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WEST DEVON OVERVIEW AND SCRUTINY COMMITTEE - TUESDAY, 14TH OCTOBER, 2014

Agenda, Reports and Minutes for the meeting

Agenda No Item

1. **Agenda Letter** (Pages 1 - 6)

2. **Reports**

Reports to O&S:

a) Item 6 - T18 Update (Pages 7 - 14)

b) Item 8 - Ombudsman Update and Annual Letter (Pages 15 - 26)

c) Item 9 - Report on RIPA (Pages 27 - 60)

d) Item 10 - Performance Indicators Q1 2014/15 (Pages 61 - 78)

e) Item 11 - Work programme (Pages 79 - 80)

3. **Minutes** (Pages 81 - 86)

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Agenda Item 1

AGENDA – OVERVIEW & SCRUTINY COMMITTEE – 14th OCTOBER 2014

PART ONE - OPEN COMMITTEE

1. Apologies for absence

2. Declarations of Interest

Members are invited to declare any personal or disclosable pecuniary interests, including the nature and extent of such interests they may have in any items to be considered at this meeting.

If Councillors have any questions relating to predetermination, bias or interests in items on this Agenda, then please contact the Monitoring Officer in advance of the meeting.

3. Items Requiring Urgent Attention

To consider those items which, in the opinion of the Chairman, should be considered by the Meeting as matters of urgency.

4. Confirmation of Minutes

Meeting held on 24th June 2014 (previously circulated)

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5. CAB UPDATE – presentation from Stephen Davis, CX of Torridge, North, Mid and West Devon

6. T18 Update

Report of Executive Director (TW)

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7. Update on Locality and Commissioning Member Group

Verbal update of Head of Planning, Economy and Community

8. Ombudsman Update and Annual Letter

Report of Monitoring Officer

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9. Report on RIPA

Report of Monitoring Officer

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10. Performance Indicators Q1 2014/15

Report of Customer Services Manager

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11. Work programme

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**12. Regulation of Investigatory Powers Act 2000:
Report on Inspection and Authorisation**

Members to note that there have been no requests to use the powers under RIPA during the last quarter

PART TWO ITEMS WHICH MAY BE TAKEN IN THE ABSENCE OF THE PUBLIC AND PRESS ON THE GROUNDS THAT EXEMPT INFORMATION IS LIKELY TO BE DISCLOSED (if any)

If any, the Committee is recommended to pass the following resolution:-

“RESOLVED that under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the Meeting the grounds that exempt information may be disclosed as defined in Part I of Schedule 12A to the Act”.

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STRATEGIC RISK ASSESSMENT

Reports to Members

Members will be aware of the requirement to take account of strategic risk in decision making. This note is designed to support Members consider strategic risks as part of the assessment of reports from officers.

There are an increasing number of issues that we have a statutory requirement to take into account which affect all aspects of the Council's policies and service delivery (e.g. Human Rights Act). There are also discretionary issues we choose to highlight in our reports (e.g. Financial Implications, and Impact on Council Priorities and Targets). Common Law duty requires Local Authorities to take into account all things they need to take into account! The Courts hearing Judicial Review applications make this their starting point in deciding whether any decision is reasonable.

Officers have a responsibility to assess the implications of recommendations to Members. Members should ensure that before making a decision they have undertaken a similar consideration relating to the risks associated with the report.

Examples of risk to be considered:-

Statutory Requirement :

- Equalities and Discrimination, particularly Race Equality. (Consider the impact on each of the following equality areas: Race, Religion and Belief, Gender, Sexual Orientation, Disability, Age)
- Human Rights
- Crime and Disorder
- Health and Safety
- Employment Legislation
- Data Protection
- Freedom of Information
- Corporate activity with an impact on Areas of Outstanding Natural Beauty, National Parks, Sites of Special Scientific Interest, and biodiversity

Corporate Requirement :

- Impact on Council's Reputation
- Impact on Priorities, Cross-Cutting themes, Targets and / or Commitments
- Impact on Standing Orders / Financial Regulations
- Impact on Council's Assets
- Financial Risks
- Compliance with National Policies and Guidance
- Impact on Sustainability

Members' attention is drawn to the Risk Assessment section within each report. Members are encouraged to consider whether the report has satisfactorily identified all likely negative impacts and mitigating action that will be taken. Members also need to consider the opportunities presented by actions, noting that any change entails an element of risk. The challenge is to effectively manage that risk.

RISK SCORING MATRIX

Impact/Severity		Target impact	Stakeholder impact	Finance impact
1	Insignificant	Low impact on outcome & target achievement & service delivery	Low stakeholder concern	Low financial risk
2	Minor	Minor impact on outcome & target achievement & service delivery	Minor stakeholder concern	Minor financial risk
3	Moderate	Moderate outcome & target achievement & service delivery	Moderate stakeholder concern	Moderate financial risk
4	Serious	High impact on outcome & target achievement & service delivery	High stakeholder concern	High financial risk
5	Very serious	Very high impact on outcome & target achievement & service delivery	Very high stakeholder concern	Very high financial risk
Likelihood/Probability		Risk	Opportunity	
1	Very low	Negligible chance of occurrence; has not occurred	Possible opportunity yet to be investigated with low likelihood of success	
2	Low	Low chance of occurrence; has occurred infrequently but within internal control	Opportunity being investigated with low likelihood of success	
3	Medium	Equal chance of occurrence or non occurrence; could occur more than once and be difficult to control due to external influences	Opportunity may be achievable with careful management	
4	High	More likely to occur than not occur; has occurred more than once and difficult to control due to external influences	Good opportunity which may be realised	
5	Very high	Very high chance of occurrence but not a certainty; has occurred recently	Clear reliable opportunity with reasonable certainty of achievement	

Risk score = Impact/Severity x Likelihood/Probability

Likelihood	5	5	10	15	20	25
	4	4	8	12	16	20
	3	3	6	9	12	15
	2	2	4	6	8	10
	1	1	2	3	4	5
	0	1	2	3	4	5
Impact						

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NAME OF COMMITTEE	OVERVIEW AND SCRUTINY
DATE	14 OCTOBER 2014
REPORT TITLE	TRANSFORMATION PROGRAMME PROGRESS REPORT
REPORT OF	EXECUTIVE DIRECTOR (RESOURCES)
WARDS AFFECTED	ALL

Summary of report: In order to ensure effective scrutiny of the T18 Transformation Programme this report sets out progress to date.

Financial implications: There are no financial implications arising directly from this report.

RECOMMENDATIONS:

That the Overview and Scrutiny Committee note progress to date on the Transformation Programme.

Officer contact: Tracy Winsor, Executive Director (Resources)

Email: tracy.winsor@swdevon.gov.uk – Tel: 01803 861277

1. BACKGROUND

- 1.1 Last autumn the Council agreed to adopt the T18 Programme which aims to deliver a new operating model in partnership with South Hams District Council which will ensure that both Councils can continue to deliver quality services for its customers and communities.
- 1.2 Since this time considerable work has taken place to develop the Programme in detail and to ensure its successful delivery.
- 1.3 The Programme is structured with a number of workstreams and progress on these is set out below.

2. WORKSTREAM PROGRESS

2.1 HR

- 2.1.1 Recruitment for Phase 1a has now taken place. 70 people were in Phase 1a. 16 requested and were granted voluntary redundancy, 48% who went through the selection process secured their preferred role, and 26% secured their second or third choice. Unfortunately, we have been unable to offer posts to nine people and external recruitment is now taking place.
- 2.1.2 Phase 1a will go live on 29 September 2014 but changes will continue to take place as processes are refined and new software is implemented.
- 2.1.3 For Phase 1b which is due to go live in June 2015, the Business Development Team will continue to work closely with the ICT workstream to create the end-to-end processes, online portal and call operator scripts required to operate the New Model. The outcome of process development work will be fed into the HR workstream to inform the Organisational Design for the Customer Contact Teams.
- 2.1.4 The recruitment timeline remains broadly as previously published with a slight delay to the group management recruitment which will now take place in November.

2.2 ICT

- 2.2.1 A team of both Civica and internal resources are now fully engaged in the initial software installation and development planning.
- 2.2.2 Workshops with staff across the organisation continue and feedback so far has been extremely positive both from staff and supplier. Wider demonstrations will be available for staff and Members in the near future which will show how customer requests will flow through the software.
- 2.2.3 A mobile website has been launched for those using mobile devices such as Smartphones and Tablets (30% of our users). This introduces an 'app' feel to touch screen devices and provides users with a user friendly way of interacting on small screens.

2.3 Accommodation

- 2.3.1 At Kilworthy Park decanting of staff has been undertaken in preparation of works to provide a drop down/ hot desk environment in the open plan office area below the Council Chamber.
- 2.3.2 A refreshed marketing strategy is being launched for surplus office accommodation and Heads of Terms have been provided to a local business wishing to lease 1,000 sq ft of space on the ground floor.
- 2.3.3 Works to the temporary office accommodation at Follaton House for Phase 1a has been completed and staff are currently in occupation. Refurbishment of the 2nd floor office accommodation has recently commenced.

2.4 **Customer**

- 2.4.1 The Customer Workstream relates to the engagement required with our customers to maximise the benefits of the future operating model. These benefits are both for the customer, in terms of improved customer service and greater access to on-line services and for the Authority through reduced costs.
- 2.4.2 This workstream is in its early planning and development phase as the current emphasis is on the internally focussed elements of the Programme. However, we have now brought in additional resources to this workstream to analyse best practice from elsewhere.
- 2.4.3 During the next three months we will develop a business case for purchasing customer insight information which will help us structure our customer access methodology. It is important that we have a thorough understanding of our customers' current needs as well as their future requirements.

2.5 **Business Processes**

- 2.5.1 In order to reduce the number of staff required to deliver our services we need to review and re-engineer a large number of our existing processes.
- 2.5.2 This process is broken down into a number of 'sprints' when each type of activity is mapped and analysed in detail. These sprints have now started and will carry on throughout the coming months.
- 2.5.3 During the next few weeks scanning of paperwork that has been identified as being in continual use will begin, enabling staff to work in an agile way being able to see electronic images of important information.

2.6 **Finance**

- 2.6.1 To date, £551,636 of the £4.85 million budget has been spent.
- 2.6.2 **The profiled budget for Quarter 2 (July – September 2014) was £1,392,850 – therefore the spend of £551,636 is currently £841,214 lower than the profiled budget.** This is mainly due to timing of payments as we are not yet at the end of Quarter 2 (Sept). There will be expenditure in September that is included in the profiled Quarter 2 budget - but that expenditure is not yet included in the actual figures (as actual figures are as at 31 August 2014).
- 2.6.3 We are currently re-profiling both expenditure and savings as the decision to create an earlier Phase (Phase 1a for Support Services) was taken after the initial Business Plan was agreed. The financial benefit of Phase 1a has been over half a million pounds in savings (shared between the two Councils).
- 2.6.4 Members agreed a report in July 2014 at the Resources Committee meeting (WDBC) on 15 July and the Executive (SHDC) on 24 July to release the funding for Key Milestones 2 and 3 of the Programme.
- 2.6.5 The overall Programme is currently on target.

2.6.6 Our Councils' Expression of Interest for Transformation Funding was successful and we have now submitted a full bid by 1 October. The funding bid is for £700,000 (between SHDC and WDBC) Government funding to help our transformation programme which will deliver our new operating model. We also asked for a further £400,000 should Torridge District Council join our model.

3. LEGAL IMPLICATIONS AND STATUTORY POWERS

3.1 The Council has delegated to the Overview and Scrutiny Committee, the powers to scrutinise the T18 Programme and to provide a quality control function.

4. FINANCIAL IMPLICATIONS

4.1 There are no financial implications arising directly from this report.

5. RISK MANAGEMENT

5.1 A Programme of this size and complexity clearly brings a significant number of risks which have to be carefully managed. The Risk Management implications are shown at the end of this report in the Strategic Risks Template and the comprehensive Programme risks are reviewed every four weeks by the Transformation Programme Board.

