

# West Devon Overview and Scrutiny Committee



West Devon  
Borough  
Council

<b>Title:</b>	<b>Agenda</b>														
<b>Date:</b>	<b>Tuesday, 6th November, 2018</b>														
<b>Time:</b>	<b>2.00 pm</b>														
<b>Venue:</b>	<b>Chamber - Kilworthy Park</b>														
<b>Full Members:</b>	<p style="text-align: center;"><b>Chairman</b> Cllr Yelland <b>Vice Chairman</b> Cllr Cheadle</p> <p><i>Members:</i></p> <table style="margin-left: auto; margin-right: auto;"> <tr> <td>Cllr Baldwin</td> <td>Cllr Musgrave</td> </tr> <tr> <td>Cllr Cloke</td> <td>Cllr Parker</td> </tr> <tr> <td>Cllr Evans</td> <td>Cllr Pearce</td> </tr> <tr> <td>Cllr Kimber</td> <td>Cllr Ridgers</td> </tr> <tr> <td>Cllr McInnes</td> <td>Cllr Sellis</td> </tr> <tr> <td>Cllr Moody</td> <td>Cllr Sheldon</td> </tr> <tr> <td>Cllr Moyse</td> <td></td> </tr> </table>	Cllr Baldwin	Cllr Musgrave	Cllr Cloke	Cllr Parker	Cllr Evans	Cllr Pearce	Cllr Kimber	Cllr Ridgers	Cllr McInnes	Cllr Sellis	Cllr Moody	Cllr Sheldon	Cllr Moyse	
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Cllr McInnes	Cllr Sellis														
Cllr Moody	Cllr Sheldon														
Cllr Moyse															
<b>Interests – Declaration and Restriction on Participation:</b>	Members are reminded of their responsibility to declare any disclosable pecuniary interest not entered in the Authority's register or local non pecuniary interest which they have in any item of business on the agenda (subject to the exception for sensitive information) and to leave the meeting prior to discussion and voting on an item in which they have a disclosable pecuniary interest.														
<b>Committee administrator:</b>	Member.Services@swdevon.gov.uk														

- 1. Apologies for Absence**
- 2. Confirmation of Minutes** **1 - 8**  
Committee Meeting held on 2 October 2018
- 3. 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.
- 4. 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
- 5. Public Forum** **9 - 10**  
A period of up to 15 minutes is available to deal with issues raised by the public.
- 6. Scrutiny Call-in: Minute "HC39 - Public Conveniences: Clarification for Parishes"** **11 - 28**
- 7. Hub Committee Forward Plan** **29 - 32**  
  
If any Member seeks further clarity, or wishes to raise issues regarding any future Hub Committee agenda item, please contact Member Services before **12 noon on Friday, 2 November 2018** to ensure that the lead officer(s) are aware of this request in advance of the meeting.
- 8. Customer Satisfaction Survey** **33 - 74**
- 9. Localities Team Update** **75 - 82**
- 10. Ombudsman Annual Review Letter 2018** **83 - 98**

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<b>11. General Data Protection Regulation (GDPR) and Data Protection Policy Update</b>	<b>99 - 114</b>
<b>12. Regulation if Investigatory Powers Act 2000 (RIPA) Policy and Update</b>	<b>115 - 186</b>
<b>13. Quarter 2 Performance Measures</b>	<b>187 - 214</b>
<b>14. Exclusion of Public and Press</b>	
<b>15. Financial Stability Working Group Update: Standing Agenda Item</b>	
<b>16. Re-admittance of Public and Press</b>	
<b>17. Joint Local Plan: Standing Agenda Item</b>	
<b>18. Task and Finish Group Updates:</b>	
(a) Northern Link Area Outreach Services	
(b) Corporate Strategy Performance Measures	
<b>19. Annual Work Programme 2018/19</b>	<b>215 - 216</b>
<b>20. Member Learning and Development Opportunities Arising from this Meeting</b>	

This document can be made available in large print, Braille, tape format, other languages or alternative format upon request. Please contact the Committee section on 01822 813662 or email [darryl.white@swdevon.gov.uk](mailto:darryl.white@swdevon.gov.uk)

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# Agenda Item 2

At a Meeting of the **OVERVIEW & SCRUTINY COMMITTEE** held at the Council Chamber, Council Offices, Kilworthy Park, Drake Road, **TAVISTOCK** on **TUESDAY** the **2<sup>nd</sup>** day of **OCTOBER 2018** at **2.00 pm**.

**Present:** Cllr J Yelland – Chairman

Cllr R E Baldwin	Cllr D W Cloke
Cllr J Evans	Cllr P Kimber
Cllr J B Moody	Cllr D E Moyse
Cllr C R Musgrave	Cllr G Parker
Cllr T G Pearce	Cllr J Sheldon

Group Manager – Customer First and Support Services  
Deputy Monitoring Officer  
Section 151 Officer  
Commissioning Manager  
Community Of Practice Lead – Place and Strategy  
Senior Specialist – Democratic Services

**Also in Attendance:** Cllrs W G Cann OBE, C Edmonds, N P Jory, B Lamb, A F Leech, C Mott, R F D Sampson and P R Sanders

\* **O&S 46**     **APOLOGIES FOR ABSENCE**  
Apologies for absence for this meeting were received from Cllrs R Cheadle, J R McInnes, P J Ridgers and D K A Sellis.

\* **O&S 47**     **CONFIRMATION OF MINUTES**  
The minutes of the Meeting of the Overview and Scrutiny Committee held on 4 September 2018 were confirmed and signed by the Chairman as a true and correct record.

\* **O&S 48**     **DECLARATIONS OF INTEREST**  
Members and officers were invited to declare any interests in the items of business to be considered during the course of this meeting, but there were none made.

\* **O&S 49**     **PUBLIC FORUM**  
There were one issue raised during the Public Forum session as follows:

**Question raised from Mrs Christine Marsh**

*‘What right do WDBC officers have to set up a legal document requiring a resident of the Borough to carry out work on behalf of WDBC and then, just*

*as that work was being completed, to totally walk away from that agreement?’*

In reply, the Deputy Monitoring Officer made the following statement:

*‘The agreement referred to is commercially confidential.*

*It would not be legal for the Council to ‘walk away’ from a binding agreement and that is not what West Devon BC has proposed.*

*Discussions are ongoing to find a mutually acceptable solution but at no point has the Council suggested that the other party cannot proceed with its obligations.*

*Any planning application which comes forward from the agreement will be assessed through the normal planning process which is transparent.’*

In response to a supplementary question from Mrs Marsh, the Deputy Monitoring Officer informed that detailed investigations of the site in question had revealed a different suitability of use.

Some Committee Members requested background information relating to the details that had generated this public question. Due to the exempt nature of elements of this information, it was then **PROPOSED** and **SECONDED** and when put to the vote declared **CARRIED** that:

#### **RESOLVED**

In accordance with Section 100(A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting during consideration of the following item of business as the likely disclosure of exempt information as defined in paragraph 3 of Schedule 12A to the Act is involved.

At this point, the lead Hub Committee Member for Environment and Assets provided an update to the meeting before it was then **PROPOSED** and **SECONDED** and put to the vote declared **CARRIED** that:

#### **RESOLVED**

The public and press be re-admitted to the meeting.

\* O&S 50

#### **HUB COMMITTEE FORWARD PLAN**

Members considered the latest version of the Hub Committee Forward Plan. In so doing, the following points were made:-

- (a) It was noted that an additional Public Conveniences report would be presented to the next Hub Committee meeting on 16 October 2018;
- (b) Officers also confirmed that the agenda items entitled: 'Adoption of Clean Air Strategy' and 'Adoption of Business Continuity Plan' would now be deferred for consideration at a Hub Committee meeting during early 2019;
- (c) A Member of the Joint Local Plan (JLP) Joint Steering Group advised that a number of separate strands relating to the JLP and its Governance would need to be considered by the Hub Committee in the upcoming months;
- (d) A Member made reference to the current consultation exercise on the draft Tamar Valley Area of Outstanding Natural Beauty (AONB) Management Plan 2019/24. In highlighting the lack of a Council meeting before the deadline for responses (16 November 2018), a Member asked for this point to be formally noted. It was also agreed that lead officers would be available to discuss the nature of this consultation exercise with interested Members outside of this meeting;
- (e) Some Members also highlighted the current National Parks and AONBs Landscape review and acknowledged the intention for a report to be presented on this issue to the Council meeting on 4 December 2018.

**\* O&S 51      CONNECTING DEVON AND SOMERSET STAKEHOLDER ENGAGEMENT OFFICER**

The Connecting Devon and Somerset Stakeholder Engagement Officer conducted a presentation to Members that covered the following key areas:-

- Who were Connecting Devon and Somerset;
- Programme Objectives;
- Investment and Funding;
- Phase 1 of the Programme; and
- Phase 2 of the Programme.

In the ensuing discussion, particular reference was made to:-

- (a) a question from a Lamerton resident. Since the question had been received after the Public Forum deadline had expired, the Chairman exercised her discretion to ask the question as follows:

*'We would like superfast broadband in Lamerton. Some existing properties already get it, as do new builds. It seems unfair that some can get in excess of 30 mbps while the rest of us can barely achieve 2.*

*How do we get it for the whole village?*

*Is there a plan already in place and, if so, what time frame are we looking at?*

*Having first been promised in 2014, then 2016, then 2018 and now possibly 2021, why can't we get it now?*

*We fully understand the issue with the cabinets 3 and 14 and we also know Airband is potentially available; however it is expensive and not available to a lot of properties, as it is out of sight of their signal mast.*

In reply, the Engagement Officer confirmed his familiarity with this matter and provided some background context around the issues. The officer gave a commitment to check the infrastructure around the property owned by the questioner and reminded those in attendance that Airband was committed to providing superfast broadband to those premises that they had signed up to deliver (irrespective of how difficult this may prove to be).

Also, in the event of any of these properties not being connected upon the conclusion of the Airband contract, the officer advised that this would be a contract management issue that would need to be resolved;

- (b) the target for 100% of households to be connected to superfast broadband. Whilst remaining committed to this intention, the Committee was informed that 95-96% of properties should be connected upon the completion of Phase 2 of the Programme;
- (c) the economic impact of the West Devon Borough being in the bottom 10 in the United Kingdom for broadband coverage. In reply to a question, the officer stated that a report was currently being produced that would analyse the impact of Phase 2 on the Borough;
- (d) the original bidding process. A Member considered it to be really poor that, during the initial bidding submission, no account had been taken of the geo-physical layout of the landscape. As a consequence, the Member advised that local public opinion had really soured towards both Connecting Devon and Somerset and Airband. The officer acknowledged the points raised and stated that, in hindsight, the criticism was fair since the original bid had not taken sufficient account of the landscape;
- (e) Airband take up on Dartmoor. In reply to a question, the officer accepted that connectivity take up on Dartmoor had, to date, been disappointing. However, recent analysis had suggested that numbers were starting to increase more in line with the original projections;
- (f) the recruitment of a Marketing/Communications Officer. The Committee noted that the organisation was currently looking at employing an additional resource that would support the intention to increase



engagement and dialogue with both the Borough Council and local town and parish councils. At the time of this meeting, 85% of town and parish councils had not been spoken to and this was identified as being wholly inadequate.

In conclusion, it was requested that the Presentation slides be circulated to all Members of Council and the Chairman proceeded to thank the Engagement Officer for his informative presentation and detailed responses to Member questions.

**\* O&S 52 CORPORATE STRATEGY: DELIVERY AGAINST THEMES UPDATE**

The Committee considered a report that detailed work undertaken to date to develop key performance indicators for the Council's newly adopted Corporate Strategy.

In discussion, the following points were raised:-

- (a) It was confirmed that the Leader of Council was the designated lead Hub Committee Member for the Corporate Strategy;
- (b) In support of the proposed way forward, expressions of interest were invited from Committee Members to serve on the Task and Finish Group. In so doing, the Committee proceeded to nominate Cllrs Cheadle, Moody and Pearce.

It was then:

**RESOLVED**

That a Task and Finish Group (comprising of Cllrs Cheadle, Moody and Pearce) be established to work with officers to hone a set of Corporate Strategy key performance indicators based on: resident feedback, national benchmark and recent Institute of Customer Service findings.

**\* O&S 53 FINANCIAL STABILITY WORKING GROUP UPDATE: STANDING AGENDA ITEM**

The Committee received an update on the progress being made by the Financial Stability Working Group and noted that:

- the Medium Term Financial Strategy 2019/20 to 2023/24 had been approved by the Council at its meeting on 25 September 2018;
- attendance at the Member Budget Workshop on Monday, 8 October 2018 was important. It was intended that the next Group meeting would follow on from this Budget Workshop;
- potential projects to support the Council in the long term continued to evolve;

- the Group was confident that the Council would be able to deliver a balanced Budget for 2019/20;
- the Council's approach to its use of reserves was currently being reviewed by the Group.

