

## AUDIT COMMITTEE

MONDAY 25 MARCH 2019

7.00 PM

Forli Room - Town Hall

**THE CHAIRMAN WILL ASSUME THAT MEMBERS HAVE READ THEIR PAPERS PRIOR TO THE MEETING TO AVOID UNNECESSARY INTRODUCTIONS TO REPORTS. IF ANY QUESTIONS ARE APPARENT FROM THE REPORTS THEY SHOULD BE PASSED TO THE REPORT AUTHOR PRIOR TO THE MEETING**

### AGENDA

Page No

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

At this point Members must declare whether they have a disclosable pecuniary interest, or other interest, in any of the items on the agenda, unless it is already entered in the register of members' interests or is a "pending notification " that has been disclosed to the Head of Legal Services.

3. **Minutes of the Meeting Held on 11 February 2019** 3 - 10
4. **Internal Audit Plan 2019/20** 11 - 50
5. **New Accounting Standards** 51 - 54
6. **Annual Audit Committee Report** 55 - 70

#### INFORMATION AND OTHER ITEMS

7. **Use of Regulation of Investigatory Powers Act 2000 (RIPA)** 71 - 126
8. **Approved Write-Offs Exceeding £10,000**

The Committee is asked to **NOTE** that there have been no approved write-off amounts to report since 11 February 2019, which exceed the Council's Financial Regulation threshold of £10,000.



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#### **Committee Members:**

**Councillors: D Over (Chairman), A Shaheed, Warren, G Elsey, Ellis, Aitken (Vice Chairman) and Nawaz**

**Substitutes: Councillors: Fuller, Hogg and Joseph**

Further information about this meeting can be obtained from Daniel Kalley on telephone 01733 296334 or by email – [daniel.kalley@peterborough.gov.uk](mailto:daniel.kalley@peterborough.gov.uk)



**MINUTES OF THE AUDIT COMMITTEE MEETING  
HELD AT 7:00PM, ON  
MONDAY, 11 FEBRUARY 2019  
BOURGES/VIERSEN ROOM, TOWN HALL, PETERBOROUGH**

Present: Councillors Over (Chairman), Ellis, Shaheed, Shaz Nawaz and Warren

Officers in

Attendance: Peter Carpenter, Acting Corporate Director of Resources  
Steve Crabtree, Chief Internal Auditor  
Dan Kalley, Senior Democratic Services Officer  
Ben Stevenson, Data Protection Officer

Also in

Attendance: Suresh Patel, Director Ernst & Young LLP  
Dan Cooke, Manager Ernst & Young LLP

**33. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor Aitken and Councillor Elsey.

**34. DECLARATIONS OF INTEREST**

No declarations of interest were received.

**35. MINUTES OF THE AUDIT COMMITTEE MEETING HELD ON 19 NOVEMBER 2019**

The minutes of the meeting held on 19 November 2019 were agreed as a true and accurate record save for the following deletion:

“The accounts delivered covered both Peterborough City Council and the Combined Authority”

**36. CERTIFICATION OF CLAIMS AND RETURNS ANNUAL REPORT 2017/18**

The Audit Committee received a report in relation to the certification of claims and returns annual report 2017/18.

The purpose of the report was to introduce the certification of claims and returns annual report to Committee

The Director Ernst & Young (EY) introduced the report, and summarised that the grants certification was used to certify the housing benefit subsidy. DWP

prescribed that there was a zero tolerance level and after completing the work the overall value of errors was circa £4000.

The Committee were informed that this was the final year that EY was to carry out this work, From next year KPMG was to take this over.

The Audit Committee considered and **RESOLVED** (Unanimously) to endorse the grant certification report.

### **37. ERNST & YOUNG LLP AUDIT PLAN FOR THE YEAR ENDED 31 MARCH 2019**

The Audit Committee received a report in relation to Ernst & Young's Audit Plan for the year ended 31 March 2019.

The purpose of the report was to involve the Audit Committee in determining the audit approach and additional issues that might be identified.

The Director EY introduced the report and confirmed that the report presented to the Committee at the previous meeting was an outline plan. The plan presented to Committee revisited the risks identified.

The Manager EY summarised the changes and confirmed that the first risk around fraud had been removed from the final plan. The second risk identified around the potential for fraud and mismanagement had been made more specific and had led to a further two risks identified, namely around incorrect capitalisation of revenue expenditure and incorrect application of capital grants.

In terms of risks three and four around valuation and impairment of property and pension liability of assets these were still a risk to the Council and would stay on the final plan.

In terms of risk five this was no longer an issue and had been removed from the final plan.

The Audit Committee debated the report and in summary, key points raised and responses to questions included:

- There were specific rules around the valuations given, this was based on professional opinion as market data was not overly reliable. EY had specialist valuers who would look into valuations at Peterborough.
- During the last crash in 2008/09 Council's found themselves in trouble for overvaluing properties in their portfolio.
- Auditing at Cambridgeshire County Council was carried out to the same standards as Peterborough City Council. There was nothing at the moment in terms of sharing services that were impacting the audits.
- In terms of pension fund valuations the Council was doing everything to get the information as early as possible, although there were likely to be some changes after exiting the EU.

The Audit Committee considered and **RESOLVED** (Unanimously) to:

1. Note the revised key risks set out by Ernst Young LLP in their report and their audit approach to meet those risks.
2. Identified to Ernst Young LLP any other matters the Audit Committee considers would influence the audit.
3. Note the Public Sector Audit Appointments scale fee would apply unless additional work was required.

### **38. 2019/20 TREASURY MANAGEMENT STRATEGY**

The Audit Committee received a report in relation to the 2019/20 Treasury Management Strategy.

The purpose of the report was to provide the Treasury Management Strategy for approval of the policies and Prudential Indicators in line with the consultation timelines for the MTFS.

The Acting Director Corporate Resources introduced the report and confirmed that the strategy set out how the Council was to borrow and its long term liabilities. In addition it set out how and where the Council invested funds and the prudential indicators to which the Council could borrow and invest against.

The Audit Committee debated the report and in summary, key points raised and responses to questions included:

- The Council was aware of the potential impact of Brexit on 29 March. It was therefore looking at paying suppliers a month in advance to ensure that businesses did not suffer and people were paid on time if that was necessary. A view would be taken in March.

The Audit Committee considered and **RESOLVED** (Unanimously) to approve the 2019/20 Treasury Management Strategy (TMS) before it is approved as part of the MTFS at Full Council in March 2019.

### **39. 2019/20 CAPITAL STRATEGY**

The Audit Committee received a report in relation to the 2019/20 Capital Strategy.

The purpose of the report was to provide the Committee an opportunity to approve the Capital Strategy 2019/20 - 2023/24 before inclusion in the MTFS.

The Acting Corporate Director of Resources introduced the report, and commented that the Capital Strategy ensured a comprehensive approach to the Council's final decisions.

The Audit Committee debated the report and in summary, key points raised and responses to questions included:

- If there was a need to spend more money on schools this would need to go through Cabinet and Council in order to get approval.

- In terms of the assets the Council held there needed to be further investigation as to what the Council owned, leased or had implied ownership. Each asset would be evaluated on a case by case basis. Ward Councillors would be consulted with before any property was deemed to be sellable.
- In terms of implied ownership there were some properties that were so old there were no records in place. It was essential the Council took advantage of these properties.
- The Council did not have the £46.5 million available to spend on bringing all assets up to date. It was therefore essential to look at bringing all buildings up to a certain standard.

The Audit Committee considered and **RESOLVED** (Unanimous) to approve the 2019/20 Capital Strategy before being approved as part of the MTFS at Full Council in March 2019.

#### **40. ASSET INVESTMENT ACQUISITION STRATEGY AND ASSET MANAGEMENT PLAN**

The Audit Committee received a report in relation to the the asset investment strategy and asset management plan.

The purpose of the report was to provide the Committee with an overview on how the Council ensures its assets and properly maintained and the rules by which the Council can purchase assets in the future.

The Acting Corporate Director of Resources introduced the report. The strategy and plan had been through the Growth, Environment and Resources Scrutiny Committee. The plan focused on the 1741 properties in the Council's portfolio and was valued around £425 million. The plan provided a framework to review properties sold and ways of investing any money.

The Audit Committee considered and **RESOLVED** (Unanimous) to approve the Asset Acquisition and Asset Management Plan before approved as part of the MTFS at Full Council in March 2019.

#### **41. EXTERNAL ASSESSMENT OF INTERNAL AUDIT**

The Audit Committee received a report in relation to the external assessment of internal audit.

The purpose of the report was to provide the Committee with an update on the external review undertaken in 2018 and the draft report received.

The Chief Internal Auditor introduced the report and confirmed the Council received an external assessment every five years to verify that the audit service was meeting the required professional standards. The external assessment had been completed by the Managing Director from the London Audit Consortium (an NHS based consortium in London). The initial findings found that Peterborough was fully compliant with all the standards, but there were areas where the service could further improve and develop. The audit team had agreed the actions and a final report was due shortly.

The Audit Committee debated the report and in summary, key points raised and responses to questions included:

- The NHS body used for the purposes of the Audit were qualified to carry out the level needed.
- The audit gave the authority an extra level of assurance over other local authorities should it look to extend its services.

The Audit Committee considered and **RESOLVED** (Unanimous) to note the external assessment of the Internal Audit service against the Public Sector Internal Audit Standards.

#### **42. INTERNAL AUDIT PLAN 2019/2020: APPROACH AND EMERGING THEMES**

The Audit Committee received a report in relation to the internal audit plan 2019/20.

The purpose of the report was to provide the Committee with an update on progress in developing the audit plan.

The Chief Internal Auditor introduced the report. At the next Audit Committee on 25 March 2019 a final internal audit plan for 2019/20 would be agreed. The internal audit plan would be grouped into key themes. In terms of key issues emerging, the Local Authority Trading Company (LATCo) would need to be looked at. This report offered the Committee an opportunity to identify any areas that they considered should form part of the internal audit plan.

The Audit Committee debated the report and in summary, key points raised and responses to questions included:

- Working with Cambridgeshire County Council did not increase or diminish the risk of cyber fraud. Staff were currently undergoing mandatory training around this as the IT systems become integrated.
- The LATCo was seen as a high priority for the first year of its life. This was something that affected every stakeholder in the city.

The Audit Committee considered and **RESOLVED** (Unanimous) to note the emerging themes to be considered for inclusion in the 2019/2020 Internal Audit Plan.

#### **43. RISK MANAGEMENT REPORT**

The Audit Committee received a report in relation to the risk management report..

The purpose of the report was for the Committee to note the risks identified.

The Acting Director Corporate Resources introduced the report and stated that the report would be produced twice yearly for the Committee. The report outlined potential issues for the Council around Brexit. The Government had been allocated £105k a year for the next two years to assist it in working through Brexit implications by the Government.

The Audit Committee considered and **RESOLVED** (Unanimous) to note the Risk Management Report.

#### **44. USE OF CONSULTANTS - UPDATE REPORT**

The Audit Committee received a report in relation to the use of consultants.

The purpose of the report was to provide the Committee with an update on the Council's use of consultants since the last report.

The Acting Director Corporate Resources introduced the report and commented £1.6 million for 9 month £2.2 million for year continuing the downward projection, however agency spent was higher already this year compared to last year. This was being investigated.

The Audit Committee debated the report and in summary, key points raised and responses to questions included:

- It was good to see that there was a downward trend in using consultants across the organisation. It was essential that key services received support when it was necessary. It was also essential to remember that some local authorities brought services from Peterborough City Council.
- Agency spend was mostly around social workers and care.
- The NHS had different ideas on how to use consultants and agency staff that could be looked at going forward.

The Audit Committee considered and **RESOLVED** (Unanimous) to note the use of consultants for the financial year 2018/19 up to December 2019.

#### **45. USE OF REGULATION OF INVESTIGATORY POWERS ACT (RIPA) 2000**

The Audit Committee received a report in relation to the use of powers connected within the RIPA Act 2000.

The purpose of the report was to provide the Committee with an overview of the inspection by the Investigatory Powers Commissioner's Office (ICPO) in November 2018 and the subsequent report received in January 2019.

The Data Protection Officer introduced the report and confirmed that the Commissioners Office had produced a positive inspection for Peterborough City Council. The Committee were informed that an updated policy would be brought to Committee at its next meeting.

The Audit Committee debated the report and in summary, key points raised and responses to questions included:

- There was very little surveillance used in Peterborough, compared to Cambridgeshire which had different challenges.



The Audit Committee considered and **RESOLVED** (Unanimous) to note the outcome of the inspection of Peterborough City Council by the Investigatory Powers Commissioner's Office (ICPO).

#### **46. UNCOLLECTABLE DEBTS IN EXCESS OF £10,000**

The Audit Committee received a report in relation to uncollectable debts in excess of £10,000.

The purpose of the report was to provide the Committee with an update on uncollectable debts over £10,000 since the last report and agreed to be written off by the Cabinet Member for Resources.

The Acting Director Corporate Resources introduced the report. The £1.4 million being Written Off was 94% non-domestic rates. The proportion compared to overall debt was very small. It was best practice to right off debts periodically.

It was noted that there was a concern that as Local Government funding changes to be more delivered by business rates that with 18,355 stores closing in 2018 this was something that needed to be watched.

The Audit Committee debated the report and in summary, key points raised and responses to questions included:

- It was not possible to insure against tax rates.

The Audit Committee considered and **RESOLVED** (Unanimous) to note the uncollectable debts in excess of £10,000.

#### **47. FEEDBACK REPORT**

The Audit Committee received a report in relation to feedback from the previous meeting.

The Acting Corporate Director confirmed that in terms of the consultancy figures from the previous committee meeting the differences in terms of figures for the Chairs of the Independent Safeguarding Board and the Serious Case Review were due to the number of meetings held for each board.

The Audit Committee considered and **RESOLVED** (Unanimously) to note the report.

#### **48. WORK PROGRAMME 2018/19**

The Audit Committee received a report in relation to the Work Programme through to March 2019.

It was agreed that the Senior Democratic Services Officer would look into moving the February 2020 meeting date to January, in order to link up with Scrutiny and Cabinet meetings.

The Audit Committee considered and **RESOLVED** (Unanimously) to note the report.

7:00pm – 8.13pm  
Chairman

<b>AUDIT COMMITTEE</b>	<b>AGENDA ITEM No. 4</b>
<b>25 MARCH 2019</b>	<b>PUBLIC REPORT</b>

Report of:	Peter Carpenter - Acting Corporate Director of Resources	
Cabinet Member(s) responsible:	Councillor Seaton - Cabinet Member for Resources	
Contact Officer(s):	Steve Crabtree, Chief Internal Auditor	Tel. 384557

<b>INTERNAL AUDIT PLAN 2019-2020</b>
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<b>RECOMMENDATIONS</b>	
<b>FROM:</b> Steve Crabtree, Chief Internal Auditor	<b>Deadline date:</b> N/A
<p>It is recommended that Audit Committee:</p> <ol style="list-style-type: none"> <li>1. Consider and agree to the Internal Audit Charter for 2019 / 2020 (Appendix A);</li> <li>2. Consider and agree to the Internal Audit Code of Ethics 2019 / 2020 (Appendix B); and</li> <li>3. Consider and approve the Internal Audit Strategy and Plans for 2019 / 2020 (Appendix C, D).</li> </ol>	

**1. ORIGIN OF REPORT**

1.1 This report is submitted to the Audit Committee as a routine planned report on the development of the role and service delivery of Internal Audit and investigations.

**2. PURPOSE AND REASON FOR REPORT**

2.1 The purpose of this report is to ensure that the Council reviews and agrees the audit activity for the next audit year.

2.2 This report is for Committee to consider under its Terms of Reference:

2.2.1.1 To consider the annual report and opinion of the Corporate Director Resources and a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the council's corporate governance arrangements.

2.2.1.3 To consider reports dealing with the management and performance of the providers of internal audit services.

2.2.1.15 To consider the council's arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice.

**3. TIMESCALES**

Is this a Major Policy Item/Statutory Plan?	<b>NO</b>	If yes, date for Cabinet meeting	N/A
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## **4. BACKGROUND AND KEY ISSUES**

### **4.1 INTRODUCTION.**

4.1.1 The report explains the strategic approach for Internal Audit that will be adopted to continue to provide effective assurance on the new and higher risks facing the Council and the strategic approach to tackling fraud against the Council for the coming year. An ongoing focus for 2019 / 2020 will be the ways in which we can assist management to meet the new challenges they face through developing combined assurance maps, to redesign controls to ensure that key risks are managed with reduced resources and by providing appropriate challenge, support and assurance to key programmes and projects which are enabling transformation and efficiencies.

4.1.2 The remit and work of the section is documented in the Internal Audit Charter. The Charter is subject to an annual review by the Committee and is compiled in accordance with the Public Sector Internal Audit Standards and the CIPFA Code of Practice for Managing the Risk of Fraud and Corruption.

### **4.2 INTERNAL AUDIT CHARTER 2019 / 2020 (Appendix A)**

4.2.1 The Charter sets out the purpose, objectives and scope of the activities of the service and has been developed to take account of the following requirements, which have previously been reported to the Audit Committee:

- The Public Sector Internal Audit Standards, which came into effect on 1 April 2013 (and revised in 2017); and
- The governance requirements set out in CIPFA Statement on the Role of the Head of Internal Audit in Local Government (December 2010).

4.2.2 The Charter 2019 / 2020 has been compiled to ensure compliance with the Public Sector Internal Audit Standards (PSIAS). In summary, the PSIAS, which were agreed by a range of bodies including IIA and CIPFA, place the following requirements on public sector organisations' internal audit arrangements:

- (i) Compliance with the IIA Code of Ethics (and those of other professional bodies of which an auditor is a member, e.g. CIPFA). The IIA Code of Ethics sets out key principles and rules of conduct covering the following: Integrity; Objectivity; Confidentiality; and, Competency.
- (ii) Purpose, authority and responsibility of the internal audit activity must be formally defined in an internal audit charter which should:
  - define the terms "board" and "senior management" for the purposes of internal audit activity;
  - cover arrangements for appropriate resourcing;
  - define the role of internal audit in any fraud-related work; and
  - include arrangements for avoiding conflicts of interest if internal audit undertakes non-audit activities.
- (iii) Independence and objectivity: the Chief Internal Auditor must report to a level within the organisation that allows the internal audit activity to fulfil its responsibilities. The Chief Internal Auditor must report functionally to the board. In practice this means that Audit Committee (as the Board) will be involved in:
  - approving the internal audit charter;
  - approving the risk based internal audit plan; and
  - making appropriate enquiries of management and the Chief Internal Auditor to determine whether there are inappropriate scope or resource limitations.
- (iv) Proficiency and due professional care: audit engagements must be performed with proficiency and due professional care. Internal auditors must possess the knowledge skills and other competencies needed to perform their individual responsibilities. The Chief Internal Auditor must hold a professional qualification (CMIIA, CCAB or equivalent) and be suitably experienced.

- (v) Quality assurance and improvement programme: the Chief Internal Auditor should develop an improvement programme that covers all aspects of the internal audit activity. An external assessment should be conducted at least once every five years and progress against any improvement plans, agreed following external assessment, must be reported to senior management and to Audit Committee. The external assessment undertaken in 2018 along with the associated improvement programme was reported to senior management and the Audit Committee in February 2019. Progress and actions implemented will be reported to committee as part of the internal audit reporting committee schedule during the year.

#### **4.3 INTERNAL AUDIT CODE OF ETHICS (Appendix B)**

4.3.1 The Code of Ethics sets out the expected behaviours of Internal Audit staff in relation to service delivery. The basis of standards of conduct has been reviewed and remains unchanged with reference to those followed by Internal Audit in previous years. The Code of Ethics has been developed to mirror the obligations in this area as per the Public Sector Internal Audit Standards and is therefore considered to be in keeping with professional standards.

4.3.2 Aside from the Code of Ethics, the Chief Internal Auditor in the role of the Chief Audit Executive will also be cognisant of and comply with requirements laid down in CIPFA's Statement on the Role of the Head of Internal Audit. It is also further acknowledged that all Internal Audit staff will operate in accordance with their own professional bodies' Code of Ethics, as well as any organisational Codes of Ethics or Conduct relating to their employer.

#### **4.4 INTERNAL AUDIT STRATEGY 2019 / 2020 (Appendix C)**

4.1.1 The Internal Audit function will:

- Provide the Section 151 Officer and Audit Committee with an overall annual opinion on the Council's governance, risk and control arrangements, which also supports the Annual Governance Statement;
- Review the Council's governance, risk management and control processes through a risk-based annual work plan which is aligned to the Council's objectives, giving assurance on the Council's wider risk profile, not just financial controls, and on key emerging risks;
- Support the organisation through changes in structure, culture and operating models;
- Demonstrate the value of audit by working proactively with those responsible for transformation and efficiency activities, to avoid duplication of audit and assurance effort and provide assurance across governance arrangements;
- Drive improvement in risk management, controls and governance by making effective recommendations to management arising from our work and monitoring and reporting on implementation;
- Assist management to optimise the control environment through a better understanding of risks which potentially enables fewer but better controls to be put in place;
- Co-operate effectively with external auditors and other review bodies functioning in the council;
- Use technology to improve the efficiency of audit testing –using data analytics and continuous audit methodologies – to foster greater compliance with policies and procedures;
- Improve governance through strengthening of the challenge role of Audit Committee, promoting appropriate compliance and ethical behaviours, and extending assurance arrangements to partnerships

4.4.2 The strategic approach set out above is underpinned by the Internal Audit Strategy which is set out in Appendix C and is aligned with internal audit best practice.

#### **4.5 INTERNAL AUDIT PLAN 2019 / 2020 (Appendix D)**

- 4.5.1 At the February 2019 Audit Committee, Members were provided with details of emerging issues which Internal Audit were using to shape its Internal Audit Plans. Following consultation with all Departmental Management Teams, reviews of strategic and operational risk registers, organisational changes etc.
- 4.5.2 The Plan for 2019/20 aims to give the Council the best audit coverage within the resources currently available, in order to provide an Annual Audit Opinion to feed into the Annual Governance Statement. Assurances from other providers will be utilised where appropriate. The current allocation of the estimated 780 available days (without recruitment) is shown below.

