



NOTICE OF MEETING

GOVERNANCE & AUDIT & STANDARDS COMMITTEE

FRIDAY, 29 JANUARY 2016 AT 2.30 PM

CONFERENCE ROOM A - CIVIC OFFICES

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Membership

Councillor Simon Boshier (Chair)
Councillor Ian Lyon (Vice-Chair)
Councillor John Ferrett
Councillor Steve Hastings
Councillor Hugh Mason
Councillor Phil Smith

Standing Deputies

Councillor Ryan Brent
Councillor Scott Harris
Councillor Lynne Stagg
Councillor David Tompkins
Councillor Matthew Winnington
Councillor Rob Wood

(NB This Agenda should be retained for future reference with the minutes of this meeting.)

Please note that the agenda, minutes and non-exempt reports are available to view online on the Portsmouth City Council website: www.portsmouth.gov.uk

Deputations by members of the public may be made on any item where a decision is going to be taken. The request should be made in writing to the contact officer (above) by 12 noon of the working day before the meeting, and must include the purpose of the deputation (for example, for or against the recommendation/s). Email requests are accepted.

AGENDA

- 1 Apologies for Absence
- 2 Declarations of Members' Interests

3 Minutes of the Meeting held on 6 November 2015 (Pages 1 - 8)

RECOMMENDED that the minutes of the meeting held on 6 November 2015 be confirmed and signed by the Chair as a correct record.

4 Updates on actions identified in the minutes (if any)

5 External Auditors - sector update, progress report year ending 31 March 2016 and Certification of Claims and Returns Annual Report 2014/15 (Pages 9 - 38)

The Committee is asked to consider

- Update report from the External Auditor (including LG sector update)
- External Audit Progress Report year ending 31 March 2016
- Certification of Claims and Returns Annual Report 2014/15

6 Performance Management Update Quarter 2 2015-16 (Pages 39 - 54)

The purpose of the report is to report significant performance issues, arising from Q2 performance monitoring, to Governance and Audit and Standards committee and highlight areas for further action or analysis.

RECOMMENDED that the Governance and Audit and Standards Committee are asked to:

- 1) note the report;
- 2) comment on the performance issues highlighted in section 4, and governance issues in section 5, including agreeing if any further action is required and
- 3) agree the actions proposed in section 4.

7 Treasury Management Monitoring Report for the Third Quarter of 2015/16 (Pages 55 - 72)

The purpose of the report is to inform members and the wider community of the Council's Treasury Management position at 31 December 2015 and of the risks attached to that position.

RECOMMENDED that the actual treasury management indicators as set out in section 2(a) to (e) of the report for the third quarter of 2015/16 be noted.

8 Audit Performance Status Report to 16th December 2015 and Audit Strategy for 2016/17 (Pages 73 - 100)

The purpose of the report is to update the Governance and Audit and

Standards Committee on the Internal Audit Performance for 2015/16 to 16th December 2015 against the Annual Audit Plan, highlight areas of concern and areas where assurance can be given on the internal control framework. The report also contains the proposed Audit and Counter Fraud Strategy for the 2016/17 Audit Plan.

RECOMMENDED that Members

- (1) note the Audit Performance for 2015/16 to 16th December 2015**
- (2) note the highlighted areas of control weakness for the 2015/16 Audit Plan**
- (3) approve the proposed Audit and Counter Fraud Strategy for the use of Audit resources for 2016/17**

9 Regulation of Investigative Powers Act 2000 (RIPA) (Pages 101 - 150)

The purpose of the report is to update Members on the Authority's use of Regulatory Powers for the period from 27th June 2013 to 29th January 2016 and the changes required to the Policy.

RECOMMENDED that Members of the Governance and Audit and Standards Committee:

- (1) Note the RIPA application authorised since the last report to this Committee on the 27th June 2013**
- (2) Approve the required changes to the Corporate Policy and Procedure on the Regulation of Investigative Powers Act 2000 (RIPA) as a result of the new Codes of Practice and Guidance and changes in personnel (attached as Appendix A and detailed in paragraphs 6.1.1 to 6.1.10 of the report)**

10 Committee System Cost Evaluation (Pages 151 - 154)

The purpose of the report is to advise Members of the Committee as to costs for a committee system as requested by Councillor Galloway.

RECOMMENDED that Members are asked to note the report and the advice of the S151 officer that it is not possible to implement or maintain a committee system on a true cost neutral basis.

11 Contract Management Review Update - Presentation

An update presentation will be given to members for information.

12 Exclusion of Press and Public

That in view of the contents of the following items on the agenda the Committee is RECOMMENDED to adopt the following motion:

“That, under the provisions of Section 100A of the Local Government Act, 1972 as amended by the Local Government (Access to Information)

Act, 1985, the press and public be excluded for the consideration of the following items on the grounds that the reports contain information defined as exempt in Part 1 of Schedule 12A to the Local Government Act, 1972”.

The public interest in maintaining the exemption must outweigh the public interest in disclosing the information.

Under the Local Authorities (Executive Arrangements) (Meetings and Access to Information) England Regulations 2012, regulation 5, the reasons for exemption of the listed items is shown below.

Members of the public may make representation as to why the item should be held in open session. A statement of the Council’s response to representations received will be given at the meeting so that this can be taken into account when members decide whether or not to deal with the item under exempt business.

(NB The exempt/confidential committee papers on the agenda will contain information which is commercially, legally or personally sensitive and should not be divulged to third parties. Members are reminded of standing order restrictions on the disclosure of exempt information and are invited to return their exempt documentation to the Senior Local Democracy Officer at the conclusion of the meeting for shredding.)

<u>Item</u>	<u>Exemption Para No.*</u>
13. Procurement Management Information Exempt Appendices 2, 3, 4 and 5	1,2 and 3
14. Annual report on complaints received into alleged breaches of the Code of Conduct	1 and 2
15. Whistleblowing Report	1 and 2
16. Data Breaches Report	1 and 2

- 1. Information relating to any individual
- 2. Information that is likely to reveal the identity of an individual
- 3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)

13 Procurement Management Information Report (Pages 155 - 164)

(Please note that appendices 2,3,4 and 5 are exempt)

The purpose of the report is to update Members on steps being taken to demonstrate that PCC is achieving value for money from its contracts for goods and services.

RECOMMENDED

- 1.1 That members note that purchase order compliance for November 2015 was 94% against the target of 95%**
- 1.2 That members note the performance of our suppliers and contractors and actions in progress to address poor performance.**
- 1.3 That members continue to request a procurement management information report, and that in light of the quarterly Strategic Contract Management Board meetings, that this report be brought to the committee on a quarterly basis.**

14 Annual report on complaints received into alleged breaches of the Code of Conduct by Members of the Council (Pages 165 - 168)

(Please note that although the appendix is not exempt, if Members wish to ask detailed questions, the meeting may need to move into exempt session)

The purpose of the report is to update Members of the Committee on current progress in relation to complaints which allege that Councillors may have breached the Code of Conduct.

RECOMMENDED that Members of the Committee

- (1) Note the report**
- (2) Consider whether any further action is required by them.**

15 Whistleblowing Report (Pages 169 - 172)

(Please note that although the appendix is not exempt, if Members wish to ask detailed questions, the meeting may need to move into exempt session)

The purpose of the report is to update Members of the Committee on the nature and handling of any whistleblowing concerns which have been raised in the past year.

RECOMMENDED that Members of the Committee

- (1) Note the report**
- (2) Consider whether any further action is required by them.**

16 Data Breaches Report (Pages 173 - 174)

The purpose of the report is to inform the Committee of any Data Security Breaches and actions agreed/taken since the last meeting.

RECOMMENDED that Members of the Governance & Audit & Standards Committee note the breaches (by reference to Exempt Appendix A) that have arisen and the action determined by the Corporate Information Governance Panel (CIGP).

Information

Members of the public are now permitted to use both audio visual recording devices and social media during this meeting, on the understanding that it neither disrupts the meeting or records those stating explicitly that they do not wish to be recorded. Guidance on the use of devices at meetings open to the public is available on the Council's website and posters on the wall of the meeting's venue.

Agenda Item 3

GOVERNANCE & AUDIT & STANDARDS COMMITTEE

MINUTES OF THE MEETING of the Governance & Audit & Standards Committee held on Friday, 6 November 2015 at 2.30 pm at the The Executive Meeting Room - Third Floor, The Guildhall

(NB These minutes should be read in conjunction with the agenda for the meeting which can be found at www.portsmouth.gov.uk.)

Present

Councillor Simon Boshier (Chair)
Councillor Ian Lyon (Vice-Chair)
Councillor Steve Hastings
Councillor Hugh Mason
Councillor Phil Smith

Officers

Michael Lawther, Deputy Chief Executive and City Solicitor
Jon Bell, Director of HR Legal & Procurement
Julian Pike, Deputy Director of Finance and Section 151 Officer
Elizabeth Goodwin, Chief Internal Auditor
Louise Northcott, Principal Auditor, Internal Audit
Paddy May, Corporate Strategy Manager
Greg Povey, Assistant Director of Contracts, Procurement and Commercial
Michael Lloyd, Directorate Finance Manager (Technical & Financial Planning)

External Auditors

Kate Handy
Mark Justesen, External Auditor
(Ernst & Young)

67. Apologies for Absence (AI 1)

Apologies for absence were received on behalf of Councillor John Ferrett.

68. Declarations of Members' Interests (AI 2)

There were no declarations of members' interests.

69. Minutes of the Meeting held on 25 September 2015 (AI 3)

RESOLVED that the minutes of the meeting held on 25 September 2015 be confirmed and signed by the Chair as a correct record.

70. Updates on actions identified in the minutes (AI 4)

It was confirmed that the actions referred to in the resolution relating to Section 5 were underway.

71. External Audit (Ernst & Young) Annual Audit Letter and a Verbal Update on Planning for 2015/16 (AI 5)

(TAKE IN LETTER)

Kate Handy introduced the annual audit letter explaining that its purpose was to communicate to members and external stakeholders including members of the public the key issues arising from the work of the external auditors. She said that detailed findings from the audit work in the 2014/15 audit had already been reported to the 25 September 2015 Governance & Audit & Standards Committee meeting.

She said that both she and Mark Justesen would no longer be auditing Portsmouth City Council as external auditors rotated after a number of years as a matter of policy. She advised that her replacement would be Helen Thompson. She thanked officers and members of the Governance & Audit & Standards Committee for their co-operation over the years and said that there would be a series of hand-over meetings.

Mr Mark Justesen said that item 1 of the report provided a summary of the areas of work undertaken by external audit and the results. He said that on 28 September 2015 the external auditors issued an unqualified audit opinion on the council's financial statements and an unqualified value for money conclusion. Mr Mark Justesen drew members' attention to Section 4 of the report that identified a number of matters of particular note. These included the Highways Network Asset (formerly Transport Infrastructure Assets). The requirement will now be to account for Highways Network Asset on a depreciated replacement cost basis from 1 April 2016. Mr Justesen said that this represents a significant exercise for the Council but that it is relatively well prepared. In addition, he advised that the accounts and audit regulations 2015 were laid before parliament in February 2015. A key change in the regulations is that from the 2017/18 financial year the timetable for the preparation and approval of accounts will be brought forward. As a result, the council will need to produce draft accounts by 31 May and these accounts will need to be audited by 31 July. He said that the council will need to work with its auditors on how it will produce accounts one month earlier and enable the audit to be completed two months earlier than has previously been the case.

In response to queries the following matters were clarified:-

- Under "key findings" it was confirmed that the significant risk identified headed "Management Override" will always be there and appears in all plans as it will always be the case that management can override

controls. However, the auditors confirmed that their work did not identify any instances of management override.

- It was confirmed that in relation to the other risk identified under Property, Plant and Equipment, officers had reviewed the assets to ensure they are valued correctly and that all assets are depreciated in accordance with the council's accounting policy. This was the case for all assets over £10,000.

Mr Michael Lloyd agreed to email members of the committee more details about this.

The Chair thanked the external auditors Kate Handy and Mark Justesen for all their work over the years whilst working with Portsmouth City Council.

72. Audit Performance Status Report to 6 October 2015 (AI 6)

(TAKE IN REPORT)

The Chief Internal Auditor, Lizzie Goodwin introduced the report which updates the Governance & Audit & Standards Committee on the internal audit performance for 2015/16 to 6 October 2015 against the Annual Audit Plan, highlights areas of concern and areas where assurance can be given on the internal control framework.

During discussion the following matters were clarified:-

- Since the report was written matters outlined in paragraph 6.2 as being unresolved have now largely been resolved. The main issue appears to be problems in marrying up databases to ensure accurate information is recorded.

The Deputy Chief Executive said that checks are made on an ad hoc basis on taxi drivers to check that they are properly licensed.

In addition education services need proof of a DBS check having been carried out on drivers before children can be transported in their taxis.

The Chair said that it was evident that joined up thinking needed to be employed in order to resolve the issues raised and that a meeting would take place involving him, the Chief Internal Auditor, the Deputy Chief Executive and the Chair of Licensing in order to discuss this matter.

- With regard to paragraph 6.4 and 6.5, members were pleased that the issues relating to the two schools involved had now been resolved.
- With regard to item 6.6 - Portsmouth International Port - income dues, it was confirmed that no interest would be charged on the undeclared income outstanding.
- With regard to paragraph 6.9 - Information Governance Security Sweeps, the Deputy Chief Executive said that the main concern is not information included on lap-tops as these are encrypted but on the

replacement of these lap-tops which is expensive and also embarrassing to the council. It was very difficult to persuade members of the public that there is no risk of the data being compromised. He said that there was much more risk with paper information being left unsecured and that even in secure areas it was essential that confidential data is locked away.

The Chair of the committee said that regular security sweeps should take place and it was confirmed that these would happen.

- With regard to 6.10 - Ground Floor Security and Reception Arrangements, it was confirmed that there are sufficient private meeting rooms available but that sometimes people become agitated very quickly making it difficult to predict when a conversation will become inappropriate to hold in the reception area.

RESOLVED that

- 1. Members note the Audit Performance for 2015/16 to 6 October 2015; and**
- 2. That members note the highlighted areas of control weakness for the 2015/16 Audit Plan.**

73. Treasury Management Mid-year Review. (AI 7)

(TAKE IN FOR INFORMATION REPORT)

Mr Michael Lloyd introduced the report and circulated a revised Appendix B which contained some minor amendments. He advised that the purpose of the report is to review the current treasury management position and strategy and make recommendations to improve the strength and performance of the treasury management operation. The report seeks to amend the minimum revenue provision (MRP) policy for the repayment of unsupported borrowing, to allow a wider range of investments to be made on the basis of a single credit rating, and to review the investment counter party limits. Appendix A aims to inform members and the wider community of the Council's Treasury Management position at 30 September 2015 and of the risks attached to that position. He advised that the report was coming to this committee for information and would be going to Cabinet and also to Full Council for decision.

During discussion the following matters were clarified:-

- Mr Lloyd advised that the city council changed its supplier of investment counter party information on 1 May 2015 and some new investment counter parties were suggested by the new supplier.
- With regard to a query relating to categories 10 and 11 in Appendix B of the report, it was confirmed that the strengths of the Building

Societies mentioned is determined by using information from KPMG and the Building Society Association.

- It was confirmed that with regard to Appendix A, the information influences the Banks used by PCC and that PCC only invests in those countries that have a double AA+ average rating.

RESOLVED that the Governance & Audit & Standards Committee notes the recommendation set out in paragraph 2 of the report which will go to Cabinet and Full Council for decision.

74. Changes to the designated independent person dismissal procedures (AI 8)

(TAKE IN REPORT)

As this matter concerns the designated statutory officer posts that includes the monitoring officer, Michael Lawther left the meeting for the duration of this item.

Mr Paddy May introduced the report stating that its purpose is to inform members of a change to the process (as recently agreed by Employment Committee) that must be followed for the dismissal of designated statutory officer posts (Head of Paid Service, Monitoring Officer or Chief Finance Officer) and to seek, from Governance & Audit & Standards Committee (G&A&S), a recommendation to council to amend paragraph 10 of the Council's Officers' Employment Procedure Rules in Part 3D of the Constitution to reflect this new process. He explained that the reason for the amendment was to allow for an appeal process which had been absent from the original report. Jon Bell said that it was not expected that the procedure outlined in the report would need to be invoked very often as it was rare to dismiss these officers. Members accepted the amendment.

RESOLVED that Governance & Audit & Standards Committee recommend that Full Council approves the changes to paragraph 10 of the revised new Officers Employment Procedure Rules as shown in Appendix 2.

75. Compliance with the Gifts and Hospitality Protocol (AI 9)

(TAKE IN REPORT)

Michael Lawther introduced the report and apologised that the appendices were not succinct advising that there was a difficulty in obtaining data owing to database problems. He advised that the data needed to be updated and that typographical errors should be eliminated. He said that the purpose of the report was to provide an annual update to members on compliance with the Gifts and Hospitality protocol to enable this committee to make any necessary recommendations for change.

The Chair of the committee agreed that the report and appendices needed to be tidied up. However, the compliance had improved dramatically as compared with previous years. During discussion the following matters were clarified:-

- Members noted that with regard to some entries for certain named individuals, things of the same value had been accepted in some cases and rejected in others. The Deputy Chief Executive said that the rules relating to when an item should be rejected could be made clearer.
- In response to a query the Deputy Chief Executive said that it was very important that even relatively low value gifts i.e. where they exceeded £5 in Adult Social Care as this was a very sensitive area and a likely cause of problems.

RESOLVED that the report be noted.

76. Review of Members' Code of Conduct and Committee Arrangements for Assessment, Investigation and Determination of Complaints (AI 10)

(TAKE IN REPORT)

The Deputy Chief Executive introduced the report and explained the suggested changes were to clarify the procedure when there is no finding of fault and to avoid additional formal meetings having to be held when the procedure can be dealt with under delegation to the City Solicitor in consultation with the members of the Initial Filtering Panel.

The Chair commented that he felt the revisions would ensure that the procedure was now as efficient as it can be.

RESOLVED that Members of the Committee

- (i) **Agreed the proposed changes to the Arrangements for Assessment, Investigation and Determination of Complaints set out in the appendix and**
- (ii) **Recommended the agreed changes to Council for adoption.**

77. Contract Procedure Rules (AI 11)

(TAKE IN REPORT)

The Deputy Chief Executive introduced this item and explained that its purpose was to seek the adoption of revised Contract Procedure Rules to be implemented in place of those approved on 20 July 2010. He said that the proposed changes had to be agreed at the Governance & Audit & Standards Committee and then their recommendation would go to Full Council for the rules to be adopted and brought into force from 1 January 2016. He invited Mr Greg Povey to outline the main changes to the committee.

Mr Povey said that the contract procedure rules had been modernised and that hyperlinks had been introduced so that they could be easily updated going forward. The revised rules would enable better management of contracts and improved processes for going out to tender.

Mr Povey outlined the changes and invited questions from members.

In response to queries the following matters were clarified:-

- Where a contract was worth under £5000, a written contract would not be drawn up as it was relatively low risk and not cost effective to document in writing. Instead the order would be raised on our standard purchase order terms and conditions.
- Mr Povey confirmed that he would be bringing a report to the January meeting of this committee and would provide a presentation on how the new Procurement Dashboard had bedded in.
- With regard to the contract manager role, Mr Povey said that there were two Contract Management Business Partner posts in his team and that they would provide mentoring and training for the Contract Managers in the business.
- With regard to existing contracts, Mr Povey said that Strategic Contract Management Board would apply to all strategic contracts from December onwards.
- With regard to where a contract has been sub-contracted out, Mr Povey said that it would depend on the budget holder and officers as to what had been initially decided as to how that would work going forward.
- With regard to Section 19 - Consultants, this was not time limited and the situation had never arisen.

RESOLVED that the Governance & Audit & Standards Committee

- 1. Agree the proposed changes to the Contract Procedure Rules as set out as Appendix 1 to this report; and**
- 2. Recommend the revised Contract Procedure Rules be adopted by Council and brought into force from 1 January 2016.**

78. Date of Next Scheduled Meeting (AI 12)

The next meeting is scheduled for 29 January 2016.

The meeting concluded at 4.55pm.

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Chair

.....
Councillor Simon Boshier
Chair

Local government audit committee briefing

Contents at a glance

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Find out more

This sector briefing is one of the ways that we hope to continue to support you and your organisation in an environment that is constantly changing and evolving.

It covers issues which may have an impact on your organisation, the Local government sector and the audits that we undertake.

The public sector audit specialists who transferred from the Audit Commission form part of EY's national Government and Public Sector (GPS) team. Their extensive public sector knowledge is now supported by the rich resource of wider expertise across EY's UK and international

business. This briefing reflects this, bringing together not only technical issues relevant to the local government sector but wider matters of potential interest to you and your organisation.

Links to where you can find out more on any of the articles featured can be found at the end of the briefing, as well as some examples of areas where EY can provide support to Local Authority bodies.

We hope that you find the briefing informative and should this raise any issues that you would like to discuss further please do contact your local audit team.



Government and economic news

EY Item Club Autumn Forecast

The latest EY Item Club forecast (Autumn 2015) predicts tougher times for the UK economy as what it describes as the 'consumer sugar rush' begins to fade.

GDP is forecast to grow by 2.5% this year (compared to 2.9% in 2014) and slow further to 2.4% in 2016 and 2.3% the year after. Consumer Price Inflation is expected to remain below target until 2018. Prospects for exports remain poor, and domestic consumption is likely to be affected by rising inflation and tighter fiscal policy from early 2016. Progress is seen to depend upon productivity gains rather than coming from the commodity price falls that are supporting demand this year. Businesses will need to work hard on overseas markets as opposed to relying on consumer-led domestic markets.

The forecast highlights that the last decade has seen a strong increase in the supply of labour which has depressed real wages and, arguably, productivity, but that we are now seeing a more normal recovery. This is characterised by an increase in the demand for labour, which boosts real wages and productivity. Wage inflation is highlighted as being strong. This is expected to be boosted further in April 2016 by the National Living Wage, the effects of which could be very significant for some sectors and regions.

Provided that increased productivity matches wage inflation, the expectation is that the Monetary Policy Committee will keep base rates on hold until next autumn.

For details of the EY Item Club's latest forecast, see <http://www.ey.com/UK/en/Issues/Business-environment/Financial-markets-and-economy/ITEM---Forecast-headlines-and-projections>

Housing Associations Right to Buy

The Chartered Institute of Public Financial Accountants (CIPFA) has produced a briefing following the Government's announcement in October that it intends to extend its Right to Buy scheme to Housing Associations. The briefing seeks to explore the potential impact of these plans on Local Authorities.

Local authority housing is intended to be self-financing, based on 30 year business plans established in 2012 with the HRA self-financing regime, with Council housing for each council financed from its own rental income. This principle was reflected in the 30 year business plans, but CIPFA suggests that these business plans do not reflect recent changes contained within the budget. These changes include amendments to the rent policies as well as the proposed sale of high value local authority housing stock in order to compensate housing associations for the shortfall in income caused by the new Right to Buy scheme.

According to CIPFA, research has shown properties sold under the existing Right to Buy scheme have in many instances returned to the rental market at a higher level of rent than council levels. They have cited the example of Barking and Dagenham where it is said that 41% of properties purchased under the Right to Buy scheme are now let privately.

CIPFA warns 'Any legislation that leads to a negative impact on the housing business plan models of local authorities could seriously undermine the very basis of self-financing which promised autonomy for local authorities in the delivery of housing in their areas.'



Government and economic news

However, Communities Secretary Greg Clark said:

“We’re determined to ensure that home ownership is seen as a reasonable aspiration for working people.

Right to Buy is a key part of this, offering a helping hand to millions of people who would have no hope of buying their own home without it.

Today’s historic agreement with housing associations and the National Housing Federation will extend that offer even more widely, whilst at the same time delivering thousands of new affordable homes across the country.”

The Government agreement with housing associations and the National Housing Federation will see housing association tenants able to buy their homes from 2016.

CIPFA’s briefing document can be downloaded from <http://www.cipfa.org/cipfa-thinks/briefings>, and further information from the government is available at <https://www.gov.uk/government/news/historic-agreement-will-extend-right-to-buy-to-13-million-more-tenants>

Consultation: improving efficiency on Council Tax Collection

Council tax collection rates have been relatively high in recent years: 97% across England in both 2014/15 and 2013/14. However, the Government is looking at ways to enable local authorities to further improve collection rates.

To this end, the Government has issued a consultation on its proposals to improve the collection and enforcement process for council tax. The government’s stated intention is to help local authorities to keep council tax rates low, and so the proposals are aimed at ensuring that everyone contributes fairly.

The consultation follows a trial by Manchester City Council, Salford City Council, HMRC and the Cabinet office under the ‘Better Business Compliance Cabinet programme’, and reflects consideration of the findings from this trial.

An example of this is the Government’s proposal to extend the data-sharing gateway which currently exists between HMRC and local authorities. This would enable HMRC to share employment information with councils where council tax debtors have not voluntarily shared the information within 14 days of receiving a liability order. Manchester estimates, based on its pilot with HMRC, that this would recover £2.5mn of debt in its area alone.

The consultation also asks for other suggestions to improve council tax collection.

Responses are requested by 18 November 2015.

For more information on the consultation and details on how to respond, please see https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/466386/150930_Improving_Efficiency_of_Council_Tax_collection_Consultation_Doc.pdf



Government and economic news

Local Plans for New Homes

In October, the Government announced that councils will be required to produce local plans for new homes by 2017. Where councils fail to do so, the Government will consult with local people to ensure that plans are produced for them.

In 2012, the National Planning Policy Framework was introduced to provide guidance for local planning authorities and decision-takers, both in drawing up plans and making decisions about planning applications. This framework reinforced the role of local plans. It required the plans to include an annual trajectory over a period of around 15 years of how many homes they plan to build in their area, and it required local authorities to review this plan approximately every 5 years. Councils were also encouraged to give local people more say on where new developments would be located and what they would look like.

The Government have said that the response to this has been mixed:

- ▶ 82% of councils have published local plans which state how many homes they intend to build over a given period
- ▶ 65% have fully adopted these plans
- ▶ Nearly 20% of councils do not have an up to date plan

If councils fail to produce and bring into force an up to date plan for new homes by 2017, the Government intends to work with local people to ensure one is created.

Read the government press release at <https://www.gov.uk/government/news/prime-minister-councils-must-deliver-local-plans-for-new-homes-by-2017>



Accounting, auditing and governance

Proposals for further emergency services collaboration announced

The Government has launched a consultation which is looking into how the three core emergency services of Police, Fire and Rescue and the Ambulance service could potentially work together in a more efficient and effective manner. Key features of the consultation include:

- ▶ Enabling Police and Crime Commissioners (PCCs) to take on the duties and responsibilities of Fire and Rescue Authorities where a local case was made for this to happen
- ▶ Where a case is made by a local PCC to take on such a role, there would also be the possibility for them to take on the role of a single employer and in doing so enable the sharing of back office support functions
- ▶ Improving joint working between PCCs and local NHS Ambulance Foundation Trusts by encouraging them to allow PCCs to sit on their Council of Governors

The Government also intends to introduce a new statutory duty for the three emergency services to collaborate with one another; and sees this as not being a burden, but is about seeking efficiencies.

However, a key legal distinction would remain under the new proposals, in that a member of a police force will not be permitted under law to become a firefighter, and firefighters will not be given the power of arrest. In order to maintain transparency for local taxpayers, funding from central government will remain separate for police and fire organisations, as will council tax precepts.

<https://www.gov.uk/government/news/proposals-for-further-emergency-services-collaboration-announced>

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/459986/Consultation_-_Enabling_closer_working_between_the_Emergency_Services__w__2_.pdf

Finance in the Cloud?

Cloud computing allows users to rent access to a variety of virtual computing options, conveniently, ranging from network-accessible data storage and software development environments to fully featured applications. As such, the data and applications are not required to be stored on local servers or 'on-premise'; rather, they are hosted and managed by third-party cloud service providers (CSPs).

Enterprises essentially outsource varying levels of IT functionality to CSPs, and users only need an internet connection to access the data and applications via virtual servers. By moving into the cloud, organisations have the potential to reduce greatly, or even eliminate, the total cost of ownership (TCO) of the IT function, thereby forever altering their business model.

The benefits of cloud adoption are highly touted. However, over a decade ago, on-premise enterprise resource planning (ERP) solutions made similar promises. Although the trigger for rushed ERP implementations in the 1990s was the much-fretted Year 2000 (or Y2K) calamity, Y2K concerns turned out to be largely unfounded, and many finance executives would now argue that they have yet to reap genuine, tangible benefits from investing in costly ERP systems.



Accounting, auditing and governance

Although a company's financial management system is critical to success, EY is finding that many organisations have systems averaging from 10 to 15 years old, with upgrade cycles ranging from 5 to 10 years. Despite aging legacy systems, many finance decision-makers are hazy on how cloud solutions are really any different from the ERP solutions hyped in the previous decade.

Organisations that truly understand cloud technology, as well as the associated challenges and risks, are better placed to manage the impact of cloud computing on the finance function. Moreover, they must engage an agile innovation strategy focused on deploying the right operating model in order to realize fully the benefits of cloud computing.

In EY's experience, organisations that fail to make a robust cloud risk assessment often need to make subsequent, costly changes to the cloud model, thereby negating any savings gained from cloud migration. EY recommends that organisations develop a clear, attainable cloud strategy, including an appropriate operating model accompanied with a cloud risk management approach to mitigate risks and avoid a premature move to the cloud.

EY has a proven framework for cloud models, along with risk assessments and broad-based diagnostics to evaluate and optimise a cloud strategy that enables minimal disruption whilst accelerating an organisation's evolution. For more information on this, please talk to a member of your engagement team or read the EY publication at http://performance.ey.com/wp-content/uploads/downloads/2015/10/EY-Performance-Finance-in-the-cloud_Final.pdf

Value for Money Conclusion guidance

The NAO have recently released a consultation document (<http://www.nao.org.uk/keep-in-touch/wp-content/uploads/sites/11/2015/08/Vfm-arrangements-auditor-guidance-consultation-document.pdf>) a consultation document for auditors on their review of arrangements to secure economy, efficiency and effectiveness in their use of resources. This is also referred to as the three E's or the Value for Money (VfM) conclusion. The guidance covers the VfM work for 2015/16.

Based on the responses received to a similar consultation in 2014 the new draft guidance seeks to:

- ▶ Take forward existing guidance and reflect changing circumstance for public sector organisations such as finding savings and maintain financial stability over the medium and long term
- ▶ Update the definition of 'proper arrangements'
- ▶ Strengthen guidance on the identification and work around significant risks whilst maintaining a risk based approach
- ▶ Update and clarify the range of reporting opinions available to auditors and expectations at key stages of the audit
- ▶ Maintain sector specific guidance that will sit outside of the statutory guidance but can provide up-to-date information on sector specific risks

The consultation closed on 30 September and the NAO will communicate a summary of the responses once they have reviewed them. Further information can be found at <https://www.nao.org.uk/keep-in-touch/our-surveys/consultation-auditors-work-on-value-for-money-arrangements/>.