**\* O&S 54      JOINT LOCAL PLAN: STANDING AGENDA ITEM**

By way of an update, the lead Hub Committee Member advised that:

- the Council was about to embark on a consultation exercise on the modifications to the Joint Local Plan (JLP). It was intended that the deadline for this exercise would be 5.00pm on 3 December 2018;
- the ongoing time slippages were attributed to the Inspector and not any of the three partner councils;
- there was every likelihood that the Plan would need to be presented to a meeting of the Council during Spring 2019 for adoption;
- it was intended that a Member Briefing on the JLP would be arranged before the end of November 2018;
- the five year housing land supply. When questioned, the lead Member felt that the Council would have a good indication of its current position by December 2018. However, the Council would not have a definitive answer on whether or not it had a five year housing land supply until the Plan had been formally adopted by each of the three councils.

**\* O&S 55      TASK AND FINISH GROUP UPDATES**

**(a) Okehampton Outreach Services**

By way of an update, Members felt that the title of the review should be broadened out to be re-named 'Northern Link Area' Outreach Services.

It was confirmed that a number of Members had expressed an interest in serving on this Task and Finish Group and the first meeting would be convened once the nominated Chairman had returned from annual leave.

Finally, it was recognised that the initial Review timetable was considered to be too restrictive and it was therefore agreed that the concluding report should be presented to the Committee meeting on 15 January 2019.

**\* O&S 56      ANNUAL WORK PROGRAMME 2018/19**

The Chairman introduced the latest version of the Work Programme for the next 12 months and noted its concerns.

**\* O&S 57 MEMBER LEARNING AND DEVELOPMENT OPPORTUNITIES ARISING FROM THIS MEETING**

In discussion, the importance of Members attending the Budget Workshop on 8 October 2018 was again reiterated.

(The meeting terminated at 3.30 pm)

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Chairman

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## **PUBLIC FORUM PROCEDURES**

### **(a) General**

Members of the public may raise issues and ask questions at meetings of the Overview and Scrutiny Committee. This session will last for up to fifteen minutes at the beginning of each meeting, with any individual speaker having a maximum of three minutes to address the Committee.

### **(b) Notice of Questions**

An issue or question may only be raised by a member of the public provided that they have given written notice (which may be by electronic mail) to Darryl White ([darryl.white@swdevon.gov.uk](mailto:darryl.white@swdevon.gov.uk)) by 5.00pm on the Thursday, prior to the relevant meeting.

### **(c) Scope of Questions**

An issue may be rejected by the Monitoring Officer if:

- it relates to a matter within the functions of the Planning and Licensing Committee;
- it is not about a matter for which the local authority has a responsibility or which affects the district;
- it is offensive, frivolous or defamatory;
- it is substantially the same as a question which has previously been put in the past six months; or
- it requires the disclosure of confidential or exempt information.

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\* HC 39

## **PUBLIC CONVENIENCES – CLARIFICATION FOR PARISHES**

Members were presented with a report that requested consideration of the options for implementing the decision of the Hub Committee in July 2018 (Minute \* HC 19 refers) to approve and deliver efficiencies of £50,000 (or more) in 2019/20 in operating the current public toilet service.

The Lead Member for Commercial Services presented the report. During discussion, Members expressed concerns over some parishes being unable to take on the financial liability as set out in the presented report, and smaller parishes within the Dartmoor National Park area being disadvantaged as the public conveniences were used by visitors and tourists rather than for the benefit of residents. In response, the Lead Member for Commercial Services advised that discussions would take place with affected parish and town councils and a report brought back to the Hub Committee at a later date.

In response to concerns from the Lead Member for Health and Wellbeing about the health and wellbeing implications of closure of public conveniences, assurances were given that a full Comprehensive Impact Assessment would be undertaken on any proposed public convenience closures where that closure affected the overall provision in an area and the appropriate Lead Member would be kept informed.

In view of the concerns over affordability for parishes, an amendment to the presented recommendations was put forward as follows:

1. ii. Make a contribution towards the cost of running public toilets equivalent to **50%** of all direct costs
2. that the **50%** contribution be increased . . . . .

The amendment was **PROPOSED, SECONDED** and on being put to the vote declared **LOST**.

It was then **RESOLVED** that the Hub Committee:

1. in respect of the rural public toilets (listed in Appendix A), resolve that Parish and Town Councils are requested to either:
  - i. Assume responsibility for the public toilets in their area including a transfer of the freehold or leasehold property; or
  - ii. Make a contribution towards the cost of running public toilets equivalent to 75% of all direct costs (which includes staff and management costs).
2. that the 75% contribution be increased over the following three years based upon actual spend as per the payment profile shown in Appendix A, to reach a point where full costs are covered by the Parish and Town Councils.

3. that where a Parish or Town Council agrees neither to accept a transfer of the facility nor make the requested contribution (as set out in Recommendation 1 (i) and (ii)) it will be recommended to Council that the facility will be closed before the end of the financial year 2018/19.
4. that where any facility will benefit from pay on entry equipment in order to reduce overall costs, the council will work with the relevant Town or Parish Council on a business case and implementation programme to achieve best value.



Report to: **Hub Committee**  
Date: **16 October 2018**  
Title: **Public Toilet Review**  
Portfolio Area: **Environment Services (Cllr Robert Sampson)**  
Wards Affected: **All**  
Urgent Decision: **N** Approval and clearance obtained: **Y**

Date next steps can be taken:

Author: **Cathy Aubertin** Role: **Community of Practice Lead – Environment Services**  
**Alex Walker** **Senior Specialist (Accountant Business Partner)**

Contact: [Cathy.Aubertin@swdevon.gov.uk](mailto:Cathy.Aubertin@swdevon.gov.uk)  
[Alexandra.Walker@swdevon.gov.uk](mailto:Alexandra.Walker@swdevon.gov.uk)

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**Recommendations:**

**It is RECOMMENDED:**

- 1. that in respect of the rural public toilets (listed in Appendix A) the Hub Committee resolve that Parish and Town Councils are requested to either:
  - i. Assume responsibility for the public toilets in their area including a transfer of the freehold or leasehold property; or**
  - ii. Make a contribution towards the cost of running public toilets equivalent to 75% of all direct costs (which includes staff and management costs).****
- 2. that the 75% contribution be increased over the following three years based upon actual spend as per the payment profile shown in Appendix A, to reach a point where full costs are covered by the Parish and Town Councils.**
- 3. that where a Parish or Town Council agrees neither to accept a transfer of the facility nor make the requested contribution (as set out in Recommendation 1 (i) and (ii))**

**it will be recommended to Council that the facility will be closed before the end of the financial year 2018/19.**

**4. that where any facility will benefit from pay on entry equipment in order to reduce overall costs, the council will work with the relevant Town or Parish council on a business case and implementation programme to achieve best value.**

## **1. Executive summary**

1.1 This report requests that Members consider the options for implementing the decision of the Hub Committee on the 17<sup>th</sup> July 2018 to approve and deliver efficiencies of the £50,000 (or more) in 2019/20 in operating the current public toilet service.

## **2. Background**

2.1 Following the previous report to the Hub Committee on 17<sup>th</sup> July 2018, it was resolved:

1. To approve and deliver efficiencies of £50,000 (or more) in 2019/ 20 from the overall public convenience service as set out in the Medium Term Financial Strategy through consideration of the following:

- The provision of pay on entry systems (where pay back can be achieved on a capital spend within a reasonable period, depending on the choice of equipment)
- Closure of toilet facilities where adequate provision may be found within reasonable proximity or where footfall is not such as to justify continued provision.
- The transfer of toilet facilities to parishes or other partners where agreement can be reached to maintain service continuity.

2. It is recommended that officers proceed on the basis of consideration of a combination of all the above options in order to achieve this, subject to seeking the authority of this Council to any closure(s) to be considered.

2.2 In order to be able to formulate more detailed recommendations in respect of each facility, the Portfolio Holder Commercial Services and specialist officers have been consulting with Town and Parish Councils. Discussion has also been had with the Health and Wellbeing Lead Member.

2.3 Meetings have been held with all Town and Parish Councils, with the exception of Dartmoor Forest, where a meeting is due to be held on 12<sup>th</sup> October, and Tavistock, where a meeting has not yet been requested, although clarification has been sought.

2.4 Since the last meeting further work has been undertaken to ensure an equitable approach to the funding of public toilets is established so that the Borough Council is able to request an appropriate level

of contribution from each Town and Parish Council relative to the cost of providing the toilet facilities in that area.

- 2.5 Town and Parish Councils are to consider whether they wish to take a transfer of the facility or make arrangements to pay the required sum, whilst being aware that the Borough Council may resolve to close toilets which are not receiving a contribution (Recommendation 3). This will be due to considerations around cost, numbers of users and other toilets already available in an area.
- 2.6 This would also address the current position, where contributions towards the public toilet service vary considerably from over £3,000 per facility to zero.
- 2.7 With one exception, the responses from Town and Parish Councils have been understanding. Most are now considering how they may be able to either make a contribution towards the service or take on the assets entirely. However, at the time of writing we are yet to receive any formal proposals as rural parishes await information on contribution levels and timeframes.

### **3. Outcomes/outputs**

- 3.1 It is proposed that, in order to secure the long-term future of the public toilet service, a four-year contribution agreement be implemented, so that the agreement lasts for at least the length of the next elected Council (2019-2023). It is important that the strategy for public toilets is set out over a number of years to allow both borough council and parish and town council budget processes to be planned and for service changes to be communicated locally.
- 3.2 Parish and Town Councils will be given the option of adopting the four-year agreement or taking on the asset entirely. If neither option is chosen, the Borough Council would close the toilet(s) before the end of this financial year subject to Council agreement.
- 3.3 Modelling has been carried out for the rural public toilets (at Appendix A), to show what the Town/ Parish contributions would be.
- 3.4 The toilets in Okehampton and Tavistock will be the subject of further reports. Members will be aware that Assets staff are already in discussions with Okehampton Town Council in respect of the proposed closure of Market Street toilets, as well as the proposal to devolve Fairplace toilets to the Town Council. It has now been agreed that Market Street toilets will close and Fairplace toilets will transfer to the Town Council, on 1<sup>st</sup> April 2019. Further discussions will also be held with Tavistock Town Council.

#### **4. Options available and consideration of risk**

- 4.1 Members are requested to consider the above options in light of the information provided to deliver the budgetary savings required whilst working to maintain an appropriate network of public toilets in the borough.

#### **5. Proposed Way Forward**

- 5.1 Officers will proceed in accordance with the recommendation resolved by Members. In case it is resolved to proceed with Pay on Entry, the facilities were included in the tender process already in train in South Hams, and Members will be aware that the awarding of this contract for any agreed pay on entry sites was approved at the Council meeting on 25<sup>th</sup> September 2018.

#### **6. Implications**

Implications		Details and proposed measures to address
Legal/Governance		No direct implications at this time. Legal consideration of assets being transferred will be considered on a case by case basis.
Financial		<p>There is a possible capital funding requirement of £50,000 - £60,000 relating to future pay on entry equipment which may be funded by the Strategic Change Earmarked Reserve if required.</p> <p>Financial modelling has been carried out to show the levels of contribution required to achieve the budget saving of a minimum of £50,000 as requested. A 74% contribution will achieve a saving of £41,411. A 50% contribution would therefore not meet the necessary level of saving.</p>
Risk		There may be some concern from customers in respect of Pay on Entry systems. It should be noted that more and more authorities are implementing Pay on Entry systems so more people are aware of them and use them than ever before. Data and information relating to Pay on Entry is available both locally and nationally. The Council has local information on these schemes as well as national data from the British Toilet Association and the Association for Public Service Excellence (APSE).
Comprehensive Impact Assessment Implications		

Equality and Diversity		Comprehensive impact assessments will be carried out in relation to any individual facilities where closure affects the overall toilet provision in an area.
Safeguarding		No implications.
Community Safety, Crime and Disorder		There is potential for vandalism of public toilets to be reduced should Pay on Entry be implemented, due to the requirement to pay a fee to gain entry.  However, experience has shown that the Pay on Entry equipment could be a target for vandalism during the first few months of operation.
Health, Safety and Wellbeing		No implications.
Other implications		None.