6. OTHER CONSIDERATIONS

Corporate priorities engaged:	This report relates to the future delivery of the council's four corporate priorities during a period of increasing financial constraint
Considerations of equality and human rights:	This report updates Members on the opportunity for developing improved access to a range of council services and meeting a wide range of customer needs
Biodiversity considerations:	None
Sustainability considerations:	The emerging model is designed to ensure that both councils are sustainable in the medium term. Greater agile working linked to better use of technology should reduce the councils' carbon footprints
Crime and disorder implications:	None

STRATEGIC RISKS TEMPLATE

No	Risk Title	Risk/Opportunity Description	Inherent risk status				Mitigating & Management actions	Ownership
			Impact of negative outcome	Chance of negative outcome	Risk score and direction of travel			
1.	Financial risk	Funding availability for initial investment to implement the Programme	5	2	10	↓	<ul style="list-style-type: none"> Profile investment and the availability of resources in the context of a business plan Explore external funding opportunities 	Directors and Head of Finance and Audit
2.	Financial risk	Higher than anticipated costs and/or lower than anticipated savings arising from the Programme. Key variable risk is the cost of staff redundancies.	4	3	12	↔	<ul style="list-style-type: none"> Proof of concept work has demonstrated high level business case Detailed business case in place before committing to implementation of the Programme Sensitivity analysis undertaken Ongoing monitoring of costs and savings within the Programme In recognition of uncertainty of some costs, introduce contingency sum into detailed business plan 	Directors and Head of Finance and Audit
3.	Financial risk	Unexpected events leading to a delay in delivery which could include delays in recruitment or external cost pressures which divert funding from the Programme.	3	3	9	↔	<ul style="list-style-type: none"> Use of unearmarked reserves to fund a delay in delivery of the programme. Each month of delay could cost between £50,000 at the start of the programme to £250,000 at the end (combined figure). Review the level of corporate priority of the Programme against any new cost pressure 	SMT
4.	Management risk	Management capacity to deliver the Programme	4	3	8	↔	<ul style="list-style-type: none"> Programme identified as the key corporate priority Commission external support as required to ensure the Programme is delivered in line with the timetable 	SMT

No	Risk Title	Risk/Opportunity Description	Inherent risk status				Mitigating & Management actions	Ownership
			Impact of negative outcome	Chance of negative outcome	Risk score and direction of travel			
5.	Management risk	Maintaining the shared vision for the Programme during a period of significant changes	4	3	12	↔	<ul style="list-style-type: none"> Effective communication strategy to engage with Members, staff and other stakeholders embedded within the Programme 	Directors
6.	Management risk	Managing organisational transition to the new operating model, in particular reduction in customer satisfaction and/or drop in service standards	4	2	8	↔	<ul style="list-style-type: none"> Create sufficient organisational capacity to achieve programme timeframes Managing ongoing individual service performance 	Directors Heads of Service
7.	Management risk	Loss of key staff during implementation of the Programme	4	4	16	↑	<ul style="list-style-type: none"> Ensure effective transition plan in place 	Directors and Head of Corporate Services
Page 12	Political risk	Early interest from potential partner organisations to join Programme	3	3	9	↔	<ul style="list-style-type: none"> New partners able to join Programme but based on SH/WD model and timelines, following assessment of risk to the Programme Create flexible model that enables new partners to join at different 'levels' of the model, provided there is no adverse impact on service delivery within SH/WD 	Directors
	9.	Staffing risk	Officer capacity and retention of staff morale during significant corporate change	4	3	12	↔	<ul style="list-style-type: none"> Effective communication strategy embedded as part of the Programme Maintain the pace of the change to ensure that key staff are not lost to the organisation

No	Risk Title	Risk/Opportunity Description	Inherent risk status				Mitigating & Management actions	Ownership
			Impact of negative outcome	Chance of negative outcome	Risk score and direction of travel			
10.	Staffing risk	Securing successful implementation of major cultural change in relation to the development of skills and approaches to working arrangements within the new operating model	4	2	8	↔	<ul style="list-style-type: none"> • Support cultural change with a comprehensive corporate training and development programme and develop recruitment, induction, appraisal and performance management frameworks • Communication strategy embedded as a key element of the Programme • Procure external skills to respond to expertise or capacity gaps • Ensure new systems and processes are resilient and sustainable 	<p>Directors and Head of Corporate Services</p> <p>Directors and Head of ICT and Customer Services</p>
11.	Staffing risk	Potential Union/staff response to elements of the Programme	4	2	8	↔	<ul style="list-style-type: none"> • Ongoing engagement with key staff stakeholder groups and develop corporate understanding of those issues which are essential to successful implementation of the Programme and therefore must be subject to change • Communicate potential staff benefits within the model such as developing skills and achieving better work/life balance through agile working 	Directors and Head of Corporate Services

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WEST DEVON BOROUGH COUNCIL

NAME OF COMMITTEE	OVERVIEW & SCRUTINY COMMITTEE
DATE	14 OCTOBER 2014
REPORT TITLE	LOCAL GOVERNMENT OMBUDSMAN'S ANNUAL REVIEW LETTER 2014
REPORT OF	MONITORING OFFICER
WARDS AFFECTED	ALL

Summary of report: To consider the Local Government Ombudsman's Annual Review Letter 2014 regarding complaints received against the Council for the year 1 April 2013 to 31 March 2014.

Financial implications: Where it is necessary to settle a complaint by the payment of compensation to a member of the public, payment is made out of the current year's revenue budget for the service in question. No payments have been made for 2013/14.

RECOMMENDATIONS:

That the Committee reviews the Ombudsman information and considers what corporate lessons can be learnt and whether further service improvements are required.

Officer contact:

Catherine Bowen, Monitoring Officer

Email: catherine.bowen@swdevon.gov.uk, Tel: 01822 813666

1. BACKGROUND

- 1.1 The Local Government Ombudsman investigates complaints made by members of the public about public authorities (excluding town or parish councils).
- 1.2 The Ombudsman will investigate a complaint if it relates to maladministration or injustice by the Council. The Ombudsman will not be able to investigate all of the complaints referred to her as some will fall outside of her remit and she can only investigate a complaint that has already been considered through the Council's own complaints procedure. The Council must have a chance to answer the complaint first.
- 1.3 A complainant cannot appeal against the Ombudsman's decision but complaints can be reviewed if new information is presented.

2. ISSUES FOR CONSIDERATION

- 2.1 The Ombudsman's office changed its business processes during 2012/13 and in the Annual Review Letter 2013 (considered by this Panel on 29 October 2013) only high level statistical information on the number of complaints received by the Council was given.
- 2.2 The Annual Review Letter 2014 is the first full year of recording complaints under the Ombudsman's new business model so the figures will not be directly comparable to previous years. A copy of the Annual Review Letter 2014 is attached as Appendix A.
- 2.3 The Review Letter shows that in 2013/14 the Ombudsman received 16 complaints and enquiries and made 11 decisions. A summary of the complaints and Ombudsman's decisions received by the Council's Ombudsman Link Officer is attached as Appendix B. Members will note that the figures do not correspond. On querying this we have been advised by the Ombudsman's office that they are unable to provide any further detailed information on the statistics on an individual basis as they do not have the resource available to divert from their core work of dealing with the public's complaints.
- 2.4 However, the Ombudsman has provided answers to frequently asked questions relating to their Review Letters which goes some way to explaining the discrepancy in the figures in the Review Letter and the Link Officer's records. The main questions and answers are set out below:

Why are there different totals for the number of complaints & enquiries registered, and the number of decisions made?

Not every decision made will relate to a complaint made in that year. There may be complaints registered in 13/14 that have not yet been decided on, and decisions may have been made in the year for complaints registered in a previous year.

I cannot match up the number of decisions the Ombudsman has made to the number I have on file

Because our figures include enquiries, they will not match what your council holds. For example the Ombudsman can offer advice on, or refer complaints back to the council. We classify these as decisions and because no contact between the Ombudsman and local authority has been made, it is unlikely you will hold a record of them.

Your data shows a complaint or enquiry about a service our council does not provide

We categorise our complaints slightly differently to how councils may record their own. For example we include disabled facilities grant complaints within either Adult Care Services or Education and Children's Services depending on the age of the person affected. We also include blue badge complaints as part of Adult Care Services.

- 2.5 Members will note from Appendix B that the Planning service continues to attract most complaints to the Ombudsman. This is the pattern for many authorities given the nature of the service.

- 2.6 The key purpose of the review of the Ombudsman’s letter is to improve services as a result of learning from the complaints received. It is not suggested that each complaint is reviewed by the Panel but to review whether there are underlying problems or service improvements required.
- 2.7 To assist Members, a comparison showing the number of complaints and enquiries received by the District/Borough Councils in Devon is attached as Appendix C. As an average each of the Devon District Councils received 25.5 complaints in 2013-14. The Ombudsman received 28 complaints about South Hams and West Devon had 16. In the same period South Hams received 2,016 planning applications and West Devon 709. With approximately 64% less applications it is perhaps not surprising that West Devon received 42% less complaints.

3. LEGAL IMPLICATIONS AND STATUTORY POWERS

- 3.1 The Local Government Ombudsman is governed by the Local Government Act 1974.
- 3.2 The Overview & Scrutiny Committee is responsible for an overview of complaints handling and for an overview of Ombudsman complaints. The Ombudsman’s Annual Letter is an important part of that process and needs to be brought to the Committee’s attention.
- 3.3 The decisions in respect of each case are provided to the relevant service in order to ensure that any recommendations made by the Ombudsman are acted upon.

4. FINANCIAL IMPLICATIONS

- 4.1 Where it is necessary to settle a complaint by the payment of compensation to a member of the public, payment is made out of the current year’s revenue budget for the service in question. No payments have been made for 2013/14.

5. RISK MANAGEMENT

- 5.1 The Risk Management implications are shown at the end of this report in the Strategic Risks Template.

6. OTHER CONSIDERATIONS

Corporate priorities engaged:	All
Considerations of equality and human rights:	Poor administrative practice could engage the complainants’ human rights and any such implications are considered in each case
Biodiversity considerations:	Not applicable
Sustainability considerations:	Not applicable
Crime and disorder implications:	Not applicable
Background papers:	Overview & Scrutiny Committee on 29 October 2013

Appendices attached:	Appendix A – Annual Review Letter 2014 Appendix B – Link Officer’s summary of complaints received Appendix C – Comparison with other District/ Borough Councils in Devon
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STRATEGIC RISKS TEMPLATE

No	Risk Title	Risk/Opportunity Description	Inherent risk status				Mitigating & Management actions	Ownership
			Impact of negative outcome	Chance of negative outcome	Risk score and direction of travel			
1	Awareness of the number and type of complaints made to the Local Government Ombudsman	Reporting to Overview & Scrutiny raises awareness of the number and type of complaint being received by the Ombudsman and enables a consistent overview to be given to such complaints	3	2	6	↔	Whilst there will always be complaints, the Council can learn from the outcomes of the Ombudsman complaints and mitigate the risk of recurrence and deliver service improvements	Head of Service

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7 July 2014

By email

Mr Alan Robinson
Executive Director
West Devon Borough Council

Dear Mr Alan Robinson

Annual Review Letter 2014

I am writing with our annual summary of statistics on the complaints made to the Local Government Ombudsman (LGO) about your authority for the year ended 31 March 2014. This is the first full year of recording complaints under our new business model so the figures will not be directly comparable to previous years. This year's statistics can be found in the table attached.

A summary of complaint statistics for every local authority in England will also be included in a new yearly report on local government complaint handling. This will be published alongside our annual review letters on 15 July. This approach is in response to feedback from councils who told us that they want to be able to compare their performance on complaints against their peers.

For the first time this year we are also sending a copy of each annual review letter to the leader of the council as well as to the chief executive. We hope this will help to support greater democratic scrutiny of local complaint handling and ensure effective local accountability of public services. In the future we will also send a copy of any published Ombudsman report to the leader of the council as well as the chief executive.

Developments at the Local Government Ombudsman

At the end of March Anne Seex retired as my fellow Local Government Ombudsman. Following an independent review of the governance of the LGO last year the Government has committed to formalising a single ombudsman structure at LGO, and to strengthen our governance, when parliamentary time allows. I welcome these changes and have begun the process of strengthening our governance by inviting the independent Chairs of our Audit and Remuneration Committees to join our board, the Commission for Administration in England. We have also recruited a further independent advisory member.