Regulation news

Consultation on 2016/17 proposed fee scales

Public Sector Audit Appointments (PSAA) is currently consulting on both the work programme and scale of fees for 2016/17 audits. The consultation describes the work that auditors will undertake at principal audited bodies for 2016/17 and their associated scales of fees.

There are no planned changes to the overall work programme for 2016/17 and their proposal is to set scale audit fees at the same level as the scale fees for 2015/16 which already reflect a reduction of 25% in addition to the reduction of up to 40% made from 2012/13.

A change in accounting requirements in 2016/17 relating to highways infrastructure assets will require additional audit work at some authorities. As the amount will differ between authorities, the fee variation process will apply in 2016/17 for this additional work.

The consultation closes on Friday 15th January 2016, and the final work programme will be published following this in March 2016.

For details of the consultation, please refer to the PSAA website at <http://www.psaa.co.uk/audit-and-certification-fees/consultation-on-201617-proposed-fee-scales/>

NAO Case Study: Managing reductions in local authority government funding

The National Audit Office (NAO) has made available more than 30 case studies which give examples of how organisations have used their recommendations or analysis to support the achievement of financial savings.

One of these case studies follows the production of its 2014 report 'Financial Sustainability of Local Services'

The NAO case study states that following their report, the Department for Communities and Local Government (DCLG) has acknowledged that its processes for estimating local authority spending requirements and assessment the potential impacts of spending reductions need to be improved.

They also note use of their report in the sector, citing the following examples:

- ▶ Leeds City Council and Birmingham City Council have drawn on the work in their debates with central government over devolution
- ▶ Wolverhampton City Council and Oldham Council have used the work to inform discussion and decision-making in cabinet meetings and audit and scrutiny meetings
- ▶ The Local Government Association and treasurers' societies have used the analysis from the report to inform their thinking

Find out more about the impact made by NAO reports in their interactive pdf at <https://www.nao.org.uk/wp-content/uploads/2015/10/Impacts-case-studies-2014.pdf>



Key questions for the audit committee

What questions should the Audit Committee ask itself?

Have we considered the impact of the extension of Right to Buy and reflected our consideration in our Medium Term financial plans and/or Local Plan?

How successful are we in systematically improving our collection rates for Council Tax? Is there best practice that we could share via the Government's consultation?

What is our mid to long term IT strategy? Are we considering cloud-based IT and if so how robust are our risk assessments supporting the shift?

Have we formulated a response to the PSAA consultation on the work programme and scale of fees for 2016/17?



Find out more

EY Item Club Autumn Forecast

For details of the EY Item Club's latest forecast, see <http://www.ey.com/UK/en/Issues/Business-environment/Financial-markets-and-economy/ITEM---Forecast-headlines-and-projections>

Housing Associations Right to Buy

For further information, please see the government press release at <https://www.gov.uk/government/news/historic-agreement-will-extend-right-to-buy-to-13-million-more-tenants> and access the CIPFA report at <http://www.cipfa.org/cipfa-thinks/briefings>

Consultation: Improving Efficiency on Council Tax Collection

For more information on the consultation and details on how to respond, please see https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/466386/150930_Improving_Efficiency_of_Council_Tax_collection_Consultation_Doc.pdf

Local Plans for New Homes

Read the government press release at <https://www.gov.uk/government/news/prime-minister-councils-must-deliver-local-plans-for-new-homes-by-2017>

Proposals for further emergency services collaboration announced

For more information on the Government's proposals, please see <https://www.gov.uk/government/news/proposals-for-further-emergency-services-collaboration-announced>, and for a copy of the consultation document please see https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/459986/Consultation_-_Enabling_closer_working_between_the_Emergency_Services__w__2_.pdf

Finance in the Cloud?

To find out more about Cloud Computing and how EY can support you, please ask a member of your engagement team or read the EY publication at http://performance.ey.com/wp-content/uploads/downloads/2015/10/EY-Performance-Finance-in-the-cloud_Final.pdf

Value for Money Conclusion guidance

Further information can be found at <https://www.nao.org.uk/keep-in-touch/our-surveys/consultation-auditors-work-on-value-for-money-arrangements/>, and a copy of the NAO's consultation document is available at <http://www.nao.org.uk/keep-in-touch/wp-content/uploads/sites/11/2015/08/Vfm-arrangements-auditor-guidance-consultation-document.pdf>

Consultation on 2016/17 proposed fee scales

For further details on the consultation and how to respond to it, please visit:

<http://www.psa.co.uk/audit-and-certification-fees/consultation-on-201617-proposed-fee-scales/>

NAO Case Study: Managing reductions in local authority government funding

Find out more about the impact made by NAO reports in their interactive pdf at <https://www.nao.org.uk/wp-content/uploads/2015/10/Impacts-case-studies-2014.pdf>

About EY

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ED None

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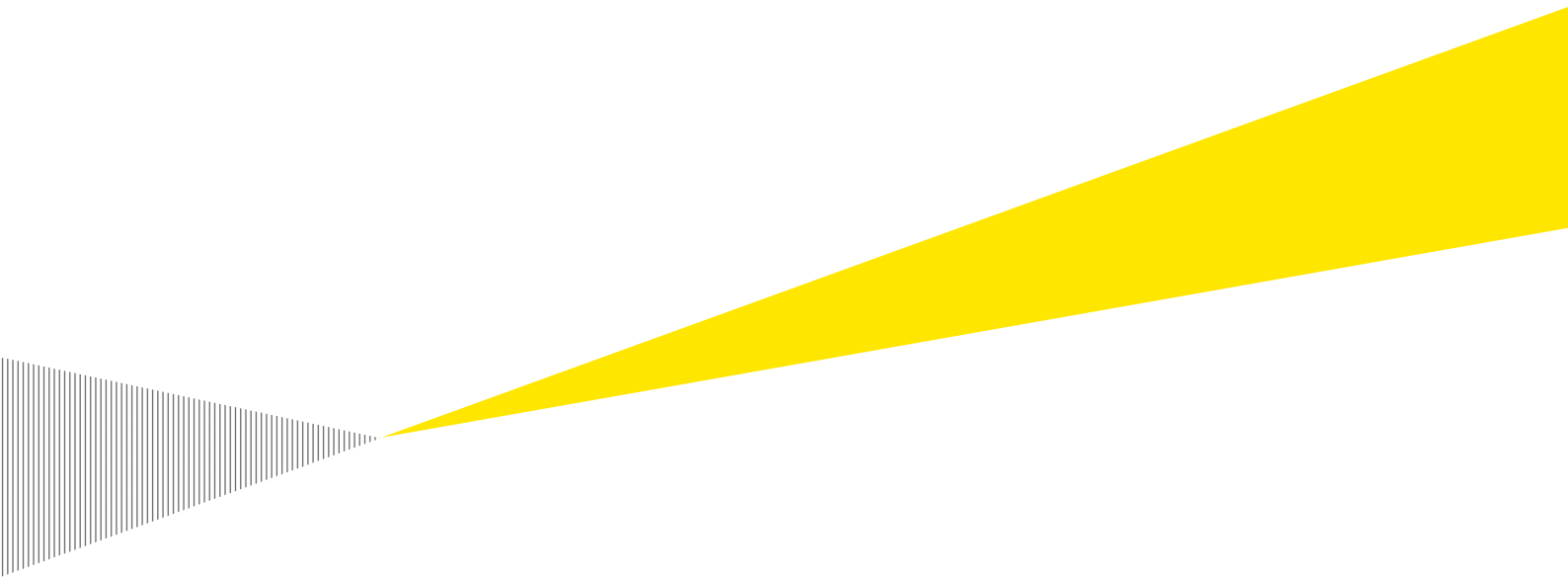
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Portsmouth City Council

Audit Progress Report

January 2016



Building a better
working world

Governance and Audit and Standards Committee
Portsmouth City Council
Civic Offices
Guildhall Square
Portsmouth
PO1 2BE

5 January 2016

Dear Committee Member

Audit Progress Report

We are pleased to attach our Audit Progress Report.

Its purpose is to provide the Committee with an overview of the progress that we have made with the work that we need to complete during the 2015/16 audit. This report is a key mechanism in ensuring that our audit is aligned with the Committee's service expectations.

Our audit is undertaken in accordance with the requirements of the Local Audit and Accountability Act 2014, the National Audit Office's 2015 Code of Audit Practice, the Statement of Responsibilities issued by Public Sector Audit Appointments (PSAA) Ltd, auditing standards and other professional requirements.

We welcome the opportunity to discuss this report with you as well as understand whether there are other matters which you consider may influence our audit.

Yours faithfully

Helen Thompson
Executive Director
For and on behalf of Ernst & Young LLP

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In April 2015 Public Sector Audit Appointments Ltd (PSAA) issued ‘Statement of responsibilities of auditors and audited bodies 2015-16’. It is available from the Chief Executive of each audited body and via the PSAA website (www.psaa.co.uk)

The Statement of responsibilities serves as the formal terms of engagement between appointed auditors and audited bodies. It summarises where the different responsibilities of auditors and audited bodies begin and end, and what is to be expected of the audited body in certain areas.

The ‘Terms of Appointment from 1 April 2015’ issued by PSAA sets out additional requirements that auditors must comply with, over and above those set out in the National Audit Office Code of Audit Practice (the Code) and statute, and covers matters of practice and procedure which are of a recurring nature.

This progress update is prepared in the context of the Statement of responsibilities. It is addressed to the Audit Committee, and is prepared for the sole use of the audited body. We, as appointed auditor, take no responsibility to any third party.

Our Complaints Procedure – If at any time you would like to discuss with us how our service to you could be improved, or if you are dissatisfied with the service you are receiving, you may take the issue up with your usual partner or director contact. If you prefer an alternative route, please contact Steve Varley, our Managing Partner, 1 More London Place, London SE1 2AF. We undertake to look into any complaint carefully and promptly and to do all we can to explain the position to you. Should you remain dissatisfied with any aspect of our service, you may of course take matters up with our professional institute. We can provide further information on how you may contact our professional institute..

2015/16 audit

Fee letter

We issued our 2015/16 fee letter to the Council in April 2015.

Financial Statements

We adopt a risk based approach to the audit and, as part of our ongoing continuous planning we will continue to meet key officers regularly to ensure the 2015/16 audit runs as smoothly as possible and identify any risks at the earliest opportunity.

Planning and interim visit

We are scheduled to complete our walkthrough of the key financial systems in February/March.

There are no significant matters arising from our initial planning meetings that we need to bring to your attention at this stage. We are continuing to liaise with officers on their plans in relation to the new requirements for highway network assets.

We will update the Committee when the testing of controls and early substantive testing has been completed.

Internal Audit

Internal Audit is a key part of the Council's internal control environment that we review during our assessment process. This process helps us to assess the level of risk of material errors occurring in the financial statements and informs the level of testing that we are required to complete in support of the audit opinion. We consider Internal Audit's progress with their annual audit plan and the results of their testing of financial systems and, where it is appropriate to do so, we will undertake procedures to enable us to place reliance upon this testing.

Post statements visit

Our audit visit is scheduled for July, and we have had early discussions on the working papers required in support of the audit.

Our detailed audit plan, setting out the risks we have identified and the work we will undertake in response, will be presented to the Committee in March 2016.

We will continue to use our computer-based analytics tools to enable us to capture whole populations of your financial data, in particular payroll and journal entries.

We will also review and report to the National Audit Office, to the extent and in the form required by them, on your whole of government accounts return.

Value for money

The NAO has consulted on a draft Auditor Guidance Note (AGN) in respect of auditors' work on value for money (VFM) arrangements. The guidance has now been issued and sets out the proposed overall approach to work on VFM arrangements which apply to audits from 2015/16 onwards.

A copy of the final AGN, and the supporting information for local government bodies, can be viewed on the NAO website: <http://www.nao.org.uk/code-audit-practice/guidance-and-information-for-auditors/>.

We are required to reach our statutory conclusion on arrangements to secure value for money based on the overall evaluation criterion, supported by sub-criteria as set out below.

The overall criterion for 2015/16 is:

- ▶ In all significant respects, you had proper arrangements to ensure you took properly informed decisions and deployed resources to achieve planned and sustainable outcomes for taxpayers and local people.

And the sub criteria are:

- ▶ informed decision making;
- ▶ sustainable resource deployment; and
- ▶ working with partners and other third parties.

We will carry out our initial risk assessment and report the risks we have identified, and associated work we will carry out, to the Committee in March 2016.

Local appointment of auditors

The Department of Communities and Local Government (DCLG) has announced that it has decided not to extend the existing arrangements for external audit contracts beyond the end of 2017/18. From 2018/19 onwards, local authorities will be responsible for appointing their own auditors, and directly managing the resulting contract and the relationship.

Although the new approach to local audit does not come into play until 2018/19, bodies will need to start putting in place the mechanism required to deliver this. As part of the process, bodies will need to set up auditor panels to advise on the selection, appointment and removal of external auditors, and on maintaining an independent relationship with them. These will need to be in place by early 2017, with the procurement process taking place in spring 2017 and external auditors being appointed by December 2017.

Existing external audit arrangements will remain unchanged for the 2015/16, 2016/17 and 2017/18 years.

Other issues of interest

In addition to our formal reporting and deliverables we provide practical business insights and updates on regulatory matters through our Sector Briefings.

Timetable

We set out below a timetable showing the key stages of the audit, including the value for money work, and the deliverables we will provide to you through the 2015/16 Audit Committee cycle.

Audit phase	EY Timetable	Deliverable	Reported	Status
High level planning	Ongoing	Audit Fee Letter	April 2015	Completed
Risk assessment and setting of scope of audit	Dec 2015 - January 2016	Audit Plan	March 2016	In progress
Testing of routine processes and controls	Feb-March 2016	Verbal Update	March 2016	
Year-end audit	July - August 2016	Audit results report to those charged with governance Audit report (including our opinion on the financial statements and a conclusion on your arrangements for securing economy, efficiency and effectiveness in your use of resources) Whole of Government Accounts Submission to NAO based on their group audit instructions Audit Completion certificate	September 2016	Work is planned to start in mid July 2016.

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Certification of claims and returns annual report 2014-15

Portsmouth City Council

8 January 2016

Ernst & Young LLP



Building a better
working world

The Members of the Governance & Audit & Standards Committee
Portsmouth City Council
Civic Offices
Guildhall Square
Portsmouth
Hampshire
PO1 2BG

08/01/16

Ref: EY/PCC/GCR/14-15

Direct line: 02380 832043
Email: KHandy@uk.ey.com

Dear Members

Certification of claims and returns annual report 2014-15 Portsmouth City Council

We are pleased to report on our 2014/15 certification work carried out under the Audit Commission framework. This report summarises the results of our work on Council's 2014-15 Housing Benefits Subsidy claim.

Scope of work

Local authorities claim large sums of public money in grants and subsidies from central government and other grant-paying bodies and must complete returns providing financial information to government departments. In some cases these grant-paying bodies and government departments require appropriately qualified auditors to certify the claims and returns submitted to them.

Under section 28 of the Audit Commission Act 1998, as transitionally saved, the Audit Commission made arrangements for certifying claims and returns in respect of the 2014-15 financial year. These arrangements required only the certification of the housing benefits subsidy claim. In certifying this we followed a methodology determined by the Department for Work and Pensions and did not undertake an audit of the claim.

Statement of responsibilities

The Audit Commission's 'Statement of responsibilities of grant-paying bodies, authorities, the Audit Commission and appointed auditors in relation to claims and returns' (statement of responsibilities) applied to this work. It serves as the formal terms of engagement between ourselves as your appointed auditor and the Council as audited body.

This report is prepared in the context of the statement of responsibilities. It is addressed to those charged with governance and is prepared for the sole use of the Council. As appointed auditor we take no responsibility to any third party.

Summary

Section 1 of this report outlines the results of our 2014-15 certification work and highlights the significant issues.

We checked and certified the housing benefits subsidy claim with a total value of £109,569,689. We met the submission deadline. We issued a qualification letter – details of the qualification matters are included in section 1. We have not made any recommendations for improvement.



Fees for certification work are summarised in section 2. The fees for 2014-15 were published by the Audit Commission on 27 March 2014 and are now available on the Public Sector Audit Appointments Ltd (PSAA's) website (www.psaa.co.uk).

We welcome the opportunity to discuss the contents of this report with you at the 29 January 2016 Governance & Audit & Standards Committee.

Yours faithfully

Kate Handy
Executive Director
For and on behalf of Ernst & Young LLP
Southampton

Enc

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1. Housing benefits subsidy claim

Scope of work	Results
Value of claim presented for certification	£109,569,689
Amended/Not amended	Amended – Cell 094 was adjusted although there was no effect on the subsidy claimed.
Qualification letter	Yes
Fee – 2014-15	£22,928
Fee – 2013-14	£23,729

Recommendations from prior year 2013/14 and findings:

None

Local Government administers the Government's housing benefits scheme for tenants and can claim subsidies from the Department for Work and Pensions (DWP) towards the cost of benefits paid.

The Authority notified us that they made one amendment to the claim following submission. Cell 094 was input incorrectly, the cell had been increased by a factor of 10. This input error did not affect the subsidy claimed by the Authority.

Our testing identified a number of errors in the calculation and classification of benefits awarded to claimants during the year, as presented in the subsidy claim:

Rent Allowances

Miscalculation of wages:

- For 1 of the 20 cases tested, benefit had been underpaid as a result of the Council miscalculating the claimant's average weekly income. As there is no eligibility to subsidy for benefit which has not been paid, the underpayment identified did not affect subsidy and has not, therefore, been classified as an error for subsidy purposes.
- However, because errors miscalculating the claimant's average weekly income could result in overpayments, an additional random sample of 40 cases was tested. The additional testing identified 1 further error. This error had nil effect on the subsidy paid, creating neither an under or an overpayment.
- As neither error resulted in an overpayment of benefit, no extrapolation was required.

Misclassification of overpayments:

- Testing of the initial 20 cases identified 1 case where an overpayment was incorrectly classified. Cell 114 (eligible overpayments) was overstated and cell 113 (LA error) was correspondingly understated. There was no effect on cell 094.
- As the misclassification affects how much subsidy the authority can reclaim an additional sample of 40 cases was tested. From this, we identified one further case where the claim has been incorrectly classified. Again, the overpayment should have been classified in cell 113 (LA error) not cell 114 (eligible overpayments).

- The total value of the two misclassifications was £58.04. When extrapolated over the total cell 114 population the total error identified was £5,390.30.

Backdated payments:

- Testing of the initial sample identified 1 case where the claim was incorrectly included in cell 131 (Backdated Expenditure). There was no effect on cell 094, or the subsidy paid.
- Testing of an additional random sample of 40 cases identified 8 further errors. These errors all resulted in an overstatement of cell 131.
- The total error identified was £458.82, when extrapolated over the total value of cell 131 this gave a total error of £5,996.22.

Non HRA Rent Rebates:

Miscalculation of wages:

- For 1 of the 20 cases tested, benefit had been underpaid as a result of the Council miscalculating the claimant's average weekly income. As there is no eligibility to subsidy for benefit which has not been paid, the underpayment identified did not affect subsidy and has not, therefore, been classified as an error for subsidy purposes.
- However, because errors miscalculating the claimant's average weekly income could result in overpayments, an additional random sample of 40 cases was tested. The additional testing identified 6 further errors. Of these errors 2 resulted in an overpayment of benefit.
- The errors resulting in an overpayment of subsidy totalled £594.67. As the Council were able to identify all Non-HRA Rent Rebate claims which included wages, we have extrapolated the error over these claims only. The total extrapolated error was £948.09. This represents an overstatement of cell 014 and an understatement of cell 026.

Backdated payments:

- Testing of the initial sample identified four cases where the claim was incorrectly included in cell 038 (Backdated Expenditure). There was no effect on cell 011 or the subsidy paid.
- Cell 038 had a total population of 52 claims. We were therefore able to test the classification of the claims in totality. From the remaining 32 cases we identified a further 24 further errors, where the claim tested should not have been included in cell 038.
- The total error in cell 038 was £3,708.39.

Modified Schemes

- Testing of the initial sample identified 1 case where the modified scheme had been input at the incorrect rate. This caused cell 225b (Modified Schemes - Rent Rebates) to be understated and cell 061 (Rent Rebates Expenditure) to be correspondingly overstated.
- The Council had already identified and corrected all claims containing this error in 15/16. They had reviewed all Rent Rebate Modified Scheme cases prior to the audit. This enabled 100% of the population to be tested.

- The total overstatement of cell 225b, and therefore corresponding understatement of cell 061, was £1,148.65.

The claim has not been amended for any of the above errors identified.

As well as testing the calculation of individual benefits awards, the certification instructions require further tests including reviewing the reconciliation of benefit awarded to benefit paid during the year. We have confirmed the authority has reconciled the in-year reconciliation cells but when input to the claim form, one minor rounding difference was created.

We have reported the above findings and results of the 40+testing to the DWP in a qualification letter.

The DWP then decides whether to ask the Council to carry out further work to quantify the error or to claw back the benefit subsidy paid.

2. 2014-15 certification fees

The Audit Commission determined a scale fee each year for the audit of claims and returns. For 2014-15, these scale fees were published by the Audit Commission on 27 March 2014 and are now available on the PSAA's website (www.psa.co.uk).

Claim or return	2013-14	2014-15	2014-15
	Actual fee £	Indicative fee £	Actual fee £
Housing benefits subsidy claim	23,729	20,060	22,928 ¹
Pooling of housing capital receipts	735	-	-
Local Transport Plan Major Projects	4,601	-	-
Total	29,065	20,060	22,928

¹ Because of the additional levels of 40+ testing required this year, we have agreed a scale fee variation with officers, but this is still subject to approval by PPSA

3. Looking forward

From 1 April 2015, the duty to make arrangements for the certification of relevant claims and returns and to prescribe scales of fees for this work was delegated to (PSAA) by the Secretary of State for Communities and Local Government.

The Council's indicative certification fee for 2015-16 is £17,797. This was prescribed by PSAA in April 2015, based on no changes to the work programme for 2015-16. PSAA reduced scale audit fees and indicative certification fees for most audited bodies by 25 per cent based on the fees applicable for 2014-15.

Details of individual indicative fees are available at the following web address:
<http://www.psa.co.uk/audit-and-certification-fees/201516-work-programme-and-scales-of-fees/individual-fees-for-local-government-bodies>

We must seek the agreement of PSAA to any proposed variations to these indicative certification fees. We will inform the S151 Officer, Chris Ward before seeking any such variation.

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Title of meeting:	Governance and Audit and Standards Committee
Date of meeting:	29 th January 2016
Subject:	Performance Management update - Q2, 2015-16
Report by:	Director of HR, Legal and Procurement
Wards affected:	n/a
Key decision:	No
Full Council decision:	No

1. Purpose

- 1.1 To report significant performance issues, arising from Q2 performance monitoring, to Governance and Audit and Standards committee and highlight areas for further action or analysis.

2. Recommendations

- 2.1 **The Governance and Audit and Standards Committee are asked to:**
- 1) **note the report; and**
 - 2) **comment on the performance issues highlighted in section 4, and governance issues in section 5, including agreeing if any further action is required**
 - 3) **Agree the actions proposed in section 4.**

3. Background

- 3.1 This report is part of the regular series of quarterly report highlighting significant performance issues across the organisation, and the second compiled in the new organisational structure. The report is based on the quarterly highlight reports prepared by Directors.
- 3.2 In compiling reports, directors were asked to consider:
- 1) Highlights
 - 2) Areas for concern
 - 3) Areas to watch
 - 4) Risks
 - 5) Projects

- 3.3 As is usual, there are some common themes emerging from the reports. Challenges highlighted include the volatility of generating external income, management and workforce capacity, continued increases in demand (or at the least, no reductions). Summaries of each directorate's report are attached as Appendix 1.
- 3.4 It is worth noting that the reports are compiled by Directors to highlight issues of their choosing. There are some obvious omissions in the shape of reports not submitted at all, but some significant areas of the authority's work not addressed through the reports. These include (but are probably not limited to) waste collection and disposal; housing options and homelessness; private sector housing; parking, and highways network management outside of special events. No report has been received from the Director of Public Health.
- 3.5 It is also the case that reports tend to deal with process and administrative issues, and are notable for the lack of focus on outcomes or reports from the perspective of the customer. Balanced alongside this though is the extent to which reports do not take a consistent view of matters such as the workforce (for example, staff sickness is mentioned in only a handful of reports) and finance (although risks around savings requirements are mentioned, in-year budget positions and responses are not routinely referenced).
- 3.6 Governance and Audit and Standards Committee are asked to consider the issues above, and also the summary highlight reports attached at Appendix 1, and agree any further action required.

4. Moving Forward

- 4.1 Improvements to reporting have been made since the last quarter. The summaries now focus clearly on five key areas, and include a sharper focus on risks and projects. This will continue to be developed for the next quarter.
- 4.2 However, current arrangements do not fully satisfy the need to inform corporate governance, and there are some further improvements which could be made. Reports still do not routinely set information in a wider context, to ensure that appropriate support and challenge can be offered. A range of information sources are available to support such benchmarking, including through the LGA, through CIPFA, audit firms, benchmarking clubs and professional associations, as well as information over time in PCC. It is suggested that there should be an expectation from the GAS committee that this information is being considered routinely.
- 4.3 The continued gaps in large areas of activity continue to be a concern, and there is a lack of proportionality across the reports, with small areas of activity in terms of spend and reach receiving greater coverage than much larger areas of activity. This is largely because of the self-selecting nature of reports.
- 4.4 It is recommended that for the next quarter, templates will be tailored to be more specific and ensure that there is broader coverage of activity. It is also suggested that to strengthen ownership of the information, future summaries are incorporated

from Directors without editing, with GAS able to ask Directors to the meeting to answer questions on performance if these are not adequately addressed. Finally it is suggested that the officers charged with ensuring the strong governance of the authority (Chief Executive, Monitoring Officer and s151 Officer) each contribute a narrative providing a corporate perspective, as opposed to the service delivery perspective that is reflected in the current reports.

- 4.5 These adjustments should not represent unreasonable or onerous requirements; it will bring together information that is collected in a range of formats already into a single place for consideration, and focus the required information, so will actually represent a reduction in activity in line with the current direction of travel around smarter working. GAS are asked to agree that this is an appropriate direction of travel for future reporting.

5. Significant governance issues

- 5.1 It was agreed at a previous meeting of the Governance, Audit and Standards Committee that significant governance issues arising from the most recent Annual Governance Statement would also be considered alongside the quarterly performance report. At the September meeting that considered the Annual Governance Statement, it was also agreed that an update would be received on the progress with refreshing business continuity plans and testing these following the organisational restructure.
- 5.2 The current situation is that a Corporate Crisis Management Plan (CMP) is in production, to cover the process and arrangements from the start of a large scale business disruption, though business continuity and eventually recovery to link in with the existing Emergency Response Plan, Disaster Recovery Plan and Business Continuity Plan. The CMP will detail denial of access to all or part of the civic offices (or other PCC satellite office), shortage of staff and partial or complete IS failure. This will link in with a joint large scale loss workshop being delivered jointly with our insurers Zurich in March / April 2016.
- 5.3 As per the new Business Continuity Standard ISO22301 and the new PCC Corporate Structure, a new Directorate Business Continuity Plan template is being produced to reflect the necessary changes. This will be rolled out to the directorates early 2016 with the aim being for each directorate to complete their plan by June 2016. This is of course dependent on engagement from each directorate. The plans will be tested within a year of completion. Each new director has been briefed on the current BC arrangements as per their new structure in the interim. A further progress report will be made to Governance, Audit and Standards committee in June 2016.

6. Equality impact assessment (EIA)

- 6.1 Any equality matters arising through performance or value for money consideration will be considered as a discrete process, as separate EIAs will be completed for these areas of work.

7. Legal Implications

7.1 The report has incorporated legal implications and accordingly there are no other immediate legal implications arising from this report.

8. Finance Comments

8.1 There are no financial implications to bring to member’s attention at this stage. However, it should be noted that there could be further financial implications following further exploration of any of the performance issues raised in this report, and related future reports could result in financial implications. These will be flagged to members at the appropriate time.

.....
Signed by: Jon Bell, Director of HR, Legal and Procurement

Appendices: Appendix 1 - Summary of directorate performance issues

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
1.Summary business plans	Individual directorates

Appendix 1 - Directorate summaries of Q2 performance information

Children's Safeguarding and Social Care

Highlights

- The Single Assessment Framework is now being used in Portsmouth; providing one assessment framework across Early Help and statutory services
- A Public Law Outline Protocol has been agreed and signed with the court outlining standards for good practice re court proceedings
- Portsmouth continues to recruit local foster carers; reducing reliance on external providers in the fostering and residential sectors.
- The Special Guardianship and Kinship Care Policy has been agreed by the Lead Member, which has aligned all carers' allowances and will prevent children coming into care unnecessarily.
- Skye Close received a good grading from Ofsted and work is underway to transfer the service to a smaller unit.
- Timeliness of LAC reviews and review Child Protection conferences continues to improve.

Areas that need watching

- The numbers of children subject to protection plans have risen significantly, and Portsmouth is now an outlier against statistical neighbours.
- Long term stability of placements is a concern at 64%.
- New episodes of care are increasing.
- Need to manage capacity within IRO service as a result of increased demands.

Areas requiring improvement

- Timeliness of initial Child Protection conferences needs to be improved.
- The offer to care leavers needs to be strengthened.
- The participation strategy needs to be refreshed.

Risks

- Departmental restructure - need to manage change effectively to ensure standards maintained
- Changes in budget provision to other services - manage impact through multi-agency teams and new skill sets
- The IFA framework is due for retendering - this will take contracting resource and will also lead to a cost rise in IFA placements from 2016 onwards.

Projects

- Work to develop Multi-Agency Teams across Early Help and safeguarding services is gaining pace, and workstreams are well-established.

- Early Help Profile is developing to identify families that need to be supported at an early stage of difficulty.
- The MASH (Multi-Agency Safeguarding Hub) is now operational.
- An operating model for the Social Work Skills Academy has been agreed and received first cohort of NQSWs in October
- Regionalisation of Adoption Service has attracted interest from DfE for £100,000 funding across Hampshire.
- Residential provision restructure is progressing with purchase of property agreed - on track to move March 2016.
- Work is progressing via discussions with the VCS on effective Early Help mechanisms to address demand on specialist services

Adult Social Care

Highlights

- A number of initiatives under the "Better Care" heading have been successfully implemented, including the Acute Visiting Service which has "saved" 25 admissions in the first month of operation

Areas that need watching

- Final confirmation of move dates for co-located locality teams

Areas requiring improvement

- Greater assurance that investment in rehabilitation services achieve long term outcomes

Risks

- Closure of Corben Lodge may result in some high cost service users currently using Corben for respite or emergency admission being accommodated out of city if so suitable beds are available
- Older dementia homes may struggle to fully meet more stringent CQC standards
- Closure of Vanguard Day Service in early 2016 may result on some service users moving into residential care

Projects

- Co-located locality teams - some difficulties with confirming move dates
- Implementing Care Act 2014 - work progressing on stocktakes and associated actions
- New dementia care home in north of the city at risk due to financial viability

Education

Highlights

- City Deal Youth Programme on track with targets exceeded
- Programme of annual strategic meetings with Academy Trusts organised
- Teacher recruitment event planned for 16th January 2016
- 84% of schools with an inspection rating are good or above
- Attendance Review Meetings now take place with all schools and have been refocused on persistent absence
- Alternative Exclusions have become established across all secondary schools; primaries are now looking to pilot an adapted version.