### **Supporting Information**

Appendix A – Costing information

Appendix B – Town and Parish information

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## Rural Location Public Toilet Costings

Recommendation 1 (ii) - 75% contribution towards service costs (including management costs but excluding support costs) in 2019/20

Facility	Total service cost (including management costs but excluding support costs)	Contribution required (75% of service cost)
	£	£
Bedford Bridge and Yelverton	22,268	16,701
Brentor	2,184	1,638
Chagford	12,676	9,507
Hatherleigh	3,940	2,955
Lydford	3,896	2,922
Princetown	26,644	19,983
	<b>71,609</b>	<b>53,707</b>

Payment profile - The Parish contribution for future years will be modelled as follows;

Year	Parish Contribution (%)
2019/20	75% To be based on 2017/18 final outturn position
2020/21	80% To be based on 2018/19 final outturn position
2021/22	90% To be based on 2019/20 final outturn position
2022/23	100% To be based on 2020/21 final outturn position

## Impact to WDBC

Facility	Proposed Parish contribution 2019/20	Less current income from pay on entry scheme	Less current Parish contribution	Saving
	£	£	£	£
Bedford Bridge and Yelverton	16,701		-2,932	13,769
Brentor	1,638			1,638
Chagford	9,507		-1,772	7,735
Hatherleigh	2,955		-1,105	1,850
Lydford	2,922			2,922
Princetown	19,983	-3,030	-3,457	13,496
	<b>53,707</b>	<b>-3,030</b>	<b>-9,266</b>	<b>41,411</b>

## Impact on Parish Precept in 2019/20

Parish	Facility	Proposed Parish contribution (75% of total service cost)	Less income receivable from pay on entry scheme	Less current Parish contribution	Proposed increase to 2019/20 Parish Precept
		£	£	£	£
Buckland Monachorum	Bedford Bridge and Yelverton	16,701		-2,932	13,769
Brentor	Brentor	1,638			1,638
Chagford	Chagford	9,507		-1,772	7,735
Hatherleigh	Hatherleigh	2,955		-1,105	1,850
Lydford	Lydford	2,922			2,922
Dartmoor Forest	Princetown	19,983	-3,030	-3,457	13,496
		<b>53,707</b>	<b>-3,030</b>	<b>-9,266</b>	<b>41,411</b>

2018/19 Parish Precept	Proposed Parish Precept 2019/20	% increase on proposed Parish Precept 2019/20
£	£	
46,030	59,799	29.91%
13,722	15,360	11.94%
42,725	50,460	18.10%
23,580	25,430	7.85%
6,112	9,034	47.81%
17,279	30,775	78.11%
<b>£149,448</b>	<b>£190,859</b>	

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## Rural Location Public Toilet Costings

Illustrative modelling for a 50% contribution towards service costs (including management costs but excluding support costs)

Facility	Total service cost (including management costs but excluding support costs)	Contribution required (50% of service cost)
	£	£
Bedford Bridge and Yelverton	22,268	11,134
Brentor	2,184	1,092
Chagford	12,676	6,338
Hatherleigh	3,940	1,970
Lydford	3,896	1,948
Princetown	26,644	13,322
	<b>71,609</b>	<b>35,804</b>

## Impact to WDBC

Facility	Proposed Parish contribution	Less income from pay on entry scheme	Less current Parish contribution	Saving
	£	£	£	£
Bedford Bridge and Yelverton	11,134		-2,932	8,202
Brentor	1,092			1,092
Chagford	6,338		-1,772	4,566
Hatherleigh	1,970		-1,105	865
Lydford	1,948			1,948
Princetown	13,322	-3,030	-3,457	6,835
	<b>35,804</b>	<b>-3,030</b>	<b>-9,266</b>	<b>23,508</b>

## Impact on Parish Precept in 2019/20

Parish	Facility	Proposed Parish contribution (50% of total service cost)	Less income receivable from pay on entry scheme	Less current parish contribution	Proposed increase to 2019/20 Parish Precept
		£	£	£	£
Buckland Monachorum	Bedford Bridge and Yelverton	11,134		-2,932	8,202
Brentor	Brentor	1,092			1,092
Chagford	Chagford	6,338		-1,772	4,566
Hatherleigh	Hatherleigh	1,970		-1,105	865
Lydford	Lydford	1,948			1,948
Dartmoor Forest	Princetown	13,322	-3,030	-3,457	6,835
		<b>35,804</b>	<b>-3,030</b>	<b>-9,266</b>	<b>23,508</b>

2018/19 Parish Precept	Proposed Parish Precept 2019/20	% increase on proposed Parish Precept 2019/20
£	£	
46,030	54,232	17.82%
13,722	14,814	7.96%
42,725	47,291	10.69%
23,580	24,445	3.67%
6,112	8,060	31.87%
17,279	24,114	39.56%
<b>£149,448</b>	<b>£172,956</b>	

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**APPENDIX A**

**Saving on direct costs if toilets are closed (this is the total service cost excluding management and support costs)**

<b>Facility</b>	<b>Total service cost (excluding management and support costs)</b>	<b>Less income from pay on entry scheme</b>	<b>Less current Parish contribution</b>	<b>Saving</b>
	£	£	£	£
Bedford Bridge and Yelverton	21,206		-2,932	18,274
Brentor	2,094		0	2,094
Chagford	11,928		-1,772	10,156
Hatherleigh	3,696		-1,105	2,591
Lydford	3,690		0	3,690
Princetown	26,510	-3,030	-3,457	20,023
	<b>69,125</b>	<b>-3,030</b>	<b>-9,266</b>	<b>56,829</b>

**Assumptions**

Service management and support staff will remain in post

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## APPENDIX A

## Breakdown of Service Costs

Facility	Cleaning costs	Repairs/ maintenance/ vandalism costs	Electricity	Business rates	Water charges	Grounds maint	Sundry expenses	Rent	Total service cost (excluding management and support costs)	Service Management costs (CoP Lead Environmental Services, Senior Specialists)	Total service cost (including management costs but excluding support costs)
Bedford Bridge and Yelverton	£7,651	£3,654	£730	£5,868	£3,234	£68	£2		£21,206	£1,062	£22,268
Brentor	£651	£309	£62	£792	£274	£6	£0		£2,094	£90	£2,184
Chagford	£5,386	£2,572	£514	£660	£2,277	£48	£1	£470	£11,928	£748	£12,676
Hatherleigh	£1,245	£840	£168	£684	£744	£16	£0		£3,696	£244	£3,940
Lydford	£1,482	£707	£141	£720	£626	£13	£0		£3,690	£206	£3,896
Princetown	£11,761	£5,619	£1,123	£2,928	£4,974	£104	£2		£26,510	£134	£26,644
	<b>£28,176</b>	<b>£13,702</b>	<b>£2,738</b>	<b>£11,652</b>	<b>£12,128</b>	<b>£254</b>	<b>£5</b>	<b>£470</b>	<b>£69,125</b>	<b>£2,484</b>	<b>£71,609</b>

## Breakdown of income

Facility	Parish contributions	Current income from Pay on entry scheme
Bedford Bridge and Yelverton	-£2,932	
Brentor		
Chagford	-£1,772	
Hatherleigh	-£1,105	
Lydford		
Princetown	-£3,457	-£3,030
	<b>-£9,266</b>	<b>-£3,030</b>

## Memorandum only - breakdown of depreciation and support costs

Facility	Support costs (cost of HR/Finance/ICT/Legal/S upport Services Case Managment)	Notional depreciation charges - not to be included
Bedford Bridge and Yelverton	3,177	1,055
Brentor	269	89
Chagford	2,237	743
Hatherleigh	731	243
Lydford	615	204
Princetown	4,887	1,623
	<b>11,916</b>	<b>3,958</b>

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Facility	Total Electors per parish	Parish Contribution	Owners	Freehold/Leasehold
Bedford Bridge and Yelverton	1195	-£2,932	Henry Massey Third Baron Roborough care of Maristow Estate	leased
Brentor	338		Devon County Council/Dartmoor National Park	agreement
Chagford	1217	-£1,772	West Devon Borough Council	freehold
Hatherleigh	1401	-£1,105	West Devon Borough Council	freehold
Lydford	328		Devon County Council/Dartmoor National Park	agreement
Princetown	724	-£3,457	Dartmoor National Park	leased until 23rd March 2026

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### WEST DEVON BOROUGH COUNCIL: HUB COMMITTEE FORWARD PLAN

This is the provisional forward plan for the four months starting November 2018. It provides an indicative date for matters to be considered by the Hub Committee. Where possible, the Hub Committee will keep to the dates shown in the plan. However, it may be necessary for some items to be rescheduled and other items added.

The forward plan is published to publicise consultation dates and enable dialogue between the Hub Committee and all councillors, the public and other stakeholders. It will also assist the Council's Overview and Scrutiny Committee in planning their contribution to policy development and holding the Hub Committee to account.

The Plan is published in hard copy and on the Council's website ([www.westdevon.gov.uk](http://www.westdevon.gov.uk))

**Members of the public are welcome to attend all meetings of the Hub Committee, which are normally held at Kilworthy Park, Tavistock, and normally start at 2.00 pm.**

**If advance notice has been given, questions can be put to the Hub Committee at the beginning of the meeting.**

The Hub Committee consists of nine Councillors. Each has responsibility for a particular area of the Council's work.

*Cllr Sanders – Leader*

*Cllr Samuel – Deputy Leader*

*Cllr Sampson – Lead Member for Commercial Services*

*Cllr Leech – Lead Member for Health and Wellbeing*

*Cllr Oxborough – Lead Member for Economy*

*Cllr Jory – Lead Member for Environment and Assets*

*Cllr Roberts – Lead Member for Customer First*

*Cllr Edmonds - Lead Member for Resources and Performance*

*Cllr Mott – Lead Member for Strategic Planning and Housing*

Further information on the workings of the Hub Committee, including latest information on agenda items, can be obtained by contacting the Member Services Section by e-mail to [member.services@westdevon.gov.uk](mailto:member.services@westdevon.gov.uk)

**All items listed in this Forward Plan will be discussed in public at the relevant meeting, unless otherwise indicated for the reasons shown**

**DECISIONS TO BE TAKEN BY THE HUB COMMITTEE**

Service	Title of Report and Summary	Lead Officer and Members	Decision Maker	Anticipated date of meeting	
				Hub Committee	Council
<b>Standing Item</b>	<b>Financial Stability Review Group</b>				
	<b>Briefing paper from Economy Working Group (O&amp;S Cttee recommendation)</b>	Cllr Oxborough	Hub Committee	20 November 2018	4 December 2018
Customer First	<b>Land Disposal at Okehampton</b>	CB/Cllr Jory	Council	20 November 2018	4 December 2018
Customer First	<b>CTR New Scheme</b>	IB/	Council	20 November 2018	4 December 2018
Commercial Services	<b>Refurbishment of Brook Street Car Park</b>	CA/Cllr Sampson	Council	20 November 2018	4 December 2018
Commercial Services	<b>Waste and Cleansing Procurement Update</b>	HD/Cllr Sampson	Council	20 November 2018	4 December 2018
Strategy and Commissioning	<b>Adoption of Health and Safety Policy Statement</b>	IL/Cllr Sanders	Council	20 November 2018	4 December 2018
Customer First	<b>Section 106 Spend</b>	AH/Cllr Roberts	Hub Committee	20 November 2018	4 December 2018
Support Services	<b>Revenue Budget Monitoring to September 2018 (quarter 2 position)</b>	PH/Cllr Edmonds	Hub Committee	4 December 2018	4 December 2018
Support Services	<b>Capital Budget Monitoring to September 2018 (quarter 2 position)</b>	PH/Cllr Edmonds	Hub Committee	4 December 2018	4 December 2018
Support Services	<b>Write Off Report – Quarter 2 2018/19</b>	LB/Cllr Edmonds	Hub Committee	4 December 2018	4 December 2018
Support Services	<b>Draft Revenue Budget Proposals 2019/20</b>	LB/Cllr Sanders	Council	4 December 2018	4 December 2018
Support Services	<b>Draft Capital Programme Proposals 2019/20</b>	LB/Cllr Sanders	Council	4 December 2018	4 December 2018
Customer First	<b>JLP and Governance</b>	TJ/Cllr Mott	Council	January 2019	February 2019
SLT	<b>Peer Review Report</b>	SH/Cllr Sanders	Council	January 2019	February 2019
Customer First	<b>Coastal Concordat – deferred to 2019</b>	RS/Cllr Jory	Hub Committee	2019	2019
Customer First	<b>Adoption of Clean Air Strategy – deferred to 2019</b>	IL/Cllr Sanders	Council	2019	2019

Service	Title of Report and Summary	Lead Officer and Members	Decision Maker	Anticipated date of meeting Hub Committee                      Council	
Customer First	<b>Adoption of Business Continuity Plan – deferred to 2019</b>	IL/Cllr Sanders	Council	2019	2019

**\* Exempt Item (This means information contained in the report is not available to members of the public)**

SH – Sophie Hosking – Executive Director Service Delivery and Commercial Development

LB – Lisa Buckle – Section 151 Officer

HD – Helen Dobby – Group Manager Commercial Services

SM – Steve Mullineaux – Group Manager Support Services and Customer First

CB – Chris Brook – COP Lead Assets

JS – Jane Savage – Lead Specialist Waste Strategy

IL – Ian Luscombe – COP Lead Environmental Health

CBowen – Catherine Bowen – Monitoring Officer

DA – Darren Arulvasagam – Group Manager Business Development

SLT – Senior Leadership Team

IB – Isabel Blake – COP Lead Housing, Revenues and Benefits

RS – Rob Sekula



**West Devon  
Borough  
Council**

# Agenda Item 8

Report to: **Overview and Scrutiny Committee**  
Date: **6 November 2018**  
Title: **Customer Satisfaction Survey**  
Portfolio Area: **Customer First**  
Wards Affected: **All Wards**  
Relevant Scrutiny Committee: **Overview and Scrutiny Committee**

Urgent Decision: **N** Approval and clearance obtained: **Y**

Date next steps can be taken:  
(e.g. referral on of recommendation or implementation of substantive decision) **Hub Committee meeting on 20 November 2018**

Author: **Nadine Trout** Role: **Commissioning Manager**

Contact: [Nadine.Trout@swdevon.gov.uk](mailto:Nadine.Trout@swdevon.gov.uk)

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## RECOMMENDATION

**That the Panel RECOMMENDS to the Hub Committee to:**

- 1. note the results from the Council's recent Customer Satisfaction Survey and endorse the proposed actions as detailed in section 5 of this report.**
- 2. support the proposed Customer Service Standards as detailed in Appendix B of this report.**

### **1. Executive summary**

1.1 This report is presented by the portfolio holder for Customer First and details the scores achieved by the Council as part of a recent Institute of Customer Service customer satisfaction benchmark survey.