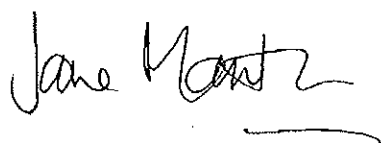
Future for local accountability

There has been much discussion in Parliament and elsewhere about the effectiveness of complaints handling in the public sector and the role of ombudsmen. I have supported the creation of a single ombudsman for all public services in England. I consider this is the best way to deliver a system of redress that is accessible for users; provides an effective and comprehensive service; and ensures that services are accountable locally.

To contribute to that debate we held a roundtable discussion with senior leaders from across the local government landscape including the Local Government Association, Care Quality Commission and SOLACE. The purpose of this forum was to discuss the challenges and opportunities that exist to strengthen local accountability of public services, particularly in an environment where those services are delivered by many different providers.

Over the summer we will be developing our corporate strategy for the next three years and considering how we can best play our part in enhancing the local accountability of public services. We will be listening to the views of a wide range of stakeholders from across local government and social care and would be pleased to hear your comments.

Yours sincerely

A handwritten signature in black ink that reads "Jane Martin". The signature is written in a cursive style with a long horizontal flourish at the end.

Dr Jane Martin
Local Government Ombudsman
Chair, Commission for Local Administration in England

Local authority report – West Devon Borough Council

For the period ending – 31/03/2014

For further information on interpretation of statistics click on this link to go to <http://www.lgo.org.uk/publications/annual-report/note-interpretation-statistics/>

Complaints and enquiries received

Local authority	Adult care services	Benefits and tax	Corporate and other services	Education and children's services	Environmental services and public protection and regulation	Highways and transport	Housing	Planning and development	Total
West Devon BC	0	0	2	0	3	0	2	9	16

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Decisions made

Local authority	<u>Detailed investigations carried out</u>		Advice given	Closed after initial enquiries	Incomplete/Invalid	Referred back for local resolution	Total
	Upheld	Not upheld					
West Devon BC	0	3	0	4	0	4	11

LOCAL GOVERNMENT OMBUDSMAN

COMPLAINTS 1st April 2013 – 31st March 2014

Complaint	Department	LGO's First Letter	WDBC's First Reply	Number of Days (LGO allows 20 days for first reply)	LGO's Final Decision
Impact of wind turbine not properly considered	Planning	1 st May 2013	n/a		Closed after initial enquiries
Incorrect pre-app advice given	Planning	5 th September 2013	LGO decision made through review of paperwork provided by the complainant	n/a	Not upheld
Planning decision made on flawed information	Planning	4 th October 2013	n/a		Closed after initial enquiries
Failure to consult with neighbour regarding a planning application Dunterton	Planning	31 st October 2013	3 rd December 2013	22	Resolved locally
Commercial refuse collection service Hexworthy	Environmental Services	10 th December 2013	27 th September 2013	32	Not upheld
Poor administrative support	Planning	17 th February 2014	n/a	n/a	Closed after initial enquiries

Complaint about an alleged breach of a parish council's code of conduct	Corporate	26 th February 2014	LGO decision without reference to Council	n/a	Outside jurisdiction
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Complaints and enquiries received by category 2013/14

Local Government
OMBUDSMAN

Local Authority	Adult Care Services	Benefits & Tax	Corporate & Other Services	Education & Childrens Services	Environmental Services & Public Protection & Regulation	Highways & Transport	Housing	Planning & Development	Total
East Devon DC		2	7	7	7			1	16
Exeter City C			4			3		11	4
Mid Devon DC			3	3	3	1		3	6
North Devon DC			2	2	7	2	2	2	10
South Hams DC			2	2	4	1			18
Teignbridge DC	1	7	4	4		2			16
Torrifield DC			4	4	1	4	4	3	17
West Devon BC			2	2	3		2	2	9

NAME OF COMMITTEE	Overview & Scrutiny Committee
DATE	14 October 2014
REPORT TITLE	Regulation of Investigatory Powers Act (RIPA) Policy and update on the use of RIPA
Report of	Monitoring Officer
WARDS AFFECTED	All

Summary of report:

- to review the Council's Regulation of Investigatory Powers Act (RIPA) Policy and
- to update the Committee on the use of the Regulation of Investigatory Powers Act 2000 by the Council

in accordance with Home Office Guidance 'Covert Surveillance and Property Interference' Code of Practice.

Financial implications:

There are no financial implications to this report.

RECOMMENDATIONS:

To recommend to Council that:

1. the amended RIPA Policy is approved and delegated authority is granted to the Monitoring Officer to make any necessary legislative or best practice changes to the Policy
2. the four Service Leads are appointed as RIPA Authorising Officers following their appointment
3. the Monitoring Officer appoints one of the legal team to be the RIPA Co-ordinating Officer
4. The Committee notes that there have been no RIPA Authorisations in the last quarter.

Officer contact:

Catherine Bowen, Monitoring Officer (cbowen@westdevon.gov.uk)

1. BACKGROUND

- 1.1 The Regulation of Investigatory Powers Act 2000 (RIPA) was designed to regulate the use of investigatory powers and its effect is that formal authorisation must be obtained before carrying out certain surveillance, monitoring and other evidence gathering activities.
- 1.2 RIPA requires the Council to have in place procedures to ensure that when required, surveillance is seen as necessary and is properly authorised. These are set out in the Policy attached to this report.
- 1.3 The Act also requires the Chief Surveillance Commission to keep under review the use of RIPA by Councils and this is carried out by inspectors from the Office of the Surveillance Commissioner (OSC).
- 1.4 Mr Mackian from the OSC carried out an inspection on 7 August 2014 to ensure that the Council is complying with the Act and its Policy.

2. RIPA POLICY

- 2.1 The Council's current RIPA Policy is attached at Appendix A. The recent inspection by the OSC Inspector confirmed that the Policy is a very clear and comprehensive and requires only minor amendments to reflect the impact of the Protection from Freedoms Act 2012 which states that RIPA authorisations must now be authorised by a Justice of the Peace. This means that any authorisations under RIPA for covert surveillance will only be effective once an Order approving the surveillance has been granted by a JP. Accordingly amendments have been made to pages 13, 15 and 16 of the attached Policy. Council has previously approved designated officers who can apply for these orders.
- 2.2 The Authorising Officers set out in the Annex to the Policy will need updating following the appointment of the four Service Leads later this year.

3. RIPA CO-ORDINATING OFFICER

- 3.1 The OSC Inspector also recommended that an officer from the Legal Team be appointed with immediate effect as a RIPA Coordinating Officer with specific compliance oversight responsibilities. The role will include maintaining the central record of authorisations and collating original applications and authorisations, reviews, renewals and cancellations; oversight of RIPA documentation and training and awareness.

4. UPDATE ON USE OF RIPA

- 4.1 No authorisations have been applied for or granted in the last quarter.

5. LEGAL IMPLICATIONS

- 5.1 The Home Office Guidance 'Covert Surveillance and Property Interference' Code of Practice requires that Members should review the Council's use of RIPA and set the policy at least once a year. Members should also consider reports on the use of RIPA quarterly to ensure that it has been used consistently with the Council's policy and that the policy remains fit for purpose.

5.2 The Overview & Scrutiny Committee is responsible for an overview of the Council's use of RIPA.

6. FINANCIAL IMPLICATIONS

6.1 There are no financial implications to this report.

7. RISK MANAGEMENT

7.1 The Risk Management implications are shown at the end of this report in the Strategic Risks Template.

8. OTHER CONSIDERATIONS

Corporate priorities engaged:	All
Considerations of equality and human rights:	These are considered in each individual application and authorisation
Biodiversity considerations:	Not applicable
Sustainability considerations:	Not applicable
Crime and disorder implications:	These are considered in each individual application and authorisation
Background papers:	None
Appendices attached:	Appendix A: Regulation of Investigatory Powers Act 2000 Policy

STRATEGIC RISKS TEMPLATE

No	Risk Title	Risk/Opportunity Description	Inherent risk status				Mitigating & Management actions	Ownership
			Impact of negative outcome	Chance of negative outcome	Risk score and direction of travel			
1.	To ensure that the policy is used consistently and that it remains fit for purpose.	Reporting to Scrutiny raises awareness of the use of RIPA and ensures a consistent application of the policy	5	2	10	↔	Ensure that the Policy is up to date with the law and best practice guidance and that it is being used only where necessary and proportionate.	RIPA Senior Responsible Officer



**SOUTH HAMS DISTRICT Council
And
WEST DEVON BOROUGH COUNCIL**

**Regulation of Investigatory Powers Act 2000
Joint Policy**

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Introduction

Overview

The Regulation of Investigatory Powers Act 2000 (RIPA) means that formal authorisation from a senior officer must be obtained before carrying out certain surveillance, monitoring and other evidence-gathering activities. The Council may not carry out any other types of surveillance at all.

It is important to remember that RIPA must always be complied with, regardless of whether the information obtained is to be used as evidence in court proceedings. Failure to comply with RIPA doesn't just mean that the evidence cannot be used in court; it means that the whole procedure is illegal and that the officers concerned do not benefit from the above protection.

This Policy applies to South Hams District Council and West Devon Borough Council.

What is this document for and why is it needed?

The Councils' are allowed and required to carry out investigations in relation to their duties. Such investigations may require surveillance or information gathering of a covert nature.

Article 8 of the European Convention on Human Rights provides:

- Article 8.1: Everyone has the right to respect for his private and family life, his home and his correspondence.
- Article 8.2: There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of rights and freedoms of others.

This right is not absolute, it is a qualified right. This means that in certain circumstances the Council *may* interfere with the right if the interference is:

- in accordance with the law
- necessary, and
- proportionate

Covert Surveillance and information gathering may constitute an interference with the right to respect for private and family life. To ensure that such an action is not unlawful under the Human Rights Act 1998, the Council needs to meet the requirements of the Regulation of Investigatory Powers Act 2000 (RIPA).

In simple terms, RIPA requires the Council to have in place procedures to ensure that when required, surveillance is seen as necessary and is properly authorised. Surveillance is usually a last resort that an investigator will use to prove or disprove an allegation. RIPA sets out a statutory mechanism for authorising covert surveillance and the use of covert human intelligence sources (see below). RIPA seeks to ensure that any interference with an individual's rights under Article 8 is necessary and proportionate and that, therefore,

there is a balance between public interest and an individual's human rights. Covert surveillance will only be undertaken where there is no reasonable and effective alternative means of achieving the desired objective.

What is meant by necessary?

It is essential to consider whether an investigation requiring surveillance or information gathering can be done overtly rather than covertly. What would the result be if you carried out the investigation overtly?

If an investigation can be reasonably carried out by any means other than by using covert surveillance, then the use of covert surveillance is not necessary.

It must then be considered whether it is necessary to conduct covert surveillance or use covert human intelligence sources in the circumstances of the particular case for the **purpose of preventing or detecting crime where the offence is punishable by imprisonment of a term of six months or more.**

What is meant by proportionate?

This is an important concept, and it means that any interference with a person's rights must be proportionate to the intended objective. The action must be aimed at pursuing a legitimate aim. Interference will not be justified if the means used to achieve the aim are excessive in all the circumstances.

The use of surveillance must be designed to do no more than meet the objective in question; it must not be unfair or arbitrary, and the impact on the individual (or group of people) concerned must not be too severe. In deciding whether the use or action is proportionate, the risk of intrusion into the privacy of persons other than those who are the object of the investigation must be considered, and the measures proposed to minimise such intrusion must be properly assessed. You must be satisfied that, on balance, the principle of the subject's right to privacy is outweighed by the purpose of the investigation. Clearly, the more serious the matter being investigated, the more likely that surveillance will be proportionate.

The proportionality test will also require you to consider whether there are any other appropriate means of obtaining the information and whether there is a risk of collateral intrusion. The least intrusive method will be proportionate. Some of the things you may also wish to consider in terms of proportionality are whether covert surveillance is the only option, what other options have been considered, the intended length of the investigation, the number of officers to be deployed in the investigation.

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.

What is covered by the Regulation of Investigatory Powers Act 2000?

