on-site facilities, and where there is a deficiency of open space, the Council can require a commuted sum for the provision of new or the enhancement of existing areas of public open space within its area.
- 3.2 In accordance with the decision of the Planning Committee on January 10th 2002 the views of the relevant Parish Council/ward councillors are sought in respect of the potential use of this money.

- 3.3 In February 2011 an Officer S106 Agreements – Public Open Space working group was established to co-ordinate the receipt of S106 commuted sums and report to Cabinet on the use of S106 funding. A function of this group is to establish levels of uncommitted S106 funds across all wards and liaise with ward councillors and Parish Councils as to how this funding could be best utilised in line with the requirements of the S106 agreements.

#### **4.0 CURRENT POSITION**

- 4.1 The funding from a particular development can only be used in accordance with the terms of the related Section 106 agreement. The Council currently has received monies from one S106 agreement in Skelmersdale North ward (£13,254 from the former St. Edmunds Church) of which £6,254 is still unallocated. Following consultation with ward councillors there is one new proposal put forward from the Borough Council for consideration for existing Section 106 funding in Skelmersdale North ward.

#### **5.0 PROPOSALS**

- 5.1 The Borough Council is currently working with Groundwork Cheshire, Lancashire and Merseyside and the Environment Agency to develop a new public footpath route in Tawd Valley Park, Skelmersdale (see appendix 1 – Tawd Valley Footpath).
- 5.2 The new footpath along the River Tawd would involve bank stability works, including natural revetment and erosion control, on sections of the river and construction of a new path on or close to the bank.

Running for 500 metres from Houghtons Road northwards to Summer Street the path will create an alternative pedestrian route along the riverside to complement the planned Tawd Valley Cycle Route, which moves away from the river at this section due to construction constraints.

#### **6.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY**

- 6.1 Providing this facility would improve accessibility to green space in Skelmersdale, helping to provide opportunities for healthy outdoor recreation. This would further the Councils aims for improvements to the health and wellbeing of its communities.

#### **7.0 FINANCIAL AND RESOURCE IMPLICATIONS**

- 7.1 The capital cost of the project is £30,157, with £6,254 requested from the S106 funds currently available.
- 7.2 The remaining funds have been secured from external grant schemes (Whitemoss Community Fund £15,903, and Tesco Bags of Help £8,000).

- 7.3 Future maintenance of the site will be undertaken by the Council Ranger Service, utilising existing revenue provision, with support from the Environment Agency.

## **8.0 RISK ASSESSMENT**

- 8.1 External funding of £23,903 has already been secured for this project, subject to the £6,254 of S106 funds being approved. Without the S106 funds the other external funds could be withdrawn, and the scheme may not be able to progress. This would reduce the accessibility of Tawd Valley Park, and prevent bank erosion measures on the River Tawd from progressing.

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### **Background Documents**

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

### **Equality Impact Assessment**

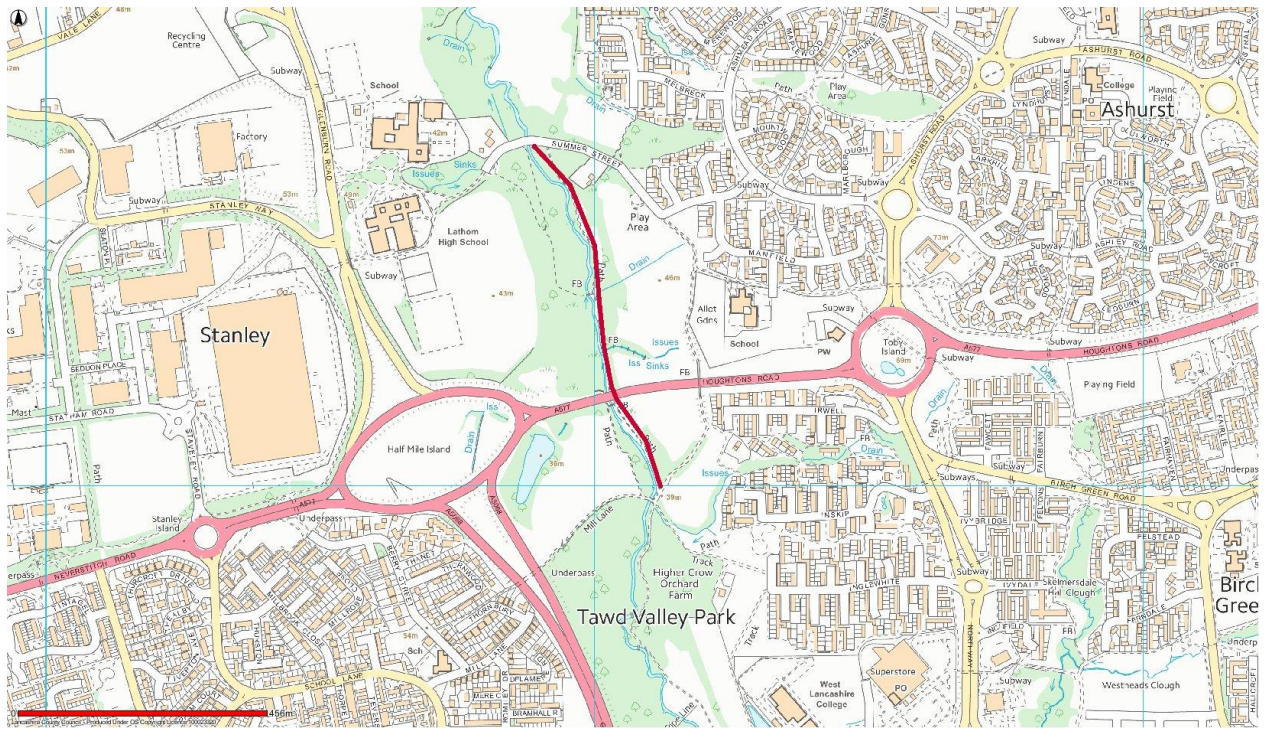
There is a direct impact on members of the public, employees, elected members and / or stakeholders. Therefore an Equality Impact Assessment is required. A formal equality impact assessment is attached as an Appendix to this report, the results of which have been taken into account in the Recommendations contained within this report.