Areas that need watching

- Post-16 Area Review - Solent LEP area earmarked by DfE for early implementation; linked to significant implications for skills funding and commissioning in devolution prospectus
- Transfer of statements and Learning Disability Assessments is underway with 226 transfer reviews taken place so far - over 900 will need to be completed by 2018.
- Potential for an Ofsted inspection of local authority school improvement functions.

Areas requiring improvement

- At the end of KS2 and KS4 outcomes in all indicators are below national figures
- The gap between disadvantaged pupils in Portsmouth and non-disadvantaged pupils nationally is not narrowing quickly enough
- Attendance in secondary schools remains below national figures for all but 1 school.
- Targets for fixed period exclusions will not be met, despite reductions in primary and secondary phases.
- Education, health and care needs assessments - new statutory timescales are being met for only 15% of assessments currently
- Attendance, exclusions and reduced timetables at the Harbour School continue to cause concern and are being closely monitored.

Risks

- Projected overspend on home to school transport
- The process of disaggregating the Early Years service may impact on performance.

Projects

- School capital projects mostly on track; EFA feasibility study for rebuild of King Richard School nearing completion and ongoing discussions re MOU and transfer of land

Public Health

No report received

Directorate of Regulatory Services, Community Safety and Troubled Families

Highlights

- Positive feedback from the Home Office about the city's response to the Prevent requirements
- CCTV new in-house security engineers for repairs and maintenance to CCTV is progressing well

Areas that need watching

- Overall crime is up - increases higher in Portsmouth than across the UK - sexual offences, hate crime and youth offending need particular watching.
- The numbers of people receiving alcohol treatment will reduce in line with reduced funding/capacity.
- The underlying trend of domestic abuse is upwards with a peak of 80% in July
- The food business operator intervention programme is falling significantly behind that required by the Food Standards Agency and the Food Law Code of Practice 2015
- Increase in demand for, and ability to cover costs, in relation to community funerals
- Sale of service expertise to generate income has negative impact upon officer availability to deal with statutory functions

Areas requiring improvement

- Delivery of pest control service necessitating review of the team
- Improve use of technology to enhance evidence gathering for criminal cases
- Still some way short of meeting out Phase 2 Year 1 Troubled Families commitment to work with 320 families by 31st March 2016.

Risks

- Large planned reductions in drug and alcohol treatment funding are a significant risk, as are planned reductions in support for victims of domestic abuse

- Governmental regulators have the power to take a view of our enforcement performance , and could cause a local enquiry to be held, leading to direction if found to be in default.

Projects

- New communities - awaiting final decision
- CCTV control room upgrade progressing well

Transport, Environment and Business Support

Highlights

- Good progress on the major infrastructure projects and other highways design schemes (flood defence, Hard Interchange, DHF)
- Successful traffic management plans for the major summer events
- High achievement on key Employment, Learning and Skills (ELS) contracts

Areas that need watching

- Future government funding for ELS services is uncertain, and we need to be successful in the highly competitive bidding environment to sustain these services
- The ability to deliver planned events and road safety campaigns if partner organisations are unable to contribute their resources

Areas requiring improvement

- An increase is needed in the referral rate to the Work programme, and the availability of placements for clients on Community Work Placements.
- Successful recruitment of Highways design and site supervision specialists is required to continue the delivery of works associated with the network.

Risks

- Receiving insufficient grant funding and contributions for the enhancement of Southsea Coastal Flood Erosion Risk Management scheme would affect progression of the city's flood prevention programme.
- Government decisions on the Work Programme and future Employment, Learning and Skills programmes. The market is extremely competitive and government budgets are being cut. This could lead to fewer programmes and less support being delivered in Portsmouth.

Projects

- Flood defence project - North Portsea Island construction Phase 1 is complete. Phase 2 will commence April 2016.

- Southsea Flood Defences - Outline business case due for submission to HM Treasury/DEFRA in January 2016
- Hard interchange scheme - Demolition works underway
- Dunsbury Hill Farm link road scheme - On-site and proceeding well
- Anglesea Road Footbridge - at design stage
- Eastern Road Waterbridge maintenance - recruiting the construction contractor
- External works at Portsmouth and Southsea station - Project manager appointed
- City Centre Road scheme - at planning and bid stage
- City deals programme - working with Southampton City Council on a bid to secure the mainstream employment programme
- Traffic Management Centre IT infrastructure upgrade is underway.

City Development and Cultural Services

Highlights

- The Building Control Team transfer to the new Partnership arrangement is now complete.
- Successfully supported the delivery of the America's Cup event in July; despite the cancellation of the Sunday event there were around 250,000 spectators over the four days.
- The event included two investment events - an Export for Growth event with UKTI and a Hotel Investment Event at Southsea Castle.
- Positive trend on turnaround times for planning applications - achieved national standards for all categories in Q2. Recruitment to vacant posts continues and revised ways of working are beginning to impact.

Areas that need watching

- Realising current savings targets whilst delivering sustainable services.
- The Coroners Service will be moving from The Guildhall to the Civic Offices in January 2016 - this will have cost and logistical implications as well as an impact on rental income as a commercial tenant will have to be identified for the vacated space. Also need to look at options for computer system replacement as current system not fit for purpose.
- Review of the hackney carriage and private hire licensing policies in respect of drivers, vehicles and operators.
- Slippage on progression of the Invest in Portsmouth website refresh in partnership with Southampton City Council.
- Regional Inward Investment Framework still to be finalised with support from HCC and the LEP.

Areas that require improvement

- There are two Internal Audit Reports (for the Coroners Service and the Events service) which require the service to address a number of audit exceptions to secure financial processes, technical assessments and data security over the next 6 months.

Risks

- Cemeteries: availability of land for religious community burials is 5 or 6 years based on current demographics, so appropriate land sites to be identified and appraised.

Projects

- City Deal: HCA have exchanged contracts with Radian at Tipner East for the land to construct the first 80 homes. PCC have appointed Savills as lead planning consultancy for the masterplanning of Tipner West and Horsea. Aiming to submit a planning application by January 2017. Transfer of Firing Range to PCC programmed for April 2017.
- Hard Interchange: The building has been demolished and the construction phase is expected to be complete in September 2016.
- ARTches project - progressing well towards opening in July 2016
- City Centre Development: re-evaluate the Northern Quarter site in the context of the wider retail city centre.

Housing and Property Services

Highlights

- Continued good performance on the Education school expansion programme
- The energy efficiency programme providing improved homes for residents and cost savings for the general fund
- Continued delivery of the HRA housing capital improvement programme
- Property Investment - £22m of the initial £30m allocation invested into sizeable commercial assets which are anticipated to produce a combined unleveraged return of 6.1%.
- Successful letting of four floors of Brunel Wing
- Rebranding of Brunel Wing to commence January 2016
- Review into community wards and environmental enforcement completed.

Areas that need watching

- Continuing costs in general fund capital and revenue budgets
- Cuts to the HRA funding resulting from the post-election budget

- Reduction in facilities management role will result in the need to change expectations for PCC services in order to deliver effective services to partner and commercial tenants.

Areas requiring improvement

- Nothing significant to report

Risks

- Effect of Universal Credit in March 2016, although staff training and liaison with DWP taking place to mitigate impact.
- HRA budget cuts will have a detrimental effect on ability to manage major improvements to stock.

Projects

- Dunsbury Hill Farm - first phase of construction to commence Q1 2016.
- Hilsea Industrial Estate - Construction due to commence Q1 2016.
- Somerstown Central lease completed and GPs in occupation
- Refurbishment of Medina House for delivery Q1- 2016
- NHS/CCG Estates Strategy - resource and data required to be provided for strategy development
- New house build all progressing.

Community and Communications

Highlights

- Good performance across the board - meeting or exceeding most KPIs
- Positive progress on Channel Shift with significant increase in online transactions and associated savings achieved
- Good impact of media and marketing work
- New business income forecast exceeding targets

Areas that need watching

- Challenges on non-discretionary rate relief
- Impact of Individual Electoral Registration and reduction in funding

Areas that require improvement

- Sickness absence
- Website performance and resilience - addressing with CMS supplier
- CHD - average call waiting times remain higher than we would like, largely as a result of staff turnover; staffing models are changing to target resources to meet demand

Risks

- The proposed referendum on EU membership - could have a significant impact on the annual canvass if held in summer/autumn 2016
- Universal Credit - information from and communication with the DWP continues to be poor with rollout of UC in Portsmouth likely to be no earlier than March/April 2016
- Risk around statutory changes impacting revenue and benefit customers, increasing workloads and potentially impacting tax base.
- IER - significantly more challenging to maintain registration rates and will require additional resource to manage
- Buy-in from all staff at all levels to the channel shift project - this is critical to ensure that the channel shift programme is successful and achieves the level of change we intend.

Projects

- Channel Shift - all on target with savings achieved. Managed via a sponsorship board including Deputy Leader, Portfolio Holder, Chief Executive and s151 officer on said board.
- RBE transformation - procurement about to commence

HR, Legal and Performance

Highlights

- Voluntary Redundancy scheme - scheme developed and launched
- Service restructures across council well-supported with minimal challenges through Employment Tribunal
- Sickness absence reduced during period from 8.4 days per person per year
- Health blueprint developed and approved by HWB
- Excellent feedback from Portsmouth CCG about quality of HR service
- Business as usual service remains strong - annual audit plan ahead of schedule, procurement compliance good
- Underspent against budget for year to date

Areas that need watching

- Childcare - reducing caseloads over preceding period have led to a disproportionate amount of complex cases, thereby skewing reported results
- Sickness absence not reducing consistently in some areas of the council
- Increasing numbers of audit exceptions, especially relating to lack of compliance or inadequate controls - concern that reduced management capacity is resulting in "cutting corners" and people taking unacceptable risks.

- Momentum on apprenticeships needs to be maintained, with more proactive work in those areas where take-up has been low (especially Adult Social Care)
- New structures in Legal and the PFI team still bedding in

Areas requiring improvement

- Supply of agency staff - extended implementation problems with provision to Adult Social Care via contract with vendor-neutral provider

Risks

- Reduced capacity resulting from budget savings - increased dependency on key staff
- Recruitment and retention of key staff as economy continues to grow - some key staff already leaving, creating knowledge and capacity gaps
- Reduced effectiveness of governance (due to lack of capacity, complacency, political requirements) - notable increase in audit exceptions relating to reduced effectiveness of internal controls.
- Increased dependency on external income (volatility/lack of security) - reduced income from schools, but increased income from temp agency, CCG and recharges to capital schemes. Ongoing uncertainty about collaborations with health sector.
- Project risks - reduction in project governance and assurance

Projects

- Strategic Contract Management - first meeting of Strategic Contract Management Board scheduled. Initial audit of strategic contracts complete to identify where support and improvements required.
- INTEND contract management dashboard - funding secured and development underway
- Multi-agency teams - all work packages on track and monitored through project Delivery Board.

Finance and Information Services

Highlights

- Budget savings achieved with 2015/16 budget on target; budget savings targets for year 2016/17 achieved and approved by Council
- Monitoring activity to time, and treasury activity remains within approved policy and limits
- Successful activity in relation to income generation (City Deal Grant, Hard, Dunsbury Hill Farm)
- Intervention in Purchase to Pay process has completed 'check' phase and approval gained for redesign and implementation

- Operational performance for IS continues to be high - system availability at 99%; incident resolutions at 97% within SLA.
- My City wi-fi is extensively used.
- High levels of customer satisfaction reported

Areas that need watching

- Revision of Financial Rules to ensure kept up to date
- Payroll and IS capacity to bid for and take on new business
- Highways PFI negotiations on-going, progress made and currently within the strategic negotiation phase
- MMD trading position
- Maintenance of income streams as academy programme progresses
- Bank reconciliations more up to date than last quarter, but still remain behind target
- As a result of reducing capacity, there may be impacts on the quality and robustness of financial evaluations provided for significant Council decisions with wide-ranging financial impacts
- Working closely with Landlord Services to understand needs of health partners and other third party organisations
- Delivered video streaming to council chamber.

Areas requiring improvement

- Education & Children's Portfolio underlying budget deficit and forecast in year overspend of £2.3m for 2015/16 - savings identified and approved by Cabinet 3rd December 2015
- Health and Social Care Portfolio underlying budget deficit and forecast in year overspend of £2.2m for 2015/16 - savings identified and approved by Cabinet 3rd December 2015

Risks

- Underlying budget deficit and overspends in two portfolio - measures to address this approved at Cabinet, 3rd December 2015
- Continuing to service customer requirements and expectations with reducing staffing

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Agenda Item 7

Agenda item:

Decision maker: Governance and Audit and Standards Committee

Subject: Treasury Management Monitoring Report for the Third Quarter of 2015/16

Date of decision: 29 January 2015

Report by: Chris Ward, Director of Finance & Information Services (Section 151 Officer)

Wards affected: All

Key decision: No

Budget & policy framework decision: No

1. Purpose of report

The purpose of the report is to inform members and the wider community of the Council's Treasury Management position at 31 December 2015 and of the risks attached to that position.

2. Recommendations

That the following actual treasury management indicators for the third quarter of 2015/16 be noted:

(a) The Council's debt at 31 December:

Prudential Indicator	Limit £m	Actual £m
Authorised Limit	503	477
Operational Boundary	484	477

(b) The maturity structure of the Council's borrowing was

	Under 1 Year	1 to 2 Years	3 to 5 Years	6 to 10 Years	11 to 20 Years	21 to 30 Years	31 to 40 Years	41 to 50 Years
Lower Limit	0%	0%	0%	0%	0%	0%	0%	0%
Upper Limit	10%	10%	20%	20%	40%	40%	40%	50%
Actual	1%	4%	3%	4%	19%	11%	19%	39%

(c) The Council's sums invested for periods longer than 364 days at 31 December 2015 were:

	Limit	Quarter 3 Actual
	£m	£m
Maturing after 31/3/2016	243	181
Maturing after 31/3/2017	231	92
Maturing after 31/3/2018	228	19

(d) The Council's fixed interest rate exposure at 31 December 2015 was £211m, ie. the Council had net fixed interest rate borrowing of £211m. This is within the Council's approved limit of £304m.

(e) The Council's variable interest rate exposure at 31 December 2015 was (£204m), ie. the Council had net variable interest rate investments of £204m. This is within the Council's approved limit of (£348m).

3. Background

The Council's treasury management operation has a cash limit of £24m and therefore can have a significant effect on the revenue available to fund the Council's front line services. In addition the Council has investments with 57 institutions amounting to £385m. If an institution defaulted on one of the Council's investments the loss would have to be borne by the General Fund.

The Council's treasury management operation does not fall under any of the Cabinet members' portfolios. Therefore treasury management monitoring reports are brought to the Governance and Standards and Audit Committee for scrutiny.

In March 2009 the CIPFA Treasury Management Panel issued a bulletin on Treasury Management in Local Authorities. The bulletin states that “in order to enshrine best practice it is suggested that authorities report formally on Treasury Management activities at least twice yearly and preferably quarterly”. The report in Appendix A covers the first nine months of 2015/16.

4. Reasons for Recommendations

The net cost of Treasury Management activities and the risks associated with those activities have a significant effect on the City Council’s overall finances.

5. Equality impact assessment (EIA)

The contents of this report do not have any relevant equalities impact and therefore an equalities impact assessment is not required.

6. Legal Implications

The Section 151 Officer is required by the Local Government Act 1972 and by the Accounts and Audit Regulations 2011 to ensure that the Council’s budgeting, financial management, and accounting practices meet the relevant statutory and professional requirements. Members must have regard to and be aware of the wider duties placed on the Council by various statutes governing the conduct of its financial affairs.

7. Finance comments

All financial considerations are contained within the body of the report and the attached appendices.

.....
Signed by Director of Finance and Information Services (Section 151 Officer)

Appendices:

Appendix A: Treasury Management Monitoring Report

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

<u>Title of document</u>	Location
1 Treasury Management Files	Financial Services
2	

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by the Governance and Audit and Standards Committee on 29 January 2016.

.....
Signed by: the Chair of the Governance and Audit and Standards Committee

**TREASURY MANAGEMENT MONITORING REPORT FOR THE THIRD QUARTER OF
2015/16**

1. GOVERNANCE

The Treasury Management Policy Statement, Annual Minimum Revenue Provision for Debt Repayment Statement and Annual Investment Strategy approved by the City Council on 17 March 2015 and amended by the City Council on 13 October and 10 November 2015 provides the framework within which treasury management activities are undertaken.

2. ECONOMIC BACKGROUND

UK GDP growth rates in 2013 of 2.2% and 2.9% in 2014 were the strongest growth rates of any G7 country; the 2014 growth rate was also the strongest UK rate since 2006 and the 2015 growth rate is likely to be a leading rate in the G7 again. However, quarter 1 of 2015 was weak at +0.4% (+2.9% y/y) though there was a slight increase in quarter 2 to +0.5% (+2.3% y/y) before falling back to +0.4% (+2.1% y/y) in quarter 3. Growth is expected to improve to about +0.6% in quarter 4 but the economy faces headwinds for exporters from the appreciation of Sterling against the Euro and weak growth in the EU, China and emerging markets, plus the dampening effect of the Government's continuing austerity programme, although the pace of reductions was eased in the November autumn statement.

Despite these headwinds, the Bank of England November Inflation Report included a forecast for growth over the three years of 2015, 2016 and 2017 to be around 2.7%, 2.5% and 2.6% respectively, although statistics since then would indicate that an actual outturn for 2015 is more likely to be around 2.2%. Nevertheless, this is still moderately strong growth which is being driven mainly by strong consumer demand as the squeeze on the disposable incomes of consumers has been reversed by a recovery in wage inflation at the same time that CPI inflation has fallen to, or near to, zero over the last quarter. Investment expenditure is also expected to support growth.

The November Bank of England Inflation Report forecast was notably subdued with inflation barely getting back up to the 2% target within the 2-3 year time horizon. However, with the price of oil taking a fresh downward direction and Iran expected to soon rejoin the world oil market after the impending lifting of sanctions, there could be several more months of low inflation still to come, especially as world commodity prices have generally been depressed by the Chinese economic downturn.

There are, therefore, considerable risks around whether inflation will rise in the near future as strongly as previously expected; this will make it more difficult for the Bank of England to make a start on raising Bank Rate as soon as had been expected in early 2015, especially given the subsequent major concerns around the slowdown in Chinese growth, the knock on impact on the earnings of emerging countries from falling oil and commodity prices, and the volatility we have seen in equity and bond markets during 2015, which could potentially spill over to impact the real economies rather than just financial markets.

The American economy made a strong comeback after a weak first quarter's growth at +0.6% (annualised), to grow by no less than 3.9% in quarter 2 of 2015 before easing back to +2.0% in quarter 3. While there had been confident expectations during the summer that the Fed. could start increasing rates at its meeting on 17 September, downbeat news during the summer about Chinese and Japanese growth and the knock on impact on emerging countries that are major suppliers of commodities, was cited as the main reason for the Fed's decision to pull back from making that start. The nonfarm payrolls figures for September and revised August, issued on 2 October, were also disappointingly weak. However, since then concerns on both the domestic and international scene have abated and so the Fed made its long anticipated start in raising rates at its December meeting.

In the Eurozone, the ECB fired its big bazooka in January 2015 in unleashing a massive €1.1 trillion programme of quantitative easing to buy up high credit quality government and other debt of selected EZ countries. This programme of €60bn of monthly purchases started in March 2015 and it was intended to run initially to September 2016. At the ECB's December meeting, this programme was extended to March 2017 but was not increased in terms of the amount of monthly purchases. The ECB also cut its deposit facility rate by 10bps from -0.2% to -0.3%. This programme of monetary easing has had a limited positive effect in helping a recovery in consumer and business confidence and a start to some improvement in economic growth. GDP growth rose to 0.5% in quarter 1 2015 (1.3% y/y) but has then eased back to +0.4% (+1.6% y/y) in quarter 2 and to +0.3% (+1.6%) in quarter 3. Financial markets were disappointed by the ECB's lack of more decisive action in December and it is likely that it will need to boost its QE programme if it is to succeed in significantly improving growth in the EZ and getting inflation up from the current level of around zero to its target of 2%.

3. INTEREST RATE FORECAST

The Council's treasury advisor, Capita Asset Services, has provided the following forecast:

	Mar-16	Jun-16	Sep-16	Dec-16	Mar-17	Jun-17	Sep-17	Dec-17	Mar-18	Jun-18	Sep-18	Dec-18	Mar-19
Bank rate	0.50%	0.75%	0.75%	1.00%	1.00%	1.25%	1.50%	1.50%	1.75%	1.75%	2.00%	2.00%	2.00%
5yr PWLB rate	2.40%	2.60%	2.70%	2.80%	2.80%	2.90%	3.00%	3.20%	3.30%	3.40%	3.50%	3.50%	3.60%
10yr PWLB rate	3.00%	3.10%	3.20%	3.30%	3.40%	3.50%	3.60%	3.70%	3.80%	3.90%	4.00%	4.10%	4.10%
25yr PWLB rate	3.70%	3.80%	3.90%	4.00%	4.10%	4.10%	4.20%	4.30%	4.30%	4.40%	4.40%	4.40%	4.50%
50yr PWLB rate	3.60%	3.70%	3.80%	3.90%	4.00%	4.00%	4.10%	4.20%	4.20%	4.30%	4.30%	4.30%	4.40%

Capita Asset Services undertook a review of its interest rate forecasts on 9 November after the August Bank of England Inflation Report. This latest forecast includes no change in the timing of the first increase in Bank Rate as being quarter 2 of 2016. With CPI inflation now likely to be at or near zero for most of 2015 and into early 2016, it is currently very difficult for the MPC to make a start on increasing Bank Rate. In addition, the Inflation Report forecast was also notably subdued with inflation barely getting back up to the 2% target within the 2-3 year time horizon. Despite average weekly earnings excluding bonuses hitting 2.5% in quarter 3, this has subsided to 1.9% and is unlikely to provide ammunition for the MPC to take action to raise Bank Rate soon as labour productivity growth would mean that net labour unit costs are still only rising by less than 1% y/y. The significant appreciation of Sterling against the Euro in 2015 has also acted to dampen UK growth while volatility in financial markets since the Inflation Report has resulted in volatility in equity and bond prices and bond yields (and therefore PWLB rates). But CPI inflation will start sharply increasing around mid-year 2016, once initial falls in fuel and commodity prices fall out of the 12 month calculation of inflation; this will cause the MPC to take a much keener interest in the forecasts for inflation over their 2-3 year time horizon from about mid-year.

The Governor of the Bank of England, Mark Carney, has repeatedly stated that increases in Bank Rate will be slow and gradual after they do start. The MPC is concerned about the impact of increases on many heavily indebted consumers, especially when average disposable income is only just starting a significant recovery as a result of recent increases in the rate of wage inflation, though some consumers will not have seen that benefit come through for them.

4. NET DEBT

The Council's net borrowing position excluding accrued interest at 31 December 2015 was as follows:

	1 April 2015	31 December 2015
	£'000	£'000
Borrowing	376,471	391,953
Finance Leases	3,027	2,344
Service Concession Arrangements (including PFIs)	83,068	82,349
Gross Debt	462,566	476,646
Investments	(321,917)	(385,336)
Net Debt	140,649	91,310

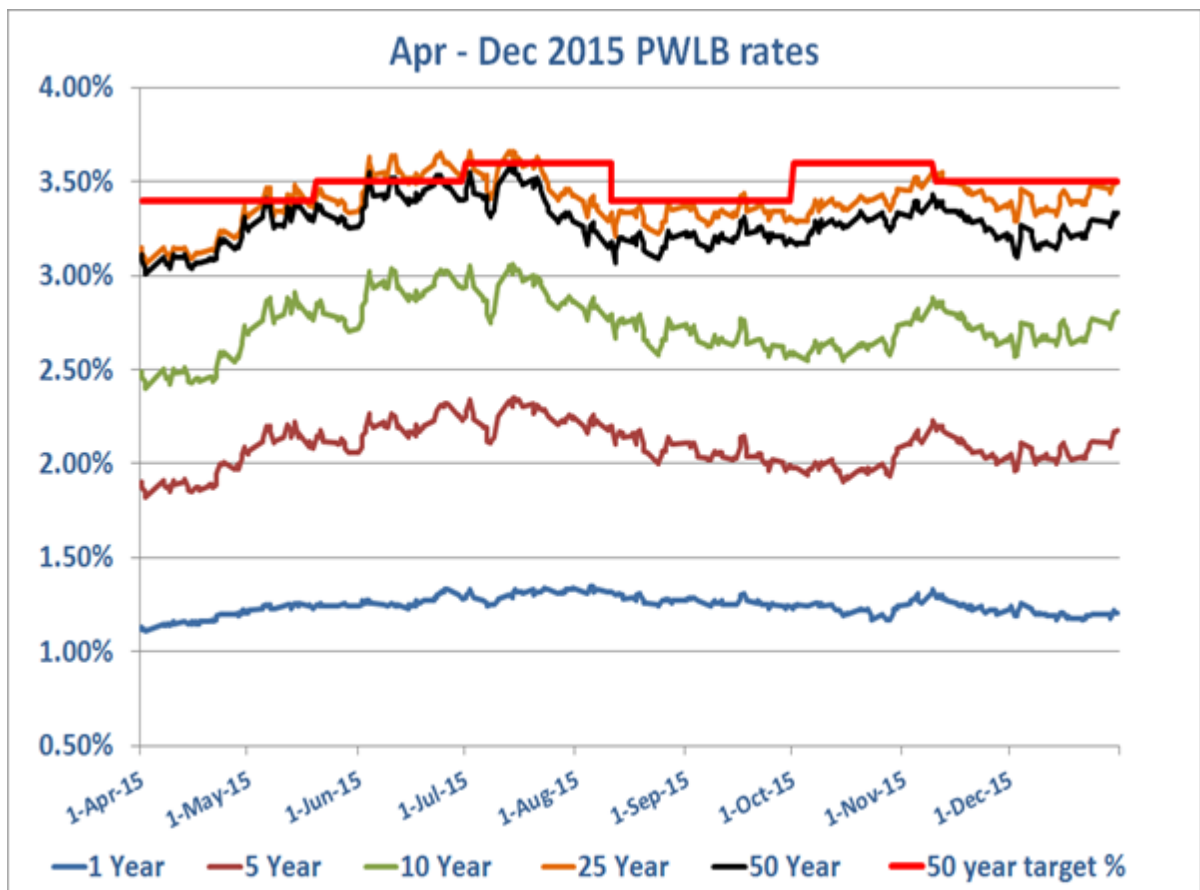
The Council has a high level of investments relative to its gross debt due to a high level of reserves, partly built up to meet future commitments under the Private Finance Initiative schemes and future capital expenditure. However these reserves are fully committed and are not available to fund new expenditure. The £84m of borrowing taken in 2011/12 to take advantage of the very low PWLB rates and the receipt of £48.8m of City Deal Grant on 28 March 2014 together with £18m of new borrowing taken out in August and December have also temporarily increased the Council's cash balances.

The current high level of investments increases the Council's exposure to credit risk, ie. the risk that an approved borrower defaults on the Council's investment. In the interim period where investments are high because loans have been taken in advance of need, there is also a short term risk that the rates (and therefore the cost) at which money has been borrowed will be greater than the rates at which those loans can be invested. The level of investments will fall as capital expenditure is incurred and commitments under the Private Finance Initiative (PFI) schemes are met.

5. BORROWING ACTIVITY

The City Council has access to borrow £18m from the Public Works Loans Board (PWLB) at the project rate in 2015/16 to fund the development of Tipner, Horsea Island and Dunsbury Hill Farm. The project rate is 0.2% less than the certainty rate that the PWLB normally offers the Council.

PWLB Certainty Rates for first 9 months of 2015/16 are shown in then graph below:



There was a dip in PWLB rates on 2nd December and a further £9m was borrowed from the PWLB at the project rate which was 2.76% at the time. The loan has a term of 15 years repayable at maturity in December 2030. £9m had previously been borrowed from the PWLB in the second quarter of 2015/16 and the Council has now drawn down all of its allocation of project rate funds.

The Council's debt at 30 June was as follows:

Prudential Indicator 2015/16	Limit £m	Position at 30/6/15 £m
Authorised Limit	503	477
Operational Boundary	484	477

The operational boundary is intended to warn the Section 151 Officer and the Council if there is a possibility of the authorised limit being exceeded. The operational boundary differs from the authorised limit in that it is based on expectations of the maximum external debt of the authority according to probable, not simply possible, events and is consistent with the maximum level of external debt projected by the Council's estimates.

6. MATURITY STRUCTURE OF BORROWING

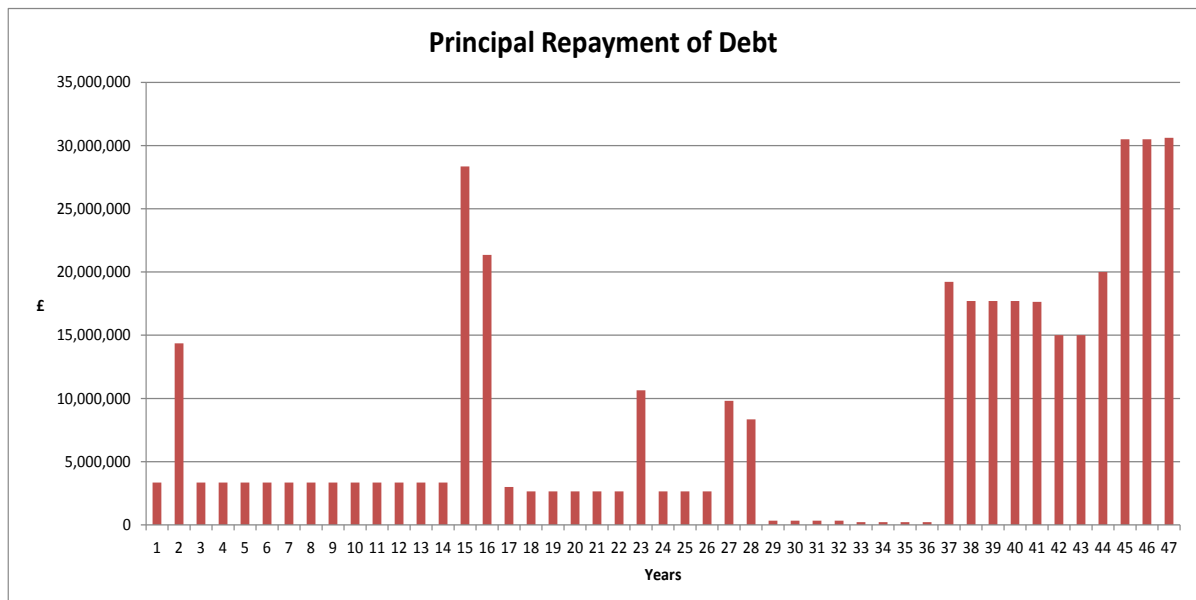
In recent years the cheapest loans have often been very long loans repayable at maturity.