Internal Audit Work Activities 2019 / 2020	Days	%
Financial Governance	30	4
Corporate Governance	40	5
Information Governance	35	5
Anti-Fraud Culture	70	9
Other Service Delivery Governance	50	6
Service Delivery Risks	50	6
Procurement and Contracts	30	4
Programmes and Projects	40	5
Certification	85	11
Other Resource / Assurance Provisions	140	18
External Works	210	27

## 5. CONSULTATION

- 5.1 Consultation during the drafting of the documents and plans has been through the Directors and their respective management teams. Further consultation was undertaken with Members of the Audit Committee at the previous meeting when the Emerging Audit Issues were discussed.

## 6. ANTICIPATED OUTCOMES OR IMPACT

- 6.1 Internal Audit work schedules and resources will be set out for the 2019 / 2020 year.

## 7. REASON FOR THE RECOMMENDATION

- 7.1 Audit Committee have a role to oversee the effect delivery of audit resources to ensure that corporate governance arrangements across the Council are monitored, reviewed and are effective to delivering the Council agenda.

## 8. ALTERNATIVE OPTIONS CONSIDERED

- 8.1 There is a statutory duty for the S151 Officer to put in place appropriate arrangements for the provision of Internal Audit.

## 9. IMPLICATIONS

### Financial Implications

- 9.1 This report does not give rise to any additional capital or revenue financial implications. Actions to communicate the policies and to ensure compliance will be undertaken within the existing budgets.

### Legal Implications

- 9.2 None.

### Equalities Implications

- 9.3 Not applicable.

**10. BACKGROUND DOCUMENTS**

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

10.1 None

**11. APPENDICES**

- 11.1 A: Internal Audit Charter
- 11.1 B: Internal Audit Code of Ethics
- 11.1 C: Internal Audit Strategy
- 11.1 D: Internal Audit Plan

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**PETERBOROUGH CITY COUNCIL**  
**INTERNAL AUDIT CHARTER**

17

<b>KEY CONTACTS</b>		
Steve Crabtree	Chief Internal Auditor	☐ 384 557
Julie Taylor	Group Auditor	☐ 384 559
Louise Cooke	Group Auditor	☐ 384 558

February 2019

Next Review: By March 2020

## 1. INTRODUCTION

- 1.1 Organisations in the UK public sector have historically been governed by an array of differing internal audit standards. The Public Sector Internal Audit Standards (the PSIAS), which took effect from the 1 April 2013 and was revised in 2017, is based on the mandatory elements of the Institute of Internal Auditors (IIA) and International Professional Practices Framework (IPPF). It now provides a consolidated approach to promoting further improvement in the professionalism, quality, consistency, transparency and effectiveness of Internal Audit across the whole of the public sector.
- 1.2 The PSIAS require that all aspects of Internal Audit operations are acknowledged within an Audit Charter that defines the purpose, mission, authority and responsibilities of the service provision. The Charter therefore establishes the position of the service within Peterborough City Council (PCC); its authority to access records, personnel and physical properties relevant to the performance of engagements; in addition to defining the scope of Internal Audit activities. There is also an obligation under the PSIAS for the Charter to be periodically reviewed and presented to the Audit Committee, the Section 151 Officer and senior management. This Charter will therefore be revisited annually to confirm its ongoing validity and completeness, and be circulated in accordance with the requirements specified above.

## 2. PURPOSE

- 2.1 In accordance with the PSIAS, Internal Auditing is defined as:

*"An independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes."*

- 2.2 However, it should be appreciated that the existence of Internal Audit does not diminish the responsibility of senior management to establish appropriate and adequate systems of internal control and risk management. Internal Audit is not a substitute for the functions of senior management, who should ensure that Council activities are conducted in a secure, efficient and well-ordered manner with arrangements sufficient to address the risks which might adversely impact on the delivery of corporate priorities and objectives.

## 3. MISSION AND AIM

- 3.1 “To provide an independent risk based and objective assurance service which is responsive to the needs of Councillors and management, ensuring assurance, advice and insight enhances the values / vision of Peterborough City Council.”
- 3.2 The aim of the internal audit service is to demonstrate effective adherence and operation of the Core Principles for the Professional Practice of Internal Auditing. This encompasses demonstrating integrity; competence and due professional care; being objective and free from undue influence; aligning with the strategic objectives and risks of the organisation; being appropriately positioned and resourced; quality and continuous improvement; effective communication; provides risk based assurance; is insightful, proactive and future focussed and promotes organisational improvement.

### 3. AUTHORISATION

- 3.1 The requirement for an Internal Audit Service is outlined within the Accounts and Audit Regulations 2015, which state that “*a relevant authority must undertake an adequate and effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance*”,
- 3.2 This statutory requirement for continuous Internal Audit has been formally recognised and endorsed within PCC’s Constitution, making Internal Audit primarily responsible for carrying out an examination of the accounting, financial and other operations of the Council, under the independent control and direction of the Section 151 Officer. The role of Section 151 Officer at PCC is fulfilled by the Acting Corporate Director of Resources.
- 3.3 Further, there are other requirements placed upon the Chief Audit Executive (see Section 4: Organisation and Relationships), to fulfil all aspects of CIPFA’s Statement on the Role of the Head of Internal Audit in Public Sector Organisations.
- 3.4 The internal audit activity, with strict accountability for confidentiality and safeguarding records and information, is authorised to have full, free, and unrestricted access to any and all of the organisation's:
- Records, documents and correspondence (manual and electronic) relating to any financial and other transactions;
  - Physical properties, i.e. premises and land, plus cash, stores or any other Council property; and
  - Personnel – requiring and receiving such explanations as are necessary concerning any matter under examination and generally assisting the Internal Audit activity in fulfilling its roles and responsibilities.

The above rights also include access to organisations and partners where PCC data is processed as part of contractual protocols where an open book/audit access arrangement is in place. An example of this is the ICT and Transactional Services provision provided by SERCO.

3.5 Such access shall be granted on demand and shall not be subject to prior notice, although in principle, the provision of prior notice will be given wherever possible and appropriate, unless circumstances dictate otherwise.

#### 4. ORGANISATION AND RELATIONSHIPS

4.1 Within the PSIAS, the terms 'Chief Audit Executive,' 'Board' and 'Senior Management' are used to describe key elements of the organisation's governance, and the ways in which they interact with Internal Audit. The PSIAS require that the terms are defined in the context of the governance arrangements in each public sector organisation, in order to safeguard the independence and objectivity of Internal Audit. At PCC, the following interpretations are applied, so as to ensure the continuation of the current relationships between Internal Audit and other key bodies at the Council. The following terms are explained:

- Chief Audit Executive
- Board
- Senior Management
- External Audit
- Other Internal Audit Service Providers
- Other External Review and Inspection Bodies

#### 4.2 Chief Audit Executive

At PCC, the Chief Audit Executive is the Chief Internal Auditor (CIA). The CIA has a direct line of reporting to the Acting Corporate Director of Resources who would approve all decisions regarding performance evaluation, appointment or removal of the CIA in consultation with senior management. In response to requirements laid down within the PSIAS, it is further confirmed that the CIA has a direct reporting line and free and unfettered access to the Section 151 Officer, Chief Executive and Monitoring Officer should it be required.

### 4.3 Board

4.3.1 In the context of overseeing the work of Internal Audit, the 'Board' will be the Audit Committee of the Council, which has been established as part of the corporate governance arrangements at the Council. The Committee is responsible for the following with reference to Internal Audit:

- Internal Audit Plans;
- Progress and performance against approved plans;
- Annual Audit Opinion; and
- Compliance with standards.

4.3.2 Internal Audit will work closely with the committee to facilitate and support its activities. Moreover, the CIA also has a direct reporting line, and free and unfettered access to the Chair should it be needed.

### 4.4 Senior Management

In the context of ensuring effective liaison between Internal Audit and senior officers, Internal Audit has regular access to Directors and Heads of Service. 'Senior Management' for the purposes of this Charter are the Corporate Management Team of which the Section 151 Officer is a key member.

### 4.5 External Audit

Internal Audit interact with the Council's External Auditors – Ernst and Young – in order to minimise any potential duplication of work and determine the assurance that can be placed on the respective work of the two parties.

### 4.6 Other Internal Audit Service Providers

Internal Audit will also liaise with other Council's Internal Audit Service providers, where shared service arrangements exist. In such cases, a dialogue will be opened with the other Council's equivalent Chief Audit Executive to agree a way forward regarding the future auditing of 'shared' services, which will be both efficient and cost effective for all parties involved, and cause least disruption to the area(s) being audited. Where assurance is being provided to the authority from another internal audit provider, this will be included within reports to the Audit Committee where it is utilised in providing assurance as part of the annual audit opinion.

#### 4.7 Other External Review and Inspection Bodies

The Internal Audit Section confirms it will likewise co-operate with all external review and inspection bodies that are authorised to assess and evaluate the activities of the Council, to determine compliance with regulations, standards or targets. Internal Audit will, wherever possible, utilise third party assurances arising from this work.

### 5. **OBJECTIVES AND SCOPE**

- 5.1 The provision of assurance services is the primary role of Internal Audit and there is a duty of care on the Chief Audit Executive to give an annual internal audit opinion based on an objective assessment of the framework of governance, risk management and control. This responsibility to evaluate the governance framework far exceeds examination of controls applying to the Council's core financial systems. Instead, Internal Audit is required to scrutinise the whole system of risk management, internal control and governance processes established by management.
- 5.2 Internal Audit also has a secondary role, whereby it will provide consultancy services which are advisory in nature and generally performed at the request of the Council to facilitate improved governance, risk management and control, and potentially contribute to the annual audit opinion. This may include participation within working parties such as information governance and risk management.
- 5.3 A risk based Audit Plan will be developed each year to determine an appropriate level of audit coverage to generate an annual audit opinion, which can then be used to assist with the formulation of the PCC's Annual Governance Statement. Moreover, audit work performed will seek to enhance the Council's overall internal control environment. In the event of deficiencies in arrangements being identified during audit assignments, Internal Audit will put forward recommendations aimed at improving existing arrangements and restoring systems of internal control to a satisfactory level, where relevant.
- 5.4 In accordance with the PSIAS, the Internal Audit Service will evaluate and contribute to the improvement of:
- The design, implementation and effectiveness of the organisation's ethics related objectives, programmes and activities.
  - The effectiveness of the Council's processes for performance management and accountability.
  - The Council's IT governance provisions in supporting the organisation's corporate priorities, objectives and strategies.
  - The Council's risk management processes in terms of significant risks being identified and assessed; appropriate risk responses being made that align with the organisation's risk appetite, the capturing and communicating of risk information in a timely manner, and its use by staff, senior management and members to carry out their responsibilities and inform decision making generally.
  - The provisions developed to support achievement of the organisation's strategic objectives and goals.
  - The systems formulated to secure an effective internal control environment.
  - The completeness, reliability, integrity and timeliness of management and financial information.
  - The systems established to ensure compliance with legislation, regulations, policies, plans, procedures and contracts, encompassing those set by the Council and those determined externally.

- The systems designed to safeguard Council assets and employees.
- The economy, efficiency and effectiveness with which resources are used in operations and programmes at the Council.

5.5 In addition to the areas recorded above, where Internal Audit will give input to their continuing enhancement; the Service will also provide support to the Director in the discharge of their duties as the Section 151 Officer with responsibility for the probity and effectiveness of the Authority's financial arrangements and internal control systems.

5.6 **Managing the risk of fraud and corruption is the responsibility of management.** However, as part of the scope of Internal Audit, it will be alert in all its work to the risks and exposures that could allow fraud or corruption to occur and will monitor the extent and adequacy of risk controls built into systems by management, sharing this information with External Audit and other corporate investigators.

5.7 In the course of delivering services encompassing all the elements stated above, should any significant risk exposures and control issues subsequently be identified, Internal Audit will report these matters to senior management, propose action to resolve or mitigate these, and appraise the Audit Committee of such situations.

5.8 PCC's Anti-Fraud and Corruption arrangements are managed by the CIA, who is responsible for the associated corporate policies. The Anti-Fraud and Corruption Policy and the Whistleblowing Policy both make reference to the requirement to notify the CIA of all suspected or detected fraud, corruption or impropriety.

5.9 The CIA will produce an annual investigations report for the Audit Committee which encompasses the work undertaken during the year by the investigations team including any joint reviews with the internal audit team.

## 6. INDEPENDENCE

6.1 The Internal Audit Section operates within an organisational framework that preserves the independence and objectivity of the assurance function, and ensures that Internal Audit activity is free from interference in determining the scope of internal auditing, performing work and communicating results. The framework allows the CIA direct access to and the freedom to report unedited, as deemed appropriate, to the Audit Committee, the Chief Executive, Section 151 Officer, Monitoring Officer, External Audit and the Corporate Management Team.

6.2 The CIA has line management responsibility for the Insurance function, Corporate Investigations team and stage 2 corporate complaints. The CIA is also an authoriser for payments from the Councils (and Combined Authorities) bank accounts. Other officers within Financial Services also have this responsibility, and the CIA is used as the approver of last resort if others are absent etc. Prior to undertaking any additional management responsibility the CIA will consider and discuss with senior management any potential conflicts that may be evident and the appropriateness of undertaking the additional roles. Any reviews within these activity areas will be kept separate and reviewed independently of the CIA. In such circumstances the Group Auditor will report directly to the Service Director Financial Services.

- 6.3 The remaining Internal Auditors have no operational responsibilities or authority over any of the activities that they are required to review. As a consequence, they do not develop procedures, install systems, prepare records, or engage in any other activity, which would impair their judgement. In addition, Internal Auditors will not assess specific operations for which they were previously responsible, and objectivity is presumed to be impaired if an Internal Auditor provides assurance services for an activity for which they had responsibility within the previous 12 months. Internal Auditors may however provide consulting services relating to operations over which they had previous responsibility.
- 6.4 The CIA will confirm to the Audit Committee, at least annually, the organisational independence of the Internal Audit activity. The Internal Audit Team complete an annual declaration of interests that highlights any potential conflicts which may affect the ability to undertake an individual assignment. Additionally, the internal audit brief requires a declaration to be made prior to the start of an assignment. Where this is evident an alternative team member will be assigned the audit review.
- 6.5 Where internal audit services are provided to external organisations, the nature of the work undertaken and resultant outputs will not be shared with PCC. Service Level Agreements are presently in place for Vivacity Leisure Trust and the Cambridgeshire and Peterborough Combined Authority where internal audit services are delivered by PCC.

## 7. **PROFESSIONAL STANDARDS**

- 7.1 PCC's Internal Auditors operate and comply in accordance with the revised PSIAS, 2017.
- 7.2 The Internal Auditors are also governed by the policies, procedures, rules and regulations established by PCC. These include, but are not limited to Financial Regulations and Contract Standing Orders, Data Protection Policy, the Anti-Fraud and Corruption Policy and the Code of Conduct. Similarly, the Council's Internal Auditors will be aware of external bodies' requirements (e.g. as identified by CIPFA) and all legislation affecting the Council's activities.
- 7.3 The Council's Internal Auditors will additionally adhere to the Code of Ethics as contained within the PSIAS. Internal Auditors will also demonstrate due professional care in the course of their work and consider the use of technology-based audit and other data analysis techniques, wherever feasible and considered beneficial to the Council. They will similarly not be unduly influenced by their own interests or by others in informing judgements. All working arrangements and methodologies followed by PCC's Internal Auditors are set out in the Audit Manual.

## 8. **AUDIT RESOURCES**

- 8.1 The CIA will be professionally qualified (CMIIA, CCAB or equivalent) and have wide internal audit management experience, to enable them to deliver the responsibilities of the role.



- 8.2 The CIA will ensure that there are appropriate resources to deliver an annual evidenced-based audit opinion. As stated in the CIPFA Application Note, “No formula exists that can be applied to determine internal audit coverage needs. However, as a guide, the minimum level of coverage is that required to give an annual evidence-based opinion. Local factors within each organisation will determine this minimum level of coverage.”
- 8.3 The Internal Audit Service has access to staff that have a suitable range of knowledge, skills, qualifications and experience to deliver requisite audit assignments. The type of reviews that will be provided in year include risk based and systems reviews, contract audits, grant certification work, consultancy input to new / modified systems, compliance and special / fraud investigations. In the event of special investigations being required, there is limited contingency in the Audit Plan to absorb this work and this will be pursued in conjunction with the Corporate Investigations team if considered appropriate.
- 8.4 If it is identified that there is a shortfall in a particular or specialist/technical skill the CIA will not agree to undertake the audit assignment which could impact on effectiveness or quality of output. In such circumstances external resources may be procured as appropriate until the in-house team gains the required skills.
- 8.5 As previously determined Internal Audit may undertake consultancy activity (additional activity requested by management) where it has the necessary skills and resources to do this. This will be determined by the CIA on an assignment basis in conjunction with the Acting Corporate Director of Resources where there is likely to be an impact on the delivery of the audit plan.

## 9. AUDIT PLANNING

- 9.1 The CIA will develop an annual audit strategy, together with annual audit plans and a summary of annual audit coverage using a risk based methodology and an assessment tool. The key factors used in the assessment are:
- Materiality: The size of a system or process in terms of financial value or numbers of transactions or number of people affected.
  - Corporate Importance: The extent to which the Council depends on the system to meet statutory or regulatory requirements or corporate priorities.
  - Stability: The degree of change within the process.
  - Vulnerability: Extent to which the system is liable to breakdown, loss, error or fraud.
  - Specific concerns: Arising from management's assessment of risk as well as audit intelligence.

It will also take into account documented corporate and operational risks, as well as any risks or concerns subsequently notified to Internal Audit by senior management. This will be submitted to Senior Management for their approval prior to being taken forward to the Audit Committee for final endorsement, in advance of the new financial year to which they relate.

- 9.2 Resources and required skills are identified as part of the annual planning process. As identified in 8.4 any shortfall in technical skills and/or differences in the resources available to meet the requirements of the audit plan will be highlighted to management and the Audit Committee as part of the planning methodology within the audit strategy along with the continuous review of the Internal Audit Training Strategy. It will outline the assignments to be carried out and the broad resources and skills required to deliver the plan. It will provide sufficient information for the Council to understand the areas to be covered and for it to be satisfied that sufficient resources and skills are available to deliver the plan. Areas included in the audit plan are highlighted in **Table 1**.

**TABLE 1: AUDIT ACTIVITIES**

- Core system assurance work
- Governance, Risk Management and Assurance Framework
- ICT governance and risk
- Corporate / Cross Cutting audits (including value for money reviews)
- Contracts and projects
- Departmental specific reviews
- Compliance activity e.g. schools
- Grant claim certification work
- Fraud and irregularities
- Follow up activity
- Internal consultancy / advice on risks, controls and procedures
- Fee paying audit work
- Member support

9.3 The audit plan will be kept under review to identify any amendment needed to reflect changing priorities and emerging risks based on planning assessment methodology. It will be flexible, but will only contain a small element of contingency to accommodate fraud assignments which could not have been readily foreseen. However, in accordance with the internal audit assessment process, specific audit requests may take precedence over the original audit plan. If a request for additional work arises where the assessment criteria does not identify the review as high priority, Internal Audit will reserve the right to make a charge for any additional work that is still deemed required by the business. This will be done in consultation with the Acting Corporate Director of Resources and reported to the Audit Committee as appropriate. Resources, such as specialist or additional auditors may be required to supplement this.

## 10. REPORTING

10.1 The process followed for completing each audit is set out in **Table 2**. Upon completion of each audit assignment, an Internal Audit report will be prepared that:

- Provides an opinion on the risks and controls of the area reviewed, and this will contribute to the annual opinion on the internal control environment, which, in turn, informs the Annual Governance Statement; and
- Provides a formal record of points arising from the audit and management responses to issues raised, to include agreed actions with implementation timescales;
- Prompts management to implement agreed actions within targeted dates; and
- Is quality checked by senior officers within Internal Audit prior to circulation.

10.2 Exit meetings are accommodated enabling management to discuss issued Draft Audit Reports. Accountability for responses to Internal Audit recommendations lies with the Chief Executive, Directors, and / or Heads of Service, as appropriate, who can either, accept and implement guidance given or formally reject it. However, if audit proposals to strengthen the internal control environment are disregarded and there are no compensating controls justifying this course of action, an audit comment will be made in the Final Audit Report, reiterating the nature of the risk that remains and recognising that management has chosen to accept this risk. Similarly if following exit meeting discussions findings, recommendations or audit conclusions are disputed by the client every effort will be made to resolve any situations arising with the relevant directorate. In both instances, depending on the severity of the situation and risk, the matter may be escalated upwards to the Chief Executive and drawn to the attention of the Audit Committee.

<b>TABLE 2: WORKING ARRANGEMENTS DURING AUDITS</b>	
Audit Brief	Where possible 10 days notice will be given prior to the commencement of a review although audits can commence earlier subject to mutual agreement. A brief is produced and agreed with/by manager(s) prior to the commencement of the review.
Fieldwork	Assignment undertaking including interviews, testing etc.
Exit Meeting	Held at conclusion of fieldwork, or once draft report has been produced (see below), to discuss issues found (if not already provided during course of fieldwork).
Draft report	A draft report will be produced within 3 weeks of audit field work completion. A draft report meeting will be arranged with the Head of Service / Line Manager within 10 days of the report issue to discuss and formally obtain management responses. This will incorporate acceptance (or not) of actions together with timescale proposals to implement.
Final Report	Internal Audit incorporates all management comments within the report along with agreed timescales to implement any agreed actions. The report will be re-issued as a final within 5 days of receiving the response. The report will be distributed in accordance with agreed protocols (see Table 4).
Non response	If management do not respond to the draft report or a meeting request, a reminder will be sent to the original recipients requesting a response within 10 working days. If a response is not received this will be escalated to the next management level after a

	further 5 days (day 15). After that time, if a response is not received within a further 5 days a notice will be sent to the original recipients and the relevant Director to state that the report will be finalised.
Follow-up Review	Audit activities are normally followed up within 6 months of report finalisation but this can vary depending on target dates for implementation. Management are required to provide details of recommendation implementation which may be subject to further detailed review by internal audit.

10.3 Recommendations are rated and an overall opinion given on the service area reviewed (see **Table 3**). Final Audit Reports will be issued in line with agreed working protocols to the relevant nominated officers and subject to follow up work as necessary. Where there are no responses received from managers despite formally chasing, a report will be deemed as final and issued.