### **Appendices**

1. Tawd Valley Footpath
2. Equality Impact Assessment



# Appendix 1 - Tawd Valley Footpath







<b>Equality Impact Assessment Form</b>	
<b>Directorate: Leisure and Wellbeing</b>	<b>Service: Leisure, Cultural &amp; Arts</b>
<b>Completed by: Stephen Kent</b>	<b>Date: 15/9/2016</b>
<b>Subject Title: Use of S106 monies in Skelmersdale</b>	
<b>1. DESCRIPTION</b>	
Is a policy or strategy being produced or revised:	<i>*delete as appropriate</i>
	No
Is a service being designed, redesigned or cutback:	No
Is a commissioning plan or contract specification being developed:	No
Is a budget being set or funding allocated:	Yes
Is a programme or project being planned:	Yes
Are recommendations being presented to senior managers and/or Councillors:	Yes
Does the activity contribute to meeting our duties under the Equality Act 2010 and Public Sector Equality Duty ( <b>Eliminating unlawful discrimination/harassment, advancing equality of opportunity, fostering good relations</b> ):	No
Details of the matter under consideration:	
<i>If you answered <b>Yes</b> to any of the above go straight to Section 3</i>	
<i>If you answered <b>No</b> to all the above please complete Section 2</i>	
<b>2. RELEVANCE</b>	
Does the work being carried out impact on service users, staff or Councillors (stakeholders):	
If <b>Yes</b> , provide details of how this impacts on service users, staff or Councillors (stakeholders): <i>If you answered <b>Yes</b> go to <b>Section 3</b></i>	
If you answered <b>No</b> to both Sections 1 and 2 provide details of why there is no impact on these three groups: <i>You do not need to complete the rest of this form.</i>	
<b>3. EVIDENCE COLLECTION</b>	
Who does the work being carried out impact on, i.e. who is/are the stakeholder(s)?	Skelmersdale residents
If the work being carried out relates to a universal service, who needs or uses it most? (Is there any particular group affected more than others)?	See above



Which of the protected characteristics are most relevant to the work being carried out?	<i>*delete as appropriate</i>
Age	Yes
Gender	No
Disability	No
Race and Culture	No
Sexual Orientation	No
Religion or Belief	No
Gender Reassignment	No
Marriage and Civil Partnership	No
Pregnancy and Maternity	No
<b>4. DATA ANALYSIS</b>	
In relation to the work being carried out, and the service/function in question, who is actually or currently using the service and why?	Site is currently not being used due to accessibility and erosion problems
What will the impact of the work being carried out be on usage/the stakeholders?	Works will provide public access to open space for local residents and possible school use.
What are people's views about the services? Are some customers more satisfied than others, and if so what are the reasons? Can these be affected by the proposals?	Accessibility to Tawd Valley Park has been an issue raised by general public and ward councillors. This scheme would help to resolve some of these issues.
What sources of data including consultation results have you used to analyse the impact of the work being carried out on users/stakeholders with protected characteristics?	Impact will be assessed by monitoring once works have been undertaken.
If any further data/consultation is needed and is to be gathered, please specify:	Future monitoring.
<b>5. IMPACT OF DECISIONS</b>	
In what way will the changes impact on people with particular protected characteristics (either positively or negatively or in terms of disproportionate impact)?	New path construction will allow those with mobility issues to access the site more easily.
<b>6. CONSIDERING THE IMPACT</b>	
If there is a negative impact what action can be taken to mitigate it? (If it is not possible or desirable to take actions to reduce the impact, explain why this is the case (e.g. legislative or financial drivers etc.).	Monitoring use will establish any negative issues and deal with them accordingly.
What actions do you plan to take to address any other issues above?	On-going monitoring.  <i>If no actions are planned state no actions</i>
<b>7. MONITORING AND REVIEWING</b>	
When will this assessment be reviewed and who will review it?	September 2017. Reviewing officer – Stephen Kent

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