1.2 The report also includes recommended next steps to improve the Council's customer satisfaction scores.

### **2. Background**

2.1 Earlier this year the Council in partnership with South Hams District Council became a Member of the Institute of Customer Service. The Institute is an independent, not for profit membership body with over 480 organisational members. 80% of members are from the private sector and 20% from the public sector. The Institute is renowned for providing customer survey, benchmarking and training services.

- 2.2 The purpose for joining the Institute of Customer Service was to obtain a true benchmark of our customers' experience against the best private and public organisations in the country; and more importantly use our membership to learn from the top performing companies as to how best we can improve our customer service offering.
- 2.3 It's important to note top scoring organisations include Amazon, First Direct, O2, Marks and Spencer, BMW and government agencies such as HMRC and DWP.
- 2.4 On 19 June this year the Council launched its first Institute of Customer Service Survey by contacting over 3,600 West Devon Borough Council customers. Contact was made by either email or text message. A copy of the survey questions can be found at Appendix A of this report. The text highlighted in yellow in the appendix shows how the survey was tailored to suit West Devon customers.
- 2.5 Customers were only contacted if they had had dealings with the Council within the last three months. Each email was personalised with the customer's name and their reason for contacting the Council. Customers were asked to provide honest and anonymous feedback on their recent customer experience. Customers did this by clicking on a link which took them to a survey hosted on the Institute of Customer Service survey portal.
- 2.6 396 West Devon customers responded to the survey. The response rate exceeded the Institute of Customer Services minimum return rate of 100 responses as such the survey was deemed statistically sound.
- 2.7 The survey responses were used by the Institute of Customer Service to benchmark the Council against the UK Customer Satisfaction Index. The index is updated twice a year and canvasses the opinions of 10,000 UK customers.
- 2.8 Results from the benchmarking can be found at Appendix B. Key points to note from the results are as follows:
  - a. The survey shows combined and individual scores for South Hams and West Devon Borough Councils.
  - b. It takes organisations time to up their customer satisfaction scores, as shown on page 11 of Appendix B.
  - c. The Council scores higher than the average local Council for its Net Promoter Score and Customer Effort scores as shown on pages 14 and 23 of Appendix B.

- d. The Council performs poorly on getting things right first time and keeping its customers informed as detailed on page 16 of Appendix B.
  - e. Words used to describe the Council are a mixture of both positive and negative as detailed on page 21 and 25 of Appendix B.
- 2.9 Customers have been contacted and thanked for participating in the survey and have been invited to join a Customer Focus Group should they wish to.
- 2.10 The survey results have been shared with staff at a series of Away Days which took place between 21 September and 1 October. The purpose of the Away Days was to analyse and reflect on the results with staff and to encourage staff to be active participants in formulating an action plan to improve customer satisfaction. In particular staff were asked to focus on solutions to improve:
- a. Getting services right first time
  - b. Keeping customers informed
  - c. Showing customers they care
  - d. Complaint handling
- 2.11 The ideas generated at the Staff Away Days have helped inform a set of draft Council Customer Service standards.
- 2.12 To raise awareness of the importance of Customer Service the Council recently participated in National Customer Service week which ran from 1-5 October 2018.

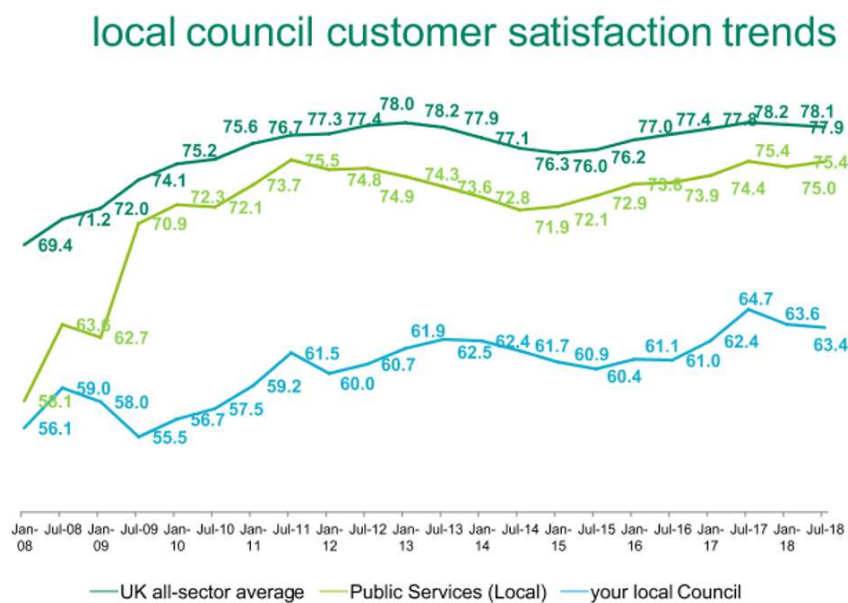
### **3 Outcomes/outputs**

- 3.1 The Council is due to undertake a further Institute of Customer Service Customer Satisfaction Survey in October 2019. This section of the report details a set of suggested 2019 survey outcomes. The outcome scores have been devised by consulting with the Institute of Customer Service and by closely benchmarking the Council's existing results against the average local council scores.
- 3.2 Whilst the Council will look to improve all measures and scores ahead of a follow-up survey in October 2019. There are 3 main measurable outcomes that the council will look to improve over the next 12 months. These are;
- *Improvement in the overall benchmarking score*
  - *Improvement in the 'right first time' score*
  - *Improvement in the 'keeping customers informed' score*

3.3 Outcome 1

A minimum 5.1 point improvement in the Council’s overall benchmarking score in 12 months’ time when the Council conducts its next Customer Satisfaction Survey. Thereby bringing the Council’s score in line with the average national UKCSI (UK Customer Service Index) for local councils of 63.4

3.4 A stretch target of a 7.5 improvement, being mindful however that Institute of Customer Service figures show that local council scores have improved on average by only 1 point per year over the last 10 years to reach the current figure of 63.4 out of 100 points. See graph below.



3.5 Outcome 2

A minimum 15% uplift to the Council’s ‘right first time’ score in next year’s Customer Satisfaction Survey. Thereby bringing the Council’s score to 56.3% and slightly surpassing the average national UKCSI (UK Customer Service Index) for local councils of 56.2%

3.6 Clearly we should strive to get all services delivered ‘right first time’ every time and will make every effort to exceed this 56.3% target.

3.7 Outcome 3

A minimum 1.2 point uplift to the Council’s ‘keeping customers informed’ score in next year’s Customer Satisfaction Survey. Thereby bringing the Council’s score to 6.2 and in line with the average national UKCSI (UK Customer Service Index) for local councils of 6.2 out of 10 points.



- 3.8 A stretch target of a 2.7 point uplift bringing the Council in line with the UKCSI average for all service sectors.

#### **4 Options available and consideration of risk**

4.1 Do nothing option

The Council could chose to disregard the results of the Council's recent Customer Satisfaction Survey and take no further action. However, in doing so the Council would be failing to act upon valuable customer feedback and would be at risk of reputational harm.

4.2 Take action option

By setting targets as detailed in section 3 above and devising an action plan as outlined in section 5 below the Council is proactively responding to the Customer Survey results. It is therefore deemed appropriate to pursue this option.

- 4.3 It is important to note that the targets detailed in section 3 will be delivered without any additional resources. Any changes in external factors such as additional budget pressures or changes in central government priorities could impact on our ability to deliver the action plan detailed in section 5.

#### **5. Proposed Way Forward**

- 5.1 In order to meet the outcomes outlined in section 3 above it is recommended that officers pursue the actions illustrated in the timeline shown in Appendix C attached. A detailed description of each action is given in paragraphs 5.2 to 5.14 below.

5.2 Customer Service Standards

Based on feedback from Members and comments provided by staff at the recent customer satisfaction staff away days it is apparent that there is a need for the Council to adopt a set of clear Customer Service Standards. Preliminary research has been undertaken to look at service standards operated by other local councils. Attached is a set of draft standards that officers would welcome Members views on in order that a set of service standards can be adopted by the end of November this year. Please see Appendix D.

5.3 Customer communication review

Launch and promote a set of Customer Service Standards and systematically review communication to customers to ensure standards are met.

5.4 Standardised team meetings

Ensure all team meetings feature customer satisfaction and routinely ask did we get it 'right first time' this week? Resulting in teams taking ownership of service failures and regularly reviewing complaints and compliments to hone their service offering.

- 5.5 Recording mechanism to review and act upon service failure  
Devise a standardised form and process to be used by teams and Members when they identify specific service failures and ideas for service improvements.
- 5.6 Focused snagging team  
Through the Council's Programme Board establish a group of officers to act as a snagging team to review and coordinate suggested service improvements. Thereby ensuring improvements complement one another and do not cause undue service failure elsewhere in the organisation.
- 5.7 End to end review of high volume services  
Assign resource to both Waste and Development Management services to conduct systematic end to end service reviews. It is envisaged these reviews will highlight ways in which processes might be simplified and improved. Thereby making the customer's experience when engaging with these services much more satisfying and less open to complaint.
- 5.8 Customer focus groups  
Establish customer focus groups to test high impact processes prior to going live and rolling out to the rest of the public.
- 5.9 Regular 'how was it for you' surveys  
Introduce weekly surveys for completed processes where customers are contacted via their preferred method of contact and simply asked 'how was it for you' and 'what could we do to improve'. The rationale for introducing these quick weekly surveys is to gauge a gradual understanding of whether service is improving as opposed to waiting 12 months for the main Customer Satisfaction Survey to be conducted.
- 5.10 Ongoing staff training  
It is anticipated that the regular 'how was it for you' surveys and service reviews will highlight the need for staff training in areas such as inbox management, use of plain English, managing expectations, etc. Staff resource from the Council's HR and Communication Teams has been factored in to aid the delivery of necessary training.
- 5.11 Monitor staff performance  
Ensure all staff are performance managed against each of the Council's service standards through regular one to one meetings with their manager and identify any areas for celebration or improvement.
- 5.12 Prominent progress reporting  
In order that all Members can chart the progress made in improving customer satisfaction it is proposed regular progress reports are provided in the weekly Members' Bulletin and at monthly Hub

meetings. To motivate staff it is proposed progress is reported in the weekly staff newsletter the Friday Flash and that the general public are kept informed of the Council's progress via the Annual Report published in May and via minutes of Executive meeting on Modern Gov the portal containing all Council minutes.

5.13 National Customer Service Week 2019 and survey launch  
Participate in National Customer Service week commencing on 7 October 2019 and use it as a launch for the Council's second Institute of Customer Service Customer Satisfaction Survey.

5.14 Review 2019 Customer Satisfaction Results  
In January 2020 present the findings of the second Institute of Customer Service Customer Satisfaction Survey results to the Council's Overview and Scrutiny Panel.

## 6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	Overview & Scrutiny Committee has a responsibility to assist the Council in identifying areas for improvement and to make any necessary recommendations to the Hub and Council.
Financial	Y	There are no financial implication as a result of this report that have not already been budgeted for.
Risk	Y	A failure to review and act upon customer satisfaction levels could lead to: Lack of coherent delivery Reputational harm Ineffective use of resources Poor quality service These risks are mitigated by: The recommendations outlined in this report
Comprehensive Impact Assessment Implications		
Equality and Diversity		None – no policy or service change is proposed in this report.
Safeguarding		None – no policy or service change is proposed in this report.
Community Safety, Crime and Disorder		None – no policy or service change is proposed in this report.
Health, Safety and Wellbeing		None – no policy or service change is proposed in this report.
Other implications		None

**APPENDICES**

Appendix A – Customer Survey Questions

Appendix B – Customer Survey Results

Appendix C – Customer Satisfaction Action Plan Timeline

Appendix D – Draft Customer Service Standards

## Business Benchmarking – Question set

### Business Benchmarking & West Devon Borough Council

This survey will take no more than 10 minutes to complete.  
Thank you for taking the time to help us.

Because UKCSI is a standardised benchmarking survey, not all the questions may seem relevant to you. If that's the case, please use the "N/A" box for that question.

**Q1.** Thinking about your most recent contact with **West Devon Borough Council**, did you deal with them... **(Single option)**

In person (e.g. visited a <b>store/branch</b> /office)	<b>ASK SECTION 1 &amp; 2 &amp; 7</b>
Over the phone (e.g. called a contact centre)	<b>ASK SECTION 1 &amp; 3 &amp; 7</b>
In writing	<b>ASK SECTION 1 &amp; 5 &amp; 7</b>
Email	<b>ASK SECTION 1 &amp; 5 &amp; 7</b>
Text	<b>ASK SECTION 1 &amp; 6 &amp; 7</b>
Web Chat	<b>ASK SECTION 1 &amp; 6 &amp; 7</b>
<b>App</b>	<b>ASK SECTION 1 &amp; 4 &amp; 7</b>
Social Media	<b>ASK SECTION 1 &amp; 6 &amp; 7</b>
On their website	<b>ASK SECTION 1 &amp; 4 &amp; 7</b>

**Q2..** Thinking about your most recent contact with **West Devon Borough Council**, what was the **main** purpose of this contact? **(Mark one only)**

- Getting a quotation/looking at the products or services on offer** Applying for something
- Making a **purchase** payment
- Enquiry/asking a question
- About a problem or complaint
- A regular appointment/check**
- An appointment or check made due to an issue or problem**
- Checking your account information/receiving a regular account statement or bill
- Other **(Record comment)**

Please tell us how satisfied or dissatisfied you are with **West Devon Borough Council** by scoring the list of factors below. If you have no experience or views on any of the items please click the N/A (not applicable) button.