The main purpose of the Regulation of Investigatory Powers Act 2000 is to ensure that the relevant investigatory powers are used in accordance with human rights. The Act sets out these powers in more detail. Part II of the Act sets out the powers available to local authorities.

The Council is able to carry out investigations using covert surveillance and/or by using a covert human intelligence source under RIPA following the formal authorisation procedures and codes of practice as set out in this document. RIPA applies to the Council's core functions. Please ask the RIPA Co-ordinating Officer for advice if you are unsure as to whether RIPA will apply.

RIPA not only covers the surveillance of members of the public but would also cover the observation of staff and members as part of an internal investigation.

Do we need to follow these rules?

Although RIPA does not impose a requirement for local authorities to comply with it, it is essential for the Council to do so to ensure that:

- it is less vulnerable to a challenge under the Human Rights Act and
- any material gathered is admissible by the civil and criminal courts.

Following the requirements of RIPA and acting in accordance with this Policy, will therefore protect the Council against potential challenges to its decisions and procedures. Not following the procedures specified in this document could also lead to a complaint of maladministration or a complaint to the independent Tribunal set up under RIPA, details of which are to be found at the end of this document.

What is the relevant legislation?

- The Regulation of Investigatory Powers Act 2000
- The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010
- Protection of Freedom Act 2012

Authorisation may only be granted if it is necessary for the reason permitted by RIPA. For local authorities the only statutory reason is **for the purposes of preventing or detecting a criminal offence where that offence is punishable (whether on summary or indictment) by a minimum term of at least 6 months imprisonment.**

This means that directed surveillance cannot be used for minor offences.

What is the Council's Policy on RIPA?

This document is the Council's policy on RIPA. As such, it should be adhered to unless it is in conflict with either of the Government Codes of Practice which have been made under RIPA. The Codes of Practice are admissible as evidence in court and **must** be complied with.

Copies of the Codes of Practice are available on the Home Office site:
www.homeoffice.gov.uk. These are:

- Covert Surveillance Code Of Practice
- Covert Human Intelligence Sources Code Of Practice

When will this document be reviewed?

This document shall be subject to review once a year. An earlier review may take place should circumstances in the law so require it. Minor amendments may be made from time to time.

Who is responsible for reviewing and monitoring this document and the use of RIPA?

West Devon Borough Council's **Overview and Scrutiny Committee** and South Hams District Council's **Corporate Performance & Scrutiny Panel** are responsible for the overview of the RIPA policy and the Councils' use of RIPA. The Committees will not be involved in making decisions on specific authorisations.

The RIPA Co-ordinating Officer is responsible for the RIPA Policy, the Central Register of authorisations, and for making regular reports on the use of RIPA to the Councils' Scrutiny Committees.

How do I find out more?

General guidance on RIPA may be found on the Home Office site:
<http://www.homeoffice.gov.uk/>

Please contact the Council's Legal Section if you require any further advice on RIPA, this document or any of the related legislative provisions.

For the Benefits Section – further guidance may be found in the DWP Circulars.

Surveillance

What is Surveillance?

“**Surveillance**” includes

- monitoring, observing, listening to persons, watching or following their movements, listening to their conversations and other such activities or communications
- recording anything mentioned above in the course of authorised surveillance
- surveillance, by or with, the assistance of appropriate surveillance device(s)
- the interception of a communication in the course of its transmission by means of a postal service or telecommunication system if it is one sent by, or intended for, a person who has consented to the interception of the communication.

Surveillance can be overt or covert.

Overt Surveillance

Most of the surveillance carried out by the Council will be done overtly.

General observations made by officers in the course of their duties constitutes overt surveillance.

Warning the person about the surveillance (preferably in writing) constitutes overt surveillance. Consideration should be given to how long the warning should last. This must be a reasonable length of time (three months may be appropriate in many cases), but each case must be assessed as to what is reasonable having regard to the circumstances. Whatever period is chosen, this **must** be set out in the written warning. At the expiry of the period, further written warning should be given otherwise the surveillance will become covert.

Overt surveillance does not require authorisation under RIPA.

Covert Surveillance

“Covert Surveillance” means surveillance which is carried out in a manner calculated to ensure that the persons subject to the surveillance are unaware that it is or may be taking place.

Covert surveillance does require authorisation under RIPA.

What are the different types of covert surveillance?

RIPA regulates two types of covert surveillance:

- Directed Surveillance, and
- Intrusive Surveillance;

RIPA also regulates the use of Covert Human Intelligence Sources.

Directed Surveillance

Directed surveillance is defined as surveillance which is:

- covert,
- not intrusive (see definition below)
- undertaken for the purposes of a specific investigation or specific operation;
- carried out in such a manner as is likely to result in the obtaining of private information about a person (whether or not that person is the target of the investigation or operation); and
- undertaken in a planned manner, and not as an immediate response to events or circumstances.

Intrusive surveillance

Intrusive surveillance is surveillance of any activities on any residential premises or in any private vehicle by a person (other than a Covert Human Intelligence Source) on those premises or in that vehicle or is carried out by means of a surveillance device on the premises or in the vehicle or which provides information of the same quality and details as if it was on the premises or in the vehicle

However, directed surveillance authorisation may be granted for parts of residential premises, such as gardens or driveways which can be observed from the public highway. Further guidance on this point may be obtained from the Council's Legal Section.

It is important to get this right because:

COUNCIL OFFICERS CANNOT CARRY OUT INTRUSIVE SURVEILLANCE

Covert Human Intelligence Sources

The term Covert Human Intelligence Sources is used to describe people who are more commonly known as informants or officers working "undercover". Throughout this document these people are referred to as "Sources"

This does not include members of the public who volunteer information to the Council as part of their normal civic duties or to contact numbers set up to receive information.

A person is a Source if he/she:

- establishes or maintains a covert personal or other relationship for the purposes of:
 - obtaining information; or
 - providing access to information to another person; or
 - discloses information obtained by the use or existence of that covert relationship
- RIPA authorisation is required for using a Source.

There are special rules for using juvenile or vulnerable persons as sources, and only the Director (HoPS) can authorise such surveillance. Further advice should be sought from the Council's Legal Section in such cases.

Interception of Communications

Local authorities can carry out interception of communications in a restricted number of circumstances.

These are:

In the course of normal business practice

The Councils are permitted without authorisation under RIPA to lawfully intercept its employees' e-mail or telephone communications and monitor their internet access for the purposes of prevention or detection of crime or the detection of unauthorised use of these systems.

The Councils' policies on use of the internet and e-mail are set out on the intranet site under Policies and Procedures/ICT policies.

The Council also has regard to the Employment Practices Data Protection Code – Part 3: Monitoring at Work produced by the Information Commissioner. A copy of this code and its supplementary guidance can be found at: www.ico.org.uk

Interception with the consent of both parties.

Such interception does not require RIPA authorisation, but should be properly recorded.

Interception with the consent of only one of the parties.

Such interception would require RIPA authorisation because it would fall within the definition of surveillance (either directed or using a Source). The main type of interception envisaged here is the recording of telephone calls where either the caller or the receiver has given consent to the recording.

Where as part of an already authorised Directed Surveillance or use of a Source a telephone conversation is to be recorded by the Officer or the Source then no special or additional authorisation is required.

Interception without the consent of either of the parties

The recording of telephone calls between two parties when neither party is aware of the recording **CANNOT BE UNDERTAKEN**, except under a Warrant granted by the Secretary of State under Part 1 of RIPA. Such warrants are only granted by the Secretary of State and it is not envisaged that such activity would fall within the remit of local authority investigations.

Procedures

What is the procedure for obtaining authorisation under RIPA?

Directed surveillance and the use of a Source can only be lawfully carried out if properly authorised, and in strict accordance with the terms of the authorisation.

All directed surveillance and use of a Source operations shall be:

- Applied for in writing or verbally in cases of urgency
- Approved
- Monitored
- Renewed when necessary
- Cease when no longer authorised

All the above actions will be carried out in accordance with this document and the relevant Codes of Practice and will be recorded on the Standard Forms listed below:

The Standard Forms are available from the Home Office web-site www.homeoffice.gov.uk

Directed Surveillance

- Application for directed surveillance authorisation
- Review of directed surveillance authorisation
- Application for cancellation of directed surveillance authorisation
- Application for renewal of directed surveillance authorisation

Use of a Source

- Application for conduct-use of a CHIS authorisation
- Review of use of a CHIS authorisation:
- Application for renewal of use of a CHIS authorisation
- Application for cancellation of conduct-use of a CHIS authorisation

Copies of all these documents will be retained and kept on the investigation file as part of the evidence to show that the information gained by directed surveillance or the use of a Source has been obtained legally.

This document provides guidance on the Procedures required to be undertaken by the Investigating Officer and the Authorising Officer for the different stages specified above.

• **The Senior Responsible Officer's Duties**

Who is the Senior Responsible Officer?

The Councils' Senior Responsible Officer is listed in the annex to this document.

What are my duties?

In accordance with the recommendations of the Codes of Practice, you are responsible for the following areas:-

- the integrity of the process in place within the Council for the management of Covert Human Intelligence Sources and Directed Surveillance
- compliance with Part II of RIPA and the Codes of Practice
- oversight of the reporting of errors to the relevant oversight Commissioner and the identification of both the cause(s) of errors and the implementation of processes to minimise repetition of errors
- engagement with the OSC inspectors when they conduct their inspections
- oversight of the implementation of any post-inspection action plan approved by the relevant oversight Commissioner
- ensuring that all Authorising Officers are of an appropriate standard in light of any recommendations in the inspection reports by the Office of the Surveillance Commissioner

- **The Investigating Officer's Duties under RIPA.**

The Application

The application for authorisation is the responsibility of the Investigating Officer

What do I need to do?

You will need to consider:

- Whether covert surveillance is needed
- Whether directed surveillance or use of a Source is needed
- Whether directed surveillance or use of a Source is necessary for statutory reasons
- Whether directed surveillance or use of a Source is proportionate
- The risk of collateral intrusion
- Safety and welfare arrangements (use of Source only)

These are discussed in more detail below.

What do I need to consider?

- **Consideration: Whether covert surveillance is needed**

Consideration must be given as to whether covert surveillance is needed. You are advised to discuss the need to undertake directed surveillance or the use of a Source with your line manager before seeking authorisation. All options for the use of overt means **must** be fully explored. Remember: if the investigation can be carried out by overt means, then covert surveillance is not necessary.

- **Consideration: Whether directed surveillance or use of a Source is needed**

You must establish which type of "surveillance" is required for the investigation or operation having regard to the guidance contained in this document. The type of surveillance you require affects which application forms you need to complete. Additional considerations are needed for using a Source. Further detail is found below. Combined authorisations for both directed surveillance and the use of a Source may be applied for where appropriate.

- **Consideration: Whether directed surveillance or use of a Source is necessary for the statutory reason**

Authorisation may only be granted if it is necessary for the reason permitted by RIPA. For local authorities the only statutory reason is for the purposes of preventing or detecting a criminal offence where that offence is punishable (whether on summary or indictment) by a minimum term of at least 6 months imprisonment.

This means that directed surveillance cannot be used for minor offences.

You must set out this ground in your application form and provide details of the reasons why it is necessary to use covert surveillance.

- **Consideration: Whether directed surveillance or use of a Source is proportionate**

You must consider why it is proportionate to use covert methods to collect evidence. Please see the definitions set out on page 2 “what is proportionate?” Remember, the use of covert methods must do no more than meet your objective. The proportionality test will also require you to consider whether there are any other appropriate means of obtaining the information and whether there is a risk of collateral intrusion (see consideration below). The least intrusive method will be proportionate. The following aspects of proportionality must be considered and evidenced:-

- balancing the size and scope of the proposed activity against the gravity and extent of the perceived crime or offence
- explaining how and why the methods to be adopted will cause the least possible intrusion on the target and others
- considering whether the activity is an appropriate use of the legislation and a reasonable way, having considered all reasonable alternatives, of obtaining the necessary result
- evidencing, as far as reasonably practicable, what other methods have been considered and why these were not implemented.