<b>TABLE 3: AUDIT ASSURANCE</b>	
<b>Opinion / Assurance</b>	<b>Description</b>
SUBSTANTIAL	The internal control system is well designed to meet objectives and address relevant risks, and key controls are consistently applied. There is some scope to improve the design of, or compliance with, the control framework in order to increase efficiency and effectiveness.
REASONABLE	The internal control system is generally sound but there are some weaknesses in the design of controls and / or the inconsistent application of controls. Opportunities exist to strengthen the control framework and mitigate further against potential risks.
LIMITED	The internal control system is poorly designed and / or there is significant non-compliance with controls, which can put the system objectives at risk. Therefore, there is a need to introduce additional controls and improve compliance with existing ones to reduce the risk exposure for the Authority.
NO	There are significant weaknesses in the design of the internal control system, and there is consistent non-compliance with those controls that exist. Failure to improve controls will expose the Authority to significant risk, which could lead to major financial loss, embarrassment or failure to achieve key service objectives.

RECOMMENDATION GRADES	
Grade	Description
Critical	Fundamental control weakness that jeopardises the complete operation of the service. <b>TO BE IMPLEMENTED IMMEDIATELY.</b>
High	Major control weakness which significantly increases the risk / scope for error, fraud, or loss of efficiency. <b>To be implemented as a matter of priority.</b>
Medium	Moderate control weakness which reduces the effectiveness of procedures designed to protect assets and revenue of the Authority. <b>To be implemented at the first opportunity.</b>
Low	Minor control weakness, which, if corrected, will enhance control procedures that are already relatively robust. <b>To be implemented as soon as reasonably practical.</b>

10.4 Following the end of the year, an annual report will be produced setting out Internal Audit's opinion on the state of the internal controls and governance across the Council. This will comment upon:

- The scope including the time period to which the opinions pertains;
- Any scope limitations;
- Consideration of all related projects including the reliance on other assurance providers;
- The risk or control framework or other criteria used as a basis for the overall opinion;
- The overall opinion, providing reasons where an unfavourable overall opinion is given; and
- A statement on conformance (or non-conformance) with the PSIAS and the results of the quality assurance and improvement programme.

10.5 Significant issues identified will be referred through to senior management for inclusion in the Annual Governance Statement.

10.6 All reports produced are set out in **Table 4**.

<b>TABLE 4: PLANNING AND REPORTING FREQUENCY</b>			
<b>Report Produced</b>	<b>For</b>	<b>Reason</b>	<b>Content</b>
Audit Report	<ul style="list-style-type: none"> <li>• Service Manager / Headteacher</li> <li>• Director / Chair of Governors</li> <li>• Chief Executive</li> <li>• s.151 officer</li> <li>• Monitoring Officer</li> <li>• Leader of the Council</li> <li>• Cabinet Member for Resources</li> <li>• Chair of Audit Committee</li> </ul>	The end of each audit assignment as the main recipient and those charged with implementing the issues identified	<ul style="list-style-type: none"> <li>• Executive Summary</li> <li>• Audit Opinion</li> <li>• Detailed risk issues</li> <li>• Agreed improvement plan</li> </ul>
Progress Reports (based around the committee cycle)	Audit Committee	To provide the Council with progress at delivering the audit service and any key governance issues arising.	<ul style="list-style-type: none"> <li>• Progress against annual plan</li> <li>• Any amendments to current annual plan</li> <li>• Details of significant risk issues</li> <li>• Details of non-responses or non-implementation of actions</li> </ul>
Annual Opinion and Performance Report	<ul style="list-style-type: none"> <li>• Audit Committee</li> <li>• External Audit</li> <li>• S151 officer</li> <li>• Monitoring Officer</li> </ul>	The end of each year in accordance with PSIAS. An evaluation of the works undertaken and the level of assurance established.	<ul style="list-style-type: none"> <li>• Annual assurance report giving CIA's opinion on the control environment</li> <li>• Achievement of the annual plan and performance data.</li> <li>• Effectiveness of Internal Audit</li> </ul>
Annual Audit Plan	<ul style="list-style-type: none"> <li>• Audit Committee</li> <li>• S.151 Officer</li> <li>• External Audit</li> </ul>	Beginning of year. Details of the service delivered and the future plans to provide assurance across the Council in accordance with PSIAS.	<ul style="list-style-type: none"> <li>• Audit Plan and days to be delivered</li> <li>• Audit Charter</li> <li>• Code of Ethics</li> <li>• Performance indicators to monitor service delivery and quality</li> </ul>

## **11. INTERNAL AUDIT SERVICES PROVIDED TO EXTERNAL CUSTOMERS**

11.1 Audit activities undertaken on behalf of other organisations follow similar protocols to that of PCC in terms of compliance with PSIAS. Internal audit plans are developed on a risk based methodology in providing assurance and delivering an evidence based Annual Head of Internal Audit Opinion. Reporting and progress monitoring is produced in accordance with the respective audit committee and senior management team and terms of reference detailed within service level agreements.

## **12. QUALITY ASSURANCE AND IMPROVEMENT**

12.1 The PSIAS require that the Internal Audit develops and maintains a quality assurance and improvement service development programme that covers all aspects of the Internal Audit activity, and includes both internal and external assessments. For the forthcoming year this will comprise the implementation of the external review action plan and realising continued improvements in the use of the audit system Pentana as the team migrate to a new consolidated system with MK insights in 2020. The results of the quality and assurance programme together with progress made against the improvement plan will be reported to senior management and the Audit Committee.

### **12.2 Internal Assessments**

12.2.1 Internal Assessments must include on-going monitoring of the performance of the internal audit activity. The Service operates in accordance with a number of key performance indicators.

12.2.2 Internal arrangements also include an annual survey and post audit feedback from auditees. Should criticism be received, this will immediately be investigated and steps taken to resolve matters raised.

12.2.3 The PSIAS additionally require periodic self-assessments or assessments by other persons within the organisation with sufficient knowledge of Internal Audit practices. This obligation is satisfied by the CIA performing an annual self-assessment of the effectiveness of Internal Audit, before the results are submitted to the Audit Committee. Presenting this information to the Audit Committee enables members to be assured that the Internal Audit Service is operating in a satisfactory manner such that reliance can be placed on the subsequent annual audit opinion provided by the CIA.



### 12.3 External Assessments

12.3.1 External assessments must be conducted at least once every five years by a qualified, independent assessor or assessment team from outside the organisation. External assessments can be in the form of a full external assessment, or a self-assessment with independent external verification. PCC was subject to an external review in 2018 and was found to be fully compliant.

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## PETERBOROUGH CITY COUNCIL

### INTERNAL AUDIT CODE OF ETHICS

#### INTRODUCTION

The purpose of a Code of Ethics is to promote an appropriate ethical culture for Internal Audit. The Code sets out the minimum standards for the performance and conduct of Peterborough City Council's (PCC) Internal Auditors. It is intended to clarify the standards of conduct expected when carrying out their duties and promote an ethical, professional culture at all times when undertaking audit duties.

#### PRINCIPLES

Internal auditors are expected to apply and uphold the following principles:

- **Integrity.** The integrity of internal auditors establishes trust and thus provides the basis for reliance on their judgement.
- **Objectivity.** Internal auditors exhibit the highest level of professional objectivity in gathering, evaluating, and communicating information about the activity or process being examined. Internal auditors make a balanced assessment of all the relevant circumstances and are not unduly influenced by their own interests or by others in forming judgments.
- **Confidentiality.** Internal auditors respect the value and ownership of information they receive and do not disclose information without appropriate authority unless there is a legal or professional obligation to do so.
- **Competency.** Internal auditors apply the knowledge, skills and experience needed in the performance of internal auditing services.

#### INTEGRITY

PCC Internal Auditors shall:

- Perform their work with honesty, diligence and responsibility;
- Observe the law and make disclosures expected by the law and the profession;
- Not knowingly be a party to any illegal activity, or engage in acts that are discreditable to the profession of internal auditing or to the organisation;
- Respect and contribute to the legitimate and ethical objectives of the organisation; and

## **OBJECTIVITY**

PCC Internal auditors shall:

- Not participate in any activity or relationship that may impair or be presumed to impair their unbiased assessment. This participation includes those activities or relationships that may be in conflict with the interests of the organisation;
- Not accept anything that may impair or be presumed to impair their professional judgement; and
- Disclose all material facts known to them that, if not disclosed, may distort the reporting of activities under review.

## **CONFIDENTIALITY**

PCC Internal auditors shall:

- Be prudent in the use and protection of information acquired in the course of their duties but should ensure that requirements of confidentiality do not limit or prevent reporting within the authority as appropriate; and
- Not use information for any personal gain or in any manner that would be contrary to the law or detrimental to the legitimate and ethical objectives of the organisation.

## **COMPETENCY**

PCC Internal auditors shall:

- Engage only in those services for which they have the necessary knowledge, skills and experience;
- Perform Internal Audit services with the International Standards for the Professional Practice of Internal Audit; and
- Continually improve their proficiency, effectiveness and quality of their services

## **MANAGING ARRANGEMENTS**

To ensure compliance with the Code of Ethics:

- There is an annual review of the Code to reinforce understanding and confirm on-going commitment;
- Quality control processes are in place to demonstrate integrity in all aspects of the work;
- All staff are obliged to declare any potential conflicts of interest;
- Confidentiality is clearly understood and any breaches will not be tolerated; and
- Staff are aware and understand the organisations aims and objectives together with an appreciation of the policies and procedures which govern the areas to be audited.

<b>PETERBOROUGH CITY COUNCIL INTERNAL AUDIT STRATEGY 2019/20</b>
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**1 INTRODUCTION**

- 1.1 Internal Audit has a key role in supporting the Council and its Audit Committee in discharging its governance responsibilities. Its aim is to provide independent risk based and objective assurance which is responsive to the needs of Councillors and management, ensuring assurance, advice and insight enhances the values and vision of Peterborough City Council.
- 1.2 In accordance with the mandatory Public Sector Internal Audit Standards (PSIAS), the Chief Internal Auditor must “establish risk-based plans to determine the priorities of the internal audit activity, consistent with the organisation’s goals”. The role, purpose and authority of Internal Audit is defined in our Charter, which is updated annually and presented to the Audit Committee for approval.
- 1.3 This document demonstrates how Internal Audit will support the Council in by delivering a relevant and focused Internal Audit Annual Plan for 2019/20. It explains how the plan was developed, the resources required to fulfil it, and how we will continue to develop the audit service.
- 1.4 The strategy will be reviewed throughout the year to ensure its continued relevance, both in terms of supporting the council’s aims and in achieving a professional, modern audit service.

**2 INTERNAL AUDIT PLANNING PROCESS**

- 2.1 In an ever changing risk and control environment, it is important that audit plans can adapt quickly to the needs of the Council. To ensure the plan is flexible and meets the needs of the organisation in real time an assessment and planning tool will be used throughout the year on a rolling basis. This approach has been in operation since 2018 and has the advantage that each selected piece of work is the right one.
- 2.2 In February 2019 Audit Committee, received and discussed some emerging themes as part of the 2019/20 annual planning process. These were generated from our review of: departmental and strategic risk registers; discussions with senior management; the Council’s priorities; the Medium Term Financial Strategy; key decisions and reports taken to Cabinet, Scrutiny Committee and other committees; and contract and project registers. The themes considered were:
- **Financial pressures** faced by the Council and the resultant changes to **service delivery arrangements** as well as large scale **projects** designed to introduce more efficient and effective ways of working along with the potential impact of Brexit.
  - **Corporate governance**, including risk management, Business Continuity and Disaster Recovery arrangements.
  - **Counter Fraud**. Taking a proactive approach, participation in the 2019 NFI initiative and building on the anti-fraud culture within the authority.

- **Contracts and Partnerships.** This is an essential component of the audit process, especially given the increasing dependence on external suppliers and partners, and the move towards a predominantly commissioning approach;
- **Other Service Delivery Governance.** With the formation of Peterborough Ltd along with greater emphasis on shared services and joint ventures;
- **Information governance,** particularly in relation to new regulations such as GDPR and IT security;
- **Schools.** Governance, statutory and financial management processes;
- **IT and Digital Strategies.** Changes to systems as the organisation migrates towards Office 360 and arrangements for agile working.
- **Grants** and the requirement for independent verification and certification.

- 2.3 The list of ideas that this generated was then subject to an assessment, using our planning tool. The key factors being assessed are:
- **Materiality:** The size of a system or process in terms of financial value or number of transactions or number of people affected.
  - **Corporate Importance:** The extent to which the Council depends on the system to meet statutory or regulatory requirements or corporate priorities.
  - **Stability:** The degree of change within the process.
  - **Vulnerability:** Extent to which the system is liable to breakdown, loss, error or fraud.
  - **Specific concerns:** Arising from management’s assessment of risk as well as audit intelligence.
- 2.4 The Annual Audit Plan was then compiled on the basis of:
- The prioritised list of potential audit reviews generated by the above assessment.
  - The number of audit days available for the year.
  - The skills, knowledge and experience of audit staff.
  - Information from other assurance providers.
  - An allowance for statutory activities, ad hoc consultancy, planning and progress reporting and follow-up reviews.
- 2.5 During the year, we will apply our assessment tool to any new risks that emerge or concerns that are raised, and thus determine its priority for review compared to those areas already in the plan. Coordination between Internal Audit and Risk Management functions is of value here in “horizon scanning” such that emerging local and national risks are identified and can be covered in audit work where appropriate. This new aspect of our planning methodology means that we cannot state with certainty which audits will be undertaken, however we will be able to ensure that each next piece of work is the highest priority one. Changes to the plan will be notified to the S151 officer and Audit Committee.
- 2.6 We will also plan to develop assurance frameworks on an ongoing basis. This will map the controls in key areas to the sources of assurance for those controls. It will provide valuable insight for management and will also give the Chief Internal Auditor an oversight of the control framework at the Council, which will feed into the Annual Opinion report at the end of the year. The assurance framework will be based on the Three Lines of Defence model, which categorises assurance according to its source:
- **First Line of Defence:** Operational managers and staff carrying out day to day responsibilities and monitoring activities.
  - **Second Line of Defence:** Oversight functions that set policy and process and monitor implementation, such as HR, Finance, Health and Safety, Legal, Procurement, ICT and Property.
  - **Third Line of Defence:** Independent assurance providers, such as Internal and External Audit as well as regulators.

### 3 AUDIT RESOURCES

3.1 The Internal Audit Service is provided by an in-house team with an establishment of 6.10 FTE (as detailed below):

Post Name	FTE
Chief Internal Auditor	1.00
Group Auditor	1.60
Principal Auditor	0.50
Senior Auditor	2.00
Auditor	1.00
Total establishment	6.10

3.2 The Chief Internal Auditor is charged with management responsibility for both the Insurance and the Investigations Teams at Peterborough City Council, as well as undertaking any Stage 2 Corporate Complaints. Management of these activities equates to just over 0.5 FTE.

3.3 We currently have a Senior Auditor vacancy (1 FTE). Should we not recruit, the impact on the plan as it currently stands is highlighted within Appendix C. The new planning methodology means it is not possible to say at the outset how our resources will be allocated, however, it can be seen that there are currently a number of audits rated High and Medium that we would not be able to complete.

3.4 Any areas of audit activity that raises a conflicts of interest which could impair the objectivity of any work carried out is highlighted during audit planning or as individual reviews are scoped. Any issues presently arising relate to the Risk Management review where the Chief Internal Auditor sits on the Board and this may impair objectivity depending on what is included within the review. Our Charter states that such audits will be reviewed independently from the CIA, and the Group Auditors will report directly to the Acting Corporate Director of Resources. However, this too may present a conflict of interests. We will determine the most appropriate course of action before undertaking this piece of work. We will also continue to monitor any conflicts of interest on a case by case basis and either re-allocate work accordingly, or notify the S151 officer and Audit Committee should we not be able to accommodate a piece of work.

### 4 QUALITY ASSURANCE AND IMPROVEMENT

4.1 The Internal Audit team will operate to the mandatory professional standards outlined in the Public Sector Internal Audit Standards (PSIAS). We will continue to monitor and improve the quality of our work in the following ways:

- Robust, evidenced quality reviews of each piece of audit work by senior management.
- Ongoing supervision and mentoring of staff, though 1:1s.
- Assessment of the training needs of staff in conjunction with the internal audit training strategy and the ability and provision through our membership of the Cambridge Audit Group, as well as other training providers such as the apprenticeship levy scheme. We will also make use of webinars, mentoring and sharing of information at team meetings.

- Post-audit questionnaires obtaining the views of auditees.
- Annual customer surveys to understand the requirements of management and their views on the quality of our service.
- Producing and implementing an improvement plan based on any self or externally assessed reviews of our work.

## 5 AUDIT SERVICE DEVELOPMENT

5.1 We aim to continually review and improve our service to ensure it is of the highest quality and meets our aims, as set out in the Charter. Planned developments for 2019/20 include:

- Implementation and further development of our Quality Improvement Assurance Plan
- An update of our follow-up process, to improve efficiency and ensure all actions are tracked and easily reportable.
- A review of our post-audit questionnaire, with the aim of increasing its return rate using electronic surveys.
- Areas for staff development have been identified around commercialisation and joint venture arrangements. Consideration is being given as to how best training can be delivered for these subject areas. Additionally during the year other training opportunities available to support staff development such as apprenticeships via the Apprenticeship Levy Scheme will be explored.
- Ongoing upgrades of our audit software, to ensure we are making full use of best practice enhancements as well as preparing for the migration of the present system Pentana with MK Insights in 2020.

## 4 OVERVIEW OF PLAN

The Plan for 2019/20 aims to give the Council the best audit coverage within the resources currently available, in order to provide an Annual Audit Opinion to feed into the Annual Governance Statement. Assurances from other providers will be utilised where appropriate. The current allocation of the estimated 780 available days (without recruitment) is shown in Table 1 below. Should recruitment take place the % increase would predominantly be in areas such as Financial, Corporate and Information Governance along with Service Delivery risks. Further details of specific audit reviews can be found in Appendix D.

<b>Table 1: Internal Audit Work Activities</b>		
	<b>Days:</b>	<b>%</b>
Financial Governance	30	4
Corporate Governance	40	5
Information Governance	35	5
Anti-Fraud Culture	70	9
Other Service Delivery Governance	50	6
Service Delivery Risks	50	6
Procurement and Contracts	30	4
Programmes and Projects	40	5
Certification	85	11



Other Resource / Assurance Provisions	140	18
External Works	210	27
<b>TOTAL RESOURCES ALLOCATED</b>	<b>780</b>	<b>100.0</b>

#### 4.1 Financial Governance

This covers audits of the main financial systems of the Council, which for 2019/20 includes a review of budgetary control and savings targets. Should more resources become available it will cover an allocation for the work we do in schools and reviews of finance systems such as payroll and council tax. We will co-ordinate our work with our External Auditors to ensure that there is no duplication of effort and to obtain any assurance from the work that they do.

#### 4.2 Corporate Governance

The work outlined in this section provides a high level overview of the governance arrangements at the Council, including the operation of the new board structure, compliance with the Code of Corporate Governance and input to the Annual Governance Statement. We will also continue to be involved in the new Risk Management board.

#### 4.3 Information Governance

In this area we are planning to review Business Continuity controls over cyber security. We will also continue to attend the Strategic Information Governance Board, providing consultancy advice on the policy framework and emerging issues.

#### 4.4 Other Service Delivery

With the forming of Peterborough Ltd (LATCo) a number of reviews will be undertaken within the company focussing on areas such as HR processes, Information Governance, services provided such as statutory testing and income recognition.

#### 4.5 Anti-fraud Culture

The Chief Internal Auditor manages an Investigations Team, and reports to Audit Committee separately about their work. However, in delivering all of its work, internal auditors are alert to the risks and exposures that could allow fraud or corruption to occur. Our plan also includes time for pro-active fraud detection (including work in relation to the National Fraud Initiative); some consultancy work in raising awareness and promoting an anti-fraud culture, and a small contingency for investigations into suspected irregularities. We will work with the Investigations Team where appropriate.

#### 4.6 Service Delivery Risks

We have included a number of reviews in this area including community and growth related issues such as homelessness the joint venture with Cross Keys which aims to deliver housing to help to alleviate the problem of homelessness in Peterborough along with the Community Infrastructure Levy (formerly

S106). Our work will also include the production of an assurance map covering safeguarding processes and controls, and we will review the assurances obtained from the CQC, Ofsted and any other external assurance providers.

#### **4.7 Procurement and Contracts**

We assess the management of contracts as high priority at a strategic level and always include time in our plan, however, specific contracts are assessed as the need arises. One area which has already been highlighted for review is the Serco ICT contract.

#### **4.8 Programmes and Projects**

We assess the management of projects as high priority at a strategic level and always include time in our plan, however, specific projects are assessed as the need arises. We will review projects to ensure appropriate business cases have been made and that they are being managed effectively. This may also include a look at business benefits realisations, as the large transformation projects are key to the delivery of efficiencies and therefore necessary savings.

#### **4.9 Grant Certification**

As a result of the Council continuing to receive and obtain grant funding, the demand for internal audit to certify grant claims continues. Also included in this area of the plan is other verification work carried out in line with Government requirements, such as Troubled Families programme (known locally as Connecting Families) and the Carbon Reduction Commitment.

#### **4.10 Other Resource Provisions**

This area includes time for:

- Completing 2018-19 audits that have yet to be finalised at the beginning of 2019-20
- Following-up the implementation of audit recommendations, normally within 6 months of the original audit;
- The provision of control advice and consultancy, which is requested on an ad-hoc basis from a variety of managers and officers. A large amount of this work consists of advice during the update or implementation of new systems or processes.
- Annual audit planning, progress monitoring and reporting.
- Other committee support, including reporting, Audit Committee training and a review of Audit Committee effectiveness
- Review and update of the Internal Audit Charter and Ethics statement, Quality Service Improvement Plans and review of Internal Audit effectiveness

#### **4.11 External Works**

PCC Internal Audit provides audit services to Vivacity–Peterborough (since 2010) and the new Combined Authority (from May 2017). Both are managed through a Service Level Agreements and costs are chargeable. The work undertaken is client confidential and is reported to the organisations' own audit committees. A small amount of chargeable work is occasionally carried out for schools, specifically grant certifications.