#### Section 1: General

So thinking about your last experience of **West Devon Borough Council**, what score would you give for:

	Exceptionally dissatisfied								Exceptionally satisfied		
	1	2	3	4	5	6	7	8	9	10	N/A
<input checked="" type="checkbox"/> Reputation of the organisation											
<input checked="" type="checkbox"/> Product/service quality											
<input checked="" type="checkbox"/> Product/ <b>service</b> reliability											

## Business Benchmarking – Question set

- ♣ Quality of information/advice
- ♣ Handling of enquiries
- ♣ Being kept informed
- ♣ Ease of doing business
- ♣ Billing
- ♣ Price/cost

### Section 2: In Person

And thinking about your last experience of **West Devon Borough Council**, what score would you give for:

Exceptionally dissatisfied							Exceptionally satisfied				
1	2	3	4	5	6	7	8	9	10	N/A	

- ♣ Speed of service
- ♣ Helpfulness of staff
- ♣ Competence of staff

### Section 3: Over the phone

And thinking about your last experience of **West Devon Borough Council**, what score would you give for:

Exceptionally dissatisfied							Exceptionally satisfied				
1	2	3	4	5	6	7	8	9	10	N/A	

- ♣ The ease of getting through
- ♣ Helpfulness of staff
- ♣ Competence of staff
- ♣ On time delivery/**resolution**
- ♣ Condition of delivered goods/**service**

### Section 4: Website / App

And thinking about your last experience of **West Devon Borough Council**, what score would you give for:

Exceptionally dissatisfied							Exceptionally satisfied				
1	2	3	4	5	6	7	8	9	10	N/A	

- ♣ Ease of finding what you want
- ♣ The **check-out online** process
- ♣ Availability of support
- ♣ On time delivery/**resolution**
- ♣ Condition of delivered goods/**service**

### Section 5: Writing/Letter/Email

## Business Benchmarking – Question set

And thinking about your last experience of **West Devon Borough Council**, what score would you give for:

- |  | Exceptionally<br>dissatisfied |   |   |   |   |   |   | Exceptionally<br>satisfied |   |    | N/A |
|--|-------------------------------|---|---|---|---|---|---|----------------------------|---|----|-----|
|  | 1                             | 2 | 3 | 4 | 5 | 6 | 7 | 8                          | 9 | 10 | N/A |
| ♣ Speed of response                            |                               |   |   |   |   |   |   |                            |   |    |     |
| ♣ On time delivery/ <b>resolution</b>          |                               |   |   |   |   |   |   |                            |   |    |     |
| ♣ Condition of delivered goods/ <b>service</b> |                               |   |   |   |   |   |   |                            |   |    |     |

### Section 6: **Text / Social Media / Web Chat**

And again thinking about your last experience of **West Devon Borough Council**, what score would you give for:

- |                     | Exceptionally<br>dissatisfied |   |   |   |   |   |   | Exceptionally<br>satisfied |   |    | N/A |
|---------------------|-------------------------------|---|---|---|---|---|---|----------------------------|---|----|-----|
|                     | 1                             | 2 | 3 | 4 | 5 | 6 | 7 | 8                          | 9 | 10 | N/A |
| ♣ Speed of response |                               |   |   |   |   |   |   |                            |   |    | ♣ ♣ |

### Section 7: **West Devon Borough Council Overall**

And finally thinking about how you see **West Devon Borough Council**, what score would you give for:

- |  | Exceptionally<br>dissatisfied |   |   |   |   |   |   | Exceptionally<br>satisfied |   |    | N/A |
|--|-------------------------------|---|---|---|---|---|---|----------------------------|---|----|-----|
|  | 1                             | 2 | 3 | 4 | 5 | 6 | 7 | 8                          | 9 | 10 | N/A |
| ♣ Ability to interact with <b>West Devon Borough Council</b> in the way you prefer |                               |   |   |   |   |   |   |                            |   |    |     |
| ♣ Cares about their customers  |                               |   |   |   |   |   |   |                            |   |    |     |
| ♣ Open and transparent   |                               |   |   |   |   |   |   |                            |   |    |     |
| ♣ You trust <b>West Devon Borough Council</b>                                      |                               |   |   |   |   |   |   |                            |   |    |     |

**Q3.** How satisfied or dissatisfied are you with **West Devon Borough Council** overall?

- |  | Exceptionally<br>dissatisfied |   |   |   |   |   |   | Exceptionally<br>satisfied |   |    |
|--|-------------------------------|---|---|---|---|---|---|----------------------------|---|----|
|  | 1                             | 2 | 3 | 4 | 5 | 6 | 7 | 8                          | 9 | 10 |
|  |                               |   |   |   |   |   |   |                            |   |    |

## Business Benchmarking – Question set

**Q4.** Thinking about your overall experience of **West Devon Borough Council**, if you had the choice, how likely would you be to:

Extremely unlikely								Extremely likely				
1	2	3	4	5	6	7	8	9	10	N/A		

- ♣ Stay as a customer of **West Devon Borough Council**
- ♣ Buy/use another product/service from **West Devon Borough Council**

**Q5.** Thinking about your overall experience of **West Devon Borough Council**, if you had the choice, how likely would you be to:

Extremely unlikely								Extremely likely				
0	1	2	3	4	5	6	7	8	9	10	N/A	

- ♣ Recommend **West Devon Borough Council** to friends or relatives

**Q6.** How much effort did you have to make to complete your transaction, enquiry or request on this occasion?

A lot of effort								Very little effort				
10	9	8	7	6	5	4	3	2	1	N/A		

**Q7.** What three words would you use to describe your most recent experience with **West Devon Borough Council** Word 1: \_\_\_\_\_

Word 2: \_\_\_\_\_

Word 3: \_\_\_\_\_

**Q7b.** Thinking about your most recent contact with **West Devon Borough Council**, was everything right first time?

- ♣ Yes
- ♣ No **{ROUTE TO Q7c}**
- ♣ Don't know/Not applicable

**Q7c. If 'No'** – Did you need to make follow up contact as a result of this?



## Business Benchmarking – Question set

- ♣ Yes **{ROUTE TO Q7d}**
- ♣ No
- ♣ Don't know/Not applicable

**Q7d. If 'Yes' – How many times? (Record number)**

**Q8.** Have you had any kind of problem or bad experience with **West Devon Borough Council** in the last 3 months?

- a. Yes **(ROUTE TO Q9)**
- b. No **(ROUTE TO Q11)**

**Q9.** Did you tell anyone at **West Devon Borough Council** about your problem?

- a. Yes **(ROUTE TO Q10)**
- b. No **(ROUTE TO Q11)**

**Q10.** Please give a score out of 10 to indicate how satisfied or dissatisfied you feel with the items below. If your complaint is not yet resolved please click the N/A button for 'the final outcome of your complaint'.

- |  |                               |   |   |   |   |                            |   |   |   |    |     |
|--|-------------------------------|---|---|---|---|----------------------------|---|---|---|----|-----|
|  | Exceptionally<br>dissatisfied |   |   |   |   | Exceptionally<br>satisfied |   |   |   |    |     |
|  | 1                             | 2 | 3 | 4 | 5 | 6                          | 7 | 8 | 9 | 10 | N/A |
- ♣ The outcome of the complaint
  - ♣ The handling of the complaint
  - ♣ Staff understanding the issue
  - ♣ Staff doing what they say they will do
  - ♣ The attitude of staff
  - ♣ Speed of resolving your complaint

**Q11.** What one thing do you think **West Devon Borough Council** should improve? **(Open comment question)**

**THANK YOU FOR COMPLETING THE SURVEY YOUR VIEWS ARE APPRECIATED**  
You can visit the website to find out more about the UKCSI: [Click here](#)

## Business Benchmarking – Question set



## Contents

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Part 4	Satisfaction & Loyalty	17
	Range of scores against customer priorities	20
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Part 5	West Devon Borough Council Results	22

# 1

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## UKCSI and Business Benchmarking: an introduction

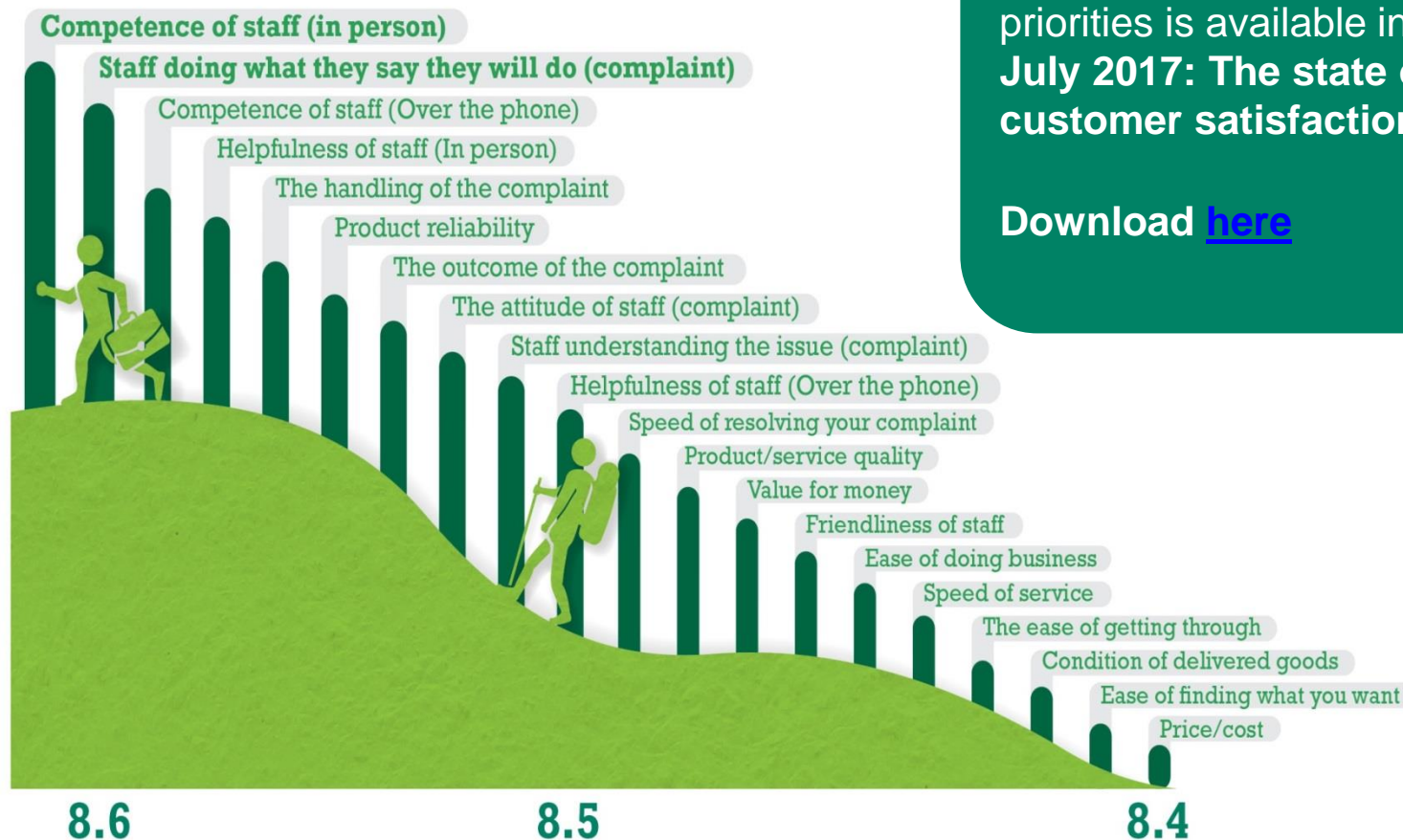


# UKCSI vs Business Benchmarking | Key facts

	Business Benchmarking	UKCSI
Differences in methodology	<b>Customer Sample</b> <ul style="list-style-type: none"> <li>Survey sample selected and provided by your organisation</li> <li>Typically c. 200 responses from your customers</li> <li>You choose a sector benchmark from 13 sectors</li> </ul>	<ul style="list-style-type: none"> <li>Online panel of 10,000 customers</li> <li>Representative of UK population</li> <li>3,000 responses per sector</li> <li>Customer chooses an organisation to rate (based on interaction in the last three months)</li> </ul>
	<b>Timing</b> <p>Survey takes place at a time agreed by the Institute and your organisation</p>	<ul style="list-style-type: none"> <li>Published January and July</li> <li>Fieldwork approx. 3 months before publication</li> </ul>
Same methodology	<b>Measures</b> <ul style="list-style-type: none"> <li>Based on measures in the UKCSI</li> <li>Includes channel usage and satisfaction</li> <li>Additional / bespoke questions may be added if agreed with the Institute before the survey commences</li> </ul>	<ul style="list-style-type: none"> <li>35 metrics of customer experience, based on the Institute's research into customers' priorities</li> <li>Channel usage and satisfaction available in sector reports</li> <li>Complaints insight available in sector reports</li> </ul>
	<b>Index Calculation</b> <p>Your organisation's scores are calculated on the same basis as the UKCSI</p>	<ul style="list-style-type: none"> <li>Responses on a 1 to 10 scale</li> <li>Index score for each measure is mean average of all responses</li> <li>UKCSI for each organisation is the average of all of its customers' satisfaction scores, weighted by importance based on customer priorities' research</li> </ul>

# Business Benchmarking | Top 20 customer

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More information about customer priorities is available in **UKCSI July 2017: The state of customer satisfaction in the UK**

Download [here](#)



# Business Benchmarking | Methodology: further notes

## Customer Effort

### **This metric is based on the question:**

“How much effort did you have to make to complete your transaction, enquiry or request on this occasion” (1-10 scale).  
A lower score signifies less effort required on the part of the customer.