- **Consideration: The risk of collateral intrusion**

Collateral intrusion is the risk of intrusion into the privacy of persons other than the target. You are required to assess the risk of collateral intrusion. Details of any potential collateral intrusion should be specified. Measures must be taken wherever practicable to avoid or minimise collateral intrusion and a plan should be included in your application specifying how the potential for collateral intrusions will be minimised. You should give as much detail as possible, insufficient information may lead to the rejection of the application.

- **Consideration: Surveillance from private premises**

It is preferable for surveillance to be carried out from a public place, such as a public highway. However, there may be circumstances where private premises may be required for the carrying out of surveillance. In which case, it is essential that you obtain the consent of the owner and/or occupier of the premises prior to authorisation being sought. You should seek further guidance from the Council’s Legal Section on this point.

- **Consideration: safety and welfare arrangements – use of a Source**

You must provide a risk assessment as to the likely risks to be faced by an officer or other person both during the conduct of the investigation and after the cancellation of the authorisation. Details must also be included setting out the arrangements for the safety of the Source, this should include:

- the name of the Officer who has day to day responsibility for:
 - Dealing with the Source
 - Directing the day to day activities of the Source
 - Recording the information supplied by the Source
 - The Source’s security and welfare

- The name of the Officer responsible for recording and monitoring the use made of the Source
- Arrangements for ensuring the security of the records which identify the Source
- Records relating to the Source meet the requirements of the Statutory Instrument: The Regulation of Investigatory Powers (Source Records) Regulations 2000 (SI 2000 No. 2725) – please see either the Home Office website: www.homeoffice.gov.uk or the Office of Public Sector Information website: www.opsi.gov.uk

How do I apply?

All applications must be made in writing on the standard forms as set out in this document. The relevant forms are:

- An application for directed surveillance authorisation, and/or
- An application for use of a Source

The considerations set out above, form part of the application form.

The application form must be fully completed and passed to the Authorising Officer. The annex to this document contains details of the Council's Authorising Officers.

NB. All authorisations and renewals must have the prior approval of the Magistrates' before they take effect.

What if authorisation is urgent?

The 2012 Home Office Guidance states that in most emergency situations where the police have power to act, then they are able to authorise activity under RIPA without prior JP approval. Therefore local councils may need to work with the police if faced with an emergency.

NB. Urgent authorisation may not be necessary if, under section 26(2) of the Act, an officer suddenly sees something relevant to his duties and takes an immediate note, observation of follow-up activity (within reason).

Monitoring

How long will an authorisation last for?

The authorisation for Directed Surveillance will last for **three months** from the date of authorisation unless renewed.

The authorisation for use of a Source will last for **12 months** from the date of authorisation (i.e. date of Magistrates' Order) unless renewed.

Review dates for the authorisation will be set by the Authorising Officer.

I now have my authority for surveillance, is there anything else I should be aware of?

It will be the responsibility of the Investigating Officer to ensure that any Directed Surveillance or use of a Source is only undertaken under an appropriate and valid authorisation.

During the surveillance, you should ensure:

- Surveillance is carried out in accordance with the approval
- Collateral intrusion is minimised as far as possible
- Intrusive surveillance is not carried out
- All information obtained is recorded contemporaneously or as soon as possible thereafter

During the use of a Source, you should also ensure:

- That the source is aware that:
 - Only the tasks authorised are carried out
 - Third party collateral intrusion is minimised as far as possible
 - Intrusive surveillance is not carried out
 - Entrapment is not committed
 - They must regularly report to you

You should also be mindful of the date when authorisations and renewals will cease to have effect. Please see the notes on Renewals and Cancellation below.

What do I do if circumstances change during the investigation?

You must inform the Authorising Officer if the investigation unexpectedly interferes with the privacy of individuals who are not covered by the authorisation or if there is another change in circumstances usually brought about by unforeseen action.

When the original authorisation may not be sufficient, consideration should be given to whether the authorisation needs to be amended and re-authorised (for minor amendments only) or whether it should be cancelled and a new authorisation obtained. The relevant forms should be used.

Particular care should be taken when using a Source to ensure that authorisation is sufficient. It is difficult to predict what might occur each time a meeting with a Source takes place. If unforeseen action takes place, the occurrence should be recorded as soon as possible after the event and the sufficiency of the authorisation must be considered.

You must bring to the attention of the Authorising Officer any concerns about the personal circumstances of the Source in relation to: the validity of the risk assessment; the conduct of the source; the safety and welfare of the Source.

Renewals

Why are renewals important?

Once the authorisation expires, surveillance must cease unless a renewal has been applied for and approved. Renewals must be authorised prior to the expiry of the original authorisation but will run from the date and time of expiry of the original authorisation.

What should I do?

If it appears that the directed surveillance or use of a Source is needed beyond the authorisation date, you must seek a renewal of the authorisation.

You must consider whether covert methods are still necessary and proportionate.

An application for renewal for either Directed Surveillance and/or use of Source should be made on the relevant form and passed to the Authorising Officer for consideration.

Authorisation for renewal may be sought verbally, but only in exceptional circumstances.

NB. All authorisations and renewals must have the prior approval of the Magistrates' before they take effect.

Cancellations

Why are cancellations important?

All authorisations, including renewals, must be cancelled if the reason why Directed Surveillance or use of a Source was required no longer exists or is no longer proportionate. This will occur in most instances when the purpose for which surveillance was required has been achieved and officers must be mindful of the need to cancel any authorisation which has been issued. A cancellation should be issued at the expiry date if not before.

How do I cancel an authorisation?

To cancel an authorisation, you should complete the Cancellation of Authorisation form and submit it to the Authorising Officer for endorsement.

Authorising Officer Responsibilities under RIPA

The Approval

Who are the Authorising Officers?

The Council's Authorising Officers are listed in the annex to this document.

If the investigation may involve the acquisition of confidential or religious material, or require an authorisation for using juveniles or vulnerable persons as sources, the Authorising Officer is, by law, the Chief Executive (or in his absence one of the Corporate Directors).

Authorising Officers should not be responsible for authorising investigations or operations in which they are directly involved. If this is the case, the application form for authorisation should be noted to this effect.

NB. All authorisations and renewals must have the prior approval of the Magistrates' before they take effect.

What are my responsibilities?

Responsibility for authorising the carrying out of directed surveillance or using a Source rests with the Authorising Officer and requires the personal authority of the Authorising Officer.

You must be satisfied that a defensible case can be made for surveillance. Authorisation is a safeguard against the abuse of power by public authorities. Full consideration of necessity and proportionality will make the action less vulnerable to challenge under the Human Rights Act 1998.

What do I need to consider?

You are required to consider the application for authorisation in relation to the following:

Consideration: Is the directed surveillance or use of a Source necessary?

Firstly, you must consider whether it is necessary to carry out the investigation by covert methods. This is an important consideration and must be recorded on the form. Please see "what is meant by necessary?" on Pages 1 and 2 of the Policy.

Secondly, as authorisation may only be granted if it is necessary for the reason permitted by RIPA. You should consider, having regard to the outline of the case provided by the Investigating Officer, whether authorisation is necessary for the purposes of preventing and detecting crime or of preventing disorder

Consideration: Is the directed surveillance or use of a Source proportionate?

This involves balancing the intrusiveness of the activity on the target and others who may be affected by it (see “consideration: risk of collateral intrusion” below) against the need for the activity in operational terms. Please refer to “what is proportionate?” on page 2 of this Policy.

Consideration: The risk of collateral intrusion

You must take into account the risk of interfering with the privacy of persons other than the target (collateral intrusion). Full details of potential collateral intrusion and the steps to be taken to minimise such intrusion must be included in the form. If there are insufficient details further information should be sought. Collateral intrusion forms part of the proportionality test and is therefore very important. Remember: the least intrusive method should be chosen otherwise the surveillance activity will not be proportionate.

Consideration: confidential material

In cases where through the use of directed surveillance or the use of a Source it is likely that knowledge of confidential information will be acquired, authorisation may only be granted by the Chief Executive.

Confidential information consists of matters subject to legal privilege, confidential personal information or confidential journalistic material.

Authorisation involving the acquisition of confidential information should only be given in exceptional and compelling circumstances having full regard to the proportionality issues involved.

Further details about the type of information covered under this category are to be found in the Chapter 3 of the relevant Code of Practice. Further advice may be sought from the Council’s Legal Section.

Consideration: Safety and welfare arrangements of a Source

When authorising the conduct or use of a Source, you must be satisfied:

- That the conduct and/or use of the Source is proportionate to what is sought to be achieved;
- That arrangements exist for the management and oversight of the Source, particularly the health and safety of the Source including:
 - Identifying the person who will have day to day responsibility for dealing with the Source
 - Security and welfare arrangements of the Source both during and after the investigation/operation.
 - Monitoring and recording the information supplied by the Source
 - Ensuring records disclosing the identity of the Source will not be made available to persons except where there is a need for access to them

- Records relating to the Source meet the requirements of the Statutory Instrument: The Regulation of Investigatory Powers (Source Records) Regulations 2000 (SI 2000 No. 2725) – please see either the Home Office website: www.homeoffice.gov.uk or the Office of Public Sector Information website: www.opsi.gov.uk

Consideration: local community

You should consider whether there any particular sensitivities in the local community where surveillance will be taking place.

Having taken all these factors into consideration, you may either approve the application or refuse it.

What do I do if I have refused the application?

You must complete the form and give your reasons for refusal. Then follow the procedures below (“I have completed the form what do I do with it?”)

What do I do if I have approved the application?

You need to follow the rest of the procedure set out below.

Regular review should be undertaken to assess the need for surveillance or use of a Source to continue and whether it is still proportionate. Where the surveillance or use of a Source provides access to confidential information or involves collateral intrusion, review should be more frequent.

You will therefore need to consider a Review Date(s). Both types of authorisation require you to specify a date when the authorisation should be reviewed (the Review Date) and the frequency of the review thereafter. This must be stated on the form.

What do I do if the authorisation is urgent?

The 2012 Home Office Guidance states that in most emergency situations where the police have power to act, then they are able to authorise activity under RIPA without prior JP approval. Therefore local councils may need to work with the police if faced with an emergency. NB. Urgent authorisation may not be necessary if, under section 26(2) of the Act, an officer suddenly sees something relevant to his duties and takes an immediate note, observation of follow-up activity (within reason).

What do I do with the completed form?

You must send the completed application form(s) to the RIPA Co-ordinating Officer as soon as you are able. This includes any forms in which you have refused authorisation. You should retain a copy of the form and send a further copy to the relevant Investigating Officer for retention on the investigation file.

Monitoring

How long will an authorisation last for?

The authorisation for **Directed Surveillance** will last for **three months** from the date of authorisation unless renewed.

The authorisation for use of a **Source** will last for **12 months** from the date of authorisation unless renewed.

It is important to set a review date which gives the opportunity to cancel if the authorisation is no longer required. If the surveillance is still required, set another review date (see below)

I have now given the authority for surveillance, what should I do next?

After authorisation the Authorising Officer is responsible for continuing to oversee the progress of the investigation. You must ensure that whatever was authorised does actually happen, and that actions do not exceed the boundaries of the authorisation.

Progress of the investigation or operation should be reviewed in accordance with the review dates set by the authorisation using the relevant review form. In any case, as soon as the investigation or operation objectives have been achieved the authority should be cancelled.

You will regularly monitor the surveillance to ensure:

- Surveillance is being carried out in accordance with the authority given
- There is still a need for the approved surveillance or use of the Source
- The surveillance is achieving the intended results
- The risks of collateral intrusion are still minimal
- The risks associated with the surveillance or use of the Source are within an acceptable level
- The security and/or welfare of the Source has not been jeopardised. You must consider any concerns raised by the Investigating Officer relating to the personal circumstances of the Source.

You should record the outcome of such monitoring and take whatever action is appropriate.

Renewals

Why are renewals important?

Once the authorisation expires, surveillance must cease unless a renewal has been applied for and approved.

NB. All authorisations and renewals must have the prior approval of the Magistrates' before they take effect.

What are my responsibilities in respect of renewals?

You may renew an authorisation before it expires if it is necessary for the authorisation to continue for the purpose for which it was given.