**PETERBOROUGH CITY COUNCIL  
INTERNAL PLAN 2019/20**

<b>AUDIT ACTIVITIES</b> Provision for Internal Audit and Anti-Fraud activities that are not subject to risk assessment.	
<b>SERVICE / SYSTEM</b>	<b>AUDIT SCOPE</b>
Annual Audit Planning	Produce risk assessed annual plan and strategy, along with a review of: <ul style="list-style-type: none"> <li>• Internal Audit effectiveness</li> <li>• Audit Committee effectiveness</li> <li>• Internal Audit Charter</li> <li>• Internal Audit Ethics Policy</li> <li>• Quality Assurance Improvement Plan</li> </ul> Includes reporting of the progress of the plan during the year. In accordance with PSIAS.
Annual Audit Opinion	Produce report detailing work carried out and Head of Internal Audit Opinion of Governance, Risk and Control, in accordance with PSIAS.
Annual Governance Statement	Review of senior management self-assessment assurance statements. Verification of (but not production of) final AGS including comparison with Local Code of Governance.
Fraud/Compliance activities	Produce annual report on activities of the Investigations Team. Produce/update corporate fraud policies, such as: Anti-Fraud and Corruption Policy; Whistleblowing Policy; Sanctions Policy. National Fraud Initiative – ongoing provision of data and investigation of 2019 matches. Raising awareness of fraud risks. Investigations into alleged fraud or irregular activity, as required.
Assurance Frameworks	Mapping of controls to assurances based on the Three Lines of Defence model. Designed to feed into the annual audit opinion and to drive future Internal Audit work where appropriate. During 2019/20 the aim is to cover Safeguarding (we will collaborate with CCC Internal Audit in this area).
Working Groups/ Boards/Committees	Attendance at working group/board meetings (for example: Risk Management, Information Governance) and reviewing emerging issues.
Carry Forward Provision	Provision for the completion of 2018-19 audits.
Follow Up Provision	Revisiting audits after 6 months to monitor the implementation of recommendations.

**PETERBOROUGH CITY COUNCIL  
INTERNAL PLAN 2019/20**

<b>AUDIT ACTIVITIES</b> Provision for Internal Audit and Anti-Fraud activities that are not subject to risk assessment.	
<b>SERVICE / SYSTEM</b>	<b>AUDIT SCOPE</b>
Advice and Consultancy	Allowance exists for time spent on providing risk and control advice to officers, management and members, as well as ad hoc requests for consultancy work.
External work	We are the Internal Auditors for Vivacity and the Combined Authority. We also occasionally carry out NCLT grant certifications for schools. This work is chargeable and is not reported into PCC's Audit Committee.
<b>TOTAL AUDIT DAYS</b>	
<b>455</b>	

**PETERBOROUGH CITY COUNCIL  
INTERNAL PLAN 2019/20**

**CERTIFICATION**

Certification of grant claims in relation to funding received from government and other funding bodies, as well as other submissions we are required to make to government. These are not subject to risk assessment as they must be completed.

DESCRIPTION	COUNCIL OBJECTIVE	DIRECTORATE	AUDIT SCOPE
Disabled Facilities	6	P&C	Non ring-fenced capital funding towards Disabled Facilities grants that PCC can award to disabled clients for necessary housing alterations. Completion by July 2019
Bus Service Operators	6	G&R	A grant to support bus services, including community transport services – Completion by September 2019
Integrated Transport Block	1	G&R	From DfT via CPCA. Completion by September 2019
Highways Maintenance	1	G&R	From DfT via CPCA. Completion by September 2019 (Needs Element, Incentive Element, Additional Incentive Element).
Pothole Action Fund	1	G&R	From DfT via CPCA. Completion by September 2019
National Productivity Investment Fund	1	G&R	From DfT via CPCA. Completion by September 2019
Drought Damage	1	G&R	From DfT via CPCA. Completion by September 2019
Connecting Families	2, 6	P&C	Payment by results scheme. Requirement to audit 10% of the claims for every submission. Also, to review the council's Outcomes Plan, which documents how PCC will apply the scheme. Claims reviewed during the year.
Carbon Reduction Commitment	4	G&R	A requirement from Environment Agency to audit the council's submission of annual energy usage figures to ensure they are valid, accurate and complete.
Other	Various	Various	Contingency for other possible grants during the year (eg funding for projects via CPCA, Integrated Communities Fund, NCTL Grants)
Mayor's Charities	N/A	Gov	Audit of the accounts maintained in relation to fund raising for the Mayor's Charities.
<b>TOTAL AUDIT DAYS</b>			<b>85</b>

**PETERBOROUGH CITY COUNCIL  
INTERNAL PLAN 2019/20**

**Prioritised Audits for Review**

The following audit areas have been subject to an assessment (of size, corporate importance, stability, vulnerability and specific concerns) and ranked accordingly. The assessment, and therefore the ranking, may change during the year as circumstances alter and new risks emerge. Audit reviews will be prioritised on the basis of this ranking, along with the number of audit days available, the knowledge and experience of staff and any timing requirements. The shaded areas represent audits that will not be possible without recruitment to the vacant post.

SERVICE OR SYSTEM	COUNCIL OBJECTIVE	DIRECTORATE	OUTLINE AUDIT SCOPE	Priority	
				Rating	Score
Peterborough Ltd / LATCo	1,4	G&R	A review of various services in the first year of operation to include - Statutory Testing, Information Governance (GDPR), Income Recognition (Accounts Receivables) and HR Processes	H	71
Shareholder Cabinet Committee	All	Various	Governance arrangements relating to the new shareholder cabinet committee responsible for overseeing Peterborough Limited and the organisations other activities such as partnerships and charities.	H	71
Financial Resilience / Budgetary Control	All	Various	An ongoing review of the savings targets identified in the MTFs and selected projects to ensure on target. / Budgetary Control arrangements for a specified service	H	70
Contract Management	All	Various	A governance review of the overarching policies and processes to manage contracts.	H	66
Community Infrastructure Levy	1,2,6	G&R	A review of governance approval processes and how financial contributions ensure delivery of scheme requirements	H	65
Programme Management Office	All	Res	A review of programme management and adherence to best practice	H	64
Disabled Facilities	6	P&C	Evaluation of new in-house system processes	H	64
Homelessness	1,3,6	P&C, G&R	Review of governance arrangements and processes for housing growth planning strategy and homelessness demand.	H	62

**PETERBOROUGH CITY COUNCIL  
INTERNAL PLAN 2019/20**

**Prioritised Audits for Review**

The following audit areas have been subject to an assessment (of size, corporate importance, stability, vulnerability and specific concerns) and ranked accordingly. The assessment, and therefore the ranking, may change during the year as circumstances alter and new risks emerge. Audit reviews will be prioritised on the basis of this ranking, along with the number of audit days available, the knowledge and experience of staff and any timing requirements. The shaded areas represent audits that will not be possible without recruitment to the vacant post.

SERVICE OR SYSTEM	COUNCIL OBJECTIVE	DIRECTORATE	OUTLINE AUDIT SCOPE	Priority	
				Rating	Score
Partnerships / Contracts	All	Various	A review of a contract/partnership management or open book review of specific contracts, for example: Serco IT	H	62
Projects	All	Various	Reviews of specific projects to ensure appropriate business cases have been made and that they are being managed effectively. This may also include a look at business benefits realisations. For example Office 365 Implementation, Asset Management.	H	62
Health and Safety	6	Various	Health and Safety arrangements to include action plan progress from previous health and safety reviews along with arrangements for multi-occupancy buildings.	H	61
Business Continuity	All	All	Review of departmental business continuity arrangements to include Agile Working	H	61
Cyber Security	All	Res	IT security arrangements – Cyber Security Stocktake Action Plan and DSP Toolkit evaluation	H	61
<b>TOTAL AUDIT DAYS</b>					<b>240</b>

**PETERBOROUGH CITY COUNCIL  
INTERNAL PLAN 2019/20**

**Prioritised Audits for Review**

The following audit areas have been subject to an assessment (of size, corporate importance, stability, vulnerability and specific concerns) and ranked accordingly. The assessment, and therefore the ranking, may change during the year as circumstances alter and new risks emerge. Audit reviews will be prioritised on the basis of this ranking, along with the number of audit days available, the knowledge and experience of staff and any timing requirements. The shaded areas represent audits that will not be possible without recruitment to the vacant post.

SERVICE OR SYSTEM	COUNCIL OBJECTIVE	DIRECTORATE	OUTLINE AUDIT SCOPE	Priority	
				Rating	Score
Think Communities	All	P&C	To act as a critical friend in determining measures for social and financial outcomes as the project develops.	H	61
Disaster Recovery	All	Res/All	This will cover Serco ICT arrangements in the event of disaster recovery.	H	61
Apprenticeship Scheme	2	CEx	Arrangements for governing and administering the apprenticeship levy scheme	H	59
Clare Lodge	2,3	P&C	Review of procurement and contracting arrangements	H	59
Energy Management	1,4	G&R/ RES	A review of processes in place for managing our energy costs, including contractual arrangements, data collation and monitoring and payment of invoices	H	58
Brexit	All	All	Emerging issues from working group. Changes to recruitment rules / staff resilience	H	57
Schools	2	P&C	Themed reviews to include Procurement and Statutory Testing. Reviews of specific schools will be determined on a risk basis throughout the year.	H	57
Liquid Logic	All	P&C	Project review of the new finance module and Agresso interface processes	H	56
Lone Working Arrangements	6	P&C	A review of policy arrangements across PCC and CCC.	H	55



**PETERBOROUGH CITY COUNCIL  
INTERNAL PLAN 2019/20**

**Prioritised Audits for Review**

The following audit areas have been subject to an assessment (of size, corporate importance, stability, vulnerability and specific concerns) and ranked accordingly. The assessment, and therefore the ranking, may change during the year as circumstances alter and new risks emerge. Audit reviews will be prioritised on the basis of this ranking, along with the number of audit days available, the knowledge and experience of staff and any timing requirements. The shaded areas represent audits that will not be possible without recruitment to the vacant post.

SERVICE OR SYSTEM	COUNCIL OBJECTIVE	DIRECTORATE	OUTLINE AUDIT SCOPE	Priority	
				Rating	Score
Joint Venture	1,6	G&R	Medesham Homes - Governance arrangements and strategy of the joint venture with Cross Keys to include project delivery.	H	55
Shared Services	1	P&C, G&R	Review of cross authority charging arrangements for PCC/CCC and Fenland / Appointment of agency/consultancy staff	H	53
Information Governance	All	Gov	GDPR compliance and follow up activities / Data Sharing	H	51
Risk Management	All	Res	Evaluation of Board arrangements and Strategy Effectiveness	M	49
Council Tax	All	Res	Arrangements to ensure all income due is identified, billed and recovered.	M	49
Payroll	All	Res	Review of processes to ensure effective controls are in place to ascertain the integrity of pay transactions.	M	49
Member Support	All	Gov	Processes for member training / mayoral selection	M	38
Occupational Health	6,7	CEX	A review of management reporting information to support the attendance management policy process		
<b>TOTAL AUDIT DAYS</b>					<b>240</b>

**VISION FOR THE CITY**

**PETERBOROUGH CITY COUNCIL  
INTERNAL PLAN 2019/20**

**STRATEGIC PRIORITIES**

- 1 Drive growth, regeneration and economic development.
- 2 Improve educational attainment and skills.
- 3 Safeguard vulnerable children and adults.
- 4 Implement the Environment Capital agenda.
- 5 Supporting Peterborough's culture and leisure trust Vivacity.
- 6 Keep all our communities safe, cohesive and healthy.
- 7 Achieve the best health and wellbeing for the city.

<b>AUDIT COMMITTEE</b>	<b>AGENDA ITEM No. 5</b>
<b>25 MARCH 2019</b>	<b>PUBLIC REPORT</b>

Report of:	Peter Carpenter - Acting Corporate Director: Resources	
Cabinet Member(s) responsible:	Cllr Seaton - Resources	
Contact Officer(s):	Peter Carpenter - Acting Corporate Director: Resources Kirsty Nutton - Head of Corporate Finance	Tel. 384564 Tel. 384590

**NEW ACCOUNTING STANDARDS**

R E C O M M E N D A T I O N S	
<b>FROM:</b> Peter Carpenter - Acting Corporate Director Resources	<b>Deadline date:</b> N/A
<p>It is recommended that Audit Committee:</p> <ol style="list-style-type: none"> <li>1. Note the impact on the Council's 2018/19 Statement of Accounts and accounting policies for the introduction of new accounting standards on income recognition and financial instruments.</li> <li>2. Note the estimated impact on the Council's 2020/21 Statement of Accounts for the introduction of a new accounting standard on leases and the progress made on implementation to date.</li> </ol>	

**1. ORIGIN OF REPORT**

1.1 This report is submitted to Audit Committee following a referral from the S151 Finance Officer.

**2. PURPOSE AND REASON FOR REPORT**

2.1 The purpose of this report is to enable Audit Committee to understand the new accounting standards, the current, and any potential future, impact on the Council from their adoption of the 2018/19 CIPFA Code of Practice on Local Authority Accounting (the Code).

2.2 This report is for Audit Committee to consider under its Terms of Reference No:

*2.2.1.17 To review the annual statement of accounts, specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the council.*

**3. TIMESCALES**

Is this a Major Policy Item/Statutory Plan?	<b>NO</b>	If yes, date for Cabinet meeting	n/a
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**4. BACKGROUND AND KEY ISSUES**

**International Financial Reporting Standard (IFRS) 9 - Financial Instruments**

- 4.1 IFRS 9 introduces fundamental changes to the classification of financial assets and determines how financial assets and financial liabilities are accounted for in financial statements and, in particular, how they are measured on an ongoing basis.
- 4.2 IFRS 9 introduces an approach for the classification of financial assets, which is driven by cash flow characteristics and the business model in which an asset is held. Financial assets will be classified and measured into three classes, each of which has its own particular treatment in the Balance Sheet and Comprehensive Income and Expenditure Statement:
- Financial assets measured at amortised cost – where a financial asset meets the criterion that their contractual cash flows are ‘solely payments of principal and interest’
  - Financial assets measured at ‘fair value through other comprehensive income’ (FVOCI) – where a financial asset meets the criterion of solely payments of principal and interest for their contractual cash flows Under this option gains or losses will not impact on the Surplus or Deficit on the Provision of Services as they will be reversed out in to a general reserve..
  - Financial assets measured at fair value through profit or loss (FVPL) – all other financial assets are measured at fair value through profit and loss. Under this option gains or losses will impact on the Surplus or Deficit on the Provision of Services.
- 4.3 The impact to the Council’s accounts of the new IFRS classifications is considered to be minimal as the Council’s financial instruments are mainly normal activity for Local Authorities operations for cash flow activity and are classified at amortised cost. The Council has loans to third parties but these are secured by assets. The final assessment of the Council’s financial instruments is under review and will be brought back to the Committee if required.
- 4.4 Although the Council does not have any equity pooled investments it is worth noting that the Ministry of Housing, Communities and Local Government acknowledged that one of the consequences of making Councils account for equity pooled investments under IFRS 9, at fair value through profit and loss (FVOCI), could mean that there is less money available to fund services due to the fact “fair value losses will need to be recognised as expenditure”. The government recognises that many local authorities have built up holdings in pooled investment funds over a number of years, primarily for treasury management purposes rather than with the intention of making a profit. As a result it has introduced a statutory override of five years which will give local authorities time to either divest themselves of financial instruments that they no longer wanted to bear the risks of holding in an orderly way, or to build up revenue reserves to mitigate the impact of fair value movements on instruments they wanted to continue to hold.

#### **IFRS 15 - Revenues from Contracts with Customers**

- 4.5 IFRS15 - Revenue from Contract with Customers was adopted into the 2018/19 Code. It introduces a new five step model for revenue recognition which aims to standardise the approach and provide greater consistency and clarity in response to high profile issues eg Tesco overstating its profits.
- 4.6 Entities need to assess all their contracts with customers against the new standard which can entail a lot of work for complex long term contracts. Applying IFRS 15 can impact on the timing of income recognition and consequently profits. There are also additional disclosures required to explain to users the key assumptions underpinning the income recognised and highlighting any material uncertainties and balances on long term contracts.
- 4.7 IFRS15 has been designed with private sector companies pursuing profits in mind. IFRS15 only applies to income received under contracts with customers (which includes implied contracts). Much of the Council’s income is out of scope of the new standard eg Grants, Property Taxes, Fines and Fees and Charges under Statute where the customer does not receive economic benefit of equivalent value in exchange for the charge. The Council’s income from customers with contracts which is in scope is generally of straight forward nature so the impact of applying IFRS15 is minimal.
- 4.8 The Council undertook an assessment of its income against IFRS15 as part of the work to support the Accounting Standards Issued but not Adopted disclosure in the 2017/18 accounts and EY

reviewed this as part of the 2017/18 Statement of Accounts audit with no issues in the Council's assessment being raised.

## **IFRS 16 - Leases**

- 4.9 IFRS 16 replaces IAS 17 Leases and will apply to the 2019/20 financial statements. These changes will primarily affect the leases that the Council have where it is the Lessee -leasing the asset in to the Council. The new leasing standard will lead to a substantial change in the accounting practice for lessees where the current distinction between operating and finance leases will be removed. It requires that a lessee recognises assets and liabilities for all leases with a term of more than 12 months unless the underlying value is of a low value. A lessee will recognise a right-of-use asset representing its right to use the underlying leased property, and a lease liability representing the lessee's obligation to make lease payments for the assets.
- 4.10 Although the implementation of this new IFRS has been delayed from 2018/19 accounts to the 2019/20 accounts the Council has been proactive by attending workshops by both CIPFA and EY (the Council's external auditors). These workshops have provided the Council the relevant knowledge and skills to be able to implement this new standard by 1 January 2020 and ensure that it is incorporated into the 2019/20 accounts and the Medium Term Financial Strategy for 2020/21.
- 4.11 The summary of the IFRS impact to the Council is:
- a review of the Council's leases will be undertaken and classified according to the new IFRS
  - the initial recognition of the right-of-use asset will meet the definition of capital expenditure and will therefore be included in the Capital Programme
  - the capital expenditure will impact the Capital Financing Requirement and the Minimum Revenue Provision
  - the Council's MRP policy will need to include the treatment of finance leases to lease where the right-to-use asset is recognised on the Council's Balance Sheet
- 4.12 The Council will prepare working papers to support the assessment of the Council's leases and the required accounting of IFRS 16 which will then be discussed with the EY later this year.

## **5. CONSULTATION**

- 5.1 The impact of the new accounting standards has been discussed with the Council's External Auditors, Ernst & Young (EY) as part of their work on the audit of the 2017/18 Statement of Accounts and 2018/19 Statement of Accounts and is included within their audit plan which has been considered at 19 November 2018 and 11 February 2019 Audit Committees.

## **6. ANTICIPATED OUTCOMES OR IMPACT**

- 6.1 To note the impact of the new standards and progress made towards implementation and comment on any issues the Committee considers relevant.

## **7. REASON FOR THE RECOMMENDATION**

- 7.1 To give Audit Committee information on the changes to 2018/19 and 2020/21 Statement of Accounts in advance of being asked to sign off the accounts for those years enabling greater time for consideration.

## **8. ALTERNATIVE OPTIONS CONSIDERED**

- 8.1 The Council is required to prepare the Statement of Accounts in accordance with the relevant CIPFA Code of Practice on Local Authority Accounting (The Code) for that financial year. The Code has been updated to incorporate these IFRS's. Therefore the Council has limited alternatives available for the accounts to be prepared to the regulatory deadline and specification.

## **9. IMPLICATIONS**

### **Financial Implications**

- 9.1 The financial implications of the adoption of the new accounting standards are set out in the main body of the report. The work required to implement the changes are planned to be carried out by the existing finance team, therefore no additional costs are forecast. EY have not asked for any additional audit fee specifically related to this work to date.

### **Legal Implications**

- 9.2 The legal framework for the production of the Council's Statement of Accounts is governed by regulation 21(2) of the Local Government Act 2003, which requires all Local Authorities in the United Kingdom to keep their accounts in accordance with 'proper (accounting) practices'. This is defined, for the purposes of local government legislation, as meaning compliance with the terms of the Code of Practice on Local Authority Accounting in the United Kingdom (the Code).

### **Equalities Implications**

- 9.3 None.

## **10. BACKGROUND DOCUMENTS**

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

- 10.1 2018/19 CIPFA Code of Practice on Local Authority Accounting  
IFRS 9 - Financial Instruments  
IFRS 15 - Revenue from Contracts with Customers  
IFRS 16 - Leases  
CIPFA Consultations / Statements on adoption of IFRS16 into Code.

<b>AUDIT COMMITTEE</b>	AGENDA ITEM No. 6
<b>25 MARCH 2019</b>	<b>PUBLIC REPORT</b>

Report of:	Fiona McMillan, Director of Law and Governance and Monitoring Officer	
Cabinet Member(s) responsible:	Councillor Seaton, Cabinet Member Resources	
Contact Officer(s):	Dan Kalley, Senior Democratic Services Officer	Tel. 296334

**ANNUAL AUDIT COMMITTEE REPORT**

<b>RECOMMENDATIONS</b>	
<b>FROM:</b> Fiona McMillan, Director Law and Governance and Monitoring Officer	<b>Deadline date:</b> N/A
It is recommended that Audit Committee approve the draft Annual Audit Committee Report for submission to Council as shown in <b>Appendix 1</b> .	

**1. ORIGIN OF REPORT**

1.1 This report is submitted to Audit Committee in line with the agreed Work Programme for the Municipal Year 2018 / 2019.

**2. PURPOSE AND REASON FOR REPORT**

2.1 The Audit Committee has been in operation since Annual Council in May 2006 (first meeting June 2006). The Committee has a wide ranging remit that underpins the Council's governance processes by providing independent challenge and assurance of the adequacy of risk management, internal control including internal audit, anti-fraud and the financial reporting framework. These are shown in its terms of reference.