### **Organisations use Customer Effort scores to:**

- Understand and benchmark “ease of doing business”
- Gauge their efficiency and speed in dealing with customers

Customer effort is most appropriate in service situations where customers don't want to be dealing with the organisation and/or seek to minimise the time/effort spent completing their transaction or enquiry.

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## Net Promoter Score (NPS)

This metric is based on “likelihood to recommend” scores.

### **The NPS formula used in UKCSI is:**

% of respondents scoring 9/10 (out of 10) on likelihood to recommend  
MINUS % of respondents scoring 0-6 on likelihood to recommend  
EQUALS Net Promoter Score for the organisation

### **Organisations use NPS to:**

- Track levels of satisfaction and recommendation
- Gauge their ability to create “promoters”, while minimising “detractors”.

# 2

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## How to use this report

# Business Benchmarking | How to use it to improve customer satisfaction

## Business Benchmarking insight check

- Identify your strengths and weaknesses compared to the UK and sector averages
- Understand the mix of channels your customers use and how satisfaction varies by channel
- Look at the range of organisations scores on the measures in your sector: identify the opportunities for differentiation
- Track progress against your previous Business Benchmarking surveys

Identify potential issues and areas of focus

Check against your own customer verbatim analysis / surveys

Check against current customer service improvement initiatives

Communicate your results within your organisation

Create improvement plans and set measures to assess impact

Track impact

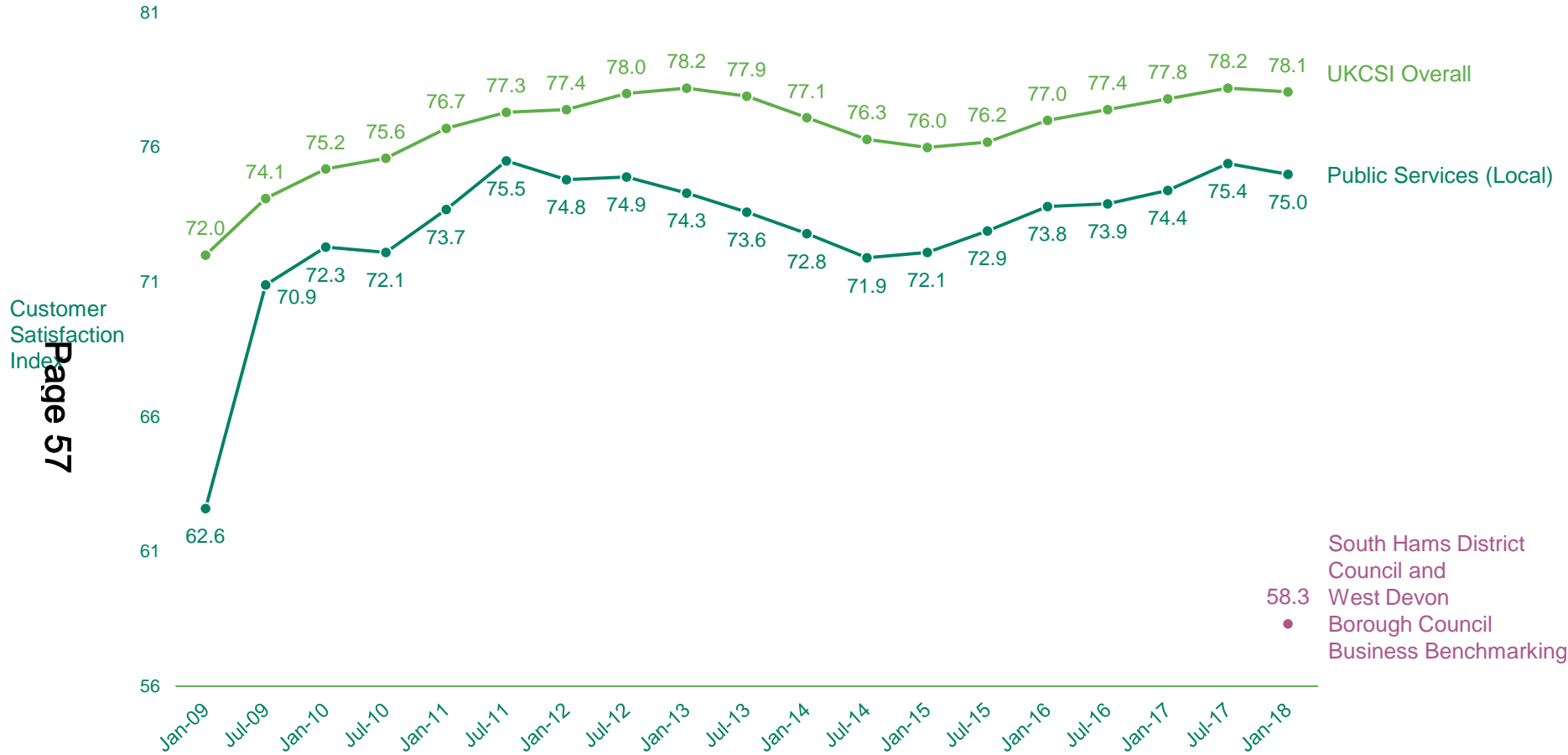
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3

UK Customer Satisfaction  
Index (UKCSI)

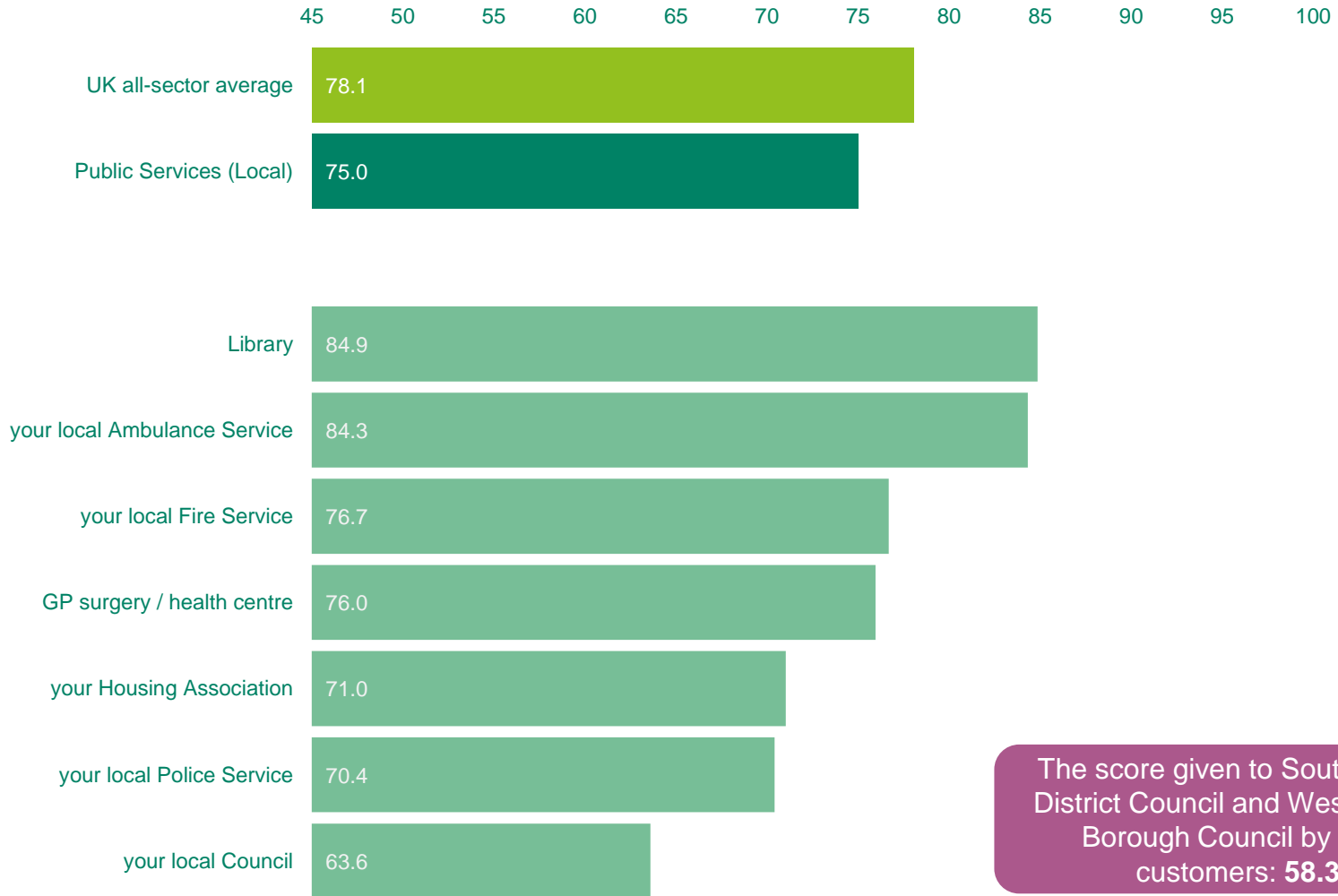
# Business Benchmarking | South Hams District Council and West Devon Borough Council

## Satisfaction trends

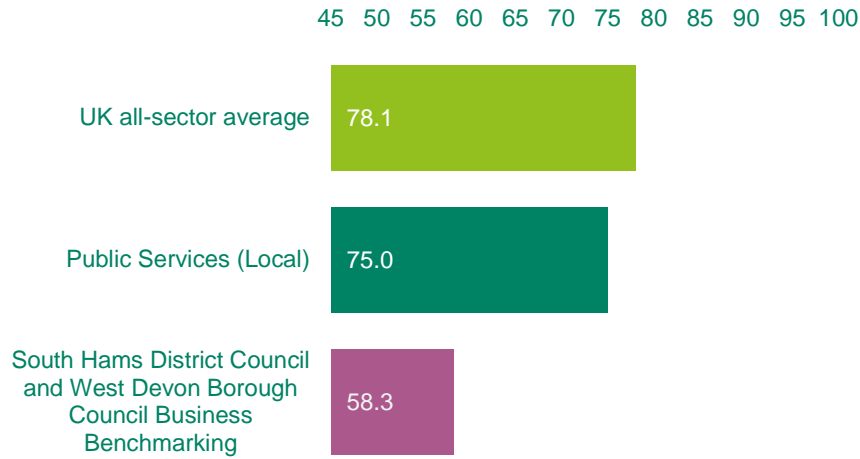


# Business Benchmarking | South Hams District Council and West Devon Borough Council UK Customer Satisfaction Index (UKCSI)

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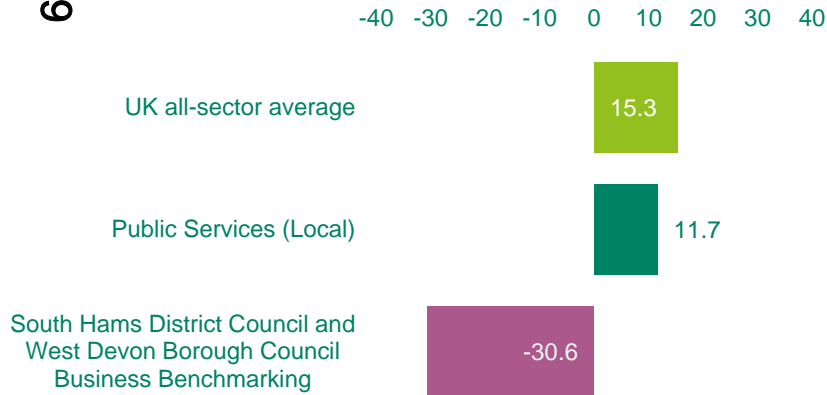