You must consider the application for renewal in relation to the original purpose for which authorisation was granted, taking into account any change in circumstances. You should be satisfied that:

- There is a need to renew the authorisation (applying the test of necessity)
- That such a renewal is likely to contribute to the investigation or operation (it is proportionate to the aim)
- That the information could not be reasonably obtained by other less intrusive means.
- The risk of collateral intrusion is minimal – you should consider what collateral intrusion has occurred
- The risks associated with the use of a Source have not increased beyond an acceptable level

The outcome of a consideration for renewal may lead to:

- Approval
- A new application
- Refusal

Approval

If you decide to approve a renewal you will need to provide details of why in your opinion you believe the renewal is justified, and state the date and time when the renewed authorisation will commence and expire on the application form.

The maximum time that renewal of authorisation can be approved for, is three months at a time for directed surveillance and 12 months for the use of a Source, but you may consider shorter periods if this is more appropriate to the circumstances.

You should also set Review Dates and continue to monitor the progress of the investigation or operation.

A new application for authorisation

If the reason for requiring the authorisation has changed from the purpose for which it was originally granted, then the outstanding authorisation should be cancelled and new authorisation sought by way of a new application. You will need to note the refusal to renew the application on the renewal form setting out the reasons for your decision. You will also need to follow the procedures for cancellation see below and advise the Investigating Officer to seek new authorisation.

Refusal

If in your opinion surveillance is no longer required, or justified, or proportionate, the renewal should be refused and the authorisation cancelled. See the paragraph on cancellation below. You will need to note on the renewal form your reasons for refusal.

What do I do with the completed form?

You must send the completed renewal form to the RIPA Co-ordinating Officer as soon as you are able. This includes forms where you have refused a renewal. You should retain a copy of the form and send a further copy to the relevant Investigating Officer for retention on the investigation file.

Cancellations

Why are cancellations important?

All authorisations, including renewals, must be cancelled if the reason why directed surveillance or use of a Source was required no longer exists or is no longer proportionate. This will occur in most instances when the purpose for which surveillance was required has been achieved and officers must be mindful of the need to cancel any authorisation which has been issued. A cancellation should be issued at the expiry date if not before.

What are my responsibilities in respect of cancellations?

The responsibility to ensure that authorisations are cancelled rests with the Authorising Officer. If you think cancellation should have been applied for, then you should make enquiries of the Investigating Officer as part of your monitoring of the authorisation. On receipt of the cancellation form from the Investigating Officer, you must consider the reasons for cancellation and if acceptable endorse the form.

As soon as the decision is taken that directed surveillance or use of a Source should be discontinued, the instruction must be given to those involved to stop all surveillance of the subject. The date and time when such an instruction was given should be recorded on the cancellation form.

Where necessary the safety and welfare of the Source should continue to be taken into account after the authorisation has been cancelled.

What do I do with the completed form?

You must send the completed renewal form to the RIPA Co-ordinating Officer as soon as you are able. This includes forms where you have refused a renewal. You should retain a copy of the form and send a further copy to the relevant Investigating Officer for retention on the investigation file.

Working with or through other Agencies

What do I do if I want to instruct another organisation to carry out surveillance?

When some other agency has been instructed on behalf of the Council to undertake some action under RIPA, this Document and the forms in it, must be used in the normal way and the agency advised as necessary of the various requirements. They must be made aware explicitly what they are authorised to do.

What do I do if I want to carry out an investigation with another organisation?

It is possible for two public authorities to carry out a joint directed surveillance investigation or use of a Source. It must be decided which of the authorities is to take the lead role. The Authorising Officer from the lead organisation must make the decisions on the necessity and proportionality of the surveillance or use of a Source. The Investigating Officer must make it clear on the application form that it is a joint investigation and provide details of Officers involved from both authorities.

Where joint surveillance is authorised by the lead organisation, it is good practice for the Investigation Officer of the other organisation to advise their Authorising Officer of the surveillance activity. It is important for each organisation's Authorising Officer to be aware of all surveillance activity being undertaken by their own Investigating Officers, regardless of which organisation authorised the activity.

Record-Keeping

What records must I keep?

The Council must keep a detailed record of all authorisations, renewals, cancellations and rejections in Departments and a Central Register of all these forms will be maintained and monitored by the RIPA Co-ordinating Officer.

In all cases, the relevant department should maintain the following documentation:

- a copy of the application and a copy of the authorisation together with any supplementary documentation and notification of the approval given by the Authorising Officer;
- The Magistrates' Order
- a record of the period over which the surveillance has taken place;
- the frequency of reviews prescribed by the Authorising Officer;
- a record of the result of each review of the authorisation;
- a copy of any renewal of an authorisation, together with the supporting documentation submitted when the renewal was requested;
- the date and time when any instruction was given by the Authorising Officer.
- A record of the use made of any Source

How long must I keep these records?

The Council will retain records in accordance with the Council's Record Management Policy. Retention of a record will therefore depend on an assessment of the need to retain the record.

How should the records relating to a Source be maintained?

Records kept relating to an investigation or operation using a Source should be maintained in such a way as to preserve the confidentiality of the Source and the information provided by the Source. Regard should be had to the Council's Record Management Policy.

Material obtained from Directed Surveillance and/or use of a Source operations

How should material be handled and stored?

Material, or product, such as: written records (including notebook records); video and audio tape; photographs and negatives; and electronic files, obtained under authorisation for Directed Surveillance or use of a Source investigations or operations should be handled, stored and disseminated according to the following guidance and with regard to the Council's Records Management Policy, which is available on the intranet.

Where material obtained during the course of an investigation may be relevant to pending or future criminal or civil proceedings, it should be retained in accordance with the established disclosure requirements having regard to the Criminal Procedure and Investigations Act 1996 and Civil Procedure Rules.

Where material is obtained which is not related to a criminal or other investigation, or to any person who is the subject of the investigation, and there is no reason to suspect that it will be relevant to any future civil or criminal proceedings, it should be assessed for retention or destruction under the Council's Record Management Policy.

Material may be used in investigations other than the one which authorisation was issued for. However, use of such material outside the Local Authority or the Courts should only be considered in exceptional circumstances.

What about confidential material?

This is privileged information from, for example, lawyers, doctors, priests etc. Where such persons are involved, and there is a possibility that you maybe obtaining confidential material, then further additional precautions must be taken. If this is the case, please seek appropriate advice from the Legal Section or from the statutory RIPA Code of Practice.

(Lord Coleville advised that reference only to confidential material is needed, as we are very unlikely to ever use these provisions.)

Complaints

The Regulation of Investigatory Powers Act has established an Independent Tribunal. This Tribunal is made up of senior members of the judiciary and the legal profession and is independent of the Government. The Tribunal has full powers to investigate and decide any cases within its jurisdiction. It also has the power to award compensation.

Details of the relevant complaints procedure can be obtained from the following address:

Investigatory Powers Tribunal
PO Box 33220
London
SW1H 9ZQ

Other actions that could be taken against the Council for failing to meet the requirements of RIPA are civil proceedings under the Human Rights Act 1998 or a complaint to the Ombudsman.

Annex

AUTHORISING OFFICERS

The following Officers shall be designated Authorising Officers on behalf of West Devon Borough Council and South Hams District Council under the Regulation of Investigatory Powers Act 2000.

CORPORATE DIRECTOR - Alan Robinson

HEAD of ENVIRONMENTAL HEALTH and HOUSING – Ian Bollans

HEAD OF FINANCE and AUDIT – Lisa Buckle

HEAD OF ICT, REVENUES AND BENEFITS – Darren Cole

NB. Only the Corporate Director has the authority to grant authorisation for the acquisition of confidential information or where the authorisation would involve juvenile or vulnerable CHIS.

SENIOR RESPONSIBLE OFFICER

The following Officer shall be designated Senior Responsible Officer on behalf of the Councils' under the Codes of Practice.

CORPORATE DIRECTOR - Tracy Winser

RIPA CO-ORDINATING OFFICER

NAME OF COMMITTEE	Overview and Scrutiny Committee
DATE	14 October 2014
REPORT TITLE	Performance Report
Report of	Executive Director (Resources)
WARDS AFFECTED	All Wards

Summary of report:

To provide Members with information on Key Performance Indicators at the end of quarter 1 for 2014-15. The information is set out with the Balanced Scorecard showing broad performance levels. Further information for those indicators at 'red' status is provided along with a standard information report giving background information and context to workload.

Financial implications:

There are no financial implications directly related to this report.

RECOMMENDATIONS:

1. That Members note the Key Performance Indicators for Quarter 1 and consider the action detailed to improve future performance.
2. That Members consider any appropriate action for Indicators at 'Red' status for two consecutive quarters as detailed in 2.4 of this report.

Officer contact:

Tracy Winsor, Executive Director (Resources), 01803 861277

Tracy.Winsor@swdevon.gov.uk

1. BACKGROUND

1.1 The current set of indicators came from a review of all performance indicators, which was undertaken by a Task and Finish Group in 2011/12. Since then changes have been made by both Members and Officers to ensure that the indicators are meaningful and useful.

2. ISSUES FOR CONSIDERATION

2.1 Appendix A contains the Balanced Scorecard Report to display the high level performance information.

- 2.2 Appendix B relates to data only performance indicators and is the background report that contains the information that sits behind the Balanced Scorecard for context.
- 2.3 The exception report towards the end of appendix B shows all indicators currently 'Red' and also the performance status for the last quarter along with the management response to explain the current level of performance.
- 2.4 There are two indicators that are 10% or more below target with one **at red status for two consecutive quarters, therefore requiring a minuted response of the action required:**
- ICT & CS: Average call answer time
- 2.5 To assist Members with actions that may be required to address performance of the above, Appendix C provides a list of suggested responses. This list is not exhaustive and merely provides examples for reference.
- 2.6 As requested by Members, Appendix D shows the Balanced Scorecard for the same period at South Hams.

3. LEGAL IMPLICATIONS

- 3.1 Within the Constitution, the Overview and Scrutiny Panel oversees performance management at the authority to ensure that poor and deteriorating performance is addressed.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no financial implications directly related to this report.

5. RISK MANAGEMENT

- 5.1 The Risk Management implications are shown at the end of this report in the Strategic Risks Template.

6. OTHER IMPLICATIONS

Corporate priorities engaged:	Community; Economy; Environment; Housing
Statutory powers:	Local Government Act 2000
Considerations of equality and human rights:	There are no equality implications as a result of this report.
Biodiversity considerations:	There are no biodiversity implications as a result of this report.
Sustainability considerations:	There are no sustainability implications as a result of this report
Crime and disorder implications:	There are no crime and disorder implications as a result of this report.

Background papers:	
Appendices attached:	Appendix A – Balanced Scorecard Appendix B – Background and Exception Report Appendix C – Actions available to address performance













No	Risk Title	Risk/Opportunity Description	Inherent risk status				Mitigating & Management actions	Ownership
			Impact of negative outcome	Chance of negative outcome	Risk score and direction of travel			
G11-05	Poor performance leading to poor service delivery and damage to Council's reputation	Failure to adequately monitor and report on Local Performance Indicators. Managers not accepting/paying lip service only to best practice and improvement initiatives or failure to engender an improvement and performance management culture will increase the risk to the Council and it's reputation.	3	2	6	↔	Performance monitored by senior management and actions taken to address poor performance and react to downward trends.	SMT
G11-06	Failure to effectively manage change	There will be a need to ensure that any change within the organisation (whether imposed internally or externally) is effectively managed.	4	2	8	↔	Review of improvements and management actions in response to failing performance should increase the effectiveness of change management within the organization. More visible responsiveness to failing performance should reduce the resistance to change making management easier.	SMT
CX1 1 - 03	Leadership & Management	Ineffective Leadership and management	2	1	2	↔	Emphasis placed on middle managers responding to operational issues and drive performance whilst Heads of Service monitor and take action when needed	CX & SMT

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Appendix A - Corporate Balanced Scorecard 2014-15 Q1











West Devon Borough Council

Community/Customer

Q4	Q1	
		ES: Car parking tickets sold (Yearly comparison)
		ES: Car parking season tickets sold (Yearly comparison)
		ES: Overall Recycling rate %
		ES: Overall waste arising
		ICT & CS: Average Call Answer Time
		ICT & CS: % of enquiries resolved at first point of contact







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Financial





Q4	Q1	
	tbc	Assets: Employment estates Income (Cumulative)
	tbc	PEC: Total income collected: Pre-Apps, Apps, etc
	tbc	ES: Car parking Income
	tbc	FA: % invoices paid on time
		ICT & CS: Council Tax Collection
		ICT & CS: Non Domestic Rates Collected
		T18: Programme budget on track

Processes





PEC

Q4				
			PEC: % of Applications determined within statutory time frame (Major/Minor/Other)	
				







Environmental Health

Q4	Q1	
		EH: Time taken to process Disabled Facilities Grant (Fast track)
		EH: Avg Time to serve notice or close complaints




ICT & CS

Q4	Q1	
		ICT & CS: Avg End to End time (New Claims)
		ICT & CS: Avg End to End time (Change of circumstances)

Performance

Q4	Q1	
		EH: % of nuisance complaints resolved at informal stage
		CS: Avg days sickness/FTE
		T18: Programme timescales on track

Key

	Below target performance
	Narrowly off target, be aware
	On or above target

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Appendix B –Scrutiny Report – 2014-15 Q1 WD

Information Report



Non-targeted (data-only) performance measures that will be reported every quarter to provide context and background information – not suitable for the Balanced Scorecard page as no targets applicable or relevant.