2.2 This report is for the Audit Committee to consider under its Terms of Reference No. 2.2.1.15

*To consider the Council's arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice.*

**3. TIMESCALES**

Is this a Major Policy Item/Statutory Plan?	<b>NO</b>	If yes, date for Cabinet meeting	
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**4. BACKGROUND AND KEY ISSUES**

4.1 The attached Draft Annual Report has been produced (**Appendix 1**). The report shows:

- Background to the Committee, its roles, responsibilities and membership;
- An overview and coverage of its remit including Internal Audit, Accounts and Financial Management, External Audit, Risk Management, Control Assurance, Corporate Governance,

and Fraud and Irregularities; and

- Training provided to ensure that suitable challenge and scrutiny is adopted.

4.2 Members are advised that following the conclusion of this meeting the items discussed will be included in the Annual Report for completeness.

4.3 It is important that the Committee note that the Constitution and Ethics Committee now has responsibility for the Member's Code of Conduct and the Council's Constitution.

## **5. CONSULTATION**

5.1 None required

## **6. ANTICIPATED OUTCOMES OR IMPACT**

6.1 Publication of the report will enable the public to gain an insight into the role of the Committee and will ensure that the Committee can continue to progress and develop in the future. The City Council continues to evolve its Audit Committee in line with best practice to provide effective challenge to the governance arrangements adopted.

6.2 Subject to approval by Audit Committee, it is intended to present the report to Council for noting as part of the Committee's annual update in order to demonstrate the work carried out to improve the governance arrangements across the Council.

## **7. REASON FOR THE RECOMMENDATION**

7.1 To seek endorsement from Members that the Committee is delivering against its terms of reference and provided effective challenge to the organisation

## **8. ALTERNATIVE OPTIONS CONSIDERED**

8.1 None

## **9. IMPLICATIONS**

### **Financial Implications**

9.1 None.

### **Legal Implications**

9.2 None

### **Equalities Implications**

9.3 None

## **10. BACKGROUND DOCUMENTS**

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

10.1 The Council's Constitution

Chartered Institute of Public Finance and Accountancy (CIPFA)

## **11. APPENDICES**

11.1 Appendix A - Draft Audit Committee Annual Report





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**(DRAFT) ANNUAL REPORT FROM  
THE CHAIRMAN OF AUDIT COMMITTEE  
2018 / 2019**

*Assurance*

*Governance*

*Accountability*

*Risk Management*

*Independence*

## **AUDIT COMMITTEE: ANNUAL REPORT 2018 / 2019**

**INTRODUCTION**

**MEMBERSHIP AND MEETINGS**

**KEY ACTIVITIES AND TRAINING DURING THE MUNICIPAL YEAR**

**PLANS FOR 2019 / 2020**

## FOREWORD FROM THE CHAIRMAN OF AUDIT COMMITTEE

I am pleased to provide the Audit Committee's Annual Report for the municipal year 2018 / 2019. The Council is requested to note the work carried out by the Audit Committee in improving the governance arrangements across the Council.

The report shows how the Audit Committee has continued to make a positive contribution to the Council's governance and control environments. These cover all aspects, such as internal control; risk management; internal audit; anti-fraud; external audit; and financial reporting.

I would like to take this opportunity to give thanks to Committee Members and Officers for their contribution in supporting the Audit Committee's work during the year and my role as Chairman. Audit Committee Members have supported and challenged officers to ensure our risk, control and governance processes are effective and transparent. Officers have presented well-prepared reports and taken on suggestions to make sure the benefits of this Committee are passed onto our citizens.

This has been the first year that responsibility for the Member's Code of Conduct has passed to the remit of the Council's Constitution and Ethics Committee. I am sure we have all witnessed the improvements made to the Council's Constitution and welcome the Committee's work going forward.

Going forward, 2019 / 2020 will be a testing time for all Councils with the resources available becoming more important. How we risk manage our priorities, resources and partnerships will be vital, notwithstanding the risk of fraud. The Audit Committee holds a unique position to challenge and scrutinise the activities of the Council, with the support of Officers and my fellow Councillors, long may this continue.

## INTRODUCTION

This is the 11<sup>th</sup> annual report produced by Peterborough City Council's Audit Committee. It is produced in accordance with latest best practice<sup>1</sup> and shows that the Council is committed to working as an exemplary organisation, operating the highest standards of governance. This report demonstrates how the Audit Committee has successfully fulfilled its terms of reference and has endeavoured to improve the Council's governance and control environments.

The purpose of the Audit Committee is to provide independent assurance of the adequacy of the risk management framework and the associated control environment, independent scrutiny of the authority's financial and non-financial performance to the extent that it affects the Authority's exposure to risks and weakens the control environment, and to oversee the financial reporting process.

The key benefits of an Audit Committee can be seen as:

- Raising greater awareness of the need for internal control and the implementation of both internal and external audit recommendations;
- Increasing public confidence in the objectivity and fairness of financial and other reporting;
- Reinforcing the importance and independence of internal and external audit and similar review processes; and
- Providing additional assurance through a process of independent and objective review.

The Terms of Reference for the Audit Committee can be found at **Annex A** of this report.

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<sup>1</sup> Best practice as contained in the Chartered Institute of Public Finance and Accountancy (CIPFA) document "A Toolkit for Local Authority Audit Committees"

This report sets out the work undertaken by the Audit Committee for 2018 / 2019 and specifically highlights those areas where its scrutiny and review process has made a difference to performance. The Audit Committee has overseen good progress in all areas under its supervision.

Audit Committee members have had the opportunity to attend the Ernst & Young training conferences offered to Audit Committee Members across the East of England region.

## MEMBERSHIP AND MEETINGS

During 2018 / 2019, the Audit Committee met on the following dates:

- 16 July 2018
- 24 September 2018
- 19 November 2018
- 11 February 2019
- 25 March 2019

There is a cross representation of all parties in accordance with the make-up of the Council. The members for 2018 / 2019 were (excluding substitutes):

Table 1: Audit Committee Membership 2018 / 2019 as at 25 March 2019:

Conservative	Liberal Democrats	Labour
Over (Chair) Aitken (Vice Chair) Elsey Warren	Shaheed	S Nawaz Ellis

Senior officers from the Council are also present, including the Director of Law and Governance, Acting Corporate Director Resources and Chief Internal Auditor. Dependent on the subject matter on the agendas, other officers will attend in addition to external representation from the Councils' External Auditors.

## KEY ACTIVITIES AND TRAINING DURING THE MUNICIPAL YEAR

### Background

The Audit Committee's original terms of reference covers 7 main areas:

- Internal Audit
- Internal Control and Corporate Governance
- Annual Accounts
- Risk management
- External Audit
- Counter Fraud and Irregularities
- Members Code of Conduct

## Internal Audit

<b>2.2.2</b>	<b>Terms of Reference</b>
<b>2.2.2.1</b>	To consider the annual report and opinion of the Corporate Director Resources and a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the council's corporate governance arrangements.
<b>2.2.2.2</b>	To consider summaries of specific internal audit reports as requested.
<b>2.2.2.3</b>	To consider reports dealing with the management and performance of the providers of internal audit services.
<b>2.2.2.4</b>	To consider a report from internal audit on agreed recommendations not implemented within a reasonable timescale
<b>2.2.2.9</b>	To commission work from internal and external audit.
<b>2.2.2.16</b>	To consider the council's arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice.

16 July 2018

- *Capital and Treasury Outturn Report.* The report is submitted each year, as part of the financial reporting cycle. The purpose of the report was for the Audit Committee to consider the 2016/17 capital outturn and adherence to prudential indicators.
- *Annual Audit Opinion.* Internal Audit produces an Annual Audit Plan which forms the basis of their audit activity. Progress is noted throughout the year and an independent annual report is produced highlighting assurances obtained across the organisation as well as any misgivings into the effectiveness of controls. The report also sets out the teams' performance. Where standards have not been maintained across the Council, Audit Committee are provided with Executive Summaries of Audit reports for further scrutiny. Internal Audit concluded that they were able to provide reasonable assurance based on the work reviewed in the year.

19 November 2018

- *Internal Audit Mid-Year Opinion.* The Audit Committee received a half year progress report highlighting internal audit performance against targets and quality assurance results to enable it to review and comment on the work and performance of internal audit. Any areas reviewed which are considered to be weak or requiring attention following Internal Audit activity can result in officers from across the Council being held to account.
- *Combined Authority Governance.* The Committee received a report outlining the progress made in governance arrangements at the Combined Authority. The Committee were informed that a number of committees were being setup and Peterborough Councillors would be invited to sit on these committees.

11 February 2019

- *Internal Audit Plan 2019/20 Planning Approach and emerging themes.* The Audit Committee noted the proposed work for internal audit in 2019/20

## Internal Control and Corporate Governance

<b>2.2.1</b>	<b>Terms of Reference</b>
<b>2.2.2.1</b>	To consider the annual report and opinion of the Corporate Director Resources and a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the council's corporate governance arrangements.
<b>2.2.2.5</b>	To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance.
	Regulatory Framework
<b>2.2.2.12</b>	To review any issue referred to it by the Chief Executive or a Director, or any Council body.
<b>2.2.2.16</b>	To consider the council's arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice.

16 July 2018

- *Annual Governance Statement.* The production of the Annual Governance Statement (AGS) forms part of the annual closure of accounts process. It is not a financial exercise, but represents a corporate overview of the processes and procedures adopted by Peterborough to manage its affairs.
- Audit Committee reviewed the Annual Governance Statement on 16 July 2018. The Committee agreed to the final report and this was signed off within the legal timeframes.

24 September 2018

- *Treasury Management Mid-Year update.* The Committee received an update on the Treasury Management. In addition the Committee also noted the approval of use of loans within the officer's delegation scheme.
- *Approved Write-Offs exceeding £10,000.* The Committee received a report outlining the level of debt that had been written off by the Council.

19 November 2018

- *Use of Consultants.* Following the review of consultants used by the Council in 2010 it was recommended and agreed that Audit Committee would monitor progress. The Committee received an update in November 2018.

11 February 2019

- *2019/20 Treasury Management Strategy.* The Audit Committee received the Treasury Management Strategy that was to be presented to Full Council in March 2019. The Audit Committee noted and approved the strategy.
- *2019/20 Capital Strategy.* The Audit Committee received the Capital Strategy that was to be presented to Full Council in March 2019. The Audit Committee noted and approved the strategy.
- *2019/20 Asset Management Acquisition Strategy and Asset Investment Plan.* The Audit Committee received a report on the Asset Investment Strategy. The Committee approved the strategy before approval at Full Council in March 2019.



- *Uncollectable Debts in excess of £10,000.* The Audit Committee noted the uncollectable debts and welcomed more frequent reports in the future.
- *Use of Consultants.* Following the review of consultants used by the Council in 2010 it was recommended and agreed that Audit Committee would monitor progress. The Committee received an update in February 2019.

### **Annual Accounts**

<b>2.2.2</b>	<b>Terms of Reference</b>
	<b>Accounts</b>
<b>2.2.2.17</b>	To review the annual statement of accounts, specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the council.
<b>2.2.2.18</b>	To consider the external auditors report to those charged with governance on issues arising from the audit of the accounts.

16 July 2018

- *Budget Monitoring Report Final Outturn 2017/18.* The report provides the Audit Committee with the outturn position for both the revenue budget and capital programme for 2017/18. The Committee also noted performance on payment of creditors and collection performance from debtors.
- *Statement of Accounts to those charged with Governance (ISA260).* The Committee considered the robustness of financial processes and the financial standing of an organisation. The Council achieved this through the publication of the draft Statement of Accounts ahead of the statutory deadline, and also through the completion of a successful external audit process. 2017/18 is the first year where the production and audit of the accounts must comply with tighter statutory deadlines introduced by the Accounts and Audit Regulations 2015.

25 September 2017

- Following scrutiny by External Audit, the *Audit of Statement of Accounts and Report to those charged with Governance* was submitted to the Audit Committee. The Committee received and approved the "Report to those charged with governance (ISA260) 2016/17 Audit" from Ernst & Young LLP, the Council's external auditors; and received and approved the audited Statement of Accounts 2016/17.

20 November 2017

- *Impact of changed Statutory deadline for approval of statement of accounts.* The Committee agreed and noted the change of date to sign off the statement of accounts had moved to May 31. This means that the Audit Committee meeting in June 2018 will now be held in July 2018.

### **Risk Management**

<b>2.2.1</b>	<b>Terms of Reference</b>
	Regulatory Framework
<b>2.2.1.12</b>	To monitor the effective development and operation of risk management and corporate governance in the council.

24 September 2018

- *Insurance Service and Insurance Fund Annual Report 2017/18.* The Audit Committee received a report presenting the work carried out during the past year to provide an effective insurance function which provides cover for all aspects of the Council whilst minimising the cost.
- *Risk Management Report.* Audit Committee received a report of the strategic risks impact on the Council and the mitigating actions to address these.

11 February 2019

- *Risk Management Report.* Audit Committee received a report of the strategic risks impact on the Council and the mitigating actions to address these.

### **External Audit**

<b>2.2.2</b>	<b>Terms of Reference</b>
<b>2.2.2.5</b>	To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance.
<b>2.2.2.6</b>	To consider specific reports as agreed with the external auditor.
<b>2.2.2.7</b>	To comment on the scope and depth of external audit work and to ensure it gives value for money.
<b>2.2.2.8</b>	To liaise with the Public Sector Audit Appointments Ltd (PSAA) over the appointment of the council's external auditor.
<b>2.2.2.9</b>	To commission work from internal and external audit.

16 July 2018

- *Audit Fees 2016/17.* The Audit Committee considered the proposed Audit Fees for 2018/19. The Audit Committee noted and commented on the proposed fees in keeping with previous years fees.
- *Ernst & Young Verbal Quarter 2 Update.* The Audit Committee received a short update on the work of the external auditors and national issues affecting external audits across local authorities.

24 September 2018

- *Ernst & Young Annual Audit Letter for year end 31 March 2018.* The Committee received a report on the annual findings letter of the external auditors.
- *Response to Public Sector Audit Appointments Proposal to Ernst & Young as external auditors for 5 years from 2018/19.* The Committee were asked to confirm the appointment of Ernst & Young as

external auditors for a period of five years from 2018/19.

19 November 2018

- *Ernst & Young Audit Plan for Year ended 31 March 2019 Draft.* The Audit Committee received a draft report on the audit plan from external auditors for the year ending 31 March 2019. The Committee were made aware of new accounting standards that had to be adhered to from the next financial year.

11 February 2019

- *External Audit Plan for end March 2019.* The Audit Committee received a final report outlining the Audit Plan for Ernst and Young for end of March 2019. Members noted the report and agreed to the work carried out.
- *Certification of claims and returns annual report.* Audit Committee scrutinised and endorsed the Annual Audit and Inspection Letter in respect of 2017 / 2018 and Annual Grant Claims Certification. The Committee were informed that from next year KPMG would be taking over this function on behalf of Peterborough City Council.
- *External Assessment of Internal Audit.* The Committee received a report outlining external assessment of the Councils Internal Audit functions. The Committee noted that the internal audit service was fit for purpose.

### **Counter Fraud & Irregularities**

<b>2.2.2</b>	<b>Terms of Reference</b>
	Regulatory Framework
<b>2.2.2.13</b>	To monitor the effective development and operation of risk management and corporate governance in the council.

16 July 2018

- *Fraud and Investigations Team Annual Report.* Audit Committee received an annual report highlighting counter fraud and irregularity work over the previous year. The Committee's review of the work and performance of the counter fraud team showed strong support and interest and requested to be provided with regular updates in terms of team resources.
- *Use of Regulation of Investigatory Powers Act 2000 (RIPA).* At its meeting held on 16 July 2018, Audit Committee received and considered an updated policy, with a view to the Council being reviewed by the Policy inspectorate.

11 February 2019

- *Use of Regulation of Investigatory Powers Act 2000 (RIPA).* The Committee noted that the Council had recently been inspected by the Investigatory Powers Commissioners Office. The inspection had shown Peterborough City Council to be compliant but highlighted some areas for further progress.

### **Training**

Throughout the year, the provision of ongoing training to Members has been the cornerstone of developing Members (new and existing). During the year, officers provided presentations on:

- The preparation and scrutiny of the Statement of Accounts and the impact of International Financial Reporting Standards on these;
- General overview of the committee covering Information Governance; Regulation of Investigatory Powers Act (RIPA); Risk Management; Code of Conduct; and Whistleblowing.
- Ernst and Young have run two conferences for Audit Committee Members across the East of England regions.

In addition, members have access to a committee handbook which provides additional support / information.

#### **FUTURE DEVELOPMENTS AND PLANS FOR 2019 / 2020**

Overall, the Audit Committee want to continue to develop and build on our current achievements. For 2019 / 2020 and this will involve:

- Continuing to drive up standards of corporate governance;
- Continuing to equip existing and any new Members to fulfil the Audit Committee's responsibilities by providing or facilitating training on all aspects of the Audit Committee's remit;
- Assisting and supporting officers to promote the work of the Audit Committee and the roles of internal audit, external audit and risk management;
- Supporting the continued production of high quality and compliant statutory accounts;
- Helping to further increase awareness within the Council of its governance arrangements, with particular emphasis on information and tackling fraud and corruption; and
- Providing effective challenge to officers, raising awareness for sound internal control arrangements and giving assurance to the Authority that its control arrangements are sound.

## 2.2 AUDIT COMMITTEE: TERMS OF REFERENCE<sup>2</sup>

### 2.2.2 Terms of Reference

- 2.2.2.1 To consider the annual report and opinion of the Corporate Director Resources and a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the Council's corporate governance arrangements.
- 2.2.2.2 To consider summaries of specific internal audit reports as requested.
- 2.2.2.3 To consider reports dealing with the management and performance of the providers of internal audit services.
- 2.2.2.4 To consider a report from internal audit on agreed recommendations not implemented within a reasonable timescale.
- 2.2.2.5 To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance.
- 2.2.2.6 To consider specific reports as agreed with the external auditor.
- 2.2.2.7 To comment on the scope and depth of external audit work and to ensure it gives value for money.
- 2.2.2.8 To liaise with the Public Sector Audit Appointments Ltd (PSAA) over the appointment of the council's external auditor.
- 2.2.2.9 To commission work from internal and external audit.
- 2.2.2.10 To have oversight of the Regulation of Investigatory Powers policy and processes.
- 2.2.2.11 Authority to approve any changes regarding the Council's Whistle-Blowing policy and arrangements.

#### **Regulatory Framework**

- 2.2.2.12 To review any issue referred to it by the Chief Executive or a Director, or any Council body.
- 2.2.2.13 To monitor the effective development and operation of risk management and corporate governance in the council.
- 2.2.2.14 To monitor Council policies on "raising concerns at work" and the anti-fraud and anti-corruption strategy and the Council's complaints process.
- 2.2.2.15 To oversee the production of the authority's Statement on Internal Control and to recommend its adoption.

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<sup>2</sup> (Source: Constitution: Part 3, Delegations Section 2 - Regulatory Committee functions. Approved Annual Council)

2.2.2.16 To consider the Council's arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice.

**Accounts**

2.2.1.17 To review the annual statement of accounts, specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the council.

2.2.1.18 To consider the external auditors report to those charged with governance on issues arising from the audit of the accounts.

<b>AUDIT COMMITTEE</b>	AGENDA ITEM No. 7
<b>25 MARCH 2019</b>	<b>PUBLIC REPORT</b>

Report of:	Fiona McMillan, Director of Law and Governance & Monitoring Officer	
Cabinet Member(s) responsible:	Cllr David Seaton, Cabinet Member for Resources	
Contact Officer(s):	Ben Stevenson, Data Protection Officer	Tel. 01733 452387

**USE OF REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)**

RECOMMENDATIONS	
<b>FROM:</b> Fiona McMillan, Director of Law and Governance & Monitoring Officer	<b>Deadline date:</b>
<p>It is recommended that the Audit Committee</p> <ol style="list-style-type: none"> <li>1. <i>Receives and agrees the revised joint Peterborough and Cambridgeshire RIPA policy</i></li> <li>2. <i>Receives an update into the usage of RIPA powers by Peterborough City Council</i></li> </ol>	

**1. ORIGIN OF REPORT**

1.1 This report is submitted to the Audit Committee as a scheduled report on the Council's use of the powers contained within the Regulation of Investigatory Powers Act (RIPA)

**2. PURPOSE AND REASON FOR REPORT**

2.1 The purpose of this report is to provide Members with an overview of the following items:

- an understanding of RIPA which enables them to have effective oversight of the use of these powers
- a report detailing the usage of the powers
- The draft policy for both Peterborough City Council and Cambridgeshire County Council

2.2 This report is for the Audit Committee to consider under its Terms of Reference No. 2.2.1.13

*To monitor Council policies on "raising concerns at work" and the anti-fraud and anti-corruption strategy and the Council's complaints process.*

### 3. **TIMESCALES**

Is this a Major Policy Item/Statutory Plan?	<b>NO</b>	If yes, date for Cabinet meeting	
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### 4. **BACKGROUND AND KEY ISSUES**

4.1 Local authorities exercise criminal investigation powers for a number of reasons from fly tipping to planning enforcement to sale of counterfeit goods. The Councils may undertake covert surveillance to investigate such matters and that work will be regulated by RIPA. It also provides a statutory process for authorising such work.

RIPA seeks to ensure that any covert activity undertaken is necessary and proportionate because of the impact on an individual's right to a private life under Article 8 of the Human Rights Act. In undertaking such activity the Councils are in effect suspending a person's right to privacy. RIPA seeks to ensure both the public interest and the human rights of individuals are balanced.

The Councils are able to undertake directed surveillance meaning that it must be for the purpose of a specific investigation or operation. The Councils are not permitted to undertake intrusive surveillance, i.e. surveillance in private premises or vehicles.

4.2 Covert surveillance might mean the use of CCTV to monitor an individual's movement or their actions. Whilst the CCTV camera itself is overt, it is the use of that camera to track that individual's actions without that individual knowing which makes that act covert. The Council may also use underage volunteers to purchase tobacco or alcohol whilst being filmed. The viewing of CCTV footage *after* an incident does not constitute covert surveillance and therefore does not fall under RIPA.

4.3 RIPA also permits the Councils, via the National Anti-Fraud Network (NAFN) to require the release of communications data where the appropriate circumstances exist. We can obtain information which identifies the subscriber to a mobile phone and to see a call history but we cannot gain access to the actual content of calls. In an investigation into a rogue trader, we could link the contact number to the person and others called. We cannot obtain access to electronic data protected by encryption or passwords, which would include emails.