## UK Customer Satisfaction Index (UKCSI)

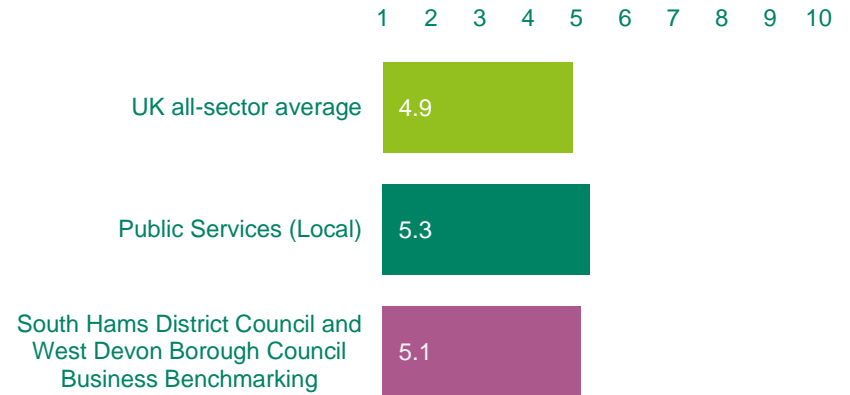


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## Net Promoter Score

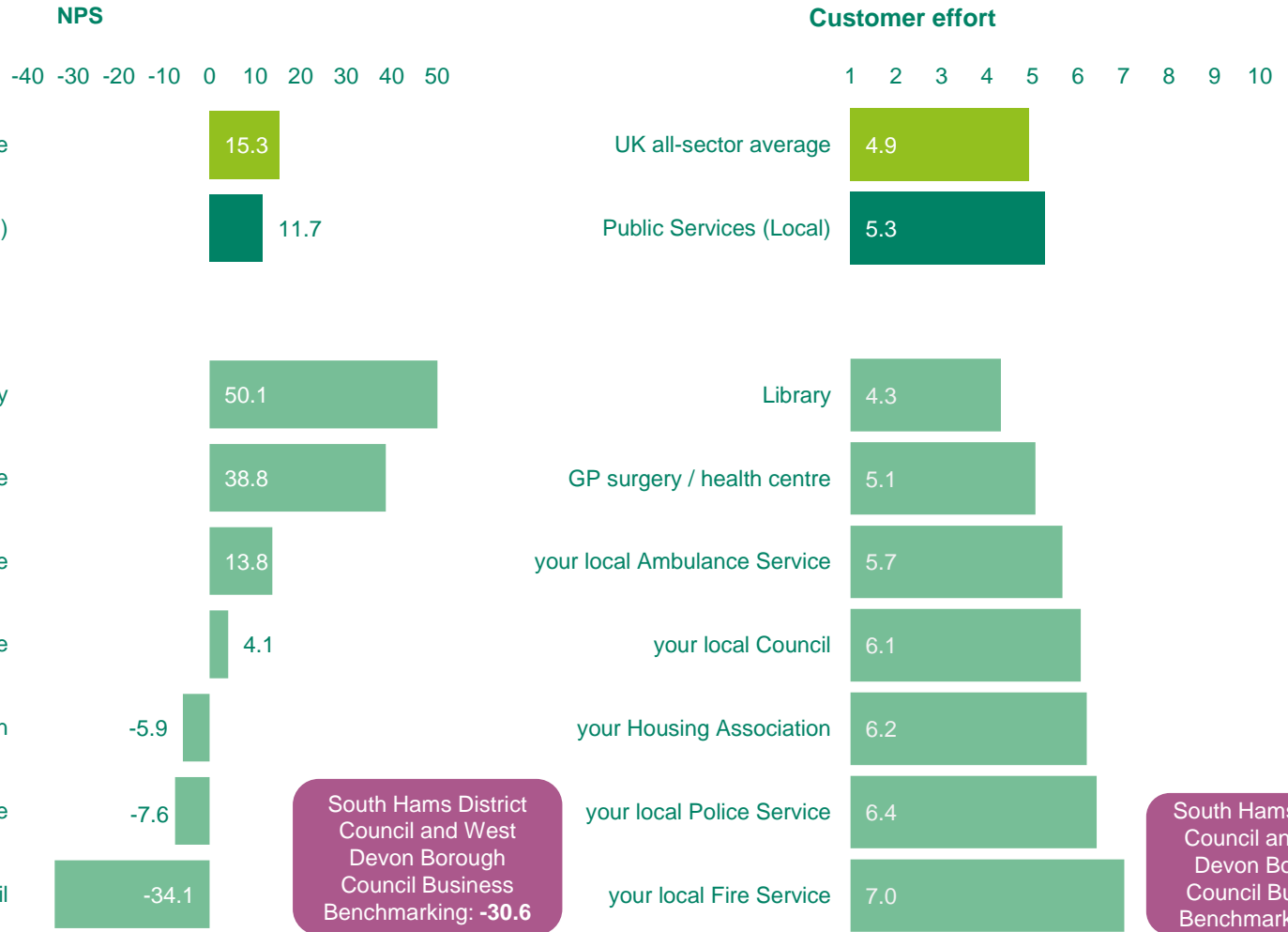


## Customer Effort



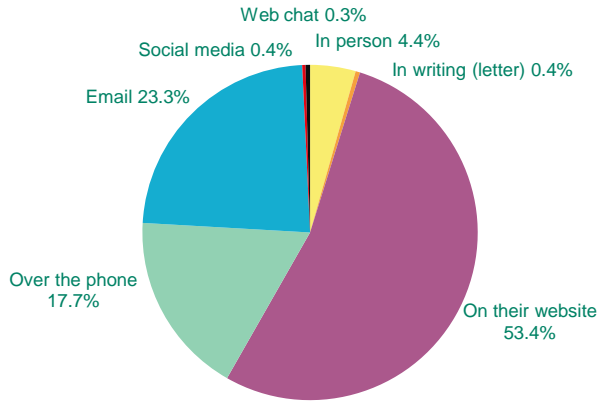
# Business Benchmarking | South Hams District Council and West Devon Borough Council Net Promoter Score and Customer Effort

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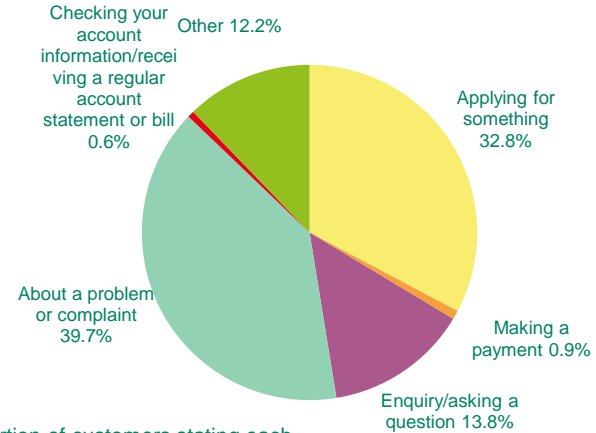


## Frequency of channel



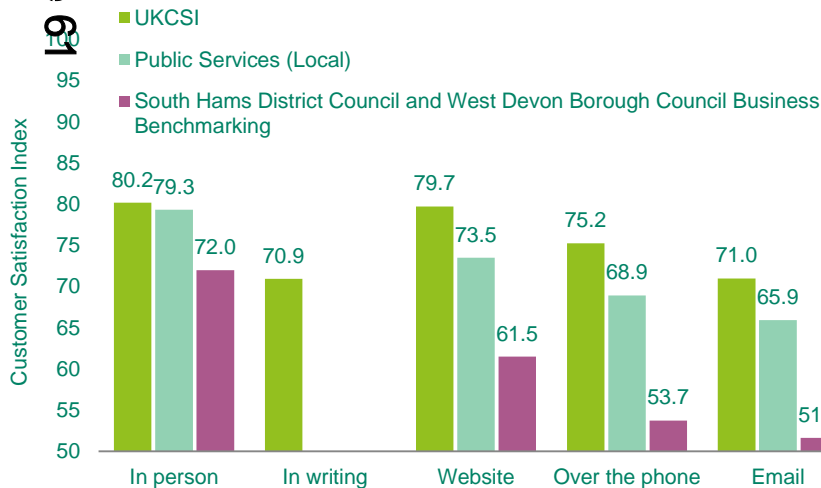
The proportion of customers using each channel for their interaction, for South Hams District Council and West Devon Borough Council

## Frequency of reason for contact

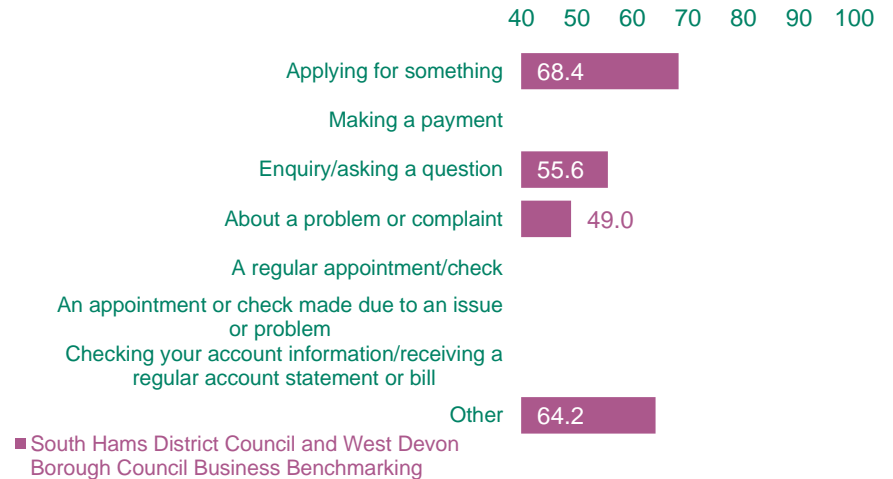


The proportion of customers stating each reason for contact, for South Hams District Council and West Devon Borough Council