PI Code & Short Name	Managed By	2013/14 Total	Apr 2014	May 2014	June 2014	Q1 2014/15	2014/15 YTD	Comment (If Applicable)
		Value	Value	Value	Value	Value	Value	
<p>EH: Volume of nuisance complaints</p> <p>Number of nuisance complaints. The comments show the breakdown of unjustified and unjustified complaints.</p>	Ian Luscombe	-	Reported for Quarters			171	171	Of the total nuisance complaints <i>closed</i> by the council in Quarter 1, 164 out of 171 alleged nuisances were under our jurisdiction (EH officers often offer guidance and signposting in the other cases to provide a better customer service).
<p>EH: Average time taken for Disabled Facilities Grants (Fast track) (work days)</p> <p>The total time, from when the application was received until the works are completed. Only a small portion of this is under direct control of the Council.</p>	Drew Powell	-	Reported for Quarters			108	108	This figure relates to 20 DFG cases. The portion of this process under the council's full control is performing well. Average time for this portion this period is 1 working day. Increased overall demand for these adaptations has put increased pressure on contractors and their ability to offer immediate start dates.

PI Code & Short Name	Managed By	2013/14 Total	Apr 2014	May 2014	June 2014	Q1 2014/15	2014/15 YTD	Comment (If Applicable)
		Value	Value	Value	Value	Value	Value	
<p>PEC: Active Applications (at end of month) Major/Minor/Other</p> <p>The total number of active applications which gives an overview of the workload for the Planning department.</p>	Justine Gosling	-	164	180	197	541	541	
<p>PEC: Compliments & Complaints (Justified/Non-Justified split)</p> <p>Detailing the ratio between justified planning complaints (valid complaints about something we did wrong or omitted to do) and non-justified complaints.</p>	Malcolm Elliott	Compliment Just Non-Just	1 0 0	1 0 0	4 1 1	6 1 1		We continue to work on making our processes more customer focussed and to improve our communication methods and the information provided to our customers.
<p>PEC: Justified Complaint Type (Process: Statutory Procedure: Person: Communication)</p> <p>Breakdown of justified complaints – Process (Ps), Statutory Procedure (SP), Person (Pn) & Communication (C).</p>	Malcolm Elliott	Ps S.P. Pn C	0 0 0 0	0 0 0 0	0 0 0 1	0 0 0 1	0 0 0 1	<p>Justified complaints have reduced showing that Officers continue to focus on good customer care and communication and learning from complaints received.</p> <p>The number of compliments received also continues to outnumber the justified complaints. It is however necessary to ensure that we continue to provide clear reasoning for our decisions and how we come to the recommendations made.</p>
<p>PEC: Enforcement (Enforcement Action: Retrospective Planning Application: Remedial Action: No Breach Found)</p>	Helen Smart	E.A. R.P.A. R.A. N.B.F.	0 3 0 6	1 3 0 6	0 2 0 7	1 8 0 19	1 8 0 19	Enforcement cases received has seen a slight reduction, but officers have been spending significant time on a small number of complicated and time consuming cases which has decreased capacity for dealing with enforcement caseload.

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PI Code & Short Name	Managed By	2013/14 Total	Apr 2014	May 2014	June 2014	Q1 2014/15	2014/15 YTD	Comment (If Applicable)
		Value	Value	Value	Value	Value	Value	

The number of enforcement cases resolved by specific action - enforcement action (EA), retrospective planning application (RPA), remedial action (RA) or no breach found (NBF).								
<p>ES: PCNs: issued</p> <p>The number of Penalty Charge Notices issued. View in conjunction with those cancelled.</p>	Cathy Aubertin	1400	70	66	68	204		Following the TUPE transfer of three CEOs to DCC, our staffing resource has been very limited for the first quarter, resulting in reduced enforcement. Two new CEOs commenced work in August.
<p>ES: PCNs cancelled</p> <p>The number of Penalty Charge Notices cancelled. View in conjunction with those issued.</p>	Cathy Aubertin	127	5	8	5	18	18	8.8% of PCNs issued were cancelled. This is a reduction on 12% of the previous Q4. This demonstrates a positive reduction in invalid PCNs being issued.
<p>ES: Car parking income (Cumulative)</p> <p>The total Income Collected by Car Parks (shown as a cumulative figure over the financial year).</p>	Cathy Aubertin	£838,000	tbc	tbc	tbc	tbc	tbc	c/o Dan Bates
<p>ICT & CS: No. of benefit applications</p> <p>Total number of New Housing Benefit/Council Tax Benefit Claims calculated.</p>	Gill Bray	1080	61	59	76	196	196	New Claims only.

PI Code & Short Name	Managed By	2013/14 Total	Apr 2014	May 2014	June 2014	Q1 2014/15	2014/15 YTD	Comment (If Applicable)
		Value	Value	Value	Value	Value	Value	

ICT & CS: Preventing Homelessness	Kate Hamp	271	17	13	21	51	51	To be reported annually from now on.
ICT & CS: Percentage of Council Tax Collected (cumulative) The percentage of non-domestic rates due for the financial year which were received by the authority	Kate Hamp	97.69%	11.51%	20.62%	29.48%	29.48%	29.48%	Cumulative total building over the course of the year. This is in line with the same time last year when collection rates were 29.97%.
ICT & CS: Percentage of Non-domestic Rates Collected The percentage of non-domestic rates due for the financial year which were received by the authority	Kate Hamp	98.18%	13.15	24.51	32.83	32.83	32.83	Cumulative total building over the course of the year. This is in line with the same period last year when collection rates were 35.12%. An increasing number of ratepayers have also been given instalment plans which run to March 2015 enabling them to have a longer period in which to pay.
All: Complaints received Complaints logged against each Service per quarter. Highlights changes over time and the effects of initiatives.	-	261	Assets: 0 Corporate Services: 0 Environment Services: 12 Environmental Health: 0 Finance: 0 ICT & CS: 16 Planning, Economy & Community: 4			36	36	
All: Compliments received Compliments logged against each Service per quarter. Highlights changes over time and the effects of	-	110	Assets: 0 Corporate Services: 0 Environment Services: 1 Environmental Health: 1 ICT & CS: 4 Planning, Economy & Community: 6			12	12	



PI Code & Short Name	Managed By	2013/14 Total	Apr 2014	May 2014	June 2014	Q1 2014/15	2014/15 YTD	Comment (If Applicable)
		Value	Value	Value	Value	Value	Value	

initiatives.								
CS: Long term sickness (days) Number of days lost due to long term sickness	Andy Wilson	215	Reported for Quarters			31	31	This is back to a fairly typical figure and is primarily due to one long term absence.
CS: Short term sickness (days) Number of days lost due to short term sickness	Andy Wilson	232.44	Reported for Quarters			92.58	92.58	This is an increase from Q4 (which in itself was exceptionally low) but is still about average when compared with previous figures. Half this total is due to just two employees who had a substantial number of days off but not sufficient to be classed as long term sickness.
ICT & CS: Top 5 call types	Kate Hamp	-	1. Missed Collections 2. Council Tax Change of circumstances 3. Waste call transferred 4. Waste information enquiry 5. Waste query resolved			-	-	
ICT & CS: Top 5 website views/trend	Kate Hamp	-	1. Planning Application Search 2. Search & Track Planning Applications 3. Planning 4. Contact Us 5. Recycling - waste			-	-	Planning is traditionally a very popular area on the website. With the forthcoming addition of the 'Do It Online' tab it is hoped that other areas will also start to receive more views over the next quarter.
ICT & CS: % of customer contact through online interaction Demonstrating channel shift	Kate Hamp	-	Reported for Quarters			14%	14%	Online interaction remains strong in West Devon with little shift in average weekly online form submissions between Q4 - 69 and Q1 - 76. The disparity between SH and WD form submissions is becoming significant whilst peaks and troughs remain similar. Q1 saw an additional 194 form submissions over Q4 and an additional 17% increase in online payments helping an overall uplift of 3.02% in online interaction.
ICT & CS: Total number of transactions	Kate Hamp	-	Reported for Quarters			3278	3278	Q1 saw an additional 194 form submissions and 215 online payments being completed.
ICT & CS: Average call	Kate		1.15	0.58	2.04	1.25	1.25	Average call answer time has reduced slightly in the

PI Code & Short Name	Managed By	2013/14 Total	Apr 2014	May 2014	June 2014	Q1 2014/15	2014/15 YTD	Comment (If Applicable)
		Value	Value	Value	Value	Value	Value	

<p>answer time</p> <p>The average time in minutes for a call to be answered. This time shows as an average over each month</p>	Hamp							last quarter, however, this remains above the target set. The impact of changes in Council Tax reduction, increased recovery action and the introduction of Benefits calls into CST have had an effect. A review is currently being conducted to identify the full impact of these changes and a team performance improvement plan is now in place to address any individual performance.
<p>ICT & CS: % of calls resolved at first point of contact</p> <p>Percentage of calls which are resolved at initial contact with CST</p>	Kate Hamp		Reported for Quarters			77.6%	77.6%	Substantial growth in calls dealt with at first point of contact can be attributed to the addition of Benefits calls coming into CST. Despite bringing several challenges such as c=additional call volumes and training issues this development has demonstrated a positive experience for customers.

Exception Report

Code and Name	Managed by	Prev Status	Last Qtr	Apr 2014	May 2014	June 2014	Q1 2014/15		Action Response
			Q4	Value	Value	Value	Value	Target	
<p>ICT&CS: Average Call Answer Time</p> <p>The average time in minutes for a call to be answered. This time shows as an average over each month.</p>	Kate Hamp		1.29	1.15	0.58	2.04	1.25	1	<p>Average call answer time has reduced slightly in the last quarter, however, this remains above the target set. The impact of changes in Council Tax reduction, increased recovery action and the introduction of Benefits calls into CST have resulted in an unprecedented amount of calls, the nature of these calls often mean they are challenging and complicated therefore resulting in a longer call time. This has a knock on effect to other calls waiting. A review is currently being conducted to identify the full impact of these changes and a team performance improvement plan is now in place to address any individual performance. Temporary resources have now been allocated to CST and these officers are being trained in a range of enquiries. All members of the team take pride in delivering excellent customer service and ensure that the quality of dealing with enquiries remains the same despite the higher volumes.</p>
<p>ES: Car Parking Season Tickets Sold (yearly Comparison)</p>	Cathy Aubertin		100%	-20%	36%	-75%	-26%	1%	<p>The sale of season tickets is being monitored and will be considered by the WD Car Parking Strategy Group in order to review and encourage better use of season tickets where appropriate. 36 season tickets were sold in Q1 of this year compared to 49 in the same period in 2013/14 and 32 during 2012/13.</p>

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Responses from Scrutiny responding to 2 consecutive quarters at 'Red' status:

	Response	Result	Consequences for response (inc resourcing issues, etc)
1	Agree with Action response	Trust that Middle Managers interpretation of situation and response will rectify falling performance over time	No additional resource above effort proposed by Middle manager
2	Query Action response	Agree with interpretation of situation but express concern over the level of the response	No additional resource above effort proposed by Middle manager.
3	Request further details on the action responses undertaken so far	Assessment of management responses taken so far and their effectiveness.	Middle manager resources required, will pull form operational management time. HoS resources also required. Response at Scrutiny could be sufficient.
4	Request report on ongoing issues	Deeper understanding of the causes of falling performance	Middle manager resources required for explaining actions, additional Business Development Team support for analysing data, where capacity allows.
5	Set up Task & Finish Group	T&F group organised with clear goals and timescales	Large resource requirement from both Cllrs and Officers. Longer lead time for results but useful for reframing goals of service area
6	Request Service Review	Systems review process becomes high priority and scheduled to commence as soon as current review schedule allows	Large resource requirement both in Business Development Team and service area undergoing review. Need for robust understanding of problem to be resolved. Longer lead time for results. Schedule agreed by SMT

Members should note that the additional resource requirements for options 3-6, especially options 5 & 6, will impact on service level and performance themselves so should only be undertaken when a clear need is identified.