During 2007/08 the Council rescheduled £70.8m of debt. This involved repaying loans from the Public Works Loans Board (PWLB) early and taking out new loans from the PWLB with longer maturities ranging from 45 to 49 years. The effect of the debt restructuring was to reduce the annual interest payable on the Council's debt and to lengthen the maturity profile of the Council's debt.

£50m of new borrowing was taken in 2008/09 to finance capital expenditure. Funds were borrowed from the PWLB at fixed rates of between 4.45% and 4.60% for between 43 and 50 years.

A further £173m was borrowed in 2011/12 to finance capital expenditure and the HRA Self Financing payment to the Government. Funds were borrowed from the PWLB at rates of between 3.48% and 5.01%. £89m of this borrowing is repayable at maturity in excess of 48 years. The remaining £84m is repayable in equal instalments of principal over periods of between 20 and 31 years.

As a result of interest rates in 2007/08 when the City Council rescheduled much of its debt and interest rates in 2008/09 and 2011/12 when the City Council undertook considerable new borrowing 58% of the City Council's debt matures in over 30 years' time. This is illustrated in the graph below.



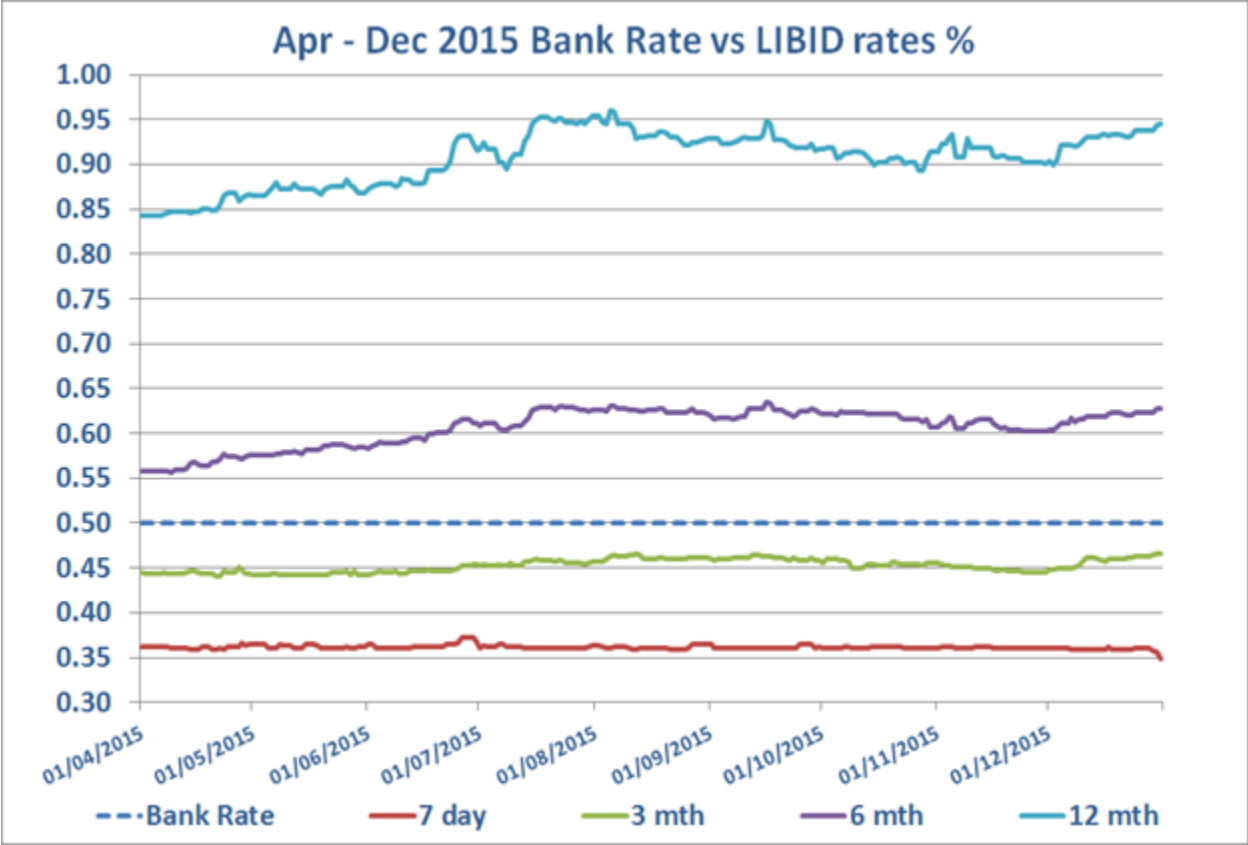
CIPFA’s Treasury Management in the Public Services Code of Practice which the City Council is legally obliged to have regard to requires local authorities to set upper and lower limits for the maturity structure of their borrowing. The limits set by the City Council on 17 March 2015 together with the City Councils actual debt maturity pattern are shown below.

	Under 1 Year	1 to 2 Years	3 to 5 Years	6 to 10 Years	11 to 20 Years	21 to 30 Years	31 to 40 Years	41 to 50 Years
Lower Limit	0%	0%	0%	0%	0%	0%	0%	0%
Upper Limit	10%	10%	20%	20%	40%	40%	40%	50%
Actual	1%	4%	3%	4%	19%	11%	19%	39%

7. INVESTMENT ACTIVITY

In accordance with the Code, it is the Council’s priority to ensure security of capital and liquidity, and to obtain an appropriate level of return which is consistent with the Council’s risk appetite.

Investment rates available in the market have been broadly stable during the quarter and have continued at historically low levels as a result of the ultra-low Bank. Short term market interest rates for the first three quarters of 2015/16 are shown in the graph below:



The Council's investment portfolio has increased by £63.4m from £321.9m to £385.3m.

The average return on the Council's investments for the first eight months of 2015/16 was 0.97%. This compares with an average return on the Council's investments of 0.76% for the first six months of 2015/16.

The Council's budgeted investment return for 2015/16 is £2,297k, and performance for the year to date is £1,162k above budget. This is due to having more cash to invest than had been anticipated and improved investment returns.

8. SECURITY OF INVESTMENTS

The risk of default has been managed through investing only in financial institutions that meet minimum credit ratings, limiting investments in any institution to £30m and spreading investments over countries and sectors.

The 2015/16 Treasury Management Policy approved by the City Council on 17 March 2015 only permits deposits to be placed with the Council's subsidiaries, namely MMD (Shipping Services) Ltd, the United Kingdom Government, other local authorities, certain building societies, Hampshire Community Bank, and institutions that have the following credit ratings:

Short Term Rating

F2 (or equivalent) from Fitch, Moody's (P-3) or Standard and Poor (A-3)

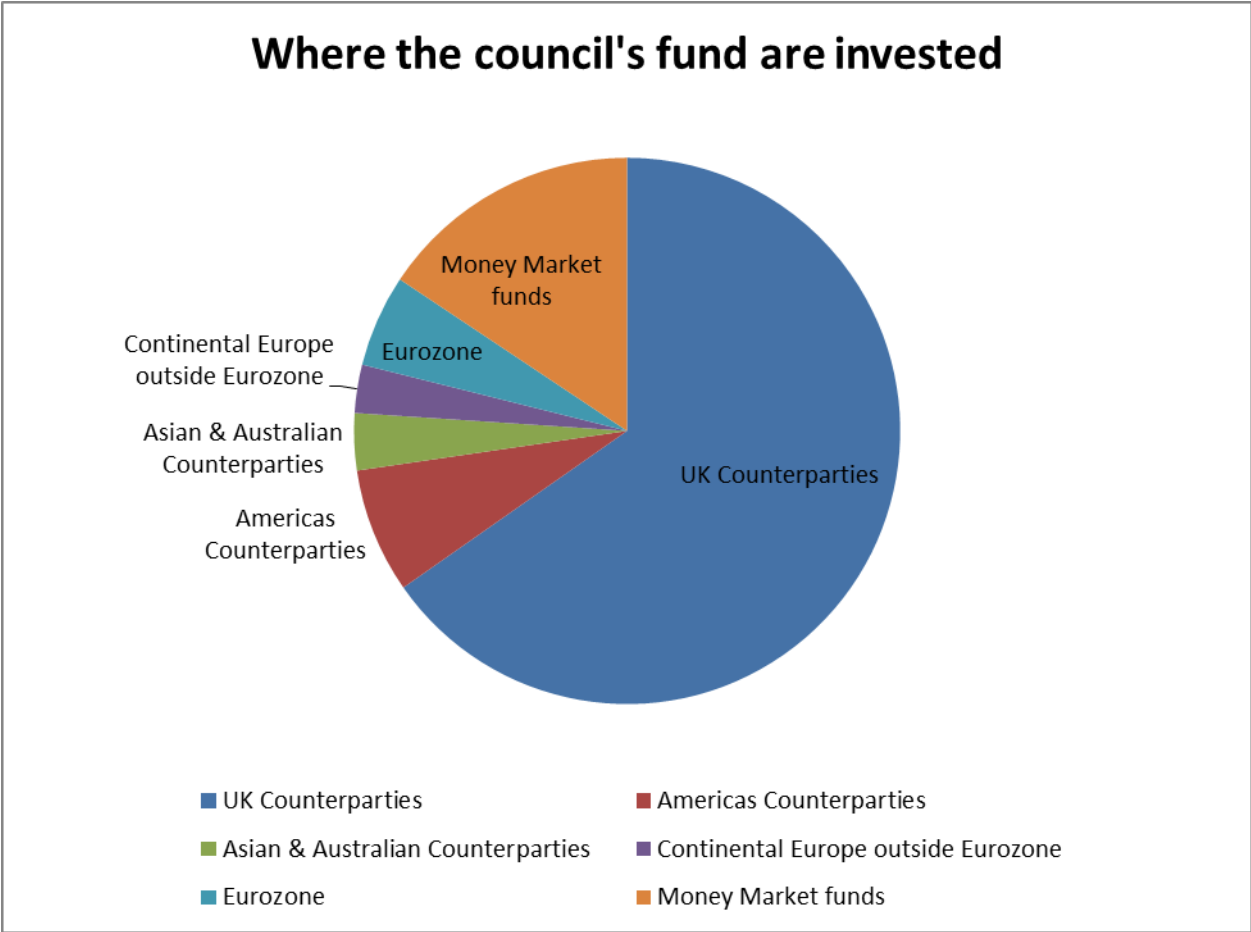
Long Term Rating

Triple B (triple BBB category) or equivalent from Fitch, Moody's or Standard & Poor

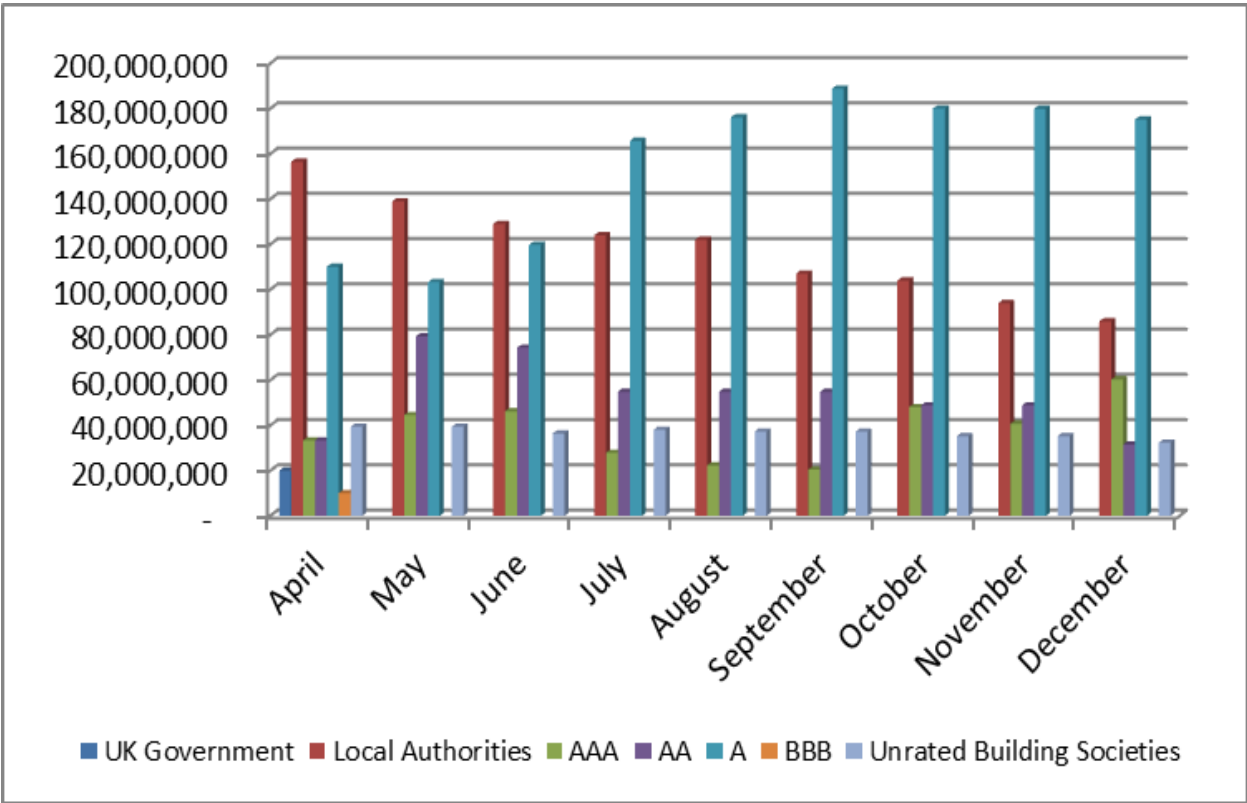
Under the Council's Annual Investment Strategy counter parties are categorised by their credit ratings for the purposes of assigning investment limits.

At 31 December 2015 the City Council had on average £6.8m invested with each institution.

The chart below summarises where the Council's funds were invested at 31 December.



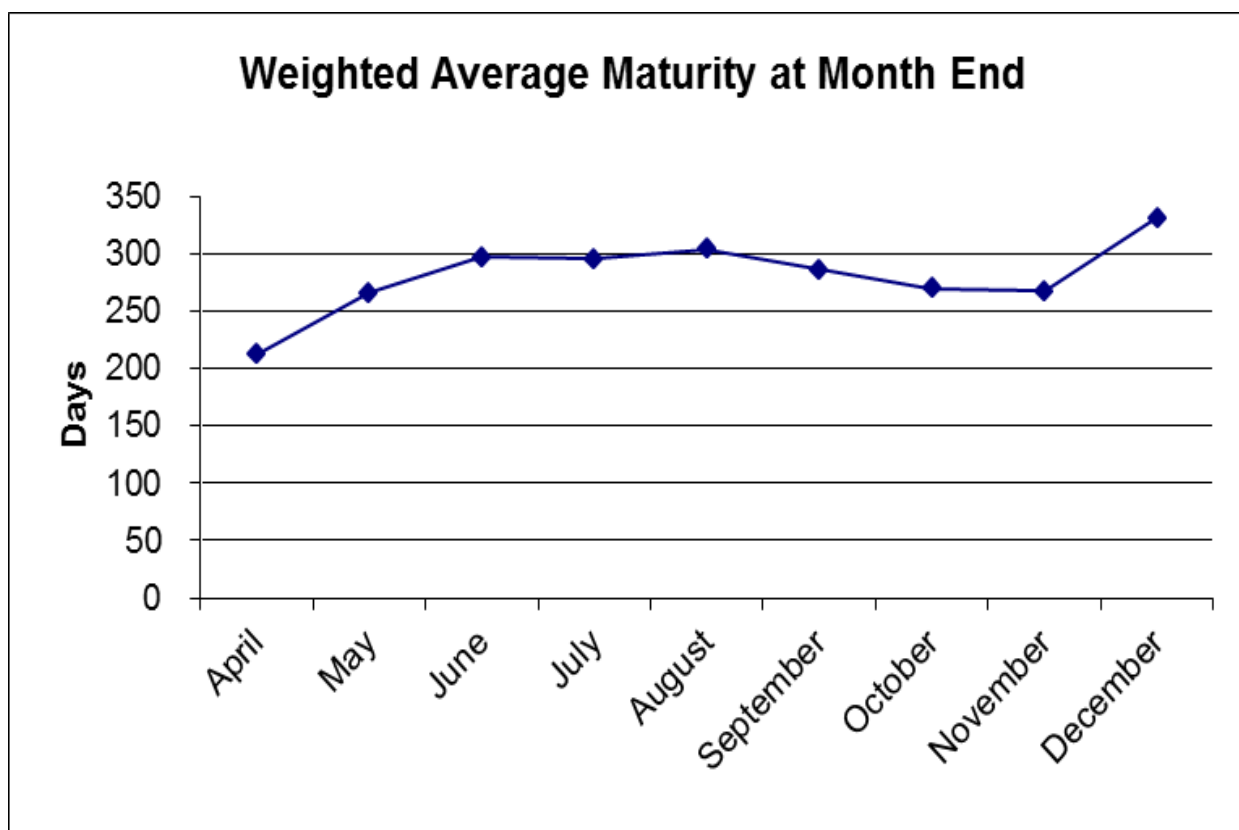
The chart below shows how the Council's investment portfolio has changed in terms of the credit ratings of investment counter parties over the first nine months of 2015/16.



It can be seen from the graph above that investments in local authorities have declined over the first nine months of 2015/16. These investments have largely been replaced by investments in A rated counter parties which generally offer a better return than investments in local authorities.

9. LIQUIDITY OF INVESTMENTS

The weighted average length of the City Council's investment portfolio started at 212 days in April and increased to 297 days in June as suitable investments opportunities became available for the increased level of cash in the first quarter of the year. The weighted average length of the Council's investments then remained within a range of 267 to 304 days until November. The weighted average length of the Council's investment portfolio then increased to 331 days in December as several short term investments matured. This is shown in the graph below.



The 2015/16 Treasury Management Policy seeks to maintain the liquidity of the portfolio, ie. the ability to liquidate investments to meet the Council's cash requirements, through maintaining at least £10m in instant access accounts. At 31 December £62.6m was invested in instant access accounts. Whilst short term investments provide liquidity and reduce the risk of default, they do also leave the Council exposed to falling interest rates.

Under CIPFA's Treasury Management Code it is necessary to specify limits on the amount of long term investments, ie. Investments exceeding 364 days that have maturities beyond year end in order to ensure that sufficient money can be called back to meet the Council's cash flow requirements. The Council's performance against the limits set by the City Council on 17 March 2015 is shown below.

Maturing after	Limit	Actual
	£m	£m
31/3/2016	243	181
31/3/2017	231	92
31/3/2018	228	19

10. INTEREST RATE RISK

This is the risk that interest rates will move in a way that is adverse to the City Council's position.

The CIPFA Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance Notes require local authorities to set upper limits for fixed interest rate exposures. Fixed interest rate borrowing exposes the Council to the risk that interest rates could fall and the Council will pay more interest than it need have done. Long term fixed interest rate investments expose the Council to the risk that interest rates could rise and the Council will receive less income than it could have received. However fixed interest rate exposures do avoid the risk of budget variances caused by interest rate movements. The Council's performance against the limits set by the City Council on 17 March 2015 is shown below.

	Limit	Actual
	£m	£m
Maximum Projected Gross Borrowing – Fixed Rate	395	392
Minimum Projected Gross Investments – Fixed Rate	(91)	(181)
Fixed Interest Rate Exposure	304	211

The CIPFA Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance Notes also require local authorities to set upper limits for variable interest rate exposures. Variable interest rate borrowing exposes the Council to the risk that interest rates could rise and the Council's interest payments will increase. Short term and variable interest rate investments expose the Council to the risk that interest rates could fall and the Council's investment income will fall. Variable interest rate exposures carry the risk of budget variances caused by interest rate movements. The Council's performance against the limits set by the City Council on 17 March 2015 is shown below.

	Limit £m	Actual £m
Minimum Projected Gross Borrowing – Variable Rate	-	-
Maximum Projected Gross Investments – Variable Rate	(348)	(204)
Variable Interest Rate Exposure	(348)	(204)

The City Council is particularly exposed to interest rate risk because all the City Council's debt is made up of fixed rate long term loans, but the majority of the City Council's investments are short term. Future movements in the Bank Base Rate tend to affect the return on the Council's investments, but leave fixed rate long term loan payments unchanged. However, this risk is limited by the very low market interest rates available for investments.

The risk of a 0.5% increase in interest rates to the Council is as follows:

<u>Effect of +/- 0.5% Rate Change</u>	2015/16 (Part Year) £'000	2016/17 £'000	2017/18 £'000
Long Term Borrowing	-	2	55
Investment Interest	(319)	(505)	(359)
Net Effect of +/- 0.5% Rate Change	(319)	(503)	(304)

Agenda Item 8



Portsmouth
CITY COUNCIL

Title of meeting:	Governance & Audit & Standards Committee
Date of meeting:	29 th January 2016
Subject:	Audit Performance Status Report to 16 th December 2015 and Audit Strategy for 2016/17
Report by:	Chief Internal Auditor
Wards affected:	All
Key decision:	No
Full Council decision:	No

1. Summary

- 1.1 No new critical risk exception are highlighted in this report however four audits have resulted in "No Assurance" being given. Further details can be found under Section 6 of this report
- 1.2 Since the last meeting 7 full audits have been added to the 2015/16 Audit Plan whilst 6 have been removed. This leaves 89 full audits within the 2015/16 Audit Plan. There are now 37 follow up audits within the 2015/16 Audit Plan as 4 follow up audits have been added since the last meeting. Further details can be found within Section 5
- 1.3 There are now 126 planned audits for 2015/16 made up of 89 new reviews and 37 follow up audits. Of these 102 (81%) have been completed or are in progress as at 16th December 2015. This represents 54 audits (43%) where the report has been finalised, 7 audits (6%) where the report is in draft and 41 audits (33%) currently in progress.
- 1.4 In addition to the planned audits there are 11 areas of on-going work and 4 continuous audits which contribute to risk assurance.
- 1.5 Areas of Assurance are shown in Appendix A. Results of completed follow up audits can be found within Appendix B.
- 1.6 The proposed Audit and Counter Fraud Strategy for coverage for 2016/17 is attached as Appendix C to this report.

2. Purpose of report

- 2.1 This report is to update the Governance and Audit and Standards Committee on the Internal Audit Performance for 2015/16 to 16th December 2015 against the Annual Audit Plan, highlight areas of concern and areas where assurance can be given on the internal control framework. The report also contains the proposed Audit and Counter Fraud Strategy for the 2016/17 Audit Plan

3. Recommendations

- 3.1 That Members note the Audit Performance for 2015/16 to 16th December 2015
- 3.2 That Members note the highlighted areas of control weakness for the 2015/16 Audit Plan
- 3.3 That Members approve the proposed Audit and Counter Fraud Strategy for the use of Audit resources for 2016/17

4. Background

- 4.1 The Annual Audit Plan for 2015/16 has been drawn up in accordance with the agreed Audit Strategy approved by this Committee on 30th January 2015 following consultation with Directors and the Chair of this Committee.

5. Audit Plan Status 2015/16 to 16th December 2015

Percentage of the approved plan completed

- 5.1 81% of the annual audit plan has been completed or is in progress as at 16th December 2015. Appendix A shows the completed audits for 2015/16. Appendix B shows the completed follow up audits for 2015/16

The overall percentage figure is made up as follows:

- 29 new reviews (23%) where the report has been issued, 4 in draft form (3%) and 38 (30%) where work is in progress
- 25 planned follow ups (21%) where the report has been issued, 3 in draft form (2%) and 3 (2%) where work is in progress

- 5.2 As requested by Members of the Committee a breakdown of the assurance levels on completed audits since the last meeting are contained in Appendix A. Where specific parts of the control framework have not been tested on an area (because it has been assessed as low risk for example) it is recorded as NAT (No Areas Tested) within the Appendix.

Changes to the 2015/16 Audit Plan

- 5.3 Six full audits have been removed since the last meeting of the Committee.
- 5.3.1 Asylum Seekers - removed as the proposed scope will be covered as part of the testing in the Through Care Team audit.

- 5.3.2 Gifts and Hospitality - removed from this year's plan due to the pending system registration changes and review of the current policy. This audit will be reconsidered for inclusion in future years as part of the overall annual risk assessment
- 5.3.3 Electoral Roll - removed due to work being undertaken by the service on the preparation for the combined local Council and Police Commissioner elections and the current electoral registration canvassing. This audit will be reconsidered for inclusion in future years as part of the overall annual risk assessment.
- 5.3.4 Sports Contract Monitoring - removed as previously audited and the recently commissioned independent benchmarking report was found to have adequately covered the operational and financial aspects of contract monitoring.
- 5.3.5 Harbour School Budget - removed as the school has a deficit recovery plan agreed by the s.151 officer which is being monitored in conjunction with Education Finance.
- 5.3.6 Guildhall - audit deferred until 2016/17 pending review of budget support from PCC.
- 5.4 Seven audits have been added to the Audit Plan since the last meeting of the Committee. These are Local Sustainable Transport Fund, Young People's Support, King Richard Secondary, Cottage Grove, Solent Junior and two audits at MMD.

Reactive Work

- 5.5 Reactive work undertaken by Internal Audit in 2015/16 includes:
- 14 special investigations
 - 55 items of advice
- As well as the following unplanned reviews/work:
- Channel Shift Programme
 - Disposal of goods found within abandoned garages
 - Community Capacity Grant
 - Contract Procedure Rules update
 - Cash Handling Instructions update
 - External marketing and presentations
 - Contract Issues Adult Social Care

Exceptions

- 5.6 Of the full audits completed so far this year the number of exceptions within each category have been:
- 1 Critical Risk
 - 53 High Risk
 - 15 Medium Risk
 - 4 Low Risk (Improvements)

5.7 The table below is a comparison of the audit status figures for December for this financial year and the previous two years.

	2013/14	2014/15	2015/16
% of the audit plan progressed	60%	72%	81%
No. of Critical exceptions	15	4	1
No. of High risk exceptions	124	79	53

Ongoing Areas

- 5.8 The following 11 areas are on-going areas of work carried out by Internal Audit;
- Regulation of Investigatory Powers Act (RIPA)- authorisations and training
 - Anti-Money Laundering review of Policy and training
 - Investigations (included in the 200 days of reactive work)
 - Financial Rules waivers
 - National Fraud Initiative (NFI) to facilitate national data matching carried out by the Audit Commission
 - National Anti-Fraud Network (NAFN) bulletins and intelligence follow up
 - Counter Fraud Programme
 - Policy Hub project to ensure that all Council policies are held in one place and staff are notified of the policies relevant to them
 - G&A&S Committee reporting and attendance and Governance,
 - Audit Planning and Consultation
 - Risk Management

Continuous Audit Areas

- 5.9 The following 4 areas are subject to continuous audit (i.e. regular check to controls) and feed into overall assurance;
- Legionella Management
 - Asbestos Management
 - Key risks management in services
 - Performance Management

6. Areas of Concern

Updates

6.1 Children's Social Care - Looked After Children's Funds - Unresolved

- 6.1.1 The 2014/15 Audit of Looked After Children's Funds was given no assurance after four high risk exceptions were raised.

- 6.1.2.1 The first exception was raised as testing identified that there was no documented process for the processing of savings payments on the behalf of looked after children.
- 6.1.2.2 Agreed Action: Formal process to be documented by the Finance Team and held electronically within the team's procedures folder.
- 6.1.2.3 Follow Up Results: The procedure has been put into place by the Senior Finance Assistant, however this yet to be fully finalised.
- 6.1.3.1 A second exception was raised as testing highlighted a lack of monitoring of how the finances of looked after children were being administered by fostering agencies.
- 6.1.3.2 Agreed Actions: A number of actions will be implemented including:
- Confirming the balances on children's savings accounts are as expected
 - Confirming the correct savings rates are being applied
 - A move to incorporate savings rate expectations into new placement contracts
- 6.1.3.3 Follow Up Results: A review was undertaken on the savings accounts which did find some variations between what PCC would have saved and what had been saved by the independent fostering agency. PCC is unable to amend the way savings are made without amending the framework which is currently being used by 10 Authorities. Social workers are now to take a direct role in monitoring the savings going forward.
- 6.1.4.1 The third exception was raised as testing found that supervision notes were not adequately recording how the child's Disabled Living Allowance (DLA) was being spent.
- 6.1.4.2 Agreed Action: Monitoring of DLA was to be added to the monthly supervision template
- 6.1.4.3 Follow Up Results: A sample of 2 cases were reviewed and 1 showed no clear notes as to whether the DLA expenditure had been reviewed.
- 6.1.5.1 The final exception was raised after a sample of 60 payments made to Foster Carers was tested to ensure the correct amounts had been paid. This highlighted that overpayments of approximately £4,250 had been made in 2014/15.
- 6.1.5.2 Agreed Action: Allowance rates were to be fully verified prior to be being notified to the service and paid.
- 6.1.5.3 Follow Up Results: A sample of 30 payments made in 2015/16 was tested and no issued were found.

6.2 External - Wimborne Infant - majority resolved

6.2.1 The full school audit of Wimborne Infant School resulted in 12 high risk exceptions being raised, as such Internal Audit were unable to give any assurance as to the effectiveness of the financial management controls at the school.

6.2.2.1 The high risk exceptions related to non-compliance with the following PCC policies or SFVS requirements which has resulted in an audit opinion that the Governor's self-assessment of the financial management of the School is not in line with our findings as per the Schools Financial Value Standard (SFVS):

- SFVS (No clear framework of the relative responsibilities of the Head teacher, Finance Officer and Governors to ensure that effective financial management standards are in place and operating)
- Financial Rules (no income trail from receipt to banking, poor inventory management, poor petty cash administration, cash handling instructions not signed by Finance Officer, no evidence staff are aware of the Whistleblowing Policy and no current IT Acceptable Use Policy)
- HR Policy (no evidence of references being sought for some employees, retention of DBS documentation and incomplete Single Central Record)
- H&S Policy (incomplete Business Continuity Plan)
- PCC Scheme for Financing Schools (PTA Account - No audited statement of account)

6.2.2.2 Agreed Actions: Various actions were agreed to mitigate the risks highlighted above.

6.2.2.3 Follow Up Results: 10 of the 12 exceptions were found to have had their agreed actions completed and the risks mitigated. Two exceptions remain outstanding, the first relates to there being no clear framework of the relative responsibilities of the Head teacher, Finance Officer and Governors to ensure that effective financial management standards are in place and operating. Follow up testing found that an update to the relevant Terms of Reference had been agreed at a meeting but that the document itself had not been updated to reflect the agreed changes. The second exception related to the Inventory as 1 of 3 item sample could not be located during the initial audit and was not security marked. During the follow up audit the same item (Laptop) was not available for inspection therefore whether it had since been security marked could not be evidenced.