4.4 The Councils may also authorise the use of a Covert Human Intelligence Source (CHIS) to obtain information from individuals in a covert manner such as a Trading Standards officer using a pseudonym to carry out a test purchase online. It may also apply to the tasking of a member of the public to obtain private information about an individual. It should be noted that the Councils have never authorised the use of a CHIS since the commencement of RIPA.

4.5 In addition to RIPA, the Protection of Freedoms Act 2012 introduced two key important provisions for local authorities such as Peterborough City Council. The first is that in order for the Councils to apply for approval, the offence being investigated must meet the *crime threshold*. This means that either the offence carries a maximum punishment of imprisonment of six months or more or it is an offence relating to the sale of tobacco or alcohol to underage individuals.

The second key factor is the approval process. Any investigations must be properly authorised by one of the Councils' Authorising Officers in accordance with our policies and procedures. In addition, the council must also obtain judicial approval from a Justice of Peace i.e. district judge or Magistrate.



4.6 Peterborough City Council had a clearly written and robust policy alongside an easy access guide available to officers as well as a reporting structure in place. Peterborough City Council has a well regarded set of officers with strong experience and knowledge of RIPA matters. Following staffing changes, the structure and knowledge at Cambridgeshire County Council was no longer present. The adoption of an updated Peterborough policy and structure enables the necessary rigour and oversight to be put in place across both Councils.

4.7 At the last Audit Committee, a report was presented on the outcome of the inspection and subsequent report by the Investigatory Powers Commissioner's Officer (IPCO).

## **5. POLICY REVIEW**

5.1 The proposed joint policy has been revised in light of the revised Codes of Practice and also in light of the comments of the Inspector. Aside from updating to reflect changes in job titles and the policy covering both councils, the key changes are highlighted in the below.

### **5.2 General Observation Activities (page 9)**

This is a new section to provide some clarity for officers on when they may not need surveillance when they are undertaking their normal daily duties.

### **5.3 Authorising Covert Direct Surveillance (page 11)**

This section has been updated to reflect what conditions need to be met to enable the surveillance to be authorised. Whilst the Codes of Practice have always emphasised the necessity and proportionality within any application, officers should also ensure that the application is fair and balanced.

It also reflects the need to ensure that any proposed activity is covered by the authorisation. For example it is made explicit that both static and mobile surveillance activities are authorised rather than simply authorising surveillance.

The section also makes clear that potential collateral intrusion is considered fully and how this will be minimised. It may also be necessary to obtain a new authorisation should there be any material changes during the operation.

### **5.4 When surveillance falls outside of RIPA (page 15)**

Given the threshold test for when RIPA applies for a local authority, there will inevitably be surveillance activity which falls outside of the RIPA framework. As such we have included a section here for officers to be reminded that any activity which could be considered surveillance should be necessary and proportionate to what they hope to achieve. We expect officers to consider whether their activity does meet the RIPA Test and review with their manager to ensure that no application is required but also that the activity is appropriate.

### **5.5 CCTV (page 15)**

The section has been updated to reflect the approach to be taken where the use of CCTV cameras is either directly controlled by the Police or operated by council officers on behalf of the Police. Council officers must be aware of what activity has been authorised and understand the limits or restrictions of what has been authorised.

### **5.6 Aerial Surveillance (page 15)**

It should be stressed that neither council has such capability however it is recognised that it may be considered in the future and we should note its existence as a *potential* option and include this in our policy.

- 5.7 **Covert Human Intelligence Source (pages 17 to 21)**  
The Inspector highlighted this an area where we need to improve the clarity of our policy. We have now included a very clear opening to ensure that any consideration of the use a CHIS is discussed with the SRO first. Given the higher risks attracted by the use of a CHIS, we have decided that the Chief Executive would be the authorising officer in these matters.

The section includes the definition of a CHIS as well as examples for officers of when a CHIS authorisation may be required. It also includes greater detail on the necessity and proportionality aspects of any application.

- 5.8 **Use of a Juvenile as a CHIS (page 21)**  
The use of a juvenile in such a way would attract a greater risk than an adult and therefore we have a seperate section for this specific type of application.

- 5.9 **The use of Social Media/internet in investigations (page 23 to 24)**  
Although a growth area of often publicly accessible intelligence, we must ensure that our use of social media such as FaceBook or Twitter complies with the right of an individual to privacy. This section provides the framework for that work and also when this work may need a suitable authorisation. This section also covers access to information in a public setting as well as the use of covert accounts/identities by officers should be recorded to ensure that we have clear governance of such activity. This may apply when Trading Standards officers are investigating rogue traders and are making test purchases online.

- 5.10 **Acquisition of Communications Data (page 33)**  
This has been updated to reflect the changes in the crime threshold from 1 November 2018 for service or traffic data which is restricted to serious crime. It should be noted that both councils would only require subscriber data which can be acquired for any criminal offence

## **6. SURVEILLANCE UNDERTAKEN**

- 6.1 There have been no covert surveillance applications since last reported to this committee in March 2018. In addition, there have been no applications for communications data made by Peterborough City Council since 2013.

## **7. CONSULTATION**

- 7.1 The policy has been reviewed by Director of Law and Governance with consultation of the authorising officers.

## **8. ANTICIPATED OUTCOMES OR IMPACT**

- 8.1 The Audit Committee continues to be informed of the necessary and proportionate use of RIPA across the Authority through regular updates.

The draft policy is agreed for use for both Councils and reviewed on annual basis.

## **9. REASON FOR THE RECOMMENDATION**

- 9.1 It is recommended in the Codes of Practice that the committee continues to receive information on the use of RIPA and and also reviews the policy on an annual basis. In order to assist the committee in these duties, training will be provided after May 2019 to ensure that any new members of the committee receive training.

**10. ALTERNATIVE OPTIONS CONSIDERED**

10.1 There are no alternative options considered at this time.

**11. BACKGROUND DOCUMENTS**

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

11.1 Regulation of Investigatory Powers Act 2000  
Protection of Freedoms Act 2012

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Peterborough City Council

Cambridgeshire County Council

Regulation of Investigatory Powers Act  
Policy



## Document Control

Purpose of document:	The approach to the use of RIPA powers and the process followed by Peterborough City Council and Cambridgeshire County Council when these powers are used
Intended audience:	Officers who may use directed covert surveillance as part of an investigation
Type of document:	Policy and procedure
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## Introduction

The Regulation of Investigatory Powers Act 2000 ('RIPA') regulates covert investigations by a number of bodies, including local authorities.

The Revised Codes of Practice for use of such powers provide guidance to understand when RIPA applies and the procedures to follow. The Protection of Freedoms Act 2012 placed restrictions on when a local authority can use RIPA powers.

Authorisation under RIPA by one of the Councils' Authorised Officers gives authority to carry out Covert Surveillance, acquire communications data and use Covert Human Intelligence Source.

Authorisation ensures that the powers conferred by RIPA are used lawfully and in a way that does not interfere with the surveillance subject's Human Rights. It also requires those authorising the use of covert techniques to give proper consideration to whether use is necessary and proportionate.

The purpose of this Corporate Policy and Procedures Document is to explain:

- the scope of RIPA and the circumstances where it applies; and
- the authorisation procedures to be followed following the Protection of Freedoms Act 2012

## Key Role Definitions

**Senior Responsible Officer** – the Senior Responsible Officer (SRO) provides senior management oversight of the use of RIPA and provides assurance and integrity for the process. This will include oversight of authorisations, errors, reporting, training and inspection.

The SRO for both Peterborough City Council and Cambridgeshire County Council is Fiona McMillan, Director of Law & Governance.

**Central Monitoring Officer (CMO)** – the CMO will maintain the central registers for covert surveillance and communications data and is responsible for coordinating of training, updates of policies, procedures and inspections.

The CMO for both Peterborough City Council and Cambridgeshire County Council is Ben Stevenson, Data Protection Officer.

**Authorising Officer (RIPA)** – an authorising officer must be of service manager or above rank and will consider the application made under RIPA. They will consider the information provided by the applicant and determine whether there is necessity and proportionality in authorising the surveillance request.

For a list of authorising officers, please see Appendix 2.

**Applying Officers** – whether the application falls under RIPA, an applying officer is responsible for completing the application in full and providing sufficient details for the Authorising Officer to consider the application. The applying officer must never be the authorising officer.

## Useful Websites

[General Guidance](#) from the Investigatory Powers Commissioner's Office

[Home Office guidance to local authorities on the judicial approval process for RIPA and the crime threshold for directed surveillance](#)

[RIPA Forms](#)

[Code of Practice- Surveillance, Covert Human Intelligence and Acquisition and Disclosure of Communications Data](#)

## Basic determination of RIPA

It is critical that prior to any activity being undertaken, an officer and an authorising officer undertake an assessment of the activity proposed.

This assessment should follow the procedure as detailed below.

Question	Answer	Notes
1. Is the surveillance activity covert?	Yes – proceed to question 2	This means that a subject is unaware of the activity due to the way it being undertaken
2. Is the surveillance directed?	Yes – proceed to question 3	This means that the activity is for a specific investigation or purpose
3. Is the investigation into a criminal offence?	Yes – proceed to question 4	If it is not an investigation the alleged commission of a criminal offence then RIPA does <b>not</b> apply however you should always be able to show that you have considered whether RIPA does apply.
4. Are you likely to obtain confidential or private information	Yes – proceed to 5	If you are not likely to obtain such information then RIPA does not apply.
5. Does the offence meet the crime threshold?	If yes then RIPA applies	If it does not then RIPA does <b>not</b> apply however you should always be able to show that you have considered whether RIPA does apply.

Please refer to [Surveillance Checklist](#) for more detail.

## General Observation Activities

The general observation duties of council officers will not require authorisation under RIPA whether covert or overt. Such duties form part of the functions we are required to provide as opposed to pre-planned surveillance of a person or group. Paragraph 3.33 of the Revised Code of Practice provides some examples of when an authorisation may not be required.

*Example: Plain clothes police officers on patrol to monitor a high street crime hot-spot or prevent and detect shoplifting would not require a directed surveillance authorisation. Their objective is merely to observe a location and, through reactive policing, to identify and arrest offenders committing crime. The activity may be part of a specific investigation but is general observational activity, rather than surveillance of individuals, and the obtaining of private information is unlikely. **A directed surveillance authorisation need not be sought.***

*Example: Local authority officers attend a car boot sale where it is suspected that counterfeit goods are being sold, but they are not carrying out surveillance of particular individuals and their intention is, through reactive policing, to identify and tackle offenders. Again this is part of the general duties of public authorities and the obtaining of private information is unlikely. **A directed surveillance authorisation need not be sought.***

*Surveillance officers intend to follow and observe Z covertly as part of a pre-planned operation to determine her suspected involvement in shoplifting. It is proposed to conduct covert surveillance of Z and record her activities as part of the investigation. In this case, private life considerations are likely to arise where there is an expectation of privacy and the covert surveillance is pre-planned and not part of general observational duties or reactive policing. **A directed surveillance authorisation should therefore be considered.***

## Covert Surveillance

### What is Surveillance?

Surveillance includes:

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

## When is surveillance covert?

Surveillance is covert when it is carried out in a manner calculated to ensure that the subject or others affected by the surveillance are unaware that it is or may be taking place.

RIPA regulates two types of covert surveillance namely directed and intrusive.

## When is surveillance directed?

Surveillance is 'Directed' (paragraph 2.2 of the Revised Codes of Practice) if it is covert and undertaken:

- it is covert, but not intrusive surveillance;
- it is conducted for the purposes of a specific investigation or operation;
- it is likely to result in the obtaining of private information about a person (whether or not one specifically identified for the purposes of the investigation or operation);
- it is conducted otherwise than by way of an immediate response to events or circumstances the nature of which is such that it would not be reasonably practicable for an authorisation under Part II of the 2000 Act to be sought.

## When is Surveillance Intrusive?

### **LOCAL AUTHORITIES ARE NOT AUTHORISED TO CARRY OUT INTRUSIVE SURVEILLANCE**

Surveillance is intrusive, (paragraph 3.19 of Revised Codes of Practice) if it is covert and:

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

Surveillance which 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 is not intrusive unless 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.

A private vehicle is defined in the Act as any vehicle which is primarily used for the private purposes of the person who owns or has the right to use it. This would include company cars and leased cars used for business and pleasure. This is distinct to vehicles owned or leased by public authorities. Paragraph 7.49 of the Revised Codes of Practice provides guidance on

the latter; if devices are used within a council owned vehicle with the knowledge of the occupants then this is not considered to be surveillance however hidden devices may require authorisation.

## Authorising Covert Directed Surveillance

For covert directed surveillance an Authorising Officer will not grant an authorisation unless he/she believes (and the prescribed forms require that the factors below are shown to have been taken into account):

- (a) that an authorisation is necessary; and
- (b) the authorised surveillance is proportionate to what is sought to be achieved by carrying it out.

An authorisation is necessary if:

- (a) The offence is punishable by a maximum term of six months imprisonment on conviction or is related to the underage sale of alcohol and tobacco as per article 7A of the 2010 Order.

An authorisation will be proportionate if the person granting the authorisation has balanced 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.

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 and
- (c) fair and balanced

In order to ensure that authorising officers have sufficient information to make an informed decision it is important that detailed records are maintained. The prescribed forms (held by the Authorising Officer) must be fully completed.

It is also sensible to make any authorisation sufficiently wide enough to cover all that is required. This will also enable effective monitoring of what is done against that authorised. The use of stock phrases or cut and paste narrative should be avoided at all times to ensure that proper consideration is given the particular circumstances of each case.

Particular consideration should be given to collateral intrusion or interference with the privacy of persons other than the subject(s) of surveillance and wherever possible steps should be taken to avoid or minimise it. 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, or in a particular community.

Any application for authorisation should include an assessment of risk of any collateral intrusion or interference. The Authorising Officer will take this into account, particularly when considering the proportionality of the surveillance.

The application should also be presented in a fair and balanced way which should include evidence or information which weakens the case for authorisation.

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.

The applying officer should have also undertaken a surveillance assessment which includes a health and safety risk assessment, Appendix 7.

Judicial approval should then be sought. The corporate procedure for this can be found in Appendix 5.

See also Other Factors to be taken into account in certain circumstances.

## The Surveillance Checklist for Applicants

Before a council officer undertakes any surveillance of any individual or individuals they need to assess whether the activity comes within RIPA. In order to do this they need to ask themselves the following key questions.

### Is the Surveillance Necessary?

Any application granted must consider that the activity is necessary on one or more of the statutory grounds. In the case of the council then this will be for the prevention and detection of crime in line with the crime thresholds described below.



## Is the Surveillance Covert?

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

If activities are open and not hidden from the subject of an investigation, RIPA does not apply. Conversely if it is hidden, consider whether surveillance is likely to be directed or intrusive.

## Is it Directed?

This means whether or not it is for the purpose of a specific investigation or a specific operative. The use of surveillance for general purposes will not normally be 'directed' and will not therefore require RIPA authorisation. An example of this is the use of CCTV cameras for general area wide observation. *However*, if the surveillance is used as a means of targeting a specific person or persons then RIPA will apply if private information is likely to be obtained. In such circumstances officers should also be mindful of the possibility of collateral intrusion when applying for the appropriate authority.

## Private Information

The 2000 Act states that private information includes any information relating to a person's private or family life. Private information should be taken generally to include any aspect of a person's private or personal relationship with others, including family and professional or business relationships.

Whilst a person may have a reduced expectation of privacy when in a public place, covert surveillance of that person's activities in public may still result in the obtaining of private information. This is likely to be the case where that person has a reasonable expectation of privacy even though acting in public and where a record is being made by a public authority of that person's activities for future consideration or analysis.

Private life considerations are particularly likely to arise if several records are to be analysed together in order to establish, for example, a pattern of behaviour, or if one or more pieces of information (whether or not available in the public domain) are covertly (or in some cases overtly) obtained for the purpose of making a permanent record about a person or for subsequent data processing to generate further information. In such circumstances, the totality of information gleaned may constitute private information even if individual records do not. Where such conduct includes covert surveillance, a directed surveillance authorisation may be considered appropriate.

Private information may include personal data, such as names, telephone numbers and address details. Where such information is acquired by means of covert surveillance of a

person having a reasonable expectation of privacy, a directed surveillance authorisation is appropriate.

Paragraph 3.3 of the Revised Code of Practice provides scope for what information which may not be is not private may include publicly available information such as books, newspapers, TV and radio broadcasts, business reports and websites.

If it is unlikely that observations will result in the obtaining of private information about a person then it is outside RIPA.

### Is the crime threshold met?

The Protection of Freedoms Act 2012 introduced a *crime threshold* for local authorities wishing to carry out directed surveillance.

This means that local authorities can only authorise use of directed surveillance under RIPA to prevent or detect criminal offences that are either punishable, whether on summary conviction or indictment,

- by a maximum term of 6 months' or more imprisonment **or**
- are related to the underage sale of alcohol and tobacco as per article 7A of the 2010 Order.

A local authority **may not authorise** the use of directed surveillance under RIPA to investigate disorder that does not involve criminal offences or to investigate low level offences such as littering, dog control and fly posting.

If the offence changes during an investigation and meets the threshold test, then an application may be made.

### Is it proportionate?

In determining whether the activity is proportionate, paragraph 4.7 of the Revised Codes of Practice, the following must be considered:

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



## When surveillance falls outside of RIPA?

There will occasions when a council officer undertakes activity which does not meet the criteria of RIPA. Any activity whether governed by RIPA or not should be undertaken with clear consideration whether it is necessary and proportional to the objectives. It is incumbent on every officer to consider this prior to engaging in any kind of surveillance.

Given the potential for challenge by a subject during legal proceedings, it is the council's policy that such actions will still be governed by the RIPA framework to the extent that an officer must show that they have considered whether RIPA applies. This should be done by the using the Basic RIPA Determination at the start of this policy or Appendix 9 Checklist as an aide to the officers – this is an ongoing process for any investigation. It may be formalised during file reviews by managers, supervision meetings, prior to interviews or prior to the consideration of any legal proceedings. A manager or head of service should ensure that activities have followed the correct procedure.

Surveillance which can termed overt does not require authorisation – a visit to a property with the intention to speak to the occupier would not constitute surveillance. If there is no intention to speak to the occupier such as “drive pasts” to obtain information then this may become surveillance and therefore this policy applies. One visit to the property to obtain the details of a vehicle will not be considered surveillance however repeated visits to establish a pattern of behaviour will be considered and the appropriate form will be required.

## CCTV

Peterborough City Council operates a CCTV system which can be used in surveillance where appropriate and where authorised. The CCTV system is overt and is governed by the Surveillance Camera Code of Practice and the ICO guidance on the matter. This does not mean that the use of overt cameras for surveillance does not require authorisation under the Act. It may be considered covert, pre-planned and directed towards a person or group which would require authorisation.

The corporate code of practice is available and covers the use by Police and non-Police agencies. Peterborough City Council has an agreed protocol with Cambridgeshire Police which is held by the CMO and CCTV Manager.

## Use of CCTV system by Cambridgeshire Police

Where the CCTV systems is being operated by Police officers under a RIPA authorisation, we will maintain a register of the details of the date and time of the authority was granted,

the nature of the offence under investigation and the operation name and/or authority reference number.

If council officers operate the CCTV under direction of the police, the council will be provided with a redacted authorisation which shows the details of the date and time of the authority being granted, the activity authorised and its boundaries and limitations, the nature of the offence under investigation, the operation name and/or authority reference number.

## Cambridgeshire County Council CCTV

Cambridgeshire County Council have and have access to a number of cameras which are primarily for bus lane enforcement, highways and libraries. These are governed by the codes as described above. These cameras are primarily used for reactive footage but were they to be considered for any directed surveillance then the process used for Peterborough City Council would be followed.

## Aerial covert surveillance

Whilst the councils do not currently utilise aerial surveillance devices such as drones or helicopters, any use in the future or by contracted providers should be considered for authorisations.

## Covert Use of Human Intelligence Source (“CHIS”)

Before use of a CHIS is authorised, advice must be sought from the Senior Responsible Officer or their appointed deputy. The application can be authorised by the Chief Executive (or an appointed deputy) and the applicant must ensure that they as Authorising Officer have sufficient information to make an informed decision the prescribed forms must be fully completed.

### What is a CHIS?

The Revised Codes of Practice for Covert Human Intelligence Source (paragraph 2.1) state that a person is a Covert Human Intelligence Source if:

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

A purpose is covert, in relation to the establishment or maintenance of a personal or other relationship, if and only if the relationship is conducted in a manner that is calculated to ensure that one of the parties to the relationship is unaware of that purpose.

### When a CHIS and when not a CHIS?

The following give examples of when a CHIS would and would not be needed.

Would not need a CHIS authorisation	Would need a CHIS authorisation
Intelligence suggests that a local shopkeeper is openly selling alcohol to underage customers, without any questions being asked. A juvenile is engaged and trained by a public authority and then deployed in order to make a purchase of alcohol. In these circumstances any relationship, if established at all, is likely to be so limited in regards to the requirements of the 2000 Act that a public authority may	In similar circumstances, intelligence suggests that a shopkeeper will sell alcohol to juveniles from a room at the back of the shop, providing they have first got to know and trust them. As a consequence the public authority decides to deploy its operative on a number of occasions, to befriend the shopkeeper and gain their trust, in order to purchase alcohol. In these circumstances a relationship has been established and

<p>conclude that a CHIS authorisation is unnecessary. However, if the test purchaser is wearing recording equipment but is not authorised as a CHIS, consideration should be given to granting a directed surveillance authorisation.</p>	<p>maintained for a covert purpose and therefore a CHIS authorisation should be obtained.</p>
<p>A member of the public volunteers a piece of information to a member of a public authority regarding something they have witnessed in their neighbourhood. The member of the public would not be regarded as a CHIS. They are not passing information as a result of a relationship which has been established or maintained for a covert purpose.</p>	<p>A caller to a confidential hotline (such as Crimestoppers, the HMRC Fraud Hotline, the Anti-Terrorist Hotline, or the Security Service public telephone number) reveals that they know of criminal or terrorist activity. Even if the caller is involved in the activities on which they are reporting, the caller would not be considered a CHIS as the information is not being disclosed on the basis of a relationship which was established or maintained for that covert purpose. However, should the caller be asked to maintain their relationship with those involved and to continue to supply information (or it is otherwise envisaged that they will do so), an authorisation for the use or conduct of a CHIS may be appropriate.</p>
<p>A member of the public is asked by a member of a public authority to maintain a record of all vehicles arriving and leaving a specific location or to record the details of visitors to a neighbouring house. A relationship has not been established or maintained in order to gather the information and a CHIS authorisation is therefore not available. Other authorisations under the Act, for example, directed surveillance, may need to be considered where there is a</p>	<p>Mr Y volunteers information to a member of a public authority about a work colleague out of civic duty. Mr Y is not a CHIS at this stage as he has not 14 established or maintained (or been asked to establish or maintain) a relationship with his colleague for the covert purpose of obtaining and disclosing information. However, Mr Y is subsequently contacted by the public authority and is asked if he would ascertain certain specific information about his colleague. At this point,</p>

possible interference with the Article 8 rights of an individual	it is likely that Mr Y's relationship with his colleague is being maintained and used for the covert purpose of providing that information. A CHIS authorisation would therefore be appropriate to authorise interference with the Article 8 right to respect for private or family life of Mr Y's work colleague
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## Conditions for authorisation of Covert Human Intelligence Sources

Authorisation is not required where members of the public volunteer information to the Council as part of their normal civic duties or to contact numbers set up to receive information (e.g. a benefit fraud hotline).