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OVERVIEW AND SCRUTINY COMMITTEE - ANNUAL WORK PROGRAMME 2014/15

2014	Agenda Items	Lead Officers/Members
Tuesday 24 June	Community Safety Partnership – Annual Review	Ian Bollans
	Car Parking report (as requested at O&S March 2014)	Cathy Aubertin
	Annual Report	Kathy Trant
	CAB, CVS and Young Devon Annual Monitoring Report	Debbie Bird
	Community and Economy Grant Report 2013/14	Debbie Bird
	Update on Locality and Commissioning	Dan Bates/T&F Group
	Performance Indicators Quarter 4 2013/14	Darren Cole
Tuesday 14 October	Ombudsman Update and Annual Letter	Catherine Bowen/Tony Rose
	Performance Indicators Quarter 1	Darren Cole
	Update on T18	Tracy Winser
	Update report from CAB on reorganisation	Debbie Bird
	Update on Locality and Commissioning	Marion Playle
	Update on RIPA Policy	Catherine Bowen
2015		
Tuesday 27 January	Performance Indicators Quarter 2	Darren Cole
	Invite Chairman of Strategic Leisure Group to update on progress with leisure contract	Ross Kennerley
	Affordable Housing – variations in contributions and to include information on TDC model	Liam Reading
	S106 funds – update/review in terms of contracts expiring before money spent	
	Attendance of CX of Healthwatch	Cllr Ewings
Tuesday 24 March	Performance Indicators Quarter 3	Darren Cole
	Review of protocol between Legal and Planning	Marion Playle/Becky Fowlds
	Cllr Sanders re Health and Wellbeing Board	Cllr Sanders
STANDING AGENDA ITEMS		<i>Proposed changes to Grant Schemes (postponed for T18)</i>
Health and Wellbeing	<i>Post office changes</i>	
Community Safety – annual item	<i>Ambulance Trust</i>	
T18	<i>CCG</i>	
Update from Rural Broadband Group	<i>Street Pastors</i>	
Locality and Commissioning	<i>Role of Locality officers</i>	

Agenda Item 2e

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Agenda Item 3

At a Meeting of the **OVERVIEW & SCRUTINY COMMITTEE** held at the Council Chamber, Council Offices, Kilworthy Park, Drake Road, **TAVISTOCK** on **TUESDAY** the 14th day of **OCTOBER 2014** at **2.00 pm**

Present:

Cllr D E Moyses – Vice-Chairman	
Cllr S C Bailey	Cllr C Hall
Cllr L J G Hockridge	Cllr J B Moody
Cllr C R Musgrave	Cllr D K A Sellis
Cllr J Sheldon	Cllr D Whitcomb

Head of Environmental Health and Housing
Head of Planning, Economy and Community
Monitoring Officer
Business Development Officer
Member Services Manager

In Attendance: Cllr K A Clish Green

***O&S 14 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Cllr M V L Ewings and Cllr D M Horn for whom Cllr S C Bailey acted as substitute. Cllr K A Clish Green was unable to be present for the start of the meeting so Cllr C R Musgrave acted as her substitute.

***O&S 15 DECLARATIONS OF INTEREST**

Members and officers were asked to declare any interests in the items of business to be considered during the course of this meeting but none were made.

***O&S 16 CONFIRMATION OF MINUTES**

The Minutes of the meeting held on 24 June 2014 were agreed and signed by the Chairman as a correct record.

***O&S 17 CAB UPDATE – PRESENTATION FROM STEPHEN DAVIS, CX OF TORRIDGE, NORTH, MID AND WEST DEVON**

Members were advised that this item would not proceed as Mr Davis was unable to attend. Members expressed their disappointment and requested that a meeting of the Committee be reconvened at the earliest possible date to enable this item to be considered.

***O&S 18 UPDATE ON TRANSFORMATION PROGRAMME T18**

The Business Development Officer presented a report of the Executive Director (Resources) that set out progress to date of the T18 Transformation Programme, in order to ensure effective scrutiny. He took Members through the main sections of the report and, in response to queries, clarified the terminology used.

During discussion the following points were raised:

- One Member questioned whether the Council was looking to work with partners such as the Police and Clinical Commissioning Group to provide a more cost effective and efficient service to residents. In response, it was confirmed that discussions had been undertaken with the Police and SMT was considering how to take this forward, as the vision was to have a multi-disciplinary team working in the locality;
- A number of Members raised concerns about the lack of wifi connectivity in the building at Kilworthy Park. In response, Members were advised that the hot desk areas would be fully wifi enabled to ensure agile workers could access their systems;
- One Member asked if a single phone number would be used for both Councils as a way of pulling the two Councils together. In response, he was advised that there was an expectation that both Councils would keep a local identity and a single phone number would not be used;
- One Member asked for an update on the funding bid to DCLG for Transformation Funding. Members were advised that the bid had got through the first stage but the timetable for further work was not yet known. It was also confirmed that the additional bid to support working with Torridge District Council was not likely to proceed;
- One Member asked about current staff morale. In response, Members were advised that it would be wrong to say everybody was happy as some staff had been through a tough process and some staff still had to go through the process. However, the staff who had gone through the process were looking forward and the team was working well;
- Members asked if there would be someone on site at Kilworthy Park who could address IT issues. Members were advised that a member of staff was in place who could assist in these matters and had a direct route to the IT helpdesk. Members also raised concerns with not being able to speak to members of staff or with being put through to staff located at South Hams District Council who had no understanding of local issues specific to West Devon. In response, it was accepted that there had been glitches and it was important to make sure that Members had confidence in the systems.

It was then **RESOLVED** that the Overview and Scrutiny Committee note the progress to date on the Transformation Programme T18.

***O&S 19**

UPDATE ON LOCALITY AND COMMISSIONING MEMBER GROUP

The Head of Planning, Economy and Community updated the Committee on the progress of the Locality and Commissioning Member Group. She outlined that the Terms of Reference for the Group had been shared at Informal Council and that the first two meetings of the Group had covered the principles of Locality working and Members skill sets and behaviours. The next meeting would look at potential IT products for Members as the organisation would be paperless.

The issue of being paperless resulted in a great deal of debate. The Head of Planning, Economy and Community clarified that the mandate to officers was that paper agendas would not be published once T18 had been rolled out. Whilst a printer may be available in the building for Members to use, there would not be a member of staff who was able to spend time printing agendas from the Council website. Some Members said it was not acceptable to expect Members to work with e-versions of lengthy agendas, particularly if that Member had difficulty with looking at a screen for some time. Other Members were content to print their own agendas and would use a printer in the office, but this relied on the printer being situated in a position where wifi was available. The Head of Environmental Health and Housing added that a number of applications were being considered that would enable Members to annotate reports on screen and include notes and some Members were happy to embrace this new way of working.

To conclude, a Member stated that being paperless was about embracing progress and as long as the equipment and training was right it would be an exciting step forward. The principle of aiming for paperless should be commended. There would be a new generation of councillors coming forward who would be expecting new technology following the May 2015 local elections.

***O&S 20**

OMBUDSMAN UPDATE AND ANNUAL LETTER

The Monitoring Officer presented a report that considered the Local Government Ombudsman's Annual Review Letter 2014 regarding complaints received against the Council for the year 1 April 2013 to 31 March 2014.

During discussion, the following points were raised:

- Members noted that the larger percentage of issues related to planning matters and queried whether anything could be done to address this. The Monitoring Officer confirmed that the figures broadly matched the national picture and accepted that, for instance a reduction in staff numbers, would impact on performance. It was also pointed out, however, that the Ombudsman had found no case of maladministration against West Devon Borough Council;
- Members asked that thanks be noted to the Ombudsman Link Officer for his hard work in relation to dealing with complaints.

It was then **RESOLVED** that the Ombudsman Letter had been reviewed.

O&S 21 REGULATION OF INVESTIGATORY POWERS ACT (RIPA) POLICY AND UPDATE ON THE USE OF RIPA

The Monitoring Officer presented a report that reviewed the Council's Regulation of Investigatory Powers Act (RIPA) Policy and updated the Committee on the use of the Regulation of Investigatory Powers Act 2000 by the Council.

During discussion, the Monitoring Officer outlined the significant changes to the Policy and the corresponding legislation. It was also confirmed that the presented appendix of authorised officers would be amended once the appropriate staff were in place.

It was then **RESOLVED** that Council be **RECOMMENDED** that:

1. the amended RIPA Policy is approved and delegated authority is granted to the Monitoring Officer to make any necessary legislative or best practice changes to the Policy;
2. the four Service Leads are appointed as RIPA Authorising Officers following their appointment;
3. the Monitoring Officer appoints one of the legal team to be the RIPA Co-Coordinating Officer; and
4. the Committee notes that there have been no RIPA Authorisations in the last quarter.

***O&S 22 PERFORMANCE REPORT – PERFORMANCE INDICATORS (Q1 2014/15)**

The Head of Environmental Health and Housing introduced a report that provided Members with information on Key Performance Indicators at the end of quarter 1 for 2014/15. The information was set out with the Balanced Scorecard showing broad performance levels.

Further information for those indicators at 'red' status was provided along with a standard information report giving background information and context to workload. He was able to confirm that action had been taken to address the issue of 'Average call answer time' and that SMT had agreed to recruit additional staff.

During discussion a Member felt that more concern should be generated in terms of performance that had not hit target for two consecutive quarters. Another Member felt the presentation of the report did not help Members to scrutinise effectively. The Head of Environmental Health and Housing confirmed that SMT was considering more meaningful indicators that would be appropriate once T18 was in place.

It was then **RESOLVED** that:

- (i) The Key Performance Indicators for Q1 be noted and actions detailed considered to improve future performance;

- (ii) Members had considered appropriate action for Indicators at 'Red' status for two consecutive quarters and in respect of 'Average call answer time' Members agreed with the action response.

***O&S 23 DRAFT ANNUAL WORK PROGRAMME**

The Chairman asked Members to propose items that they may like to consider during the year 2014/15, particularly as there had been some criticism at the effectiveness of the Overview and Scrutiny Committee.

One Member felt that the Committee should scrutinise outside organisations and partner organisations that would have an impact on the residents of West Devon. It was also suggested that both the Chief Executive and Chairman of Healthwatch Devon be invited to the January meeting.

The Members particularly wanted to know more about the role of the locality officers, and considered that perhaps this could be joined with information about street pastors as there was an expectation that locality officers might work with street pastors in the future and an update on partnership working with roles that the Council was appointing would be helpful.

The Member Services Manager advised that a report on the January agenda would be presented as a result of queries raised at the Resources Committee. The report would detail how benefits overpayments were made and the work that went into recovering the overpaid benefit before the monies were written off.

***O&S 24 REGULATION OF INVESTIGATORY POWERS ACT 2000: REPORT ON INSPECTION AND AUTHORISATION**

As a standing item on the agenda, Members noted that there had been no requests to use the powers under RIPA during the last quarter.

(The meeting terminated at 3.35 pm)

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