6.2.3 No further follow up will be conducted in this area.

New Areas of Concern

6.3 Culture & City Development - Coroner's Office

6.3.1 The review was carried out in relation to the administration, storage, security, back up and transport of the Coroner's Records for the Portsmouth / South East

Region. This audit was given "No Assurance" after 6 high risk exceptions were raised.

6.3.2.1 The six high risks exceptions related to:

- Three of the six members of staff (50%) had not completed the mandatory training in relation to PCC Financial Rules and Information Governance
- There are no written Policies and Procedures for the administration and control of both active and archived records
- Non-compliance with the Data Protection Act in relation to the storage and security of records
- Non-compliance with the Data Protection Act in relation to sending sensitive / confidential data via insecure networks
- Failure to ensure there is a contract in place with the private carrier who transports unsecured inquest data to Hampshire County Council for archiving.
- Failure to comply with the Data Protection Act and Coroner's Code of Conduct in relation to best practice for managing personal data.

Non-compliance with the Data Protection Act could lead to a fine and reputational damage for the Authority.

6.3.2.2 Agreed Actions: The six exceptions were discussed with the Superintendent Registrar and the Coroner. The following actions were agreed to mitigate the identified risks.

- All outstanding training will be completed by November 2015
- Written policies and procedures will be put in place for the administration of Coroner's records
- A review of the security arrangements for 3rd party access will be carried out for both the Guildhall and the new location within the Civic Offices
- GCSX accounts will be requested for the Coroner's team
- A review of the current arrangements will be undertaken and consideration given to ensure secure carrier arrangements are in place if records need to be transported
- The service will consider voluntarily registering with the Information Commissioners Office as a Data Controller

6.3.3 This area will be subject to an in year follow up audit due to take place in Q4 2015/16

6.4 **Adult Social Care/Integrated Commissioning Unit - Individual Service Contracts**

6.4.1 An audit of the effectiveness of the use of Individual Service Contracts (ISC's) by Adult Social Care was carried out in 2015/16. No assurance was given as a result of two high risks being raised during this review

- 6.4.2.1 The first exception related to the fact that no officer either within Adult Social Care or the Integrated Commissioning Unit has formal responsibility for maintaining and making decisions around the Individual Service Contracts. The risk of this is that if they become obsolete or no longer meet the needs of the Authority then no-one will ensure that action is taken to address this. This could result in ineffective operational practices and waste both financial and staff resources
- 6.4.2.2 Agreed Action: It was agreed by the Assistant Head of Adult Social Care that Adult Social Care will own the ISC's
- 6.4.3.1 The second exception related to inefficient processes as domiciliary care information is e-mailed to the providers as well as the ISC's being posted to care providers. The risk of this is that effort is being duplicated and both staff and financial resources are being wasted and more cost effective means could be used to distribute the ISC's.
- 6.4.4 Agreed Actions: A review of the processes will take place by the end of January 2016
- 6.4.5 This will be followed up in March/April 2016
- 6.5 **Culture & City Development - Events**
- 6.5.1 The audit of the administration of events organised or where infrastructure has been provided in Portsmouth was given "No Assurance" as 7 high risk exceptions were raised.
- 6.5.2.1 The first exception related to a lack of clear procedures for processing event applications. Without these there is a risk to the authority that health and safety requirements may be overlooked and potential risks may not be included in assessments and insurance requirements.
- 6.5.2.2 Agreed Action: The event application process is being reviewed to move to online applications. This will require a change to processing applications that are received and procedures will be revised to reflect this.
- 6.5.3.1 Four exceptions were raised under Compliance relating to:
- Inconsistency in the event application process and information provided. This could lead to health and safety oversights which may damage the Authority's reputation and see a reduction of number of events subsequently held in the city
 - A lack of clear audit trail regarding fees and charges. This could result in a financial loss to the authority if fees are being undercharged.
 - Risk assessments not being carried out or being undertaken after the event. Failure to undertake adequate risk assessments could lead to people attending the event being put at risk of injury. This could result in significant reputational damage for the Authority

- Failure to comply with insurance requirements. Testing was unable to evidence that the £5m public liability cover required, was in place for 13 of 25 events sampled. As a result the Authority would be liable for any injury or claim that occurred at these events.

6.5.3.2 Agreed Actions: The following was agreed for the four exceptions detailed above:

- Event application form to be reviewed with consideration given to online applications which will force applicants to provide the required information regarding insurances and risk assessments in order to proceed with their application
- The above review will also include the collection of fees. Any decision to waive fees will need to be discussed and approved by a nominated Member.
- The Events team will liaise with Legal Services with a view to minimising the Authority's liability and ensure it rests with the organiser. The application form is to be amended to reflect any guidance provided.

6.5.4.1 Two exceptions were raised under Effectiveness of Operations relating to:

- Security arrangements, testing found that the same company was being used without a corporate contract or waiver being in place. This is a breach of PCC's contract procedure rules and risks the Authority not receiving value for money on the service.
- Lack of monitoring at events for example confirming food stalls hold a valid hygiene certificate or inflatables comply with the relevant standards. Failure to undertake these checks could put members of the public at risk of injury.

6.5.4.2 Agreed Actions: The following was agreed for the two exceptions detailed above:

- A waiver was obtained to allow the Events team to continue to use the security firm until December 2015. Procurement are currently working on a security framework for the whole organisation
- Spot checks will be carried out at events to ensure stalls/attractions are compliant. Large events will continue to be attended by staff.

6.5.5 This audit will be followed up as part of the 2016/17 Audit Plan

6.6 **Property & Housing - CCTV**

6.6.1 The 2015/16 audit of CCTV was given "No Assurance" as 4 high risk and 2 medium risk exceptions were raised.

6.6.2.1 The 4 high risk exceptions were all raised under compliance in relation to the following:

- The Authority's CCTV policy did not include all CCTV in use by PCC
- A breach of the Data Protection Act, Human Rights Act and European Convention on Human Rights by allowing housing tenants access to CCTV images

- Non-compliance with the relevant codes of practice around defining a pressing need/privacy impact assessment
- Non-compliance with the Protection of Freedoms Act Code of Practice regarding regular oversight of CCTV usage

Breaching of the laws and codes of practice noted above could result in fines for the Authority as well as reputational damage.

6.6.2.2 Agreed Actions: The following actions were agreed to mitigate the risks highlighted above

- Update the CCTV policy to include Authority wide CCTV usage
- Withdraw tenants access to CCTV images
- Full review of usage within services to cover areas such as training, signage, viewing, forensic integrity and pressing needs assessments
- Conduct annual reviews on CCTV to ensure services are compliant with the relevant legislation

6.6.3 A follow up audit in this area will be undertaken as part of the 2016/17 Audit Plan.

7. Comments on the plan to date

7.1 The plan is on target to be achieved by 31st March 2015. A total of 1 critical exception has been reported to date and the number of high risk exceptions found has decreased compared to previous years.

8. Equality impact assessment (EIA)

8.1 The contents of this report do not have any relevant equalities impact and therefore an equalities assessment is not required.

9. Legal Implications

9.1 The City Solicitor has considered the report and is satisfied that the recommendations are in accordance with the Council's legal requirements and the Council is fully empowered to make the decisions in this matter.

9.2 Where system weaknesses have been identified he is satisfied that the appropriate steps are being taken to have these addressed.

10. Finance Comments

10.1 There are no financial implications arising from the recommendations set out in this report.

10.2 The S151 Officer is content that the progress against the Annual Audit Plan and the agreed actions are sufficient to comply with his statutory obligations to

ensure that the Authority maintains an adequate and effective system of internal audit of its accounting records and its system of internal control.

.....
 Signed by: Elizabeth Goodwin, Chief Internal Auditor

Appendices:

- Appendix A – Completed audits from 2015/16 Audit Plan
- Appendix B - Completed follow up audits from 2015/16 Plan
- Appendix C - 2016/17 Audit and Counter Fraud Strategy

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
1 Accounts and Audit Regulations	http://www.legislation.gov.uk/ukxi/2011/817/contents/made
2 Audit Strategy 2015/16	http://democracy.portsmouth.gov.uk/ieListDocuments.aspx?CId=148&MId=2375&Ver=4
3 Previous Audit Performance Status and other Audit Reports	Refer to Governance and Audit and Standard meetings – reports published online http://democracy.portsmouth.gov.uk/ieListMeetings.aspx?Committeeld=148

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by on

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 Signed by:

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Appendix A - Municipal Year To Date (No Assurance and Critical Audit Summary)

Audit Title - NO ASSURANCE AUDITS 2015/16	Critical Risks	High Risks	Original Audit Assurance	Key Risk	Summary	Follow Up Due	Follow Up Audit Assurance	Follow Up Summary
1516-029 TES - PCMI Manufacturing		5	No Assurance	Injury to staff due to lack of training - Financial & Reputational	Five high risk exceptions arose within this audit which has resulted in no assurance overall. The exceptions relate to mandatory training, cash handling, copyright regulations, transparency of pricing and stock control.	2016/17 Audit Plan		
1516-037 C&C - Security & Reception Arrangements	1	3	No Assurance	Data Protection Breach - Financial & Reputational	One critical risk exception, four high risk exceptions and one medium risk exception have been raised as a result of audit testing. The critical exception relations to conversations deemed as confidential that are taking place in the open reception area. The high risk exceptions were raised in relation to the visitors booking system, reporting of incidents in the ground floor reception area, to a security presence in the ground floor reception area and the use of the 9 ground floor meeting rooms in the reception area.	Quarter 4 2015/16		
1516-052 FIS - Application Archiving		1	No Assurance	Data Protection Breach - Financial & Reputational	One high risk exception arose within the audit of application archiving. The exception highlights that of the 4 databases sampled, no archiving or deletion of data is occurring which could potentially lead to a breach of the Data Protection Act 1998	Quarter 2 2016/17		
1516-023 CDC - Hillside and Wymering		8	No Assurance	Financial Management - Financial & Fraud	Eight high risk exceptions have been raised as a result of this review and, although audit testing has not highlighted any misappropriation of funds, no assurance can be given in relation to the financial processes and controls at the Wymering Community Centre until a robust financial management framework is in place and operating. This audit was followed up in year. See Appendix B for details	July 2015	Assurance - Resolved	Follow up testing confirmed that the agreed actions for all 8 exceptions have been implemented. As a result assurance can now be given in this area

1516-019 CDC - Events Organised or Infrastructure Provided		7	No Assurance	Health and Safety	Seven high risk exceptions have been raised as a result of audit testing relating to a lack of clear procedures for processing event applications, the event application process, fees and charges, risk assessments for events, insurance, event security and the monitoring of events.	2016/17 Audit Plan		
1516-082 HSP - CCTV		4	No Assurance	Non compliance with legislation - Financial & Reputational	Four high risk exceptions highlighted in this report. The CCTV Policy not including all CCTV usage across the Authority and services not having their own. Breach of DPA Principle 7 and ECHR & HRA Article 8 by some Housing tenants having access to CCTV images. Non-compliance with significant areas of the Codes of Practice, DPA and ECHR & HRA by services that utilise CCTV especially around defining a pressing need/ privacy impact assessment. Non-compliance with the Protection of Freedoms Act (POFA) Code of Practice regarding regular oversight of CCTV usage to ensure compliance with Codes of Practice and relevant Acts.	2016/17 Audit Plan		
1516-086 IPC - Individual Service Contracts		2	No Assurance	Contracts become obsolete or ineffective - Operational & Financial	Two high risk exceptions were raised as a result of audit testing. It was found that no officer has responsibility for ensuring that Individual Service Contracts remain in line with the Authority's requirements. Ineffective use of resources was found as follows: i) information being sent out twice to care providers, ii) manual contracts being posted to care providers and the signed copies being scanned into Swift when returned, when it could be possible to send these out electronically.	Quarter 4 2015/16		
1516-061 CUL - Coroner's Office		6	No Assurance	Data Protection Breach - Financial & Reputational	Six high risk exceptions have been raised as a result of the audit testing. The exceptions relate to a weakness in controls in relation to the administration, training of staff, storage, security, back up and transport of the Coroner's records for the Portsmouth and South East Region.	Quarter 4 2015/16		

APPENDIX A - Audit Results Since Last Report

Audit Title - NO ASSURANCE AUDITS completed since the last meeting	Critical Risk	High Risk	Medium Risk	Low Risk - Improvement	Total Exceptions	Internal Control Environment	Compliance	Safeguarding of Assets	Effectiveness of Operations	Reliability & Integrity	Audit Assurance	Summary
1516-019 CDC - Events Organised or Infrastructure Provided		7			7	1	4	NAT	2	NAT	No Assurance	Seven high risk exceptions have been raised as a result of audit testing relating to a lack of clear procedures for processing event applications, the event application process, fees and charges, risk assessments for events, insurance, event security and the monitoring of events.
1516-082 HSP - CCTV		4	2		6	NAT	6	NAT	NAT	NAT	No Assurance	Four high risk exceptions highlighted in this report. The CCTV Policy not including all CCTV usage across the Authority and services not having their own. Breach of DPA Principle 7 and ECHR & HRA Article 8 by some Housing tenants having access to CCTV images. Non-compliance with significant areas of the Codes of Practice, DPA and ECHR & HRA by services that utilise CCTV especially around defining a pressing need/ privacy impact assessment. Non-compliance with the Protection of Freedoms Act (POFA) Code of Practice regarding regular oversight of CCTV usage to ensure compliance with Codes of Practice and relevant Acts.
1516-086 IPC - Individual Service Contracts		2			2	1	NAT	NAT	1	NAT	No Assurance	Two high risk exceptions were raised as a result of audit testing. It was found that no officer has responsibility for ensuring that Individual Service Contracts remain in line with the Authority's requirements. Ineffective use of resources was found as follows: i) information being sent out twice to care providers, ii) manual contracts being posted to care providers and the signed copies being scanned into Swift when returned, when it could be possible to send these out electronically.
1516-061 CUL - Coroner's Office		6			6	1	1	4	NAT	NAT	No Assurance	Six high risk exceptions have been raised as a result of the audit testing. The exceptions relate to a weakness in controls in relation to the administration, training of staff, storage, security, back up and transport of the Coroner's records for the Portsmouth and South East Region.
Audit Title - LIMITED ASSURANCE AUDITS completed since the last meeting	Critical Risk	High Risk	Medium Risk	Low Risk - Improvement	Total Exceptions	Internal Control Environment	Compliance	Safeguarding of Assets	Effectiveness of Operations	Reliability & Integrity	Audit Assurance	Summary
1516-005 ASC - Client Affairs includes pre-paid bank cards		1			1	0	1	NAT	0	NAT	Limited Assurance	One high risk exception was raised from this audit. This relates to lack of recording of receipt checking carried out when clients are in residential homes to ensure that their money is being spent by the care home on the client. Checks made on pre-paid card account expenditure are also not being recorded.
1516-008 CSC - Permission To Share		1			1	0	1	NAT	NAT	NAT	Limited Assurance	One high risk exception was raised relating to agencies sharing information with PCC without having consent to share this information.
1516-013 CDC - Historic Records			1		1	0	0	1	0	NAT	Limited Assurance	One medium risk exception has been raised as a result of the audit

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1516-032 C&C - Members Allowances			2		2	0	1	0	NAT		1	Limited Assurance	Two high risk exceptions were raised as a result of this audit. The first was in relation to members' mobile phone expenditure. One member was found to be in receipt of an allowance for business use of a personal mobile telephone, and another was found to be accruing monthly charges in far excess of the average monthly expenditure. The second was in relation to an incongruence between published expense and allowance figures, and amounts actually paid to members. Telephone allowances were not recorded in the published figures, and a mayoral allowance was under reported by £881.58, due to an administrative error.
1516-043 CSE - Children with Disabilities		1	2		3	0	3		NAT	0		Limited Assurance	Audit testing highlighted one high risk and two medium risk exceptions. The high risk assessment was raised due to non-compliance with the case procedures in relation to reviews of plans.
1516-056 FIS - Cloud Storage		1	1		2	1	0		NAT	1		Limited Assurance	One high risk and one medium risk exceptions have been raised as a result of audit testing. The high risk was in relation to a lack of evidence being available to confirm the purpose of staff usage of non-corporate cloud storage systems. The medium risk exception was in relation to the strength of Huddle's access controls, whereby once a password has been created users were not required to change it at regular intervals.
1516-067 RCS - Climate Change & Sustainability (CRC)			1		1	1	0		NAT			Limited Assurance	One medium risk exception was raised as the estimation figures used to purchase allowances in advance are not checked by another member of staff for accuracy. The content of the 2014/15 submission was found to be accurate
1516-071 HSP - Sheltered Housing		1	2		3		2	1				Limited Assurance	One high risk exception was raised in relation to funds looked after by staff that belong to residents at the sheltered housing blocks. Testing identified that money is received from family members or carers of residents to pay for items such as lunches, hairdressers and cleaning. The receipts being issued by staff for these transactions are not on controlled stationery which could potentially leave staff in a vulnerable position.
1516-002 ASC - Better Care Fund					0	0	0		NAT	0		Limited Assurance	Recommendations were made during an audit of Better Care Fund arrangements carried out by the Portsmouth Clinical Commissioning Group's (CCG) internal auditors in March 2015 relating to risk management and escalating key risks to the Health and Wellbeing Board. Progress has been evidenced during this current audit, however, limited assurance is being given to reflect the fact that these issues have not been fully implemented as yet.

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Audit Title - ASSURANCE AUDITS completed since the last meeting	Critical Risk	High Risk	Medium Risk	Low Risk - Improvement	Total Exceptions	Internal Control Environment	Compliance	Safeguarding of Assets	Effectiveness of Operations	Reliability & Integrity	Audit Assurance	Summary
1516-093 ICU - Supported Living					0	0	0	NAT	0	NAT	Assurance	A sample of eight contracts were reviewed as part of the audit for Supported Living. The total cumulative value of the contracts reviewed was £12,635,279. No exceptions were raised as part of this audit.
1516-078 HSP - Contract Management Housing					0	0	0	NAT	0	NAT	Assurance	No exceptions raised.
1516-088 PIP - Car Parking Contract					0	0	0	0	NAT	NAT	Assurance	No exceptions raised.

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2014/15 Followed Up Audits - Critical Risk Exceptions		Critical Risk Open		Critical Risk Closed		Total Critical Risk	Comments
Audit Title							
F1415-066	FIN - Concessionary Travel Passes	0	0%	1	100%	1	
F1415-078	H&P - Safer Recruitment	0	0%	1	100%	1	The agreed actions have now been completed as reported at the November meeting
F1415-056	FIN - Purchase Cards	1		0		1	Sample testing on 25 purchase card logs saw further non compliance with both purchasing card and financial rules. A review of the purchasing card process is to form part of the Procure to Pay project
F1415-086	H&P - PAT Testing	0		1		1	
F1415-110	T&E - Home to school transport	2		0		2	Whilst progress has been made in respect of reviewing transport operators insurance and DBS details the Authority still does not have complete records in these areas
Total		3	50%	3	50%	6	

2014/15 Followed Up Audits - High Risk Exceptions		High Risk Open		High Risk Closed		Total High Risk	Comments
Audit Title							
F1415-009	CSC - Looked after Children's Funds	3	75%	1	25%	4	A high risk exception relating to a lack of formal procedure for processing savings payment was raised in the initial audit. follow up testing found that the process has been written but is still in draft form. A further exception related to a failure to document reviews of Foster Carer's DLA payments, follow up testing confirmed these were still not being clearly recorded. The initial audit also found that procedures surrounding independent fostering agreements were lacking.
F1415-020	CDC - Contaminated Land		0%	2	100%	2	

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							The school's Terms of Reference for the governing body and finance, buildings and personnel committee did not adequately comply with the Schools Financial Value Standard requirements. Follow up testing found that the required amendments had been agreed but the document not yet updated. A second exception relating to an inventory item not being security marked remains open as the laptop was not on site during testing and therefore could not be verified.
F1415-131 EXT - Wimborne Infant	2	17%	10	83%	12		
							A high risk exception relating to a lack of inventory management was raised during the initial audit. Follow up testing evidenced that stock control processes have been implemented and management checks enforced. However, to fully mitigate the risks identified, reconciliations are required on the stock collections and jobs completed to verify all stock is accounted for.
F1415-027 CAB - Homecheck Telecare	1	20%	4	80%	5		
F1415-067 HLP - eBay Account	0	0%	1	100%	1		
F1415-076 H&P - Claims	0	0%	2	100%	2		
							A high risk exception relating to B&B spend variances was raised during the initial audit. The agreed action to analyse the variance has not yet been completed as resources were instead used to create a process with a view to preventing future variances occurring.
F1415-077 H&P - Homelessness & Temporary Accommodation	1	100%	0	0%	1		
F1415-078 H&P - Safer Recruitment	0	0%	1	100%	1		
F1415-098 PIP - Port Finance	0	0%	1	100%	1		
F1415-123 EXT - Langstone Infant	0	0%	5	100%	5		
F1415-129 EXT - Manor Infant	0	0%	13	100%	13		
							An in year follow up was completed after 8 high risk exceptions were highlighted during the initial audit
1516-023 CUL - Hillside & Wymering Lodge	0	0%	8	100%	8		
F1415-014 CSC - Portsmouth Safeguarding Children's Board	0	0%	4	100%	4		
F1415-056 FIN - Purchase Cards	0	0%	1	100%	1		

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						A project proposal to tackle the outstanding accounts on a trace code has been drawn up. This was not implemented within the agreed timescale as staff departures resulted in resources being focused in other areas
F1415-061 FIN - Debt Recovery	1	100%	0	0%	1	
F1415-086 H&P - PAT Testing	1	100%	0	0%	1	
F1415-101 PIP - Maintenance	1	100%	0	0%	1	The addendum to the Maintenance Contract has been drafted and is to be included within the contract extension
F1415-110 T&E - Home to school transport	1	50%	1	50%	2	No tendering exercises have been undertaken since the initial audit therefore further testing in this area could not be conducted
F1415-124 EXT - Copnor Primary	0	0%	9	100%	9	
F1415-137 EXT - Highbury Primary	0	0%	12	100%	12	
F1415-141 T&E - Park & Ride	1	100%	0	0%	1	Enforcement at the Park & Ride is still suspended as work continues with a view to ensuring live data is available to enforcement officers on their handheld machines
Total	12	14%	75	86%	87	

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2014/15 Followed Up Audits - Medium Risk Exceptions	Medium Risk Open		Medium Risk Closed		Total Medium Risk
Audit Title					
F1415-067 HLP - eBay Account	0	0%	1	100%	1
F1415-077 H&P - Homelessness & Temporary Accommodation	1	100%	0	0%	1
F1415-137 EXT - Highbury Primary	0	0%	2	100%	2
F1415-086 H&P - PAT Testing	1	100%	0	0%	1
F1415-124 EXT - Copnor Primary	0	0%	3	100%	3
Total	2	25%	6	75%	8

2014/15 Followed Up Audits - Low Risk Exceptions	Low Risk Open		Low Risk Closed		Total Low Risk
Audit Title					
F1415-067 HLP - eBay Account	0	0%	1	100%	1
F1415-076 H&P - Claims	0	0%	2	100%	2
F1415-056 FIN - Purchase Cards	0	0%	1	100%	1
F1415-061 FIN - Debt Recovery	1	100%	0	0%	1
Total	1	17%	5	83%	6

INTERNAL AUDIT & COUNTER FRAUD STRATEGY 2016/17

Purpose

1. The purpose of the Audit & Counter Fraud Strategy is to set out the strategic approach which allows the Chief Internal Auditor to manage the service in a way that will facilitate:
 - A sufficient review of the Authority's functions in order to form an annual opinion on the effectiveness of the control framework. This opinion forms part of the Annual Governance Statement, a statutory requirement and must incorporate a statement on Internal Audits conformance with the Public Sector Internal Audit Standards.
 - An assurance on the organisations governance and control arrangements, including risk management, through the annual audit plan in a way that gives suitable priority to the organisations objectives and risks
 - Improvement of the organisations governance, control and risk management, by highlighting exceptions to line management and agreeing mitigating actions
 - The identification of audit and counter fraud resources and they are suitably qualified and experienced as required by either the Public Sector Internal Audit Standards in the UK or the Police & Criminal Evidence Act 1984.
 - Effective co-operation with external auditors
 - Value for money including selling of specialist skills to fee paying customers and joint working/shared arrangements
 - Proactive counter fraud activities including continuous fraud testing, publicity, lead on monitoring for compliance with counter fraud policies, advice and education of staff.
 - Reactive work such as general advice, consultancy services and investigations that add value to the organisation in meeting its objectives and aims to improve governance and risk management
 - Horizon scanning to ensure the inclusion in the audit risk analysis of key areas likely to impact on the organisation, including emerging areas of fraud and theft.
2. The Chief Internal Auditor is required to produce an Annual Plan for each financial year that translates into a schedule of audit assignments. It defines the area and duration of each audit based on each audit's programme, risk assessment, national or local impacts, time spent in previous audits, any problems encountered and level and skill of staff involved.
3. In addition to the audit plan a counter fraud programme of activities is drafted and agreed following discussions with both the Section 151 Officer and the Monitoring Officer. This programme covers both proactive and reactive elements as previously identified under section 1 above. With progress reported on an annual basis to Governance & Audit and Standards Committee.
4. All of these activities assist Services and the Organisation to manage

INTERNAL AUDIT & COUNTER FRAUD STRATEGY 2016/17

governance, risk and assurance as a contribution to achieving the objective of creating a great waterfront city

Scope and Responsibilities

4. The scope and responsibilities relating to Internal Audit are specified in Financial Rules as well as in the Audit Charter and Code of Ethics. All officers within the Audit and Counter Fraud Section are responsible for ensuring compliance with this charter and code.

Audit Opinion

5. The overall Annual Audit Opinion will be delivered in the Annual Report and will be based on the adequacy and effectiveness of controls tested within the control framework.
 - Internal control environment;
 - Reliability and integrity of financial and operational information;
 - Effectiveness and efficiency of operations and programmes;
 - Safeguarding of assets; and
 - Compliance with laws, regulations and rules, policies, procedures and contracts.
6. Evidence for this opinion will be based on the coverage of the Audit Plan and the overall level of critical and high exceptions found on each of the Audits.
7. Critical exceptions are those exceptions seen as “show stoppers” i.e. control failures or weaknesses that could lead to prosecution or the imminent collapse of a system or service that would result in reputational and financial damage These will be reported to Members along with the managers proposed actions or actions that have been taken.
8. High risk exceptions are where action needs to be taken to address significant control weaknesses but over a reasonable timeframe rather than immediately. These issues are not “show stopping” but are still important to ensure that controls can be relied upon for the effective performance of the service or function. If not addressed, they can, over time, become critical. If there are several high risk exceptions in one area Internal Audit will highlight these to Members along with the managers response
9. Depending on the level of critical and high risk exceptions in comparison to the number of reviews carried out the opinion could range from no assurance, limited assurance and reasonable assurance to full assurance. The levels and control framework areas of critical and high risk exceptions will also be compared to previous year’s levels to give an indication of improvement, or otherwise, in the effectiveness of the control framework.
10. To widen the assurance scope and maximise resources, Internal Audit will, wherever possible, rely on the assurance work of others. This is only where they have satisfactorily tested documentation, the level of testing and

INTERNAL AUDIT & COUNTER FRAUD STRATEGY 2016/17

reporting for objectivity, integrity, accuracy and sufficiency. To this end self assessment checks are being promoted in some areas which will be spot checked by Internal Audit for integrity.

Service Provision

11. There is an in-house team of 11 FTE for the provision of the Internal Audit, Counter Fraud and related services (6.4 specifically on PCC audits only), with a proportion being sold to other local authorities and external organisations. This is an overall increase from the previous year as the Audit section inherited 3 FTE Counter Fraud Officers responsible for the investigation of Housing Benefits and Council Tax Support fraud. However two posts within the Audit Section (Deputy Chief Internal Auditor and a Principal Auditor) have been removed over the past 14 months due to budget pressures.
12. The Public Sector Internal Audit Standards for Internal Audit in the UK requires that staff are suitably qualified and experienced. All current staff in Internal Audit either have a relevant qualification (MIIA or CCAB) or are in training to become qualified, in addition senior staff have several years internal audit experience. Staff specialise in specific areas and mentor other staff as successors; for example the Principal Auditor specialising in Contracts and Procurement mentors a junior member of staff in that specialism, as part of their development.
13. Audit skills and resources are matched to the areas to be audited and any high risk audits that will not be covered are brought to the attention of the Corporate Governance Group which consists of the Chief Executive, Monitoring Officer, S151 Officer and Director of Legal HR and Performance as well as the Members of the Governance and Audit and Standards Committee, for them to make a decision on Audit resourcing.
14. In order to maximise resources between the External Auditors and Internal Audit, the Chief Internal Auditor and the External Audit Manager try to take into account where their resources can be shared. External Audit are allowed to place reliance on Internal Audit work, where they can, in order to form their opinion on the Authority's accounts. It may in some cases be more cost effective for Internal Audit to carry out some of the system work. However, this depends on Internal Audit priorities and resources available at the time. To this end the Audit Plan risk assessment takes into account (amongst other things) the External Audit interest in the Authority's financial systems.
15. The responsibility for fraud detection and investigation rests with managers. However, investigations have always been part of the audit function because of the independence of the function and the possession of the investigative and evidence gathering skills required and in order to identify weaknesses in control to prevent re-occurrences. With the transfer of work and the Counter Fraud Officers to Audit this area of provision has been enhanced. All three officers that transferred are trained in accordance with the Department of

INTERNAL AUDIT & COUNTER FRAUD STRATEGY 2016/17

Works and Pensions (DWP) Investigation framework known as Professionalism in Security (PinS). This also includes training in the Police and Criminal Evidence Act 1984 (PACE) with experience in carrying out interviews under caution. Two audit staff are qualified in Internal Investigations, two are qualified in forensic PC investigations and one is an accredited Financial Investigator.

16. There are some non-audit duties that are carried out because they sit within the audit and counter fraud skill mix and these are RIPA (Regulation of Investigatory Powers Act), and Anti Money Laundering investigations and reporting.

Consultation

17. The Chief Internal Auditor consults with the Chief Executive, Deputy Chief Executive, Directors and the Chair of Governance and Audit and Standards prior to the start of the new financial year, requesting any additional items or other comments as well as the Strategy Unit re Partners and Partnerships.
18. In order to preserve the independence of Internal Audit the final risk assessment and inclusion in the Annual Plan rests with the Chief Internal Auditor.

Assignments

19. The determination of the audit universe and scope of Internal Audit is defined in the Audit Charter and Code of Ethics. The Annual Audit Plan is derived from the audit universe based on risk however the Plan must also make provision for the following areas regardless of any risk assessment;
- **Data matching exercise** – a compulsory exercise matching records between authorities to identify any fraudulent claims. This is carried out every year with specified mandatory areas carried out bi-annually,
 - **External services** - including the provision of internal audit services for Langstone Harbour Board and various Local Authority's for either core operational audits or to provide specialist areas such as IT Audit.
 - **Internal services** - MMD and Schools where Internal Audit is purchased under an SLA or contract.
 - **Follow-up Audits** – To ensure that critical and high exceptions have been implemented as agreed,
 - **Reactive work (Advice and unplanned work)** – To allow for; changes in priorities and issues that arise during the year; extensions to reviews where further testing may be required because of control weaknesses; advice on general control issues and Financial Rule Waiver requests,
 - **Investigations** – To provide an independent investigation service on internal irregularities and service abuse by external parties that require investigative and evidence gathering skills. This may also result in a review of controls post investigation as part of the core audit function,
 - **Fundamental Financial Systems** – including Payroll, main accounting and others as agreed with the External Auditors,
 - **Audit slippage**- Audits started at the year end will often be completed in

INTERNAL AUDIT & COUNTER FRAUD STRATEGY 2016/17

the early part of the new financial year.