The Council can only use a CHIS if authorisation has been authorised and received judicial approval. Authorisation will only be given if the use of the CHIS is for the purpose of preventing or detecting crime or of preventing disorder.

### Necessity and Proportionality

The necessity and proportionality principles apply but the crime threshold does not apply in this area.

If the authorising officer considers it to be necessary, then they should consider proportionality as below:

- balance the size and scope of the proposed activity against the gravity and extent of the perceived crime or harm;
- explain how and why the methods to be adopted will cause the least possible intrusion on the subject and others
- whether the conduct to be authorised will have any implications for the privacy of others, and an explanation of why (if relevant) it is nevertheless proportionate to proceed with the operation; •
- evidence, as far as reasonably practicable, what other methods had been considered and why they were not implemented, or have been implemented unsuccessfully;
- considering whether the activity is an appropriate use of the legislation and a reasonable way, having considered all reasonable alternatives, of obtaining the information sought.



## The Authorised Conduct

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.

It is also sensible to make any authorisation sufficiently wide enough to cover all that is required. This will also enable effective monitoring of what is done against that authorised.

The maximum time limit for authorisation is 12 months for an adult CHIS.

The applicant, and the Authorising Officer if required, will attend to obtain judicial approval. The corporate procedure can be found at Appendix 6.

## Operational Considerations

The Authorising Officer must consider the safety and welfare of the source person acting as a Covert Human Intelligence 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 source person, even after cancellation of the authorisation, needs to be considered.

The Applicant will have day-to-day responsibility for dealing with the source person and for the source person's security and welfare. They will be termed the **handler**. They will have responsibility for

- Dealing with the CHIS on behalf of the authority
- Directing the day to day activities of the CHIS
- Recording accurate and proper information supplied by the CHIS
- Monitoring the CHIS's security and welfare

A senior manager, not the Authorising Officer, will at all times have general oversight of the use made of the source person and maintaining a record of such use. They will be termed the **controller** in accordance with the codes of practice. They will be responsible for the management and supervision of the handler and general oversight of the use of the CHIS.

The senior manager will need to comply with the Regulation of Investigatory Powers (Source Records) Regulations which requires that certain records be kept relating to each source. Each Authorising Officer has a copy of the aforesaid Regulations.

### Use of a Juvenile as a CHIS or in Directed Surveillance

Paragraph 4.2 of the CHIS Code of Practice refers to the use of juveniles in either scenario and how special safeguards also apply to the use or conduct of juveniles. The use of such a person could occur during test purchasing operations. The Code of Practice gives clear guidance:

- On no occasion should the use or conduct of a CHIS under 16 years of age be authorised to give information against their parents or any person who has parental responsibility for them.
- In other cases, authorisations should not be granted unless the special provisions, contained within the Regulation of Investigatory Powers (Juveniles) Order 2000 (as amended), are satisfied.
- Authorisations for use of a juvenile as a CHIS should be granted by the Head of Paid Service i.e. the Chief Executive.
- The duration of such an authorisation is four months from the time of grant or renewal (instead of twelve months), and the authorisation should be subject to at least monthly review.
- For the purpose of these rules, the age test is applied at the time of the grant or renewal of the authorisation.

We must ensure that an appropriate adult is present at any meetings with a CHIS under 16 years of age. The appropriate adult should normally be the parent or guardian of the CHIS, unless they are unavailable or there are specific reasons for excluding them, such as their involvement in the matters being reported upon, or where the CHIS provides a clear reason for their unsuitability. In these circumstances another suitably qualified person should act as appropriate adult, e.g. someone who has personal links to the CHIS or who has professional qualifications that enable them to carry out the role (such as a social worker). Any deployment of a juvenile CHIS should be subject to the enhanced risk assessment process set out in the statutory instrument, and the rationale recorded in writing.

The below give examples of when the juvenile may be a CHIS and when a directed surveillance application may be more appropriate.

CHIS authorisation not needed	CHIS authorisation needed
Intelligence suggests that a local shopkeeper is openly selling alcohol to	In similar circumstances, intelligence suggests that a shopkeeper will sell alcohol

underage customers, without any questions being asked. A juvenile is engaged and trained by a public authority and then deployed in order to make a purchase of alcohol. In these circumstances any relationship, if established at all, is likely to be so limited in regards to the requirements of the 2000 Act that a public authority may conclude that a CHIS authorisation is unnecessary. However, if the test purchaser is wearing recording equipment but is not authorised as a CHIS, consideration should be given to granting a directed surveillance authorisation.

to juveniles from a room at the back of the shop, providing they have first got to know and trust them. As a consequence the public authority decides to deploy its operative on a number of occasions, to befriend the shopkeeper and gain their trust, in order to purchase alcohol. In these circumstances a relationship has been established and maintained for a covert purpose and therefore a CHIS authorisation should be obtained.

## Use of social media/internet in investigations

The use of the internet and its content such as social media such as Facebook, Instagram and Twitter in an investigation is permitted and may be a means of gathering intelligence. In accessing such sites, officers must consider the issues of privacy and collateral intrusion.

The Revised Code of Practice sections 3.10 to 3.17 provides good guidance on the subject.

Even though a person may have placed information about themselves or others in the public arena, they have done so with an expectation of a degree of privacy. Viewing information on the internet may constitute covert surveillance, particularly if there is monitoring of subjects involved for example to establish patterns of behaviour. Appendix 10 may assist officers in assessing whether their actions can be considered to be surveillance.

Where information about an individual is placed on a publicly accessible database such as Companies House, then they are unlikely to have expectations of privacy.

If an investigating officer enters into a 'conversation' with a profile, and the officer informs them that he is contacting them in his role as an employee of the council, then this contact will be overt and no authorisation will be required.

Where the activity does not include monitoring of material in the public domain, RIPA will not apply. If repeated visits to a site are made then this will constitute monitoring and consideration needs to be given to the use of social media or the internet as part of that investigation.

The following from the Code of Practice is a guide of factors to consider

- Whether the investigation or research is directed towards an individual or organisation
- Whether it is likely to result in obtaining private information about a person or group of people
- Whether it is likely to involve visiting internet sites to build up an intelligence picture or profile
- Whether the information obtained will be recorded and retained
- Whether the information is likely to provide an observer with a pattern of lifestyle
- Whether the information is being combined with other sources of information or intelligence, which amounts to information relating to a person's private life
- Whether the investigation or research is part of an ongoing piece of work involving repeated viewing of the subject(s)

- Whether it is likely to involve identifying and recording information about third parties, such as friends and family members of the subject of interest, or information posted by third parties, that may include private information and therefore constitute collateral intrusion into the privacy of these third parties

Any similar activity carried out on the councils' behalf by a third party then this may still require a directed surveillance authorisation.

### “Public setting”

If an investigating officer views for example a Facebook profile with whom they are not 'friends' which is not protected by any privacy settings the information can be treated as being in the public domain. Any initial viewing/visiting of this profile will be overt and authorisation under RIPA will not be required.

If the officer frequently or regularly views the same individual's profile this is considered targeted surveillance and a RIPA authorisation is required should it meet the stated RIPA test in this policy. If it does not then the officer should be able to show that they have considered whether RIPA applied.

### Using a covert accounts and identities

Where officers are building and maintaining a relationship with an individual without that individuals knowing the true nature for the purposes of an investigation, this will require an application for the use of a CHIS. This will include where an officer sends a friend request for example. This may not be a covert identity however it is creating a relationship without the subject knowing the purpose. Officers must not use their own personal accounts for work purposes nor for any form of surveillance.

If officers create a false or covert identity, this must only be created with the approval of an Authorising Officer and the CMO must be informed. All use of the identity must be logged and reported to the CMO.

Any use of the internet in an investigation must be fully documented, Appendix 10 may be used as a template.

## Surveillance Application and Authorisation Process

Should the criteria be met, an officer will need to submit a directed surveillance application form to an authorising officer. The application form must be the latest version available on the Home Office website to ensure we are using the most up to date.

All sections relevant to the application must be completed and in a manner in which any authorising officer can understand i.e. it is not necessary for the authorising officer to be a specialist in the applicant's area.

The application must contain the following information

- A description of the investigation to date include details of the alleged offence which meets the crime threshold , details of subjects involved and an intelligence evaluation
- The conduct to be authorised must be described in detail
- Assessments of the local area, health and safety and risk have been completed
- Confirm the purpose of the operation and what it hopes to achieve
- What the operation will entail e.g. static, mobile, use of cameras.
- Where it will take place, when and how long will it last, remembering to be proportionate
- A description of what information will be obtained and how this will assist the investigation
- Explain why the directed surveillance is necessary i.e. it meets the crime threshold
- Explain the potential for collateral intrusion, why it is unavoidable and how it will be minimised.
- Explain how this is proportionate to what it seeks to achieve.
- Explain whether there is the likelihood of obtaining confidential information as defined by the codes of practice. This must be answered yes or no – stating that it is unlikely will not be accepted as this suggests it remains a possibility

This application should be submitted to the Authorising Officer to consider.

An authorising officer must review each case on its merits and explain why they authorise the conduct, considering necessity and proportionality along with any collateral intrusion.

Prior to seeking judicial approval, the application must be submitted to the CMO who will allocate a unique reference number. The corporate procedure for obtaining judicial approval should be adhered to. The CMO must be notified of the outcome and provided with a copy of the approval/refusal supplied.

## Combined or Joint Services

As the Council works with its partner agencies such as Cambridgeshire Police or Cambridgeshire Fire and Rescue then consideration must be given to who makes the application and authorise. In a joint operation, one agency must be assigned as the lead and will obtain authorisation. If it is not the Council, we will still record this activity and ensure that our central record reflects this.

In instances where it is a joint or shared service, the appropriate lead authority must make the application with due regard for the governance arrangements at partner authorities.

Paragraph 4.31 of the Codes of Practice advises that where possible, public authorities should seek to avoid duplication of authorisations as part of a single investigation or operation. For example, where two agencies are conducting directed or intrusive surveillance as part of a joint operation, only one authorisation is required. Duplication of authorisations does not affect the lawfulness of the activities to be conducted, but may create an unnecessary administrative burden on authorities.

If the Council is tasked to undertake the surveillance on behalf of another agency then that agency should obtain authorisation. Council officers should ensure that they clearly understand the precise nature of what has been authorised to ensure that they comply. Council officers must only undertake surveillance activity in line with this policy and the limitations of activities placed on local authorities by the Protection of Freedoms Act 2012.

It may be necessary for the councils to work with a third party who are not considered a public authority by the Act. In those cases, the third party are acting as an agent for the council and therefore an authorisation should be considered by the councils.

## Combined Authorisations

In line with Codes of Practice paragraph 4.17, a single authorisation may combine two or more different authorisations under RIPA however the provisions applicable for each of the authorisations must be considered separately by the appropriate authorising officer. It does not preclude the obtaining of separate authorisations.

## Lapse of Authorisations

Authorisation should not be allowed to lapse. They should be reviewed and cancelled or renewed. However the legal position with regard to lapse is as follows:-

Covert Human Intelligence Source - 12 months from the date of the approval of a magistrate (or last renewal) for adult or 4 months for a juvenile.

Directed Surveillance – 3 months from the date of approval of a magistrate or last renewal.

## Renewal of Authorisations

A Magistrate will be responsible for renewing an existing authorisation in the same terms at any time before it ceases to have effect. Prior to this, the Authorising Officer should ensure a review has been carried out using the same criteria as if it were a new application.

For the conduct of a Covert Human Intelligence Source, this should not be renewed 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. The renewal must be receive judicial approval.

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

## Retention Period for Authorisations

Directed surveillance authorisations (together with the Application reviews, renewals and cancellation) should be retained by the Authorising Officer, for a period of 3 years.

Authorisations for a CHIS ((together with the Application reviews, renewals and cancellation) should be retained by the Authorising Officer, for a period must be retained for a period of 5 years. 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. It is each department's responsibility to securely retain all authorisations within their departments.

## Reviews of Authorisations

Regular review of authorisations should be undertaken to assess the need for the surveillance/CHIS to continue. The results of the review need to be sent for recording on the Central Register.

## Cancellation of Authorisations

The Authorising Officer who granted or last renewed the authorisation must cancel it if he is satisfied the authorisation no longer meets the criteria upon which it was authorised. No authorisation should be left to simply expire.

The applicant must also undertake a review throughout the matter and inform the Authorising Officer if the authorisation is no longer required.



The process for cancellation is for the investigating officer to submit the cancellation form to the Authorising Officer. This cancellation should detail the reason for cancellation, the benefits or issues arising of the operation and any outcome. It should also include the time spent on the operation. A copy of this form must be forwarded to the CMO to retain on the central record.

### Immediate response to situations

The ability for a local authority to grant urgent oral authorisation for use of RIPA is not permitted.. It is recognised that council officers find themselves in a situation where they need to carry out some form of surveillance without the time to complete a form and obtain authorisations. In these instances, the officer should obtain authorisation from their line manager and also record their reasons, actions, what was observed and be prepared to explain their decisions.

## Safeguards for Material Obtained

All material obtained by the councils during authorised activities such as photographs, videos, and notes should be protected against loss and alteration. The councils have data protection policy and ICT security policy to ensure that the councils are compliant with the handling of such information.

### Sharing information

Material obtained should only be shared with individuals within the authority and external partners where this is permitted by legislation, an information sharing agreement or a requirement to disclose. For example, a joint investigation with the Police would require information to be shared as part fo that investigation and permitted by data protection legislation.

### Storage

Any material obtained must be stored securely, either electronically or physically, and access only provided to those who have the appropriate clearance for access. Physical information must be protected by an adequate level of security such as locked rooms or a safe with a log of access kept.

### Destruction

Information will be destroyed securely in line with retention requirements and its retention will be reviewed accordingly.

## Other Factors

### Spiritual Counselling

No operations should be taken in circumstances where investigators believe that surveillance will lead to them intruding on spiritual counselling between a Minister and a Member of his/her faith. In this respect, spiritual counselling is defined as conversations with 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 or Privileged Material

Consideration should be given in cases where the subject of the investigation or operation might reasonably assume a high degree of confidentiality. This includes:

- where material contains confidential personal information or communications between a Member of Parliament and another person on constituency business. (9.29 to 9.35)
- confidential journalistic material or where material identifies a journalist's source, (9.36 to 9.46)
- where the material contains information that is legally privileged, (9.47 to 9.75)

Guidance on each of these can be found in the Revised Codes of Practice as noted above. In the event that these types of information may be acquired, officers should consult the Revised Codes of Practice and the SRO.

Directed surveillance likely or intended to result in the acquisition of knowledge of confidential or privileged material may be authorised only by the Chief Executive (or a deputy in their absence. In cases where the likely consequence of the conduct of a Covert Human Intelligence Source would be for any person to acquire knowledge of confidential material, the deployment of the Covert Human Intelligence Source should be subject to consultation with the Chief Executive and Senior Responsible Officer.

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.

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. If there is doubt as to whether the material is confidential, advice should be sought from the Director of Law and Governance 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 Director of Law and Governance) is satisfied that it is necessary for a specific purpose;

The retention of 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. This should only be with the approval of the Chief Executive and Senior Responsible Officer.

## Data Protection

Authorising officers must ensure compliance with the appropriate data protection requirements and the relevant codes of practice in the handling and storage of material. Where material is obtained by surveillance, which is wholly unrelated to a criminal or other investigation or to any person who is the subject of the investigation, and there is no reason to believe it will be relevant to future civil or criminal proceedings, it should be destroyed immediately. Consideration of whether or not unrelated material should be destroyed is the responsibility of the Authorising Officer.

RIPA does not prevent material obtained through the proper use of the authorisation procedures from being used in other investigations. However, the use outside the councils, of any material obtained by means of covert surveillance and, other than in pursuance of the grounds on which it was obtained requires authorisation by the Director of Law and Governance.

## Vulnerable Individuals

The use of a vulnerable individual as a Covert Human Intelligence Source requires authorisation by the Chief Executive or their delegated deputy. The use must always be

referred to the Senior Responsible Officer or their deputy for advice prior to authorisation. Such an individual should only be used as a Covert Human Intelligence Source in exceptional circumstances. A vulnerable individual is a person who is or may be in need of community care services by reason of mental or other disability, age or illness and who is or may be unable to take care of himself or herself or unable to protect himself or herself against harm or exploitation.

### Community Sensitivities

Officers should always consider whether there are any particular sensitivities within our communities and take these into account if planning surveillance activities in those areas.

### Errors

Any error such as activity undertaken which was not authorised or is conducted beyond the directions of the authorising officer. It will also include failure to declare thorough reviews, renewals, cancellation and poor administration. Any such errors must be reported to the SRO and Central Monitoring Officer.

## Central Register of Authorisations

It is a requirement of the revised Code of Practice for Surveillance, paragraph 8.1, that a central register of all authorisations, reviews, renewals, cancellations etc. is maintained and regularly updated. The CMO maintains this Register.

It is the Authorising Officer's responsibility to ensure that any application under RIPA is forwarded to the CMO for central registration **within one week of the relevant authorisation, review, renewal, cancellation or rejection**. Each application will be allocated a Unique Reference Number (URN) at this stage and will be monitored by the CMO to ensure compliance with timescales.

Whenever an authorisation is granted, renewed or cancelled (and this includes authorisations issued by the Police or other third parties using Council CCTV or other facilities) the Authorising Officer must arrange for copies to be forwarded to the CMO. Receipt will be acknowledged.

## Codes of Practice

There are Home Office Codes of Practice that expand on this guidance and copies are held by each Authorising Officer. They can be accessed [here](#) and officers should ensure that they are consulting the latest version.

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 RIPA, or to one of the commissioners responsible for overseeing the powers conferred by RIPA, it must be taken into account".

## Benefits of Obtaining Authorisation under RIPA

RIPA 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".

## Acquisition of Communications Data

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

There are two powers granted by S22 RIPA in respect of the acquisition of Communications Data from telecommunications and postal companies (“Communications Companies”).

S22 (3) provides that an authorised person can authorise another person within the same relevant public authority to collect the data. This allows the local authority to collect the communications data themselves, i.e. if a Communications Service Provider is technically unable to collect the data, an authorisation under the section would permit the local authority to collect the communications data themselves.

In order to compel a Communications Service Provider to obtain and disclose, or just disclose Communications Data in their possession, a notice under S22 (4) RIPA must be issued. This must be followed by the judicial approval process as outlined in Appendix 5.

The sole ground to permit the issuing of a S22 notice by a Permitted Local Authority is for the purposes of “preventing or detecting crime or of preventing disorder”. The issuing of such a notice will be the more common of the two powers utilised, in that the Communications Service Provider will most probably have means of collating and providing the communications data requested.

There is no threshold for subscriber data which can still be acquired for any crime where it is necessary and proportionate to do so. However as of 1 November 2018, there is a crime threshold for the acquisition of service or traffic data which is restricted to “serious crime”. This is defined as:

- An offence capable of attracting a prison sentence of 12 months or more. This can be checked by accessing the Home Office counting rules notifiable offence list.
- An offence by a person who is not an individual i.e. a corporate body
- A Section 81 of RIPA – an offence defined as serious crime such as use of violence, substantial financial gain or large number of people in pursuit of a common purpose
- An offence which integrally involves the sending of a communication
- Breach of privacy offence

Examples of what are non-serious crimes are:

- Certain immigration offences under the Immigration Act 1971; and

- Certain gambling offences under the Gambling Act 2005 including provision of facilities for gambling, use of premises for gambling and offences relating to gambling machines.
- Some sections of the Public Order Act which do not amount to violence (including using offensive words or causing a fear of violence);
- Driving offences, such as: joy riding, driving when disqualified, failure to stop or report an accident and driving when unfit to do so through drink or drugs;
- Some sections of the Consumer Protection Act 1987 i.e. furnishing false information in response to notice, or to enforcement officer.

Once a notice has been issued, it must be sent to the Communications Service Provider. In issuing a notice, the Authorising Officer can authorise another person to liaise with the Communications Service Provider covered by the notice.

### Application procedure

Should you wish to make an enquiry, contact should be made with the Head of Regulatory Services to consider the request to be made via Trading Standards who have two named authorised officers. The request will be made through NAFN and their process adhered to.

The applicant and authorising officer will need to explain:

- the purpose of the application in terms of the prevention or detection of crime (section 22(2) (b) of the Act)
- specific information required with reference to paragraph 3.30 of the codes of practice to streamline the process when dealing with number porting and also to take a more proactive approach to data capture such as top up details when identifying the user of a prepaid mobile.
- A description of the offence and how this meets the serious crime threshold if it is for traffic or service data
- why it is relevant
- why it is necessary
- why it is proportionate
- how they will minimise collateral intrusion

A unique reference number should be obtained from the CMO before submission to NAFN. The CMO will record the details.

Once authorised by NAFN, the applicant should follow the procedure for obtaining judicial approval.