- **Counter fraud activities** – including on-going fraud checks, and completion of the counter fraud program as detailed above,
- **Spot checks on Governance Arrangements,**
- **Certification of some grant claims,**
- **Emerging high risk areas** (These are generally activities that are identified as high risk from another audit review during the year but due to limited audit resources are deemed priority for the following year's audit plan).

20. The Financial Management Standard in Schools has undergone significant change and is no longer subject to external assessment. As well as this some schools are no longer under PCC jurisdiction. Therefore, the establishment audits of schools will no longer form part of the Audit Plan unless requested.

Priority

21. The Accounts and Audit Regulations require that Internal Audit provide independent assurance on the control framework (the Audit Opinion) for inclusion in the Annual Governance Statement (AGS) therefore, the priority for the Audit Service must be to carry out and achieve the planned work as contained in the Annual Audit Plan. This currently equates to approximately 24% of the audit universe. This percentage will only decrease in agreement with the s151 Officer.
22. Once the items listed in paragraph 19 have been taken into account all other areas identified as being within the Audit remit will be subject to an Audit Needs Risk Assessment (ANRA).
23. The Audit Needs Risk Assessment takes into account the significant risks facing the organisation and assurance required which includes the drivers behind activities e.g. financial/ legal/ Government and the threats facing achievement of those objectives as well as tested control assessments. These are weighted by the number of years since a previous audit or whether or not it is a mandatory requirement.
24. The Section is resourced to cover only high-risk audits with an allowance for reactive and investigation work.
25. Investigation work in relation to potential service user abuse is prioritised on a case by case basis depending on allegation or concern raised and the level of supporting intelligence. All internal investigations where concerns are raised against members of staff or contractors etc will be agreed by the Investigation Steering Panel (ISP). The members of which are Monitoring Officer, Section 151 Officer, Director of HR Legal & Procurement and Chief Internal Auditor.

Horizon Scanning

26. On-going horizon scanning is carried out to identify any new areas of emerging risk that may impact upon the Authority achieving its aims and
-

INTERNAL AUDIT & COUNTER FRAUD STRATEGY 2016/17

objectives. The areas of concern identified are:

- Budget savings which could impact on existing system controls and adding risk because of loss of experienced staff, removing layers of management, reducing scope for separation of duties, pressures on service delivery etc.
- Change control as a result of system redesign and reorganisation.
- Public Health Duties (Health and Social Care bill) which may bring risks because of increase in workloads or differences in such things as, risk and insurance treatment as well as due diligence, commissioning risks and value for money
- Reduction in inspection and performance regimes resulting in a possible loss of governance and/or increased work pressures for Internal Audit for example on assisting with assurance reports to support the accounts.
- Recessional difficulties as well as the austerity measures introduced by the Government could impact on the financial stability and contingency arrangements of third parties that contract with the Council,
- Alternative delivery models for example shared services, outsourcing and partnership arrangement where issues such as monitoring, governance, right of access, financial and contingency arrangement along with the management of these projects may be encountered
- The risks to property assets in particular landlord responsibilities and maintenance due to budget cuts,

Flexibility

27. The Audit Plan will be reviewed quarterly and in consultation with the Section 151 Officer to take account of any significant changes in priority that has occurred during the year.

Elizabeth Goodwin
Chief Internal Auditor

References:

Audit Charter and Code of Ethics and Audit Manual;
Public Sector Internal Audit Standards in the UK;
Accounts and Audit Regulations;
Money Laundering Regulations.

Agenda Item 9



Portsmouth
CITY COUNCIL

Title of meeting:	Governance & Audit & Standards Committee
Date of meeting:	29 th January 2016
Subject:	Regulation of Investigative Powers Act 2000 (RIPA)
Report by:	Michael Lawther, Deputy Chief Executive Officer, Monitoring Officer and City Solicitor
Wards affected:	All
Key decision:	No
Full Council decision:	No

1. Purpose of report

- 1.1 To update Members on the Authority's use of Regulatory Powers for the period from 27th June 2013 to 29th January 2016 and the changes required to the Policy.

2. Recommendations

It is recommended that Members of the Governance and Audit and Standards Committee:

- 2.1 Note the RIPA application authorised since the last report to this Committee on the 27th June 2013
- 2.2 Approve the required changes to the Corporate Policy and Procedure on the Regulation of Investigative Powers Act 2000 (RIPA) as a result of the new Codes of Practice and Guidance and changes in personnel (attached as Appendix A and detailed in paragraphs 6.1.1 to 6.1.10 of the report)

3. Background

- 3.1 PCC has a Corporate Policy and Procedure on the Regulation of Investigative Powers Act 2000 (RIPA) (the Policy) to ensure that officers comply with the Regulation of Investigatory Powers Act requirements to mitigate any legal challenge risks and this is updated when there are changes in the codes of practice or legislation including case law and personnel.

4. Reasons for recommendations

- 4.1 Following the issue of updated Codes of Practice and Guidance by the Office of Surveillance Commissioner and a change in personnel there have been minor

amendments made to PCC's Policy. There has been one RIPA application since the last report to Committee on the 27th June 2013.

5. Regulation of Investigatory Powers Act Authorisations

- 5.1 RIPA activity is normally reported to Members every six months and this was last done on 27th June 2013. As no RIPA activity has occurred for some time a verbal update only has been provided to the Chair at some Briefings. RIPA activity has tailed off mainly due to the changes in law around Blue Badge Fraud (which was the biggest user of RIPA) which has made it easier for the Authority to take action.
- 5.2 One RIPA application (RIPA reference number 79) for Telecoms data has been authorised since the last RIPA report to this Committee. The application was approved by Magistrates and is still under investigation. The application concerned identifying the perpetrator re aggressive selling tactics contrary to unfair trading laws.

6. Changes to Policy

- 6.1 The proposed changes to the Policy are highlighted on the attached document Appendix A and are as follows:
- 6.1.1 Summary paragraph 3 emphasising that Authorities can only consider using RIPA for the prevention or detection of crime and disorder.
- 6.1.2 The addition of guidance around covert surveillance of social networking sites in paragraphs 4.6 & 4.7 of the Policy.
- 6.1.3 Emphasising that Authorising Officers must see the process through for any applications that they have authorised in paragraph 4.12 and in 4.13 setting out the procedure for appointing temporary Authorising Officers in exceptional circumstances.
- 6.1.4 Discouraging investigating officers from copying information from one RIPA application to another in paragraph 4.15.
- 6.1.5 Bringing to the attention of investigating officers the principles established by the case *Kinloch v Her Majesty's Advocate* [2012] that consideration should be given to likely scenarios before any activity takes place and included in the RIPA but they are not expected to have the benefit of hindsight in paragraph 4.16.
- 6.1.6 The Commissioners consider that it is best practice for the Authorising Officer to apply to Magistrates for approval but accept that if that is not practicable the Investigating Officer should. Any comments made by the Magistrate should be promptly reported back to the Authorising Officer, recorded and action taken to incorporate or address them. This is added as paragraph 4.21.

- 6.1.7 In paragraph 4.23 the use of the Authorising Officers own words to state why they believe the activity is necessary and proportionate has been added.
- 6.1.8 There is no longer a power to make urgent oral authorisations for local authorities and this has been made clear in paragraph 4.24.
- 6.1.9 A new paragraph 10.2 has been added stating that any requests for guidance from the OSC must only come from the Senior Responsible Officer.
- 6.1.10 Appendix A sets out the Current Authorising Officers and the Senior Responsible Officer contact details.

7. Equality impact assessment

- 7.1 An equality impact assessment is not required as the recommendations do not have a negative impact on any of the protected characteristics as described in the Equality Act 2010.

8. Legal implications

- 8.1 The Legal implications are incorporated within the body of this report. There are no other immediate legal implications arising from this report.

9. Director of Finance's comments

- 9.1 N/A

.....
Signed by: Michael Lawther, Deputy Chief Executive, Monitoring Officer & City Solicitor

Appendices: APPENDIX A UPDATED POLICY

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
1 Covert Surveillance Code of Practice Issued by the Home Office and Covert Human Intelligence sources Code of Practice	https://www.gov.uk/government/publications/covert-surveillance-and-covert-human-intelligence-sources-codes-of-practice



	issued by the Home Office	
2	Regulation of Investigatory Powers Act 2000	http://www.legislation.gov.uk/ukpga/2000/23/contents
3	Portsmouth City Council Regulation of Investigatory Powers Act Policy	Revised Policy attached as Appendix to this report.
4	Protection of Freedoms Bill	http://www.homeoffice.gov.uk/publications/about-us/legislation/protection-freedoms-bill/

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by on

.....
Signed by:

Policy Title: Corporate Policy and Procedure on the Regulation of Investigatory Powers Act 2000 (RIPA)

ID	<i>Counter Fraud -RIPA</i>
Last Review Date	<i>October 2015</i>
Next Review Date	<i>When any changes in personnel, laws or Codes of Practice</i>
Approval	<i>Governance and Audit and Standards Committee.</i>
Policy Owner	<i>Michael Lawther Strategic Director and Monitoring Officer also Senior Responsible Officer for RIPA</i>
Policy Author	<i>Elizabeth Goodwin Chief Internal Auditor</i>
Advice & Guidance	Elizabeth Goodwin, Tel: 023 9283 4682 Chief Internal Auditor elizabeth.goodwin@portsmouthcc.gov.uk
Location	<i>PolicyHub</i>
Related Documents	Covert Surveillance Code of Practice; Regulation of Investigatory Powers Act 2000; Protection of Freedoms Bill
Applicability	<i>All PCC Staff</i>

Summary:

1. Controls on covert surveillance were introduced as a consequence of the Human Rights Act 1998, which enshrined the European Convention and Human Rights into UK law and came into effect on 2 October 2000.
2. The Regulation of Investigatory Powers Act 2000 (RIPA) and RIPA (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 aim to ensure that public bodies respect the privacy of members of the public when carrying out their investigations and that there is an interference with privacy only where the law permits it and there is a clear public interest justification in the prevention or detection of crime.
3. The Protection of Freedoms Act 2012 requires that RIPA is only used for criminal offences that could attract a custodial sentence of 6 months or more, or relate to tobacco or alcohol sales to children. Local Authorities can only consider applications in the context of prevention & detection of crime and no other. Applications once authorised have to be approved by a Magistrate.
4. RIPA controls the use of various methods of investigation, in particular the use of covert surveillance, covert human intelligence sources (CHIS) and accessing communication data and defines what constitute these activities.
5. If the activities proposed by investigating officers fall within the definitions (see Section 3) then this Policy, Procedures and the Code of Practice must be followed. If investigating officers have any doubts about the application or meaning of its provisions they must obtain advice from the Authorising Officers before proceeding. (see Appendix A)
6. RIPA is not concerned with overt surveillance. Most of the surveillance carried out by or on behalf of Portsmouth City Council will be overt. That is, there will be nothing secretive, clandestine or hidden about it. In many cases for officers it will be business as usual i.e. going about Council business openly e.g. a Trading Standards Officer visiting a market to look for sales of counterfeit goods. Where it is targeted, that is a specific stall holder is to be the focus of covert surveillance, it becomes directed surveillance and requires a RIPA authorisation.
7. All directed surveillance, using a CHIS or accessing communications data must be properly authorised. Failure to secure proper authorisation and to comply with this procedure could lead to evidence being excluded by the court, significant costs being awarded against the City Council and complaints against the City Council. The City Council is subject to audit and inspection by the Office of the Surveillance Commissioner and it is important that compliance with RIPA and with the Guide can be demonstrated in every case.

Contents

1. Policy Statement
2. Objectives
3. Terms explained
4. Procedure
5. CHIS (Covert Human Intelligence Sources)
6. CCTV
7. Communications Data
8. Impact Risk Assessment
9. Further Guidance
10. Oversight
11. Complaints

[Appendix A: List of Authorised Persons](#)

[Flowchart 1: Surveillance, guidance.](#)

[Flowchart 2: CHIS guidance.](#)

[Flowchart 3: Accessing communications data](#)

[Impact Risk Assessment Form](#)

[Surveillance an aid to investigation](#)

[RIPA Application for Directed Surveillance](#)

[RIPA Application review form](#)

[RIPA Cancellation Form](#)

[Application for judicial approval for authorisation to obtain or disclose communications data, to use a covert human intelligence source or to conduct directed surveillance. Regulation of Investigatory Powers Act 2000 sections 23A, 23B, 32A, 32B.](#)

Further information including forms and codes of practice:

<http://www.homeoffice.gov.uk/counter-terrorism/regulation-investigatory-powers/ripa-codes-of-practice/>

<http://www.homeoffice.gov.uk/publications/counter-terrorism/ripa-forms/local-authority-ripa-guidance/?view=Standard&pubID=1079688>

1. Policy Statement

- 1.1 In some circumstances, it may be necessary for Portsmouth City Council employees, in the course of their duties, to make observations of a person or person(s) in a covert manner, i.e. without that person's knowledge. By their nature, actions of this sort may constitute an interference with that person's right to privacy, and may give rise to legal challenge as a potential breach of Article 8 of the European Convention on Human Rights and the Human Rights Act 1998 ('the right to respect for private and family life').
- 1.2 The Regulation of Investigatory Powers Act (2000) [RIPA] provides a legal framework for covert surveillance activities by public authorities, (including local authorities), and an independent inspection regime to monitor these activities.
- 1.3 Portsmouth City Council employees will adhere to the authorisation procedure before conducting any covert surveillance and if in doubt will seek advice from an Authorising Officer.
- 1.4 Employees of Portsmouth City Council will **not** carry out intrusive surveillance within the meaning of the Regulation of Investigatory Powers Act 2000 [refer to Terms Explained Section 3 paragraph 3.7] nor will they interfere with property or wireless telegraphy.
- 1.5 Officers of Portsmouth City Council may only authorise or engage in covert surveillance, CHIS and access to communication data where it is necessary for the "prevention or detection of crime or disorder" and where it has been demonstrated to be necessary and proportionate in what it seeks to achieve and meets home office requirements.
- 1.6 This Policy makes a number of references to confidential information. The Revised Code of Practice which came into effect in December 2014 requires the highest levels of authorisation where 'confidential information' is likely to be acquired and at PCC this is the Chief Executive. [Refer to Definitions in Section 3]
- 1.7 The Authority will make arrangements to ensure that the Code of Practice is complied with including having Member and Senior Officer oversight to ensure that The Code is complied with and appropriate training is given to officers.
- 1.8 Statutory Instrument 2003 No 3171 restricts authorising officers in local authorities to prescribed offices of no lower a level than assistant chief officer, assistant head of service, service manager or equivalent. At PCC this will be no lower than third tier officer.

2. OBJECTIVES

- 2.1 The objective of this Policy and Procedures is to ensure that all work involving directed surveillance by Portsmouth City Council employees is carried out effectively, while remaining in accordance with the law. It should be read in conjunction with the Regulation of Investigatory Powers Act (2000), RIPA (Directed Surveillance and Covert Human Intelligence Sources) Order 2010, The Protection of Freedoms Act 2012 and the Code of Practice on Covert

Surveillance and the Code of Practice on the Use of Covert Human Intelligence Sources.

3. TERMS EXPLAINED

- 3.1 **Authorising Officer** is the person(s) in the organisation who is entitled to give an authorisation for directed surveillance in accordance with the Regulation of Investigatory Powers Act 2000 and The Code of Practice prior to its approval by a Magistrate.
- 3.2 **CHIS (Covert Human Intelligence Source)**. A CHIS is someone who establishes or maintains a relationship with a person for the purpose of covertly obtaining or disclosing information. In practice, this is likely to cover the use of an informer, volunteer or Council officer in striking up a relationship with someone as part of an investigation to obtain information “under cover”.
- 3.2.1 Someone who volunteers information to the Council, either as a complainant or out of civic duty, is not likely to be a covert human intelligence source. i.e. if someone is keeping a record, say, of neighbour nuisance, this will not itself amount to use of a CHIS. However, relying on an individual to ask questions with a view to gathering evidence, may amount to use of a CHIS.
- 3.3 **Collateral Intrusion** means the obtaining of private information about the subject of the covert surveillance whether or not that person is specifically targeted for purposes of the investigation and could include their families, colleagues, friend or associates amongst others. The fact that covert surveillance occurs in a public place or on business premises does not mean that it cannot result in the obtaining of private information about a person.
- 3.3.1 For example, prolonged surveillance targeted on a person will undoubtedly result in the obtaining of private information about him/her and others that he/she comes into contact, or associates, with. However, strict rules must be complied with before such surveillance may be authorised.
- 3.3.2 Similarly, although overt, public space CCTV cameras do not normally require authorisation. If however the camera is tasked for a specific purpose, which involves prolonged surveillance on a particular person, authorisation must be obtained.
- 3.4 **Confidential Material** Confidential information consists of matters subject to legal privilege, confidential personal information or confidential journalistic material. So, for example, extra care should be given where, through the use of surveillance, it would be possible to acquire knowledge of discussions between a minister of religion and an individual relating to the latter’s spiritual welfare, or where matters of medical or journalistic confidentiality or legal privilege may be involved.
- 3.5 **Covert surveillance Covert (or ‘hidden’) surveillance**. Covert surveillance is carried out in a manner calculated to ensure that the person subject to the surveillance is not aware it is taking place. That is, it is done secretly.
- 3.6 **Directed surveillance** is surveillance which is:-
- Covert;
 - Not intrusive surveillance (see definition below - Portsmouth City Council

- must not carry out any intrusive surveillance);
 - Not carried out as an immediate response to events which would otherwise make seeking authorisation under the Act not reasonably practicable (e.g. spotting something suspicious and continuing to observe it as part of business as usual) and
 - Is undertaken for the purpose of a specific investigation or operation in a manner likely to obtain private information about a person (whether or not that person is specifically targeted for purposes of the investigation) and is for the sole purpose of preventing or detecting crime or disorder.
 - **All directed surveillance must be RIPA authorised.**
(Please note - “private information” in relation to a person includes any information relating to their private or family life, their home and their correspondence.)
- 3.7 **Intrusive Surveillance** This is covert surveillance of anything taking place on residential premises or in a private vehicle that involves the presence of an individual on the premises or in the vehicle, or is carried out by means of a surveillance device capable of providing 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 house. □
Only the police and certain other law enforcement agencies may carry out intrusive surveillance. Council officers, or anyone on behalf of the Council, must not carry out intrusive surveillance. An example of intrusive surveillance is planting a listening or other device (‘bug’) in a person’s home or in their private vehicle or using a sophisticated listening device (eg. DAT) outside a person’s home or in their private vehicle that will provide results equivalent to being “on-site”. N.B. Interference with property or wireless telegraphy is also forbidden to local authorities.
- 3.8 **Necessity** means that there is no reasonable and effective alternative way of achieving the desired objective(s) and it's proportionate in what it seeks to achieve. All options must be considered and reasons given for discarding them. The least intrusive option that will yield the desired result is the one that is expected to be used.
- 3.9 **Overt (or ‘open’) surveillance.** Surveillance will be overt if the subject has been told that it will happen. N.b. you do have to be careful however about obtaining private information on others that have not been informed
- Overt
- Police Officer, Street Warden, Enforcement Officer or Ranger on routine patrol
 - Sign-posted public space CCTV cameras (in normal use)
 - Recording noise coming from outside the premises, after the occupier has been warned in writing, that this will occur if the noise persists.
 - Most test purchases as there is no forming of a relationship with the retailer (i.e. the officer behaves no differently from a normal member of the public).
- Overt but not requiring prior authorisation
- CCTV cameras providing general traffic crime or public safety information
- 3.10 **Private information** includes information about a person relating to his/her private or family life.

- 3.11 **Private vehicle** means any vehicle that is used primarily for the private purpose of the person who owns it or of a person otherwise having the right to use it. This does not include a person whose right to use a vehicle derives only from his having paid, or undertaken to pay, for the use of the vehicle and its driver for a particular journey. A vehicle includes any vessel, aircraft, or hovercraft.
- 3.12 **Proportionality** means that the use of surveillance is not excessive, i.e. that it is in proportion to the significance and level of offence being investigated and collateral intrusion impacts (see necessity).
- 3.13 **Residential premises** means any premises occupied or used, however temporarily, for residential purposes or otherwise as living accommodation.
- 3.14 **Surveillance** is monitoring, observing or listening to persons, their movements, their conversations or other activities or communications; recording anything monitored, observed or listened to in the course of surveillance; and Surveillance by or with the assistance of a surveillance device.

4. THE PROCEDURE

Scope

- 4.1 This procedure applies in all cases where `directed surveillance` is being planned or carried out. Directed surveillance is defined in the code of Practice as surveillance undertaken "for the purposes of a specific investigation or operation" and "in such a manner as is likely to result in the obtaining of private information about a person" for the prevention and detection of crime.
- 4.2 The procedure does not apply to:
- Ad-hoc covert observations that do not involve the systematic surveillance of specific person(s)
 - Observations that are not carried out covertly, or
 - Unplanned observations made as an immediate response to events
- 4.3 In cases of doubt, the authorisation procedures described below should be followed.

Test Purchases

- 4.4 An impact assessment prior to covert test purchases being made should be carried out and the LACORS guidance followed. If the test purchase is simply entering a business premise, making a purchase and leaving then it is unlikely to require a RIPA. Where any service wishes to carry out covert operations that they try to make overt, by writing to vendors in advance of an operation, they should write to vendors no more than two weeks in advance. Any more than this and it may be construed as covert surveillance and an impact assessment/ RIPA authorisation may be required.

Drive Bys

- 4.5 Where an officer, as part of an investigation, intends to drive by a property to

establish the location of a property then a RIPA is unlikely to be required however if the drive by is to assess for signs of occupation and a record is made it is likely a RIPA will be required. An impact risk assessment should be completed initially and if it shows that collateral intrusion is likely to arise a full RIPA application should be made prior to any activity.

Covert Surveillance of Social Networking Sites (SNS)

- 4.6 Whilst it is the responsibility of an individual to set privacy settings to protect unsolicited access to private information, and even though data may be deemed published and no longer under the control of the author, it may not always be considered as "open source" or publicly available. The author has a reasonable expectation of privacy if access controls are applied. Where privacy settings are available but not applied the data may be considered open source and an authorisation not usually required; however repeat viewing of open source sites may constitute directed surveillance on a case by case basis.
- 4.7 The setting up of false identities is not allowed and an application and authorisation for the use and conduct of a CHIS is necessary if a relationship is established or maintained.

Employee Investigations

- 4.8 For employment investigations of non-criminal activity if covert surveillance is proposed RIPA is not required. However an assessment should always be made to ensure that it is lawful, collateral intrusion is minimised and the action is proportionate and necessary.

Confidential Material

- 4.9 Applications where a significant risk of acquiring confidential material has been identified will always require the approval of the Chief Executive. In reality this is likely to be very rare due to the nature of the Council's work, which is unlikely to conduct the sort of investigations whereby confidential material could be obtained but it must be considered at the outset.
- 4.10 Confidential material consists of:
- Matters subject to legal privilege, (for example between professional legal advisor and client)
 - Confidential personal information, (for example relating to a person's physical or mental health), or
 - Confidential journalistic material

Juvenile or vulnerable Individual CHIS's

- 4.11 Applications for CHIS using either Juveniles or vulnerable individuals must be referred to the Chief Executive for Authorisation (See item 6).

Authorisation Procedure

- 4.12 Applications for directed surveillance will be authorised by either the Chief Internal Auditor or the Corporate Strategy Manager. The relevant Authorising

- Officer must see the process (from authorisation, review & cancellation) through for any applications they have authorised. If they are not able to do so because of sickness then another authorising officer can continue with the process but a record must be made of that fact.
- 4.13 There should never be a time when neither of the Authorising Officers are available due to unforeseen circumstances but if this should occur and the application for activity cannot wait for a week or so then the Senior Responsible Officer must designate an officer of suitable rank to act as an Authorising Officer and reasons for this and the absence of the Authorising Officers should be recorded. Under no circumstances can the Senior Responsible Officer act as Authorising Officer.
- 4.14 The Authorising officer should avoid authorising their own activities (i.e. where they are responsible for the activity or involved in the operation) wherever possible and only do so in exceptional circumstances. Where it becomes necessary to do so, a record to that effect must be made on the central record.
- 4.15 All applications for directed surveillance authorisations will be made on the official form. The applicant in all cases should complete this. They must demonstrate the who, what, why, where, when and how of an operation giving details of any and all technical equipment to be used and all options considered with reasons why this is the most reasonable and effective approach. Copying information from a previous authorised application is discouraged as it could be seen that insufficient thought has been applied and there is a danger of copying over incorrect information.
- 4.16 The investigating officer must consider what may happen and cover for this in the application and it be authorised before any activity takes place in accordance with the principles established by *Kinloch v Her Majesty's Advocate* [2012] UKSC 62.
- 4.17 The proposed seizure of any items as part of the RIPA application must comply with PACE, relevant RIPA sections & the Police Act 1997, although these will usually be in conjunction with the Police.
- 4.18 Once the RIPA application has been authorised the authorising officer will go through what has been authorised with the applicant in accordance with the ruling of *R v Sutherland* 2000. There must be no doubt about what has been specifically authorised. The investigating officer can only carry out the actions that have been authorised in the RIPA application for that RIPA once approved by a Magistrate. It will be the Investigating Officer's responsibility to submit the application to the Magistrate following authorisation to do so from the City Solicitor to represent the Council, as required under Section 223 of the Local Government Act. The investigating Officer must ensure that all staff involved with the investigation understands what has been authorised and approved and they must all sign the forms to that effect.
- 4.19 All requests to Magistrates will be on the forms as provided in the Code of Practice issued by the OSC and the date authorised by the Magistrate recorded on the central record as well as the date authorised by the Authorising Officer.

- 4.20 All applications for directed surveillance renewals will be made on the official form. The applicant in all cases should complete this where the surveillance requires continuation beyond the previously authorised period, (including previous renewals). Renewals must also be authorised by the authorising officer and approved by a Magistrate.
- 4.21 The Commissioners consider that the best officer to apply to magistrates for approval of an authorisation of directed surveillance or CHIS is the Authorising Officer, as only they can answer questions about their reasoning on necessity, proportionality, collateral intrusion and risk. However where it is not practicable the investigating officer will seek magistrate's approval (see paragraph 4.16) and the Investigating Officers must report back promptly to the Authorising Officer any comments made by the magistrate. Comments must be recorded by the Authorising Officer and action taken to incorporate or address them.
- 4.22 Where authorisation ceases to be either necessary or appropriate the authorising officer will cancel an authorisation using the official form.
- 4.23 Any person giving an authorisation for the use of directed surveillance must set out in their own words why they believe the activity is necessary and proportionate stating that:
- Account has been taken of the likely degree of intrusion into the privacy of persons other than those directly implicated in the operation or investigation, (‘collateral intrusion’). Measures or mitigation action have been taken, wherever practicable, to avoid unnecessary intrusion into the lives of those affected by collateral intrusion
 - The authorisation is necessary
 - The authorised surveillance is proportionate
 - It is for a specific targeted criminal offence that carries a maximum sentence of 6 months or more, imprisonment, or is one of the exemptions

Urgent Cases

- 4.24 There is no longer a power to make urgent oral authorisations. All authorisations, even if urgent, (where life or an operation is in jeopardy) must be in writing and approved by a magistrate. However it is not envisaged that there will be urgent cases as activities at PCC are unlikely to involve such scenarios.

Necessity

- 4.25 Surveillance operations shall only be undertaken where there is no reasonable and effective alternative way of achieving the desired objective(s).

Effectiveness

- 4.26 Surveillance operations shall be undertaken only by suitably trained or experienced employees, or under their direct supervision.

Proportionality

- 4.27 The use of surveillance shall not be excessive, i.e., it shall be in proportion to the significance of the matter being investigated and balance 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. Proportionate must also include whether it is a potential criminal offence that could attract a custodial sentence of a minimum of six months or more, or involves the sales of tobacco or alcohol to minors.

Authorisation

- 4.28 All directed surveillance shall be authorised in accordance with this procedure.

Time Periods -Authorisations

- 4.29 Written authorisations expire 3 months beginning on the day from which they took effect.

Time Periods - Renewals

- 4.30 If at any time before an authorisation would expire, the Authorising Officer considers it necessary for the authorisation to continue for the purpose for which it was given, it may be renewed in writing for a further period of 3 months beginning with the day on which the previous authorisation ceases to have effect. Applications for renewal should only be made shortly before the authorisation is due to expire and must be submitted to a Magistrate by the Investigating Officer for judicial approval before they can be effective.
- 4.31 Any person entitled to authorise may renew authorisations. They may be renewed more than once, provided they continue to meet the criteria for authorisation and must be approved by a Magistrate to become effective.
- 4.32 All applications for the renewal of an authorisation for directed surveillance must record:
- Whether this is the first renewal or every occasion on which the authorisation has been renewed previously
 - Any significant changes to the information
 - The reasons why it is necessary to continue with the directed surveillance
 - The content and value to the investigation or operation of the information so far obtained by the surveillance
 - The results of regular reviews of the investigation or operation

Review

- 4.33 The Authorising Officer should determine how often a review should take place of an authorisation and this should be as frequently as is considered necessary and practicable. The review of an authorisation should be undertaken regularly to assess the need for the surveillance to continue. The results of the review are to be recorded in the central record.

Cancellation

- 4.34 The Authorising Officer who granted or last renewed the authorisation must cancel if they are satisfied that the directed surveillance no longer meets the criteria upon which it was authorised.
- 4.35 The cancellation should include how the surveillance assisted the investigation and details regarding direction of the product.

Monitoring

- 4.36 Each Service or discrete location within Services must maintain a record of all applications for authorisation, (including refusals), renewals, reviews, and cancellations.

Security and Retention of Documents

- 4.37 Documents created under this procedure are highly confidential and shall be treated as such. Services shall make proper arrangements for their retention, security and destruction, in accordance with the requirements of the Data Protection Act 1998 and the Code of Practice.
- 4.38 The Chief Internal Auditor will create and maintain an up to date Central Register of Authorisations containing the following information:
- The type of authorisation
 - The date the authorisation was given
 - Name and title of the authorising officer
 - The unique reference number of the investigation or operation
 - The title of the investigation or operation including a brief description and whether the urgency provisions were used and if so why
 - If the authorisation is renewed when it was renewed and who authorised including the name and title of the authorising officer
 - Whether the investigation or operation is likely to result in obtaining confidential information
 - The date the authorisation was cancelled and outcome
 - Whether or not it was self authorised i.e. authorised by an authorising officer involved in, or responsible for, the investigation or operation being authorised.
 - The date of Magistrates approval
- 4.39 The Chief Internal Auditor shall also retain the original:
- Authorisation application forms along with any supplementary documentation and notification of the approval given by the authorising officer including a record of the periods over which surveillance took place
 - The magistrates approval form
 - The frequency of reviews prescribed by the authorising officer and a record of the result of each review of the authorisation
 - Of any renewal forms authorised together with any supporting documentation submitted when the renewal was requested
 - Cancellation forms.

- 4.40 Where the product of surveillance could be relevant to pending or future criminal or civil proceedings it should be retained in accordance with established disclosure requirements.
- 4.41 Generally the Chief Internal Auditor will retain all original forms for at least five years from the date of cancellation. In all cases records will not be destroyed without the authority of the Responsible Senior Officer. Records must be destroyed in accordance with the principles of the Data Protection Act and The Code of Practice.

5. COVERT HUMAN INTELLIGENCE SOURCE (CHIS)

Definition

- 5.1 The Definition of a Covert Human Intelligence Source (CHIS) under the 2000 Act states that a person is a CHIS 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
- 5.2 A relationship is established or maintained for a covert purpose if and only if it is conducted in a manner calculated to ensure that one of the parties to the relationship is unaware of the purpose.
- 5.3 A relationship is used covertly and information obtained is disclosed covertly if and only if the relationship is used or the information is disclosed in a manner that is calculated to ensure that one of the parties to the relationship is unaware of the use or disclosure in question

Authorisation for CHIS

- 5.4 The conduct or use of a CHIS requires authorisation.
- **Use** of a CHIS is: inducing, asking or assisting a person to act as a CHIS or to obtain information by means of the conduct of a CHIS
 - **Conduct** of a CHIS is: establishing or maintaining a personal or other relationship with a person for the covert purpose of (or incidental to) obtaining, accessing or disclosing information.
- 5.5 The Council can use CHIS's if, and only if, RIPA procedures are properly followed (see flow chart 2).
- 5.6 Care must always be taken to ensure that the CHIS is clear on what is/is not authorised at any given time and that all the CHIS's activities are properly risk assessed.

- 5.7 Where a CHIS is used the following records must be kept (in accordance with SI 2000 No 2725) for each source:
- The identity of the source
 - The identity where known used by the source
 - Any relevant investigating authority other than the authority maintaining the records
 - The means by which the source is referred to
 - Any other significant information connected with the security and welfare of the source
 - Any confirmation made by a person granting or renewing an authorisation for the conduct or use of a source that the information regarding identity reference has been considered and that any identified risks to the security and welfare of the source have where appropriate been properly explained to and understood by the source
 - The date when and the circumstances in which the source was recruited
 - The identities of the persons who in relation to the source are discharging or have discharged the functions mentioned in s29(5)(a) to (c) of the 2000 Act (Handler and Controller)
 - The periods during which those persons have discharged their responsibilities
 - The tasks given to the source and the demands made of them in relations to their activities as a source
 - All contacts or communications between the source and a person acting on behalf of PCC
 - The information obtained by PCC by the conduct or use of the source
 - Any dissemination by PCC of information obtained by the conduct or use of the source
 - In the case of a source who is not an undercover operative every payment, benefit or reward and offer of payment, benefit or reward that is made or provided by PCC in respect of the source's activities for the benefit of PCC.
- 5.8 Every source must have a designated Handler and Controller in accordance with s29 (5) (a) to (e) of the RIPA 2000 Act. This states that:

29 (5) For the purposes of this Part there are arrangements for the source's case that satisfy the requirements of this subsection if such arrangements are in force as are necessary for ensuring—

(a) that there will at all times be a person holding an office, rank or position with the relevant investigating authority who will have day-to-day responsibility for dealing with the source on behalf of that authority, and for the source's security and welfare;

(b) that there will at all times be another person holding an office, rank or position with the relevant investigating authority who will have general oversight of the use made of the source;

(c) that there will at all times be a person holding an office, rank or position with the relevant investigating authority who will have responsibility for maintaining a record of the use made of the source;

(d) that the records relating to the source that are maintained by the relevant investigating authority will always contain particulars of all such matters (if any) as may be specified for the purposes of this paragraph in regulations made by the Secretary of State; and

(e) that records maintained by the relevant investigating authority that disclose the identity of the source will not be available to persons except to the extent that there is a need for access to them to be made available to those persons.

Juvenile Sources/Vulnerable Individuals

- 5.9 Special safeguards apply to the use or conduct of a juvenile CHIS (i.e. under 18 year olds). On no occasion can a child under 16 years of age be authorised to give information against his or her parents or any person who has parental responsibility for them. The duration of any authorisation is one month from the time of grant or renewal (instead of twelve months).
- 5.10 A vulnerable individual is a person who is or may be in need of community care services by reason of mental or other disability, age or illness and who is or may be unable to take care of himself or herself, or unable to protect himself or herself against significant harm or exploitation.
- 5.11 A vulnerable individual will only be authorised to act as a source in the most exceptional of circumstances and a juvenile source or vulnerable individual source will only be authorised by the Chief Executive Officer (David Williams) or the person acting as the Head of Paid Service in his absence.

Please Note: Any use of a CHIS in any capacity requires the completion of a risk assessment and authority from your Section Managers or Head of Service. In the case of Juveniles or Vulnerable individuals this is particularly so and these applications may only be authorised by the Chief Executive.

Test Purchases and CHIS's

- 5.12 Carrying out test purchases will not generally require the purchaser to establish a relationship with the supplier with the covert purpose of obtaining information and, therefore, the purchaser will not normally be a CHIS. For example, authorisation would not normally be required for test purchases carried out in the ordinary course of business e.g. walking into a shop and purchasing a product over the counter.
- 5.13 However, developing a relationship with a person in the shop, to obtain information about the sellers suppliers of an illegal product e.g. illegally imported products will require authorisation as a CHIS. Similarly, using mobile, hidden recording devices or COW cameras to record what is going on in the shop will require authorisation as directed surveillance. Note that a CHIS may be authorised to wear a hidden camera without the need for a separate directed surveillance authorisation.

6. CCTV

- 6.1 The use of CCTV must be accompanied by clear signage in order for monitoring to be overt. If it is intended to use CCTV for covert monitoring e.g. by using either hidden cameras or without any signs CCTV is in operation then RIPA authorisation is likely to be required. In any case CCTV must be used in accordance with the Codes of Practice and Protection of Freedoms Act.

7. COMMUNICATIONS DATA

Definition

- 7.1 The Regulation of Investigatory Powers (Communications Data) Order 2003 extends to local authorities the powers set out within RIPA to access communications data. Communications data includes information relating to the use of a communications service but does not include the contents of the communications itself (see section 21(4) RIPA for the detailed definition of “communications data”).
- 7.2 Local authorities are allowed to access communications data only for the purposes of the prevention or detection of crime or the prevention of disorder.
- 7.3 Portsmouth City Council is only entitled to access:
- (i) **Subscriber (“Customer”) data** being any information, which does not include any of the contents of a communication, about the use made by any person of a postal or telecommunications service. In respect of a telecommunications service provider this is normally referred to as the “billing information”). This will include:
 - Name of subscriber
 - Address for billing, delivery or installation
 - Contact telephone numbers
 - Abstract personal data provided by the subscriber e.g. demographic information
 - Subscriber account information e.g. billing arrangements including bank, credit/debit card details Other services provided to the customer
 - (ii) **Service data** being any other information held by the service provider relating to the persons to whom the service is provided. (This is normally referred to as “subscriber information”). This will include:
 - The period during which the customer used the service Information about forwarding services provided by telecommunication service providers and re-direction services provided by postal service providers.
 - Itemised billing information. Information on connection, disconnection and redirection Information on conference calls, call messaging, call waiting and call barring services
 - Top-up details for pre-pay mobile phones including credit/debit cards used
 - For postal items, records of registered, recorded or special delivery of postal items and the delivery or collection of parcels.

Accessing Communications Data

- 7.4 Access to communications data may be authorised in two ways; either (a) through an authorisation by a designated person which would allow the authority to collect or retrieve data itself, or (b) by a notice given to a postal or telecommunications operator requiring that operator to collect or retrieve the data and provide it to the local authority.
- 7.5 There is a Code of Conduct, which refers to a “Designated Person” granting authorisation or giving notices in relation to accessing Communication Data. Portsmouth City Council use the National Anti Fraud Network (NAFN) as the SPOC (Single Point of Contact) and applications once approved by the designated person (Chief Internal Auditor or Corporate Strategy Manager) are sent to them for actioning. Magisterial approval is also sought under the same process as surveillance.

8 IMPACT RISK ASSESSMENT

- 8.1 When considering whether to carry out surveillance it is recommended that an ‘impact risk assessment’ is carried out and recorded to establish if the proposed course of action is a proportionate response to the problem it seeks to address. An impact risk assessment should be carried out on all activities including those that will not require RIPA authorisation.
- 8.2 The impact risk assessment involves;
- Identifying clearly the **purpose(s)** behind the monitoring arrangements and the benefits it is likely to deliver.
 - Identifying any likely **adverse impact** of the monitoring arrangement
 - Considering **alternatives** to monitoring or different ways in which it might be carried out
 - Taking into account the **obligations** that arise from monitoring (especially on collateral intrusion)
 - Judging whether the monitoring is **justified**
- 8.3 Adverse Impact- consideration should be given to:
- What intrusion, if any will there be into the private lives of workers and others, or interference with their private activities, emails, telephone calls or other correspondence.
 - Whether those who do not have a business need to know will see information that is confidential, private or otherwise sensitive.
 - In the case of surveillance on an employee, what impact, if any, will there be on the relationship of mutual trust and confidence that should exist between workers and their employer?
- 8.4 Alternatives – questions that should be asked:
- Are there other methods of obtaining the required evidence/information without carrying out covert surveillance, e.g. intelligence gathered from elsewhere.
 - Has consideration been given to writing to the individual(s) informing them

of the issue and advising that monitoring will be carried out over a specified period? (remember collateral intrusion could still apply to their colleagues or family etc)

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

8.5 Obligations – means considering the following:

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

8.6 Justified – involves considering:

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

9. FURTHER GUIDANCE

- 9.1 Guidance is provided as a reminder of the authorisation process (the Magisterial approval process is in addition to these) and can be located as appendices to this document

[Flowchart 1: Surveillance, guidance.](#)

[Flowchart 2: CHIS guidance.](#)

[Flowchart 3: Accessing communications data](#)

[Surveillance an aid to investigation Guidance](#)

- 9.2 Appendix A of this document provides the relevant contact details of the officers who may authorise surveillance, the use of a CHIS and give advice on accessing communications data.

10. OVERSIGHT AND OSC GUIDANCE

Senior Responsible Officer

- 10.1 The Senior Responsible Officer (at Portsmouth City Council this is Michael Lawther the City Solicitor and Monitoring Officer) must review each authorised RIPA to ensure that they are being authorised in accordance with the Code and to identify any training requirements.
- 10.2 Requests for guidance from the OSC must only originate from the Senior Responsible Officer. The OSC has made it clear that it does not give legal advice and any opinion given in a reply to a request for guidance does not constitute legal advice and should not be cited as the definitive advice of the OSC.

Members

- 10.3 The RIPA Policy must be reviewed when there are any changes in personnel, legislation or codes of practice and any amendments must be approved by the Governance and Audit and Standards Committee.
- 10.4 Regular reports of Authorised applications must be submitted to the Governance and Audit and Standards Committee by the Senior Responsible Officer along with an opinion on any training requirements or where the Code has not been followed.

Office of Surveillance Commissioners

- 10.4 The Office of Surveillance Commissioners, (OSC), provides independent oversight of the use of the powers contained within the Regulation of Investigatory Powers 2000. This oversight includes inspection visits by Inspectors appointed by the OSC.

11. COMPLAINTS

The Regulation of Investigatory Powers Act 2000, (the UK Act), establishes an independent Tribunal. This has full powers to investigate and decide any cases within its jurisdiction. Details of the relevant complaints procedure can be obtained from:

Investigatory Powers Tribunal
PO Box 33220
London
SWLH 9ZQ
Tel: 020 7273 4514

Appendix A

CONTACTS

Authorising Officers:

RIPA & Designated Officer Communications:

Elizabeth Goodwin, Chief Internal Auditor

elizabeth.goodwin@portsmouthcc.gov.uk

Tel: 023 9283 4682

RIPA & Designated Officer Communications:

Paddy May, Corporate Strategy Manager

paddy.may@portsmouthcc.gov.uk

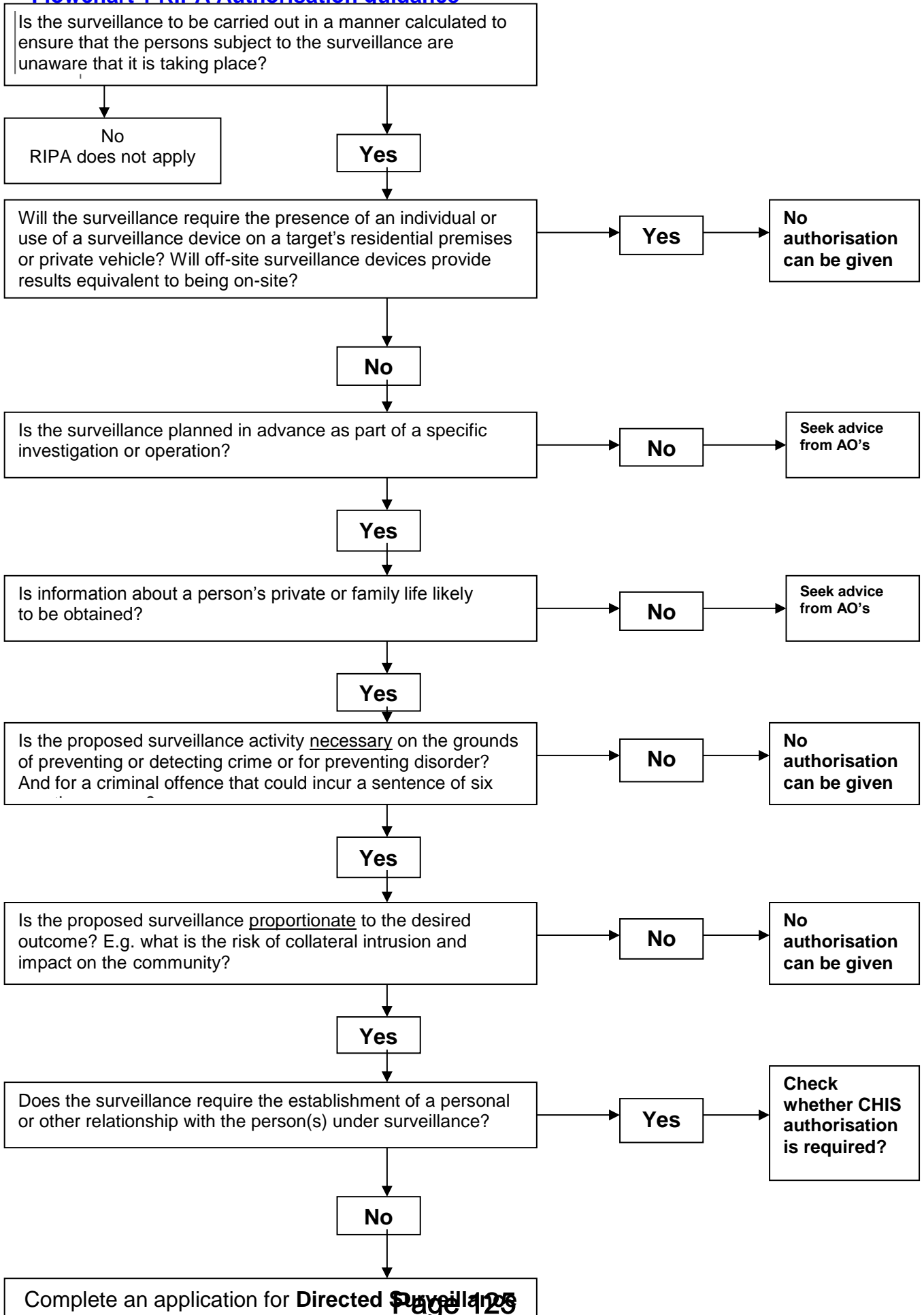
Tel: 023 9283 4020

Senior Responsible Officer:

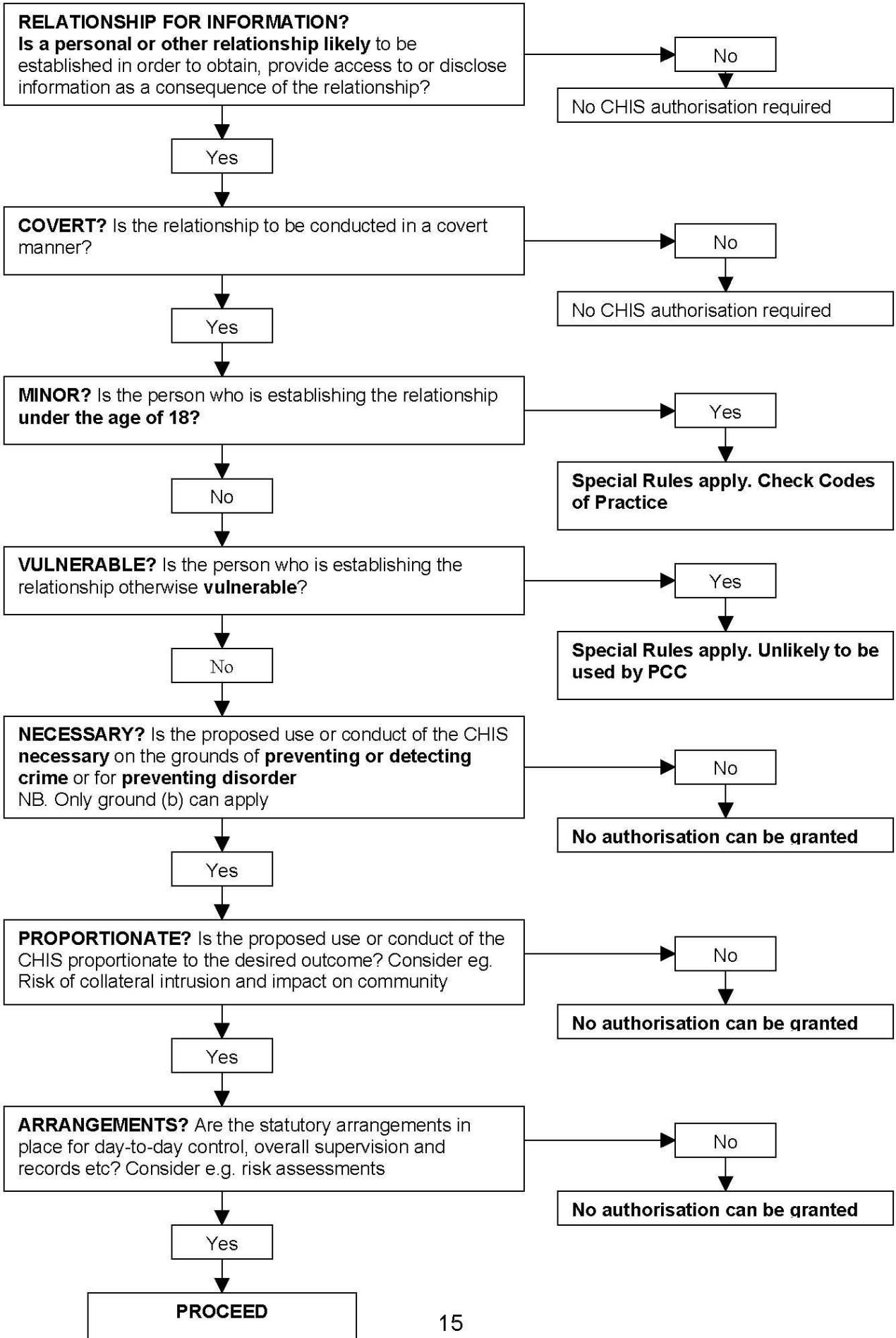
Michael Lawther, Deputy Chief Executive and Monitoring Officer

michael.lawther@portsmouthcc.gov.uk

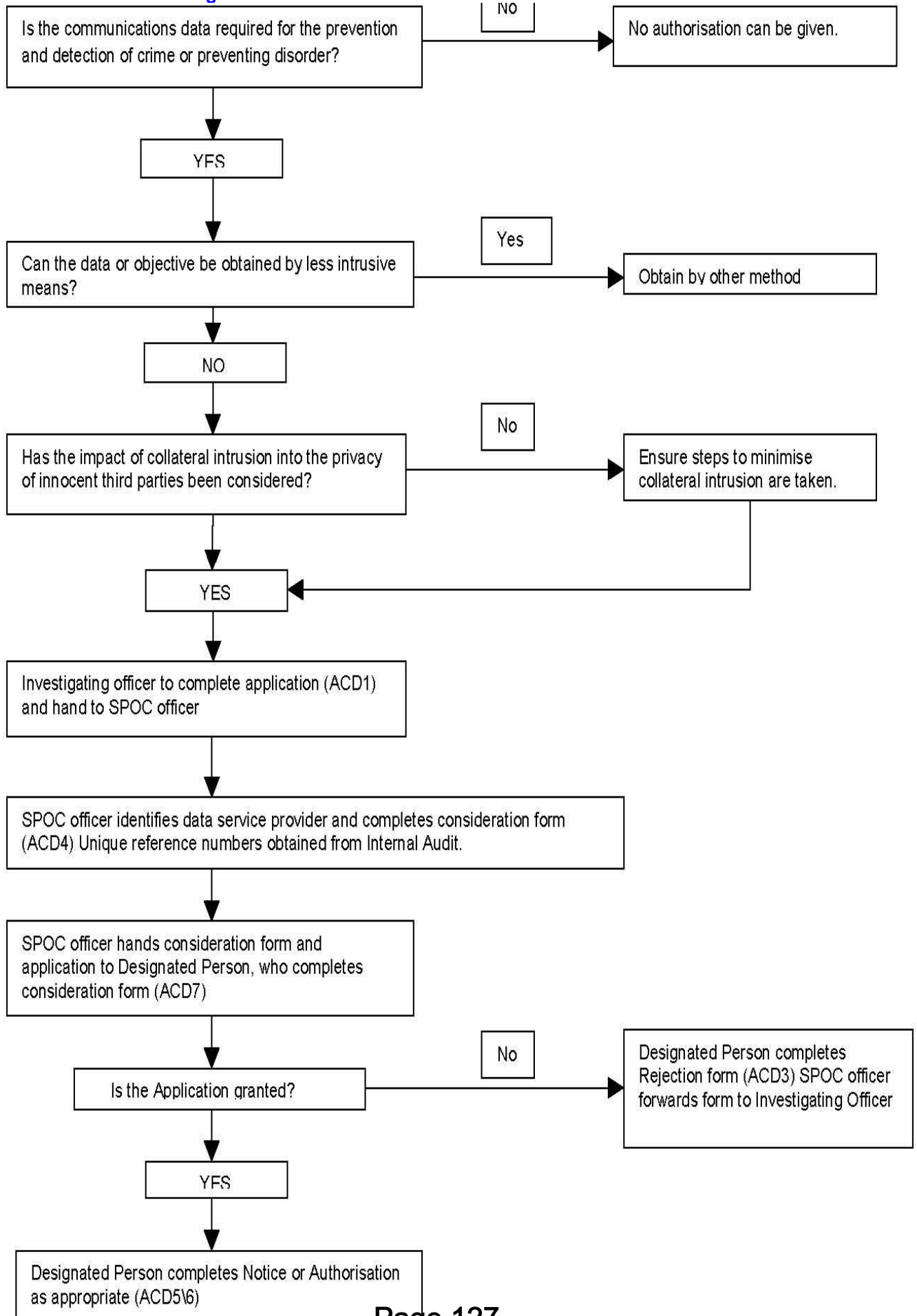
Flowchart 1 RIPA Authorisation guidance



Flowchart 2 – CHIS Guidance



Flowchart 3 – Accessing Communications Data



Impact Risk Assessment Form

Impact Risk Assessment Form

Date and Time:

Name and Title:

Details of the operation / investigation

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

Proposed actions

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

Identify any likely adverse impact of these actions

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

Are there any obligations that arise from the proposed actions?

How are these actions justified?

Does RIPA need to be considered?

Signature

Date and Time

SURVEILLANCE - AN AID TO INVESTIGATION

DEFINITION

1. Surveillance is the continuous watching (overt or covert) of persons, vehicles, places or objects to obtain information concerning the activities and identities of individuals.

OBJECTIVES OF SURVEILLANCE

2. Surveillance operations can have some of the following objectives:
 - a. To obtain evidence of a crime.
 - b. To locate persons by watching their haunts and associates.
 - c. To obtain detailed information about a subject's activities.
 - d. To check on the reliability of informants.
 - e. To obtain information for search warrants*.
 - f. To prevent an offence or to *arrest a subject in commission of an offence.
 - g. To obtain information for later use in an interview.
 - h. To develop leads and information received from other sources.
 - i. To know at all times the whereabouts of an individual.
 - j. To obtain evidence for use in court.

TYPES OF SURVEILLANCE

3. The following types of surveillance can be carried out:
 - a. Covert Surveillance
A secretive watch where the subject is not aware of our presence.
 - b. Overt Surveillance
An open observation where we deliberately expose the operatives to a subject. (Used as a deterrent).
 - c. Static Surveillance
The use of a vehicle, building or street furniture (for a short time only) as an observation post (OP) from which to observe a subject or premises or to act as the "trigger" for foot or mobile surveillance.
 - d. Mobile Surveillance
The use of cars to follow a subject who is travelling by vehicle. Motorcycles can be used as part of a mobile surveillance operation.
 - e. Technical Surveillance*
The use of technical equipment such as "bugs" to monitor the activities of a subject(s). This is a very specialised skill.

The neumonic ADVOKATE is a useful aid to ensure that any information gained by carrying out surveillance will stand up to cross-examination in court.

- A** Amount of time
 - How long was the subject actually in view?

- D** Distance
 - How far away from you was the subject?
 - Did you have to use binoculars?
 - Did you have to avoid the subject's gaze?

- V** Visibility
 - What is your vision like?
 - Do you have to wear glasses - and were you wearing them at the time?
 - Were you looking through a windscreen or into a vehicle mirror?
 - Were the mirrors misted up?
 - What was the weather like - foggy; where was the sun?

- O** Obstacles
 - Were there any obstacles to your vision - bushes, cars, people?

- K** Known
 - Is the subject known to you?
 - If so, how?
 - If not - how did you recognise the subject?

- A** Any reason to remember the subject?
 - Brightly coloured or unusual clothes.
 - Looked like a famous person.

- T** Time
 - How long after seeing the subject did you make notes?
 - Could you have forgotten or confused anything since you last saw the subject?

- E** Errors
 - Could you have made a mistake in identifying the subject?
 - If not, why not?

DESCRIPTION OF PEOPLE

- A** Age
Approximate within 4 years, ie 20-24

- B** Build
Qualify by example if possible

- C** Clothing
Uniforms, brands, logos, etc

- D** Distinguishing Marks
Tattoos, scars, complexion

- E** Elevation/Height
Approximate within 4", ie, 5`2 - 5`6

- F** Face
Complexion, facial hair, glasses, jewellery

- G** Gait
How they walk

- H** Hair
Style, colour, length, etc

DESCRIPTION OF VEHICLE

S Shape
Saloon, estate, mpv, etc

C Colour
Basic/metallic

R Registration
Full/part

I Identifying Marks
Dents, alloy wheels, lights, etc

M Make and Model

PRE-SURVEILLANCE CHECKLIST

Before carrying out a surveillance operation the following factors need to be checked by a ground reconnaissance or, if this is not possible, a map study.

DO YOU REALLY NEED TO CARRY OUT SURVEILLANCE - CAN YOU OBTAIN THE NECESSARY INFORMATION BY OTHER MEANS?

IF NOT, SOME OF THE THINGS TO CONSIDER FIRST BEFORE DEPLOYING....

ROUTES IN AND OUT

LIKELY DROP OF POINTS (DOPs)

BEST APPROACHES

FROM WHERE CAN YOU SEE THE TARGET CLEARLY?

CAN ALL APPROACHES/EXITS BE SEEN?

CAN YOU BE OBSERVED OR OVERLOOKED?

WILL YOU BE OBVIOUS?

WHERE CAN ANY BACK-UP BE LOCATED?

ARE COMMUNICATIONS REQUIRED?

DO ALL COMMUNICATIONS WORK?

IS AN EMERGENCY RV REQUIRED - IF SO, WHERE WILL IT BE LOCATED?

ARE ANY SPECIAL PREPARATIONS REQUIRED?

IS THERE ANY SPECIAL EQUIPMENT REQUIRED?

WHERE ARE THE MOST APPROPRIATE REST AREAS, FOOD SOURCES, TOILETS ETC?

A GUIDE TO PREPARATION AND USE OF SURVEILLANCE LOGS

1. Surveillance logs constitute original notes of evidence and as far as practicable it is essential that they are prepared and preserved strictly in accordance with rules of evidence, ie, where items have been deleted they must be initialled by the person making the entry. Each entry must follow consecutively with no spaces left.
2. Where a dedicated loggist is appointed, it is his/her responsibility to accurately record events as they are transmitted or reported to him/her.
3. The loggist will be responsible for completing daily, at the commencement of the surveillance, details of the persons employed. These details will be recorded on the opening page.
4. The loggist will record the date, time, his/her name and the fact he/she is performing the duty of loggist. On being relieved, regardless of the length of absence, he/she will "sign off" adopting the same procedure as that when signing on. When it is not practical to conform strictly to these procedures, eg, where the loggist has to leave his/her vehicle in order to participate in the surveillance, such facts should be recorded as soon as practicable.
5. The person who witnesses a particular event will, if it is not his/her own entry, initial alongside the entry where his/her name appears at the first available opportunity. He/she must also sign and date the log at the conclusion of the notes. In the cases where a dedicated loggist is not appointed or where it is not possible to communicate with the loggist, the person witnessing must record details of the event at the time or as soon as practicable.
6. Where notes are not made at the time of the occurrence they must be made as soon as practicable. Notes will be followed by the date, time and place the notes are made.
7. Where two or more persons are present at an occurrence, there is no objection to them collaborating when preparing their notes so that the notes may be as full and comprehensive as possible. Where notes have been made by only one person, there is no objection to these notes being used by another person when giving evidence, provided the person who has not written the notes, reads them as soon as possible after they are made, accepts that they are accurate, and signs and dates them. A note whether made in collaboration with a colleague or otherwise, or if made by a colleague, must only reflect the person's genuine personal observation and recollection.
8. The taking of original notes is of the utmost importance because the notes may later have to be produced in court or referred to by the person long after they were made.
9. The general preference is that the 24 hour clock is used in the log book.
10. No erasure or obliteration of notes is permissible at any time and once an entry in a book has been signed, it cannot be altered in way way, either by adding, deleting or changing any particulars. Any corrections made before presentation are to be initialled. If additional or corrected information is obtained subsequently, a further and separate entry is to be made.
11. The pages of the log book are to be numbered. A page-numbered book should be used for this purpose. No pages may be removed. At the conclusion of the operation, the log book should be stored with the remainder of the papers for future production as required.