## Training

There will be a bi-annual programme of training for officers, which may include face to face or e-learning training. Refresher training will be provided on a biannual basis. Officers may be required to confirm they have read documentation and have understood the intervening times.

Only formally trained Authorised Officers will be permitted to authorised applications.

## Oversight

### Members

The use of RIPA powers will be a standing item on the agenda for the Audit Committee at both Peterborough City Council and Cambridgeshire County Council. An annual report will be produced detailing the usage along with any inspections, changes to policy and procedure.

### Senior Management

An annual report will be produced detailing the usage along with any inspections, changes to policy and procedure.

## The Investigatory Powers Commissioner's Office

The Investigatory Powers Commissioner will keep under review, the exercise and performance by the persons on who are conferred or imposed, the powers and duties under RIPA. This includes those Authorising Officers authorising Covert Directed Surveillance and the use of Covert Human Intelligence Sources and the maintenance of the Central Register.

A tribunal has been established to consider and determine complaints made under RIPA if it is the appropriate forum. Complaints can be made by persons aggrieved by conduct e.g. direct 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 Councils are however, under a duty to disclose or provide to the tribunal all documents they require if:



- A council officer has granted any authorisation under RIPA.
- council employees have engaged in any conduct as a result of such authorisation.

A disclosure notice requirement is given.

## Relevant case law

There is relevant caselaw which includes but is not limited to:

### R v Johnson

In this case the Court of Appeal provided criteria that must be adopted if premises used for observation purposes by the Police are not to be disclosed in open court.

Should PCC wish not to disclose the premises used for the observation, then following the rational in this case it would appear that the Authorising Officer must be able to testify that immediately prior to trial:

- he/she visited premises to be used for observation
- he/she obtained and recorded the views of the owner and/or occupier in respect of the use made of the premises and the possible consequences of disclosure which could lead to identification of the premises and occupiers.

Such views must be recorded and the record marked as sensitive. If this issue arises please contact the Director of Governance for appropriate advice.

### R v Sutherland 2002

The recording and handling of confidential material (legal privilege) obtained as a result of recording equipment deployed in the exercise area of two police stations. In this matter, the activity exceeded that which had been authorised and the case against Sutherland collapsed. This emphasises the requirement to ensure that all activity is authorised prior to the operation and any errors are reported.

### Peck v United Kingdom [2003]

The applicant was filmed by a CCTV camera operated by Brentwood Borough Council in a public street shortly after he had attempted to commit suicide. The council subsequently released two still photographs taken from the CCTV footage to show the benefits of CCTV. Peck's face was not specifically masked. These pictures subsequently appeared on regional television but his face was masked. Peck sought to challenge the authority's decision but was rejected by the Court of Appeal. He took the matter to the European Court of Human

Rights where he was successful. The case establishes the right to privacy in a public area, even if it is a reduced level.

### Martin v. United Kingdom [2004] European Court App

Alleged disorderly behaviour by M towards neighbour. Local Authority mounted covert surveillance of M on the basis that the surveillance by video was justified as the surveillance was targeted at behaviour which was visible to a neighbour or passer by. Claim of Article 8 infringement settled by agreement with damages awarded to Martin.

### R v. Button and Tannahill 2005

Audio and video recording of defendants while in police custody. Audio recording had been RIPA authorised; video recording was not authorised. Video record admitted in evidence although common ground that it had been unauthorised and so obtained unlawfully (in breach of s.6 Human Rights Act 1998). *It was argued on appeal that the trial Court was itself in breach of s.6 by admitting the evidence. Held that the breach of article 8 related to the intrusion upon private life involved in the covert surveillance. So far as a trial Court is concerned: any such breach of article 8 is subsumed by the article 6 ( and P.A.C.E.) duty to ensure a fair trial. The trial judge had not acted unlawfully by admitting the evidence.*

### C v The Police and the Secretary of State for the Home Department (2006, No: IPT/03/32/H)

A former police sergeant (C), having retired in 2001, made a claim for a back injury he sustained after tripping on a carpet in a police station. He was awarded damages and an enhanced pension due to the injuries. In 2002, the police instructed a firm of private detectives to observe C to see if he was doing anything that was inconsistent with his claimed injuries. Video footage showed him mowing the lawn. C sued the police claiming that they had carried out Directed Surveillance under RIPA without an authorisation. The Tribunal ruled that this was not the type of surveillance that RIPA was enacted to regulate. It made the distinction between the ordinary functions and the core functions of a public authority:

*“The specific core functions and the regulatory powers which go with them are identifiable as distinct from the ordinary functions of public authorities shared by all authorities, such as the employment of staff and the making of contracts. There is no real reason why the performance of the ordinary functions of a public authority should fall within the RIPA regime, which is concerned with the regulation of certain investigatory powers, not with the regulation of employees or of suppliers and service providers.*

## AB v Hampshire Constabulary (Investigatory Powers Tribunal ruling 5 February 2019)

This case relates to whether the use of body worn cameras can amount to surveillance as defined by legislation. In this matter, the Tribunal concluded that in this case video recording was capable of amounting to surveillance under Part II of RIPA (2000). The decision can be viewed here. <https://www.ipt-uk.com/docs/IPT%20Judgment%20-%20AB%20v%20Hants%20Constabulary.pdf>

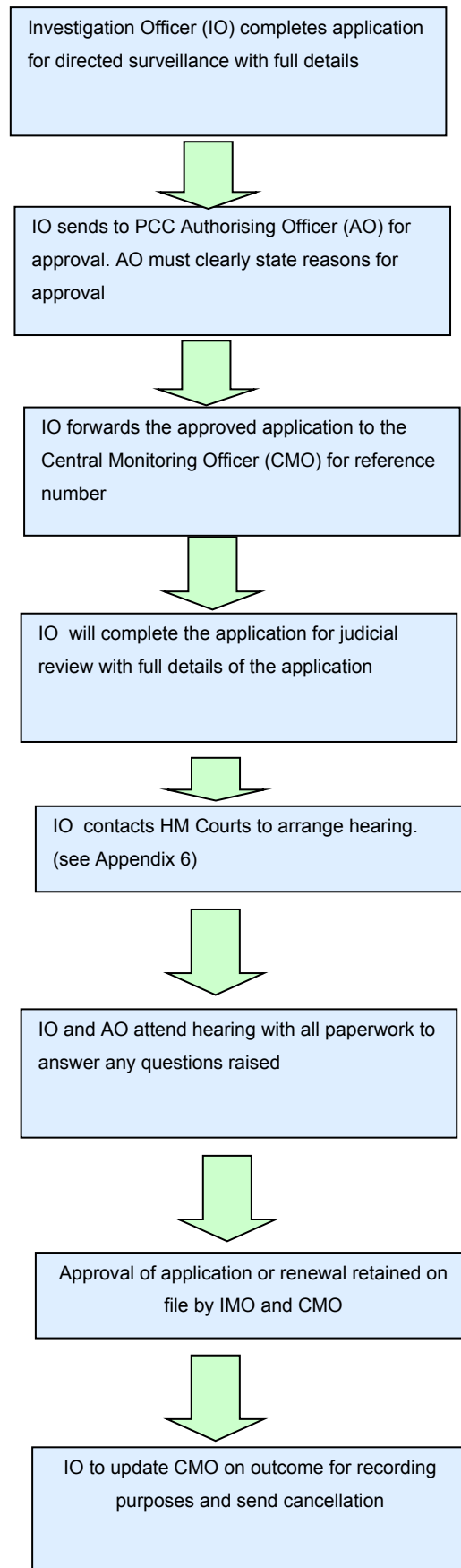
## Gary Davies v British Transport Police (Investigatory Powers Tribunal 5 February 2019)

British Transport Police undertook unauthorised surveillance which led to a public arrest and a press release publicising the alleged offences. Mr Davies was subsequently acquitted by a jury. British Transport Police officers had no proper understanding of the legal requirements for such surveillance and should have obtained authorisation. The surveillance was ruled unlawful. The Tribunal rejected the British Transport Police claim that the breach was technical as authorisation could and would have been obtained. This was rejected because the case against Mr Davies required further inquiries to have been made for authorisation to be possible. The Tribunal awarded Mr Davies costs of the criminal trial and also £25,000 in compensation for damages to his reputation suffered and harm caused.

## APPENDIX 1 Officers (RIPA)

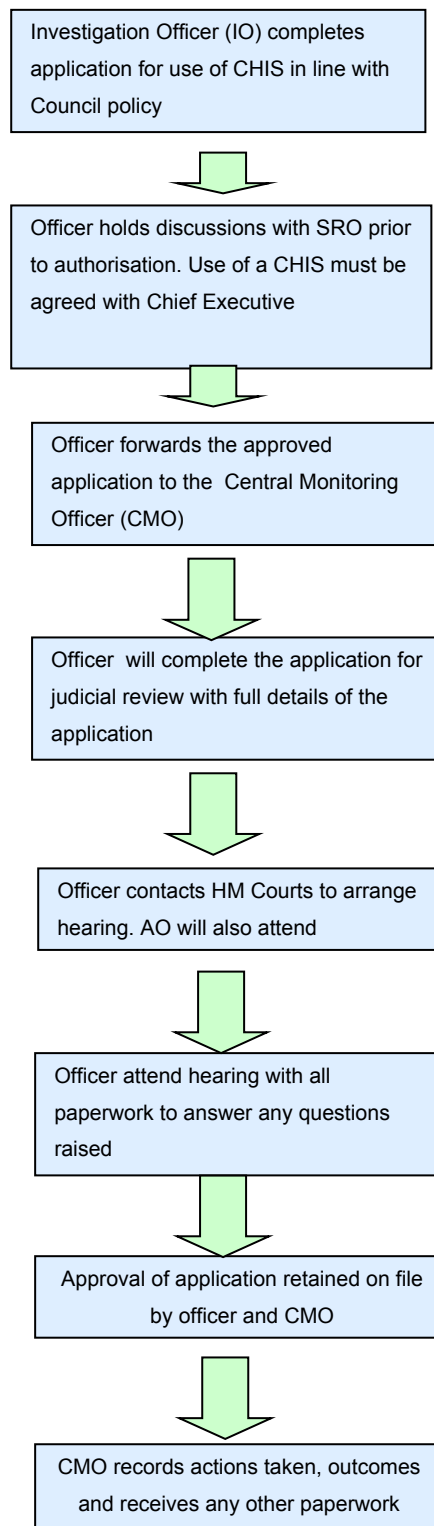
Senior Responsible Officer			
Fiona McMillan	Director of Law & Governance,  PCC & CCC	01733 452361	<a href="mailto:fiona.mcmillan@peterborough.gov.uk">fiona.mcmillan@peterborough.gov.uk</a>
Authorising Officers			
Peter Gell	Head of Regulatory Services  PCC & CCC	01733 453419	<a href="mailto:peter.gell@peterborough.gov.uk">peter.gell@peterborough.gov.uk</a>
Rob Hill	Assistant Director, Communities & Safety  PCC & CCC	01733 864715	<a href="mailto:rob.hill@peterborough.gov.uk">rob.hill@peterborough.gov.uk</a>
Central Monitoring Officer for PCC and CCC			
Ben Stevenson	PCC	01733 452387	<a href="mailto:Ben.stevenson@peterborough.gov.uk">Ben.stevenson@peterborough.gov.uk</a>

## APPENDIX 2 Procedure for directed surveillance application

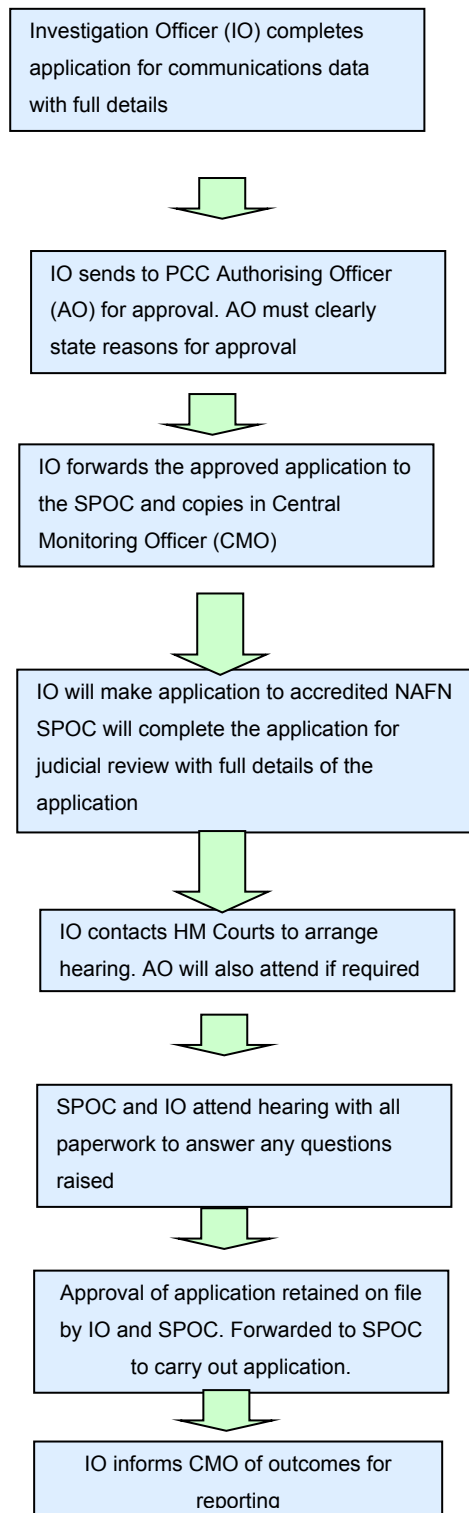


## APPENDIX 3 Procedure use of Covert Human Intelligence

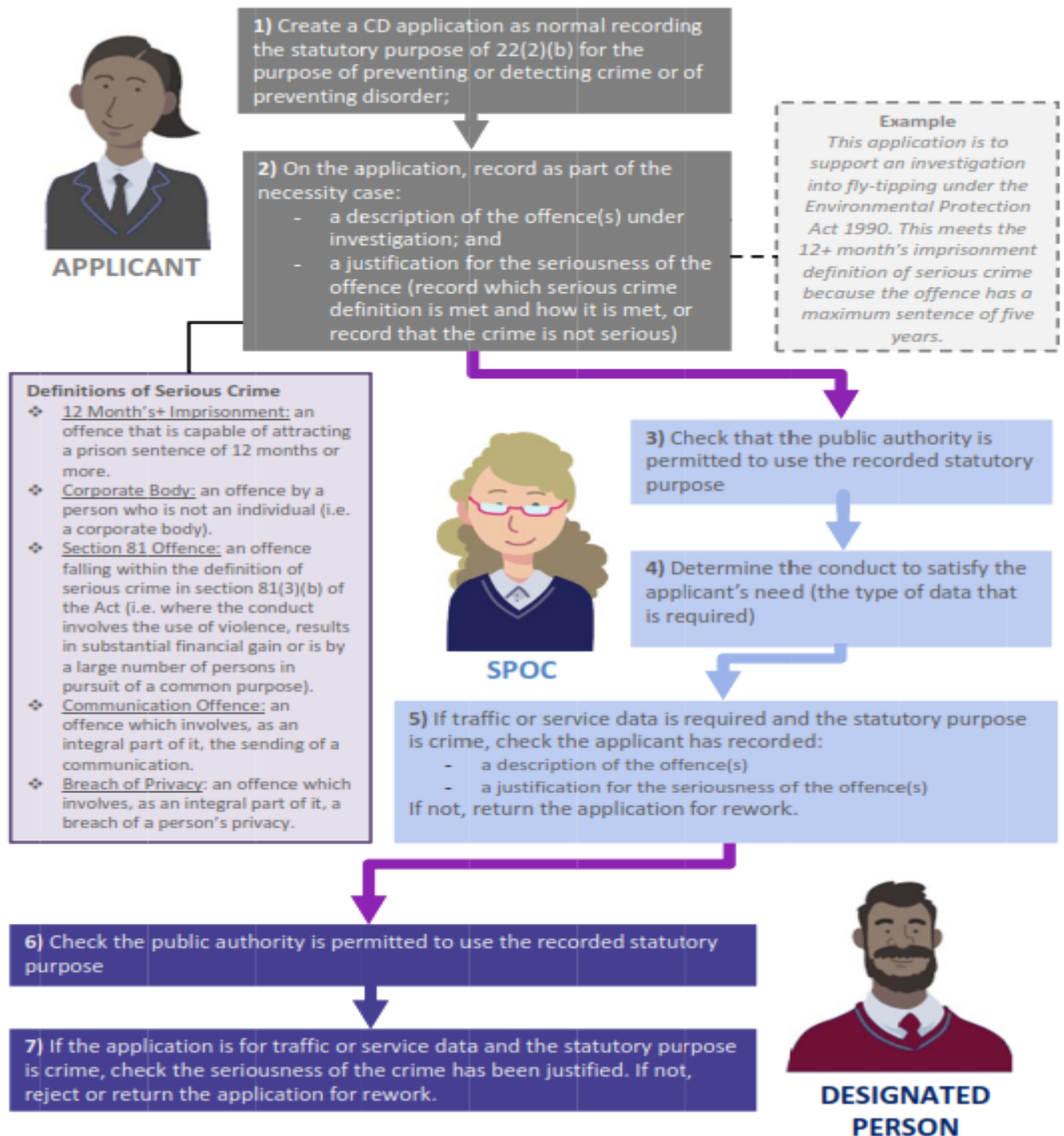
### Source



## APPENDIX 4 Procedure for obtaining communications data

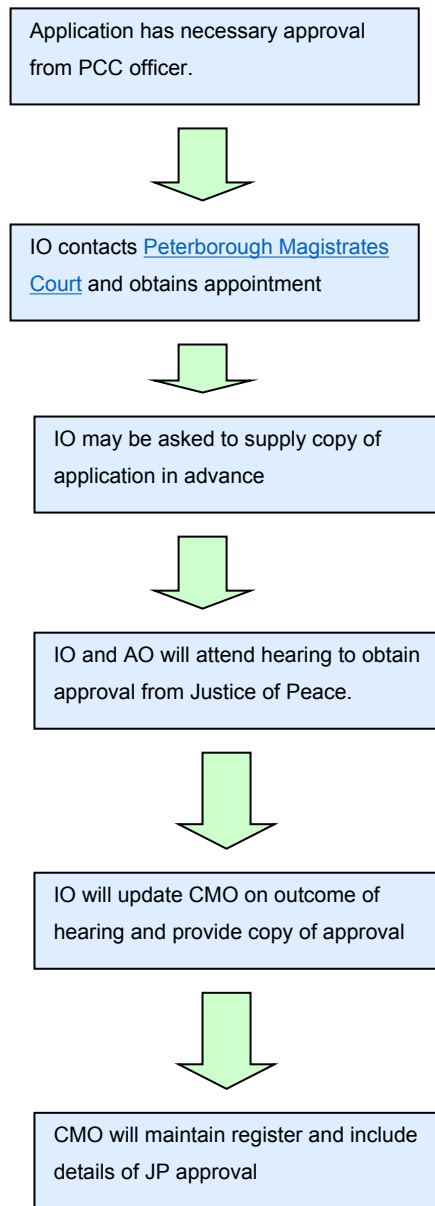


## APPENDIX 5 Flow Chart of Changes to Communications Data (November 2018 onwards)





## APPENDIX 6 Procedure for obtaining judicial approval



## APPENDIX 7 Surveillance Assessment

	Notes
<u>Specific location</u> <ul style="list-style-type: none"> <li>● Type of property</li> <li>● Residents</li> <li>● Number and locations of entrances/exits</li> <li>● Vehicular access</li> <li>● Any obstructions</li> <li>● Any risks</li> </ul>	
<u>General Area</u> <ul style="list-style-type: none"> <li>● Type of area e.g. residential or commercial</li> <li>● Shops in locality</li> <li>● Schools</li> <li>● Any potential hazards</li> </ul>	
<u>Subject</u> <ul style="list-style-type: none"> <li>● Identity</li> <li>● Potentially violent</li> <li>● Vehicles used</li> <li>● Any known other sites</li> </ul>	
<u>Collateral intrusion</u> <ul style="list-style-type: none"> <li>● Detail any other individuals of whom private information may be captured</li> <li>● Associates</li> <li>● Family Children</li> </ul>	

<ul style="list-style-type: none"> <li>• How will it be limited e.g. times, techniques</li> </ul>		
<u>Observation Point</u> <ul style="list-style-type: none"> <li>• Is location approved?</li> <li>• Does it require use of another building?</li> <li>• Routes to and from</li> <li>• In event of discovery of operation, agreed movement</li> </ul>		
<u>Equipment</u> <ul style="list-style-type: none"> <li>• What is being used?</li> <li>• Do they work?</li> <li>• Any issues regarding signal reception on phones</li> </ul>		
<b>Health and Safety Assessment</b>		
Hazard (including who may be harmed)	Level of Risk	Mitigating controls

## APPENDIX 8 – Non RIPA Applications

### RIPA Determination Checklist

<b>Name of Applicant</b>		<b>Team</b>	
<b>Service</b>			
<b>Directorate</b>			
<b>Line Manager</b>			
<b>I have considered the following and confirm that no activity requiring authorisation under RIPA is required.</b> <b>If the answer is yes to each question then RIPA <u>did or does</u> apply.</b>			
<i>Is or was activity considered to be covert surveillance?</i>	Yes	No	
<i>Is or was the surveillance directed?</i>	Yes	No	
<i>Is or was the investigation into a criminal offence?</i>	Yes	No	
<i>Is or was confidential or private information likely to be obtained?</i>	Yes	No	
<i>Did or does the offence meet the crime threshold?</i>	Yes	No	
<i>Signed</i>			
<b>Line Manager/File Review:</b> I have reviewed and considered that there has been no activity which required authorisation under RIPA.			
Name:			
Signed:			
Date:			

## APPENDIX 9 - Social Media/Internet Access Log

<b>Name of Applicant</b>		<b>Team</b>	
<b>Service</b>			
<b>Directorate</b>			
<b>Line Manager</b>			
<b>Case including reference</b>			

Visits number	Date	Site Accessed	Reason	Information obtained	Public or Private?

**Please note repeated visits will be considered monitoring and you should seek advice on making an appropriate application**

**You should not use a false identity or build/maintain a relationship to obtain private information about someone.**

**If you have obtained private information then you should consider an appropriate application**

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