12. Unnecessary spaces will be avoided between words or at the end of lines. Unused spaces should be struck out and, if a space is left after recording, a line drawn to the end and initialled.
13. Overwriting is forbidden. If a mistake is made, eg, if a wrong word is used or if a word is misspelt, it must be struck out and initialled and the letter "A" inserted. At the foot of the page, before it is signed, the letter "A" is again to be inserted followed by the correction. If a second or third mistake is found, the letter "B" and "C" are to be used as necessary. If there is no room at the foot of the page, the corrections may be added at the end of the log for the day.
14. The log book should be available for production if required by the court, or Counsel who desire to examine them. Copies of notes must not be taken to Court; the original must be used in every case. If it should be necessary to make an original note on a loose piece of paper and subsequently copy it into the log book, the original note must be carefully preserved for production if required.

REMEMBER!

In the event of criminal proceedings taking place against a subject, a poorly maintained or inaccurate surveillance log can result in a case being dismissed with many, many hours of wasted effort.



**PART II OF THE REGULATION OF INVESTIGATORY
POWERS ACT (RIPA) 2000**

**APPLICATION FOR AUTHORISATION TO CARRY OUT
DIRECTED SURVEILLANCE**

Public Authority <i>(including full address)</i>			
1.1 Name of Applicant		Unit/Branch /Division	
Full Address			
Contact Details			
Investigation/Operation Name (if applicable)			
Investigating Officer (if a person other than the applicant)			
DETAILS OF APPLICATION			
1. Give rank or position of authorising officer in accordance with the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2003; No. 3171. ¹			

¹ For local authorities: The exact position of the authorising officer should be given. For example, Head of Trading Standards.

2. Describe the purpose of the specific operation or investigation.

3. Describe in detail the surveillance operation to be authorised and expected duration, including any premises, vehicles or equipment (e.g. camera, binoculars, recorder) that may be used.

4. The identities, where known, of those to be subject of the directed surveillance.

- Name:
- Address:
- DOB:

- Other information as appropriate:

5. Explain the information that it is desired to obtain as a result of the directed surveillance.

6. Identify on which grounds the directed surveillance is necessary under Section 28(3) of RIPA. Delete those that are inapplicable. Ensure that you know which of these grounds you are entitled to rely on.(SI 2003 No.3171)

- For the purpose of preventing or detecting crime or of preventing disorder;

7. Explain why this directed surveillance is necessary on the grounds you have identified [Code paragraph 2.4]

8. Supply details of any potential collateral intrusion and why the intrusion is unavoidable. [Bear in mind Code paragraphs 2.6 to 2.10.]

Describe precautions you will take to minimise collateral intrusion

9. Explain why this directed surveillance is proportionate to what it seeks to achieve. How intrusive might it be on the subject of surveillance or on others? And why is this intrusion outweighed by the need for surveillance in operational terms or can the evidence be obtained by any other means? [Code paragraph 2.5]

--

10. Confidential information. [Code paragraphs 3.1 to 3.12]
 INDICATE THE LIKELIHOOD OF ACQUIRING ANY CONFIDENTIAL INFORMATION:

--

11. Applicant's Details.

Name (print)		Tel No:	
Grade/Rank		1.2 Date	
Signature			

12. Authorising Officer's Statement. [Spell out the "5 Ws" – Who; What; Where; When; Why and HOW– in this and the following box.]

I hereby authorise directed surveillance defined as follows: [*Why is the surveillance necessary, whom is the surveillance directed against, Where and When will it take place, What surveillance activity/equipment is sanctioned, How is it to be achieved?*]

13. Explain why you believe the directed surveillance is necessary. [Code paragraph 2.4]
Explain why you believe the directed surveillance to be proportionate to what is sought to be achieved by carrying it out. [Code paragraph 2.5]

--

14.(Confidential Information Authorisation.) Supply detail demonstrating compliance with Code paragraphs 3.1 to 3.12

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15. Date of first review	
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Programme for subsequent reviews of this authorisation: [Code paragraph 4.22]. Only complete this box if review dates after first review are known. If not or inappropriate to set additional review dates then leave blank.

--

Name (Print)		Grade / Rank	
Signature		Date and time	
Expiry date and time [e.g.: authorisation granted on 1 April 2005 - expires on 30 June 2005, 23.59]			

16.Urgent Authorisation [Code paragraphs 4.17 and 4.18]: Authorising officer: explain why you considered the case so urgent that an oral instead of a written authorisation was given.

--

17.If you are only entitled to act in urgent cases: explain why it was not reasonably practicable for the application to be considered by a fully qualified authorising officer

--

Name (Print)		Grade/ Rank		
Signature		Date and Time		

Urgent authorisation Expiry date:		Expiry time:	
<i>Remember the 72 hour rule for urgent authorities – check Code of Practice.</i>	e.g. authorisation granted at 5pm on June 1 st expires 4.59pm on 4 th June		



PART II OF THE REGULATION OF INVESTIGATORY POWERS ACT (RIPA) 2000

REVIEW OF A DIRECTED SURVEILLANCE AUTHORISATION

Public Authority <i>(including full address)</i>	
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Applicant		Unit/Branch /Division	
-----------	--	-----------------------	--

Full Address	
---------------------	--

Contact Details	
------------------------	--

Operation Name		Operation Number* <small>*Filing Ref</small>	
-----------------------	--	--	--

Date of authorisation or last renewal		Expiry date of authorisation or last renewal	
--	--	---	--

Review Number	
----------------------	--

Details of review:

1. Review number and dates of any previous reviews.

Review Number	Date

2. Summary of the investigation/operation to date, including what private information has been obtained and the value of the information so far obtained.

3. Detail the reasons why it is necessary to continue with the directed surveillance.

4. Explain how the proposed activity is still proportionate to what it seeks to achieve.

5. Detail any incidents of collateral intrusion and the likelihood of any further incidents of collateral intrusions occurring.

6. Give details of any confidential information acquired or accessed and the likelihood of acquiring confidential information.

7. Applicant's Details

Name (Print)		Tel No	
Grade/Rank		Date	
Signature			

8. Review Officer's Comments, including whether or not the directed surveillance should continue.

--

9. Authorising Officer's Statement.

I, [insert name], hereby agree that the directed surveillance investigation/operation as detailed above [should/should not] continue [until its next review/renewal][it should be cancelled immediately].

Name (Print)	Grade / Rank
Signature	Date

10. Date of next review.	
---------------------------------	--



**PART II OF THE REGULATION OF INVESTIGATORY
POWERS ACT (RIPA) 2000**

**CANCELLATION OF A DIRECTED
SURVEILLANCE AUTHORISATION**

Public Authority <i>(including full address)</i>	
--	--

Name of Applicant		Unit/Branch /Division	
Full Address			
Contact Details			
Investigation/Operation Name (if applicable)			

Details of cancellation:

1. Explain the reason(s) for the cancellation of the authorisation:

--

2. Explain the value of surveillance in the operation:

--

3. Authorising officer's statement.

I, [insert name], hereby authorise the cancellation of the directed surveillance investigation/operation as detailed above.

Name (Print) _____	Grade _____
Signature _____	Date _____

4. Time and Date of when the authorising officer instructed the surveillance to cease.

Date: _____	Time: _____
--------------------	--------------------

5. Authorisation cancelled.	Date: _____	Time: _____
------------------------------------	--------------------	--------------------

Application for judicial approval for authorisation to obtain or disclose communications data, to use a covert human intelligence source or to conduct directed surveillance. Regulation of Investigatory Powers Act 2000 sections 23A, 23B, 32A, 32B.

Local authority:.....

Local authority department:.....

Offence under investigation:.....

Address of premises or identity of subject:.....

.....

.....

Covert technique requested: (tick one and specify details)

Communications Data

Covert Human Intelligence Source

Directed Surveillance

Summary of details

.....

.....

.....

.....

.....

.....

.....

Note: this application should be read in conjunction with the attached RIPA authorisation/RIPA application or notice.

Investigating Officer:.....

Authorising Officer/Designated Person:.....

Officer(s) appearing before JP:.....

Address of applicant department:.....

.....

Contact telephone number:.....

Contact email address (optional):.....

Local authority reference:.....

Number of pages:.....

Order made on an application for judicial approval for authorisation to obtain or disclose communications data, to use a covert human intelligence source or to conduct directed surveillance. Regulation of Investigatory Powers Act 2000 sections 23A, 23B, 32A, 32B.

Magistrates' court:.....

Having considered the application, I (tick one):

- am satisfied that there are reasonable grounds for believing that the requirements of the Act were satisfied and remain satisfied, and that the relevant conditions are satisfied and I therefore approve the grant or renewal of the authorisation/notice.
- refuse to approve the grant or renewal of the authorisation/notice.
- refuse to approve the grant or renewal and quash the authorisation/notice.

Notes

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Reasons

.....

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.....

.....

.....

.....

Signed:

Date:

Time:

Full name:

Address of magistrates' court:

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Title of meeting:	Governance & Audit & Standards Committee
Date of meeting:	29 January 2016
Subject:	Committee system cost evaluation
Report by:	City Solicitor
Wards affected:	All
Key decision:	No
Full Council decision:	No

1 Purpose of report

- 1.1 To advise Members of the Committee as to costs for a committee system as requested by Councillor Galloway.

2 Recommendations

- 2.1 Members of the Committee are asked to note the report and the advice of the S151 officer that it is not possible to implement or maintain a committee system on a true cost neutral basis.

3 Background

- 3.1 Councillor Galloway has requested the costs for the introduction of a committee decision making structure. The S151 Officer's officers' advice on the potential additional costs set out in Appendix A is based on the assumptions below.

4 Reasons for recommendations

- 4.1 To allow Members to consider the advice of the S151 Officer.

5 Equality Impact Assessment (EIA)

- 5.1 None is required.

6 Legal implications

- 6.1 Any relevant comment of the City Solicitor is included in this report.

7 Finance comments:

- 7.1 The estimated additional costs are set out in Appendix A. These costs are based on the following assumptions:-

- 7.1.1 There would be nine committees each meeting nine times per annum.
- 7.1.2 Each meeting would require attendance of three front line officers and three support service officers.
- 7.1.3 On average, each meeting will receive three additional reports or requests to research and prepare and would last an additional three hours.
- 7.1.4 Additional capacity equating to 15 hours for front line staff and 5 for support staff are required to prepare reports.
- 7.1.5 An additional FTE of up to 5 posts would be required to backfill the additional time taken by officers preparing additional reports and attending meetings for longer periods of time.
- 7.1.6 The potential additional cost of adopting a committee structure is estimated at £251,900 in a full year.
- 7.1.7 There is no current revenue budget provision to meet this additional cost.
- 7.1.8 There may also be a need to hire additional meeting facilities in the Guildhall or the Library - neither these costs nor their associated security costs are currently accounted for.

.....
 City Solicitor

Appendices

Appendix A - Estimated additional cost breakdown

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location

Appendix A

Estimated additional cost of adopting a committee system

	Full year estimated cost £	Staff time FTE
Preparation of additional reports		
- Officer time	188,700	3.6
- Print/copying	100	
Attendance at meetings		
- additional front line officer time	37,900	0.5
- support services officer time	25,200	0.5
Estimated additional cost	<u>251,900</u>	<u>5</u>

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Agenda Item 13



Portsmouth
CITY COUNCIL

Title of meeting:	Governance and Audit and Standards Committee
Date of meeting:	29 th January 2016
Subject:	Procurement Management Information
Report by:	Director of HR, Legal and Procurement
Wards Affected:	Not Applicable
Key decision:	No
Full Council decision:	No

It is recommended that the attached appendices 2, 3, 4 and 5 be considered as an exempt/confidential matter and that the press and public are excluded for the following reasons:

- Exempt information is defined in section 100A and, by reference, Schedule 12A of the Local Government Act 1972 ("the 1972 Act"). To be exempt, information must fall within one of the categories listed in paragraphs 1 to 7 of Schedule 12A, must not fall within one of the excluded categories in paragraphs 8 and 9 and the public interest in maintaining the exemption must outweigh the public interest in disclosing the information;
- The attached Appendices 2, 3, 4 and 5 contain some information relating to the financial or business affairs of particular companies as well as PCC; and
- Although there is a public interest favouring public access to local authority meetings, given the financial and commercially sensitive information contained in the report the public interest in maintaining the exemption outweighs the public interest in disclosing the (exempt) information.

1. Purpose of report

- 1.1 The purpose of the report is to update Members on steps being taken to demonstrate that PCC is achieving value for money from its contracts for goods and services.

2. Recommendations

- 2.1 **That members note that purchase order compliance for November 2015 was 94% against the target of 95%**
- 2.2 **That members note the performance of our suppliers and contractors and actions in progress to address poor performance.**
- 2.3 **That members continue to request a procurement management information report, and that in light of the quarterly Strategic Contract Management Board meetings, that this report be brought to the committee on a quarterly basis.**

3. Background

3.1 Value for money

3.1.1 In September 2010 the Head of Procurement submitted a report to the Governance and Audit Committee outlining steps that are being taken to demonstrate that PCC is achieving value for money for its contracts for goods and services.

3.1.2 Fundamental to this is that the City Council has the ability to demonstrate that we are paying competitive rates by:

- subjecting Procurement to a competitive process (where practical) (section 3.2)
- ensuring that we obtain the quality of service that we are paying for (section 3.3)

3.2 Purchase order conformance monitoring

3.2.1 Members approved a recommendation of a target of 95% conformance with Contract Procedure Rules. This report takes payments to contractors from the Oracle EBS system and matches them to contracts held on the Contracts Register. Presence of a contract on the Contracts Register implies that a procurement process has been undertaken, and that the process complies with the Contract Procedure Rules. Legal services have commented that whilst this methodology is indicative of good practice, is not definitive as to compliance with legal requirements.

3.2.2 The purpose of this the report is to provide Members with a progress report to monitor the situation (see appendix 1 for latest month figures and detailed year to date performance figures).

3.2.3 An explanation of those service areas where conformance requires improvement is detailed in appendix 2 (exempt).

3.2.4 Category Business Partners from the Procurement department are working in partnership with Directorates to implement solutions to resolve non-conformance and reduce administration issues.

3.3 Contract Management

3.3.1 With the greater emphasis that has been placed on contract management by the revised Contract Procedure Rules (approved at Full Council 10 November 2015) and the recently formed Strategic Contract Management Board, it is intended that this section be expanded to give members access to the greater range of management information afforded by recent developments such as the procurement dashboard.

3.3.2 Supplier performance

3.3.2.1 Supplier performance information for all current contracts (over £5,000 value) is presented in the table below.

This information excludes main framework agreements (but includes framework call-off contracts) and concessions.

KPI's become overdue 90 days after their due date.

	Total number of contracts	KPI score (see legend below)				Expired KPI (more than 1 year since last scored)	KPI never scored	KPI not yet due	No KPI scheduled
		Gold	Green	Amber	Red				
Jan 2016	711	46	210	22	0	34	88	247	64

- Gold - Excellent performance
- Green - Performing to standard
- Amber - Some areas of improvement required
- Red - Failing to perform

- Expired KPI - a schedule is in place, and at least one KPI score has been recorded, but there has been no KPI scoring in the last 12 months
- KPI never scored - a schedule is in place, but there have been no KPI scores for the contract
- KPI not yet due - a schedule is in place, but KPI scores are not due yet. This includes contracts where KPIs are overdue by less than 3 months (grace period)
- No KPI scheduled - no KPI instances have been scheduled.
 - KPIs are not scheduled for leases in five instances, for single source suppliers (Royal Mail) in one instance and for Temporary Accommodation provision in 37 instances.
 - The remaining 21 contracts without KPI schedules will be investigated and addressed as necessary.

3.3.2.2 There are no contracts where the suppliers are performing to an unsatisfactory level and remedial action is taking place (Red KPI score). One contract only recently improved from Red to Amber (in January 2016) and is included in the appendix for information (see appendix 3 - exempt). Contract Managers inform providers of their red status as they seek improvements / remedies.

3.3.3 Supplier performance monitoring

There are 88 contracts with no KPI scoring, and a further 34 contracts with no KPI scoring in the last 12 months. It should be noted that this does not imply that all these contracts are not being managed, just that they have not been scored.

KPIs never scored				
Directorate	Total number of contracts	Number of contracts with no KPI score	% of contracts with no KPI score	Annual contract value
Adult Services	113	1	1%	£141,131
Children's Services and Education	22	1	5%	£2,000,000
Children's Social Care	22	1	5%	£66,700
Community and Communication	26	4	15%	£226,500
Culture and City Development	56	16	29%	£1,099,327
Finance and Information Services	88	5	6%	£198,891
HR Legal and Procurement	29	1	3%	£4,000
Portsmouth International Port	34	2	6%	£46,936
Property and Housing	203	48	24%	£23,707,083
Regulatory Services Community Safety and Troubled Families	14	1	7%	£17,881
Transport Environment and Business Support	36	8	22%	£6,525,374
TOTAL		88	12%	£34,033,823

KPIs expired (more than 1 year since last scored)				
Directorate	Total number of contracts	Number of contracts with expired KPI score	% of contracts with expired KPIs	Annual contract value
Adult Services	113	3	3%	£3,297,500
Community and Communication	26	1	4%	£1,500
Culture and City Development	56	5	9%	£710,000
Finance and Information Services	88	1	1%	£11,000
HR Legal and Procurement	29	7	24%	£515,465
Property and Housing	203	15	7%	£19,916,000
Transport Environment and Business Support	36	2	6%	£12,650
TOTAL		34	5%	£24,464,115

Those directorates with no outstanding or overdue KPIs are omitted from the tables on this page. The total % figure reflects the overall % across all directorates.

3.3.4 Waivers

3.3.4.1 Waivers for procurements which depart from the Contract Procedure Rules are recorded for contracts over £5,000 value.

The tables presented below reflect waivers approved since September 2015 (when data started to be collected).

It is intended for subsequent reports to use this section to bring new waivers to Members' attention (i.e. those approved since the last report).

3.3.4.2 Waiver reasons:

Reason for waiver	Number of contracts	Total value covered by waiver
Not advertising the opportunity	4	£32,900
Not obtaining 3 bids	12	£259,868
Other	3	£134,741
Single source	2	£47,090
Grand Total	21	£474,599

In addition to the reasons in the table above, other reasons for waivers are:

- Insufficient time
- Emergency
- Use of a previous tender
- Original spend estimate wrong
- Extension of lapsed contract for continuity
- Shared service
- Service user choice

3.3.4.3 Use of waivers by directorate:

Under the Contract Procedure Rules, waivers can be approved by:

- Director (or Chief Executive, or Deputy Chief Executive)
- Procurement Manager
- Gateway Board

A summary of waivers approved since September 2015 (when data started to be collected) are in the table below. Details are in Appendix 4 (exempt).

Directorate	Number of waivers since Sept 2015	Total number of new contracts since Sept 2015	% of contracts with waivers since Sept 2015	Value of waivers	Approved by		
					Director	Procurement Manager	Board Gateway
Adult Services	1	5	20%	£40,393	1		
Children's Services and Education	1	2	50%	£20,000	1		
Culture and City Development	4	6	67%	£47,895	4		
Finance and Information Services	1	14	7%	£75,240	1		
HR, Legal and Procurement	1	3	33%	£5,460	1		
Portsmouth International Port	5	5	100%	£78,780	5		
Property and Housing	5	50	10%	£181,831	5		
Public Health	3	4	75%	£25,000	3		
TOTALS	21	89	24%	£474,599	21	0	0

3.4 Recommendations approved at Strategic Contract Management Board

3.4.1 The Strategic Contract Management Board met on 9th December 2015, and received a presentation from the Procurement department based on a best-practice review of the council's 72 strategic contracts.

3.4.2 Recommendations approved by the board are detailed in Appendix 5 (exempt)

4. Reasons for recommendations

4.1 To satisfy the Governance and Audit and Standards Committee reporting requirements.

5. Equality impact assessment

5.1 An Equality Impact Assessment is not required as this is not a change to policy or service delivery

6. Legal implications

6.1 The comments of the City Solicitor are contained within the body of this report. It is within the powers of the Governance and Audit and Standards Committee under Part 2 section 2 of the Constitution to approve these recommendations.

7. Director of Finance's comments

7.1 There are no financial implications directly arising from the recommendations in this report. However, the report has identified issues which could have value for money implications and consequently will need addressing in the short term.

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Signed by:

Director of HR, Legal and Procurement

Appendices:

Appendix 1 - Year to date performance

Appendix 2 - Non-conformance (exempt)

Appendix 3 - Contract performance issues (exempt)

Appendix 4 - Waivers (exempt)

Appendix 5 - Minutes of the Strategic Contract Management Board (9/12/15) (exempt)

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location

The recommendation(s) set out above were approved/ approved as amended/ deferred/

rejected by on

.....

Signed by:

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Directorate	Total Year to Date			November 2015		
	Total Non Conforming Value	Total Transaction Value	% Non Compliant	Total Non Conforming Value	Total Transaction Value	% Non Compliant
Adult Services	£ 25,071	£ 2,171,104	1%	£ 9,037	£ 139,966	6%
Swift Interface	£ -	£ 19,623,318	0%	£ -	£ 2,815,807	0%
Children's Services and Education	£ 256,981	£ 7,624,788	3%	£ 1,417	£ 143,304	1%
Children's Social Care	£ 132,065	£ 2,356,442	6%	£ 12,919	£ 279,898	5%
Community and Communication	£ 218,004	£ 629,106	35%	£ 2,800	£ 61,619	5%
Culture and City Development	£ 510,377	£ 1,359,820	38%	£ 97,744	£ 258,451	38%
Executive	£ 347,610	£ 2,497,107	14%	£ 5,014	£ 1,383,981	0%
Finance and Information Services	£ 641,624	£ 8,538,522	8%	£ 88,453	£ 953,758	9%
HR, Legal and Procurement	£ 40,676	£ 2,229,557	2%	£ 17,066	£ 142,132	12%
Portsmouth International Port	£ 68,513	£ 1,199,029	0%	£ -	£ 30,542	0%
Property and Housing	£ 2,255,530	£ 36,369,753	6%	£ 257,980	£ 6,124,475	4%
Public Health	£ -	£ 10,003,923	0%	£ -	£ 1,428,326	0%
Regulatory Services, Community Safety and Troubled Families	£ 87,643	£ 681,539	13%	£ 45,538	£ 81,972	56%
Transport, Environment and Business Support	£ 1,600,803	£ 19,448,850	8%	£ 330,882	£ 1,614,143	20%
Agency Staff	£ 4,177	£ 411,969	1%	£ -	£ 4,142	0%
Grand Total	£ 6,189,074	£ 115,144,827	5%	£ 868,850	£ 15,462,515	6%

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Title of meeting:	Governance & Audit & Standards Committee
Date of meeting:	29 January 2016
Subject:	Annual report to Governance & Audit & Standards Committee on complaints received into alleged breaches of the Code of Conduct by Members of the Council
Report by:	City Solicitor
Wards affected:	N/A
Key decision:	No
Full Council decision:	No

1 Purpose of report

- 1.1 To update Members of the Committee on current progress in relation to complaints which allege that Councillors may have breached the Code of Conduct.

2 Recommendations

- 2.1 It is recommended that Members of the Committee note the report
- 2.2 It is recommended that Members of the Committee consider whether any further action is required by them.

3 Background

- 3.1 Upon acceptance of office all Councillors undertake to comply with the Code of Conduct. In the event that a Councillor may have failed to comply with the Code of Conduct, a complaint may be made. The City Solicitor, as the Council's Monitoring Officer, is appointed to receive such complaints. The complaints are then considered in accordance with the guidance provided under the Local Government Act 2000.
- 3.2 The City Solicitor, as requested by the Governance & Audit & Standards Committee, maintains records on the progress of complaints and each year produces a report to this Committee. This year's report is attached at Appendix A.
- 3.3 The Monitoring Officer has, in this report, detailed the nature of the complaints, but is constrained by the information which can be provided in an open report, to protect the identity of the Subject Member, particularly in those cases where the Sub-Committee has decided that the Code has not been breached. In the circumstances the Monitoring Officer advises that if Members require more detailed information they should seek it from the Monitoring Officer prior to the

Committee meeting or during the meeting. If the latter, the meeting will be moved into exempt session.

- 3.4 After having considered Appendix A, Members are asked to decide whether there are any matters of concern or whether further action is required by the Committee or City Solicitor.

4 Reasons for recommendations

- 4.1 To make Members of the Committee aware of the current position with regard to complaints and ensure that appropriate action is taken.

5 Equality Impact Assessment (EIA)

- 5.1 Not applicable.

6 Legal implications

- 6.1 The City Solicitor's comments are included in this report.

7 Finance comments:

- 7.1 There are no financial implications arising from the recommendations set out in this report.

.....
City Solicitor

Appendices: Appendix A - Schedule of Complaints

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location

Appendix A - Schedule of Complaints (from November 2014 - December 2015)

	<i>Date complaint/s received</i>	<i>Summary & outcome of alleged complaint</i>	<i>Complaint by public or Councillor</i>
1.	18.11.2014	The subject member failed to act in an impartial manner. G & A & S Committee decided there had been no breach of the Code.	Councillor
2.	17.12.2014	The subject member failed to take all relevant information into consideration. G & A & S Committee decided not to investigate; the complainant requested a Review; Review Panel suggested the complainant and subject member meet following which Review Panel was reconvened. Following this Review Panel the complaint was referred for other action and mediation took place between the complainant and subject member.	Public
3.	09.03.2015	The subject member failed to remain objective and make decisions on merit. G & A & S Committee decided to refer the complaint for investigation and the investigation is currently underway.	Councillor
4.	20.05.2015	The subject member failed to promote high standards of conduct / failed to make decisions on merit / attempted to use their position as a	Public

		<p>member improperly / failed to treat the complainant with respect.</p> <p>An Initial Filtering Panel of G & A & S Committee decided not to investigate; the complainant requested Review; Review Panel decided not to refer the matter for investigation but a recommendation was made to Employment Committee as to the conduct of future Appeals Panels and the subject member was required to write an apology to the complainant.</p>	
5.	01.07.2015	<p>The subject member failed to promote high standards of conduct / failed to make decisions on merit / attempted to use their position as a member improperly / failed to treat the complainant with respect.</p> <p>An Initial Filtering Panel of G & A & S Committee decided not to investigate; the complainant requested Review; Review Panel referred for investigation; investigation currently underway.</p>	Public



Title of meeting:	Governance & Audit & Standards Committee
Date of meeting:	29 January 2016
Subject:	Whistleblowing
Report by:	City Solicitor
Wards affected:	Not applicable
Key decision:	No
Full Council decision:	No

1 Purpose of report

- 1.1 To update Members of the Committee on the nature and handling of any whistleblowing concerns which have been raised in the past year.

2 Recommendations

- 2.1 It is recommended that Members of the Committee note the report.
2.2 It is recommended that Members of the Committee consider whether any further action is required by them.

3 Background

- 3.1 The Public Interest Disclosure Act 1998 gives employees certain rights in relation to whistleblowing. An employee has a right to make a protected disclosure to prescribed persons where the employee reasonably believes:
- 3.1.1 A criminal offence has, or is going to be committed;
 - 3.1.2 There is a breach of a legal obligation;
 - 3.1.3 A miscarriage of justice;
 - 3.1.4 There is a danger to the health and safety of any individual;
 - 3.1.5 There will be damage to the environment; or
 - 3.1.6 There is deliberate concealment of information tending to show any of the above five matters.
- 3.2 The Act provides that employees shall suffer no detriment to their employment as a result of blowing the whistle, including disciplinary action.
- 3.3 The Policy applies to all Council staff, including employees, temporary workers, agency staff and any contractor remunerated by the Council.

- 3.4 The City Solicitor, as requested by the Governance & Audit & Standards Committee, produces a report each year in respect of whistleblowing concerns. This year's report is attached as "Appendix A".
- 3.5 After having considered "Appendix A" Members are asked to decide whether there is any cause for concern and to consider whether any further action is required by the Committee, or the City Solicitor.
- 3.6 Two investigations were undertaken in 2015. Recommendations were made and action taken as appropriate.

4 Reasons for recommendations

- 4.1 To make Members of the Committee aware of the current position with regard to whistleblowing and ensure that any appropriate action is taken.

5 Equality Impact Assessment (EIA)

- 5.1 Not applicable.

6 Legal implications

- 6.1 The City Solicitor's comments are included in this report.

7 Director of Finance's comments:

- 7.1 There are no financial implications arising from the recommendations set out in this report.

.....
City Solicitor

Appendices: Appendix A - Schedule of Whistleblowing Concerns

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
Whistleblowing Policy	https://www.portsmouth.gov.uk/intranet/documents-internal/fin-whistleblowing-revised0213.pdf

Appendix A - Schedule of Whistleblowing (2015)

Date	Reason	Investigated / Referred	Outcome
03/03/2015	Concerns regarding the recording of information	Service appointed independent person to review	Review of data recording carried out with a number of recommendations for improvement.
28/06/2015	Safeguarding (Education)	Investigated	Concerns fully investigated and appropriate action taken.

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Title of meeting:	Governance & Audit & Standards Committee
Date of meeting:	29 January 2016
Subject:	Data Security Breach Report
Report by:	Michael Lawther, City Solicitor/Senior Information Risk Owner
Wards affected:	All
Key decision:	No
Full Council decision:	No

1. Purpose of report

To inform the Committee of any Data Security Breaches and actions agreed/taken since the last meeting.

2. Recommendations

It is recommended that Members of the Governance & Audit & Standards Committee note the breaches (by reference to Exempt Appendix A) that have arisen and the action determined by the Corporate Information Governance Panel (CIGP).

3. Background

The Corporate Information Governance Panel, formed of representatives from across the authority and chaired by Michael Lawther in the role of Senior Information Risk Owner (SIRO) meets every other month to

- establish policy and procedures for Information Governance;
- maintain a log of data breaches and determine and monitor onward action.

The Senior Information Risk Owner will update the Committee on any ongoing breaches and notify the members of any new incidents.

4. Reasons for recommendations

To ensure the Governance & Audit & Standards Committee has an oversight of the Data Security Breaches to be able to determine whether any trends appear and any further actions should be recommended

5. Equality impact assessment

An equality impact assessment is not required as the recommendation does not have a negative impact on any of the protected characteristics as described in the Equality Act 2010.

6. Legal implications

The Council is required to ensure that it has robust procedures in place to comply with its obligations under the Data Protection Act. Bringing this report to the Committee's attention will assist in meeting those requirements.

7. Director of Finance's comments

The ICO can issue fines of up to £500,000 for serious breaches of the Data Protection Act and Privacy and Electronic Communications Regulations. The size of any monetary penalty is determined by the Commissioner taking into account the seriousness of the breach and other factors such as the size, financial and other resources of the data controller. Any breaches put the City Council at risk of the unbudgeted cost of a financial penalty which would have to be met from the service responsible for the breach.

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Signed by:

Appendices: One Exempt Appendix

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
None	