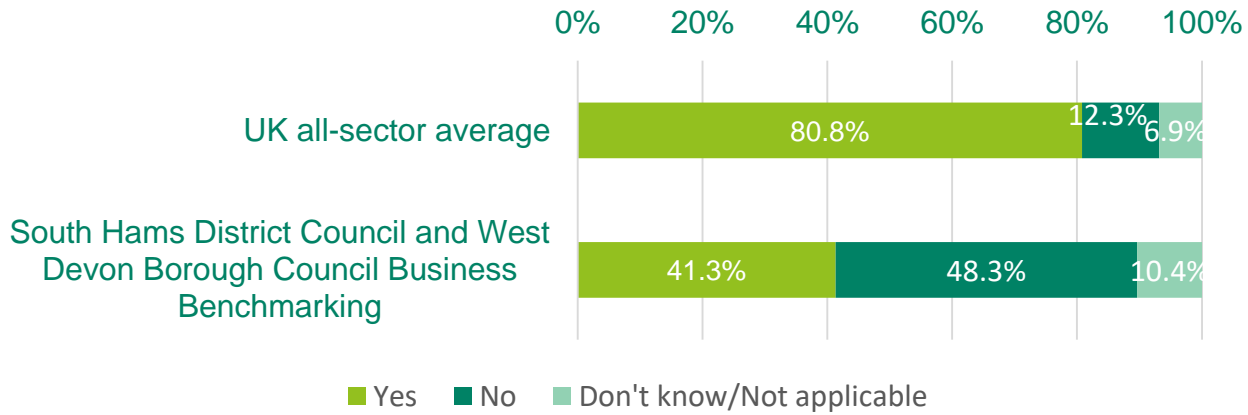
## Satisfaction by channel



## Satisfaction by reason for contact

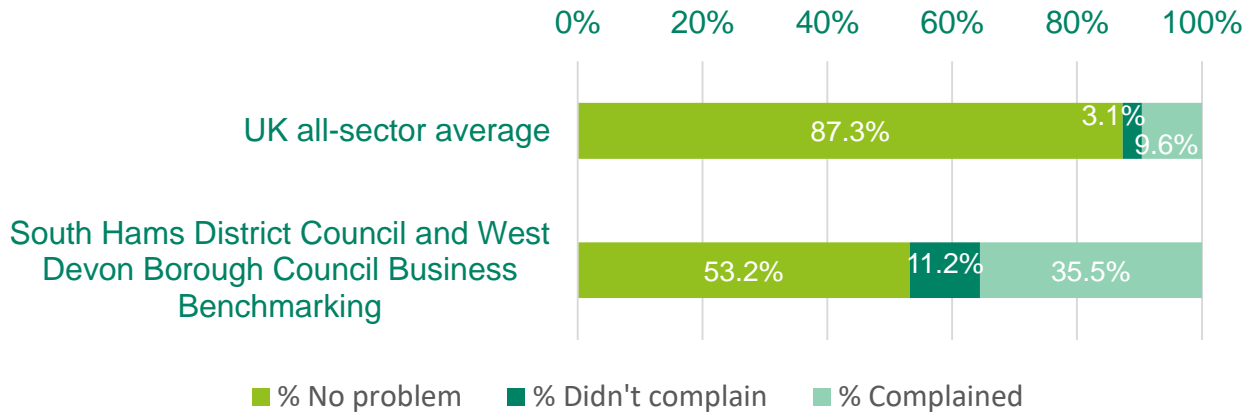


Right first time



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Complaints data



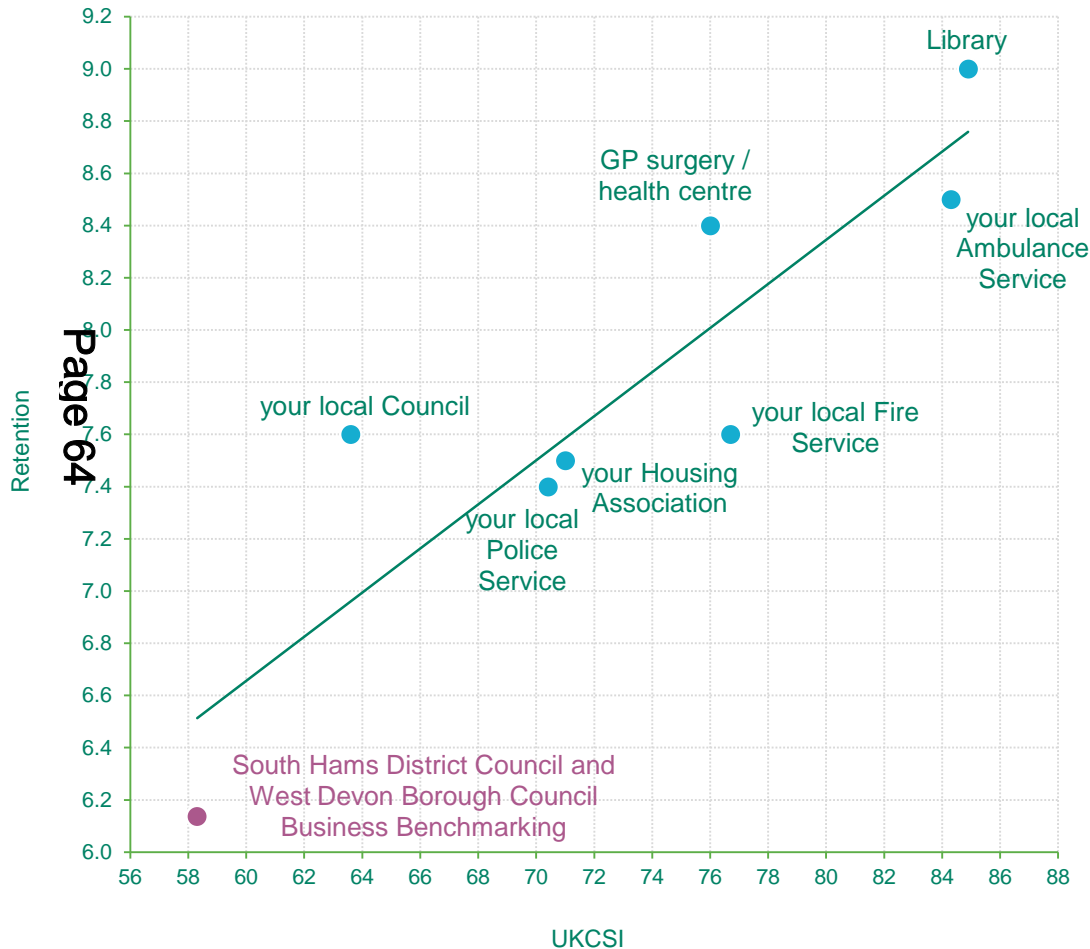
# 4

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## Satisfaction & Loyalty

# Business Benchmarking | South Hams District Council and West Devon Borough Council

## Satisfaction and intention to remain a customer



	Jan 18 UKCSI	Retention *
UK all-sector average	78.1	8.1
Public Services (Local)	75.0	8.3
Library	84.9	9.0
your local Ambulance Service	84.3	8.5
your local Fire Service	76.7	7.6
GP surgery / health centre	76.0	8.4
your Housing Association	71.0	7.5
your local Police Service	70.4	7.4
your local Council	63.6	7.6

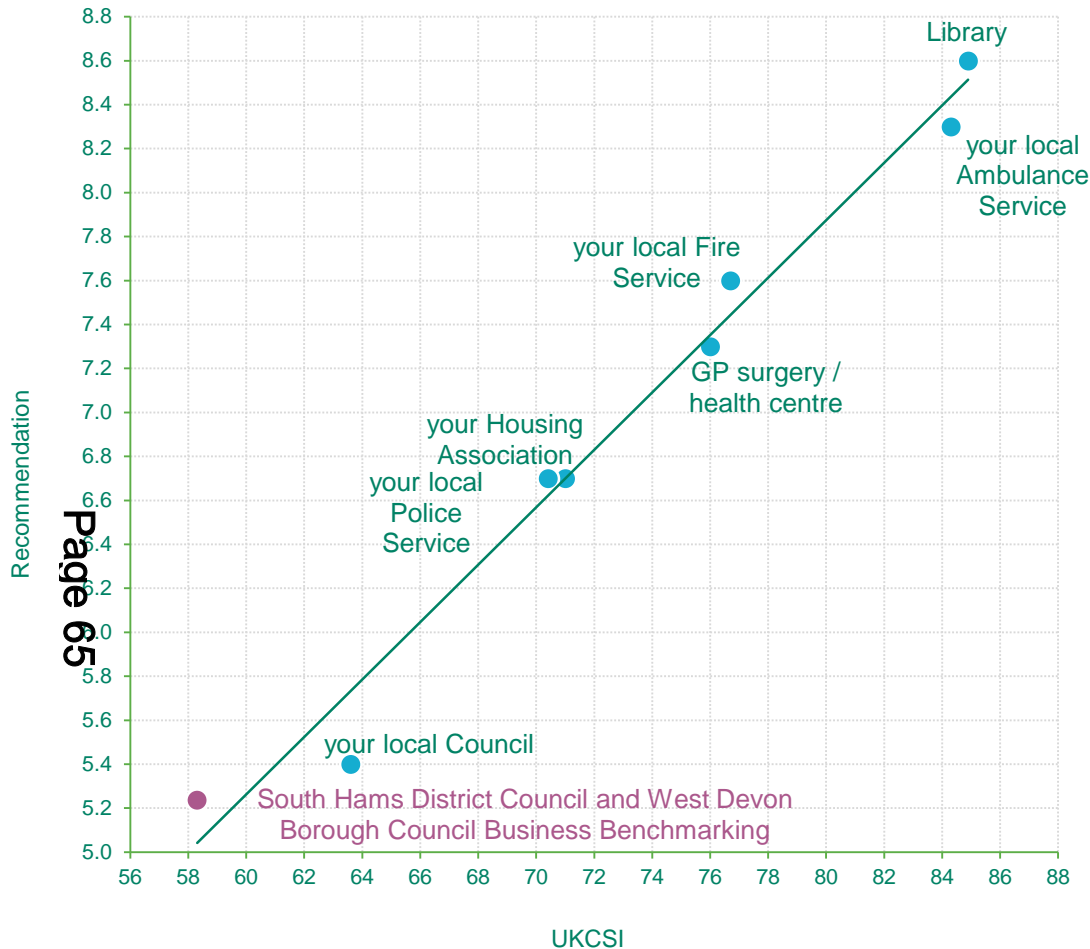
	CSI	Retention *
South Hams District Council and West Devon Borough Council Business Benchmarking	58.3	6.1

\*Retention score is based on responses to the question:  
'How likely would you be to stay as a customer of XX?'

1= Extremely unlikely 10= Extremely likely

# Business Benchmarking | South Hams District Council and West Devon Borough Council

## Satisfaction and intention to recommend



	Jan 18 UKCSI	Recommendation *
UK all-sector average	78.1	7.5
Public Services (Local)	75.0	7.2
Library	84.9	8.6
your local Ambulance Service	84.3	8.3
your local Fire Service	76.7	7.6
GP surgery / health centre	76.0	7.3
your Housing Association	71.0	6.7
your local Police Service	70.4	6.7
your local Council	63.6	5.4

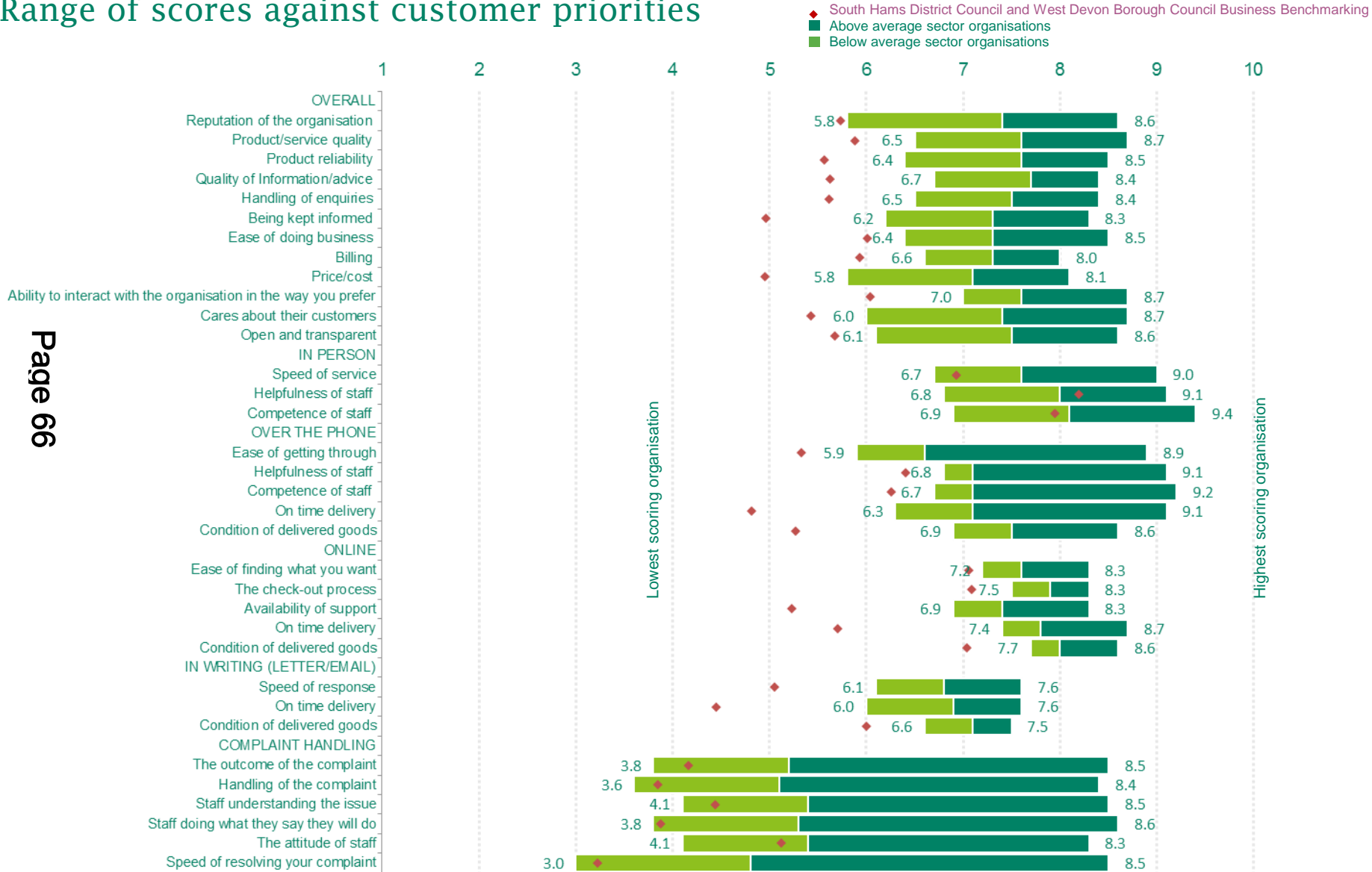
	CSI	Recommendation *
South Hams District Council and West Devon Borough Council Business Benchmarking	58.3	5.2

\*Recommendation score is based on responses to the question: 'How likely would you be to recommend XX to friends or relatives?'

0= Extremely unlikely 10= Extremely likely

# Business Benchmarking | South Hams District Council and West Devon Borough Council

## Range of scores against customer priorities



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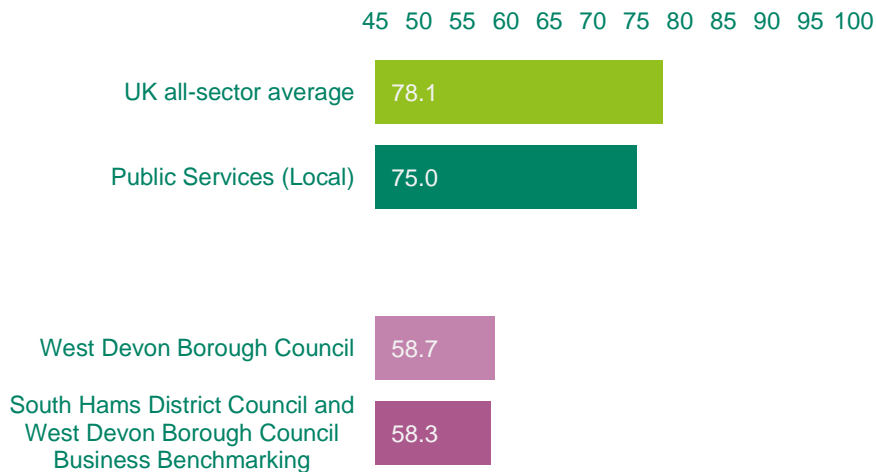
Comparisons were only made between companies with base sizes over 10. Factors with less than 4 companies scoring them were removed from the analysis.



# West Devon Borough Council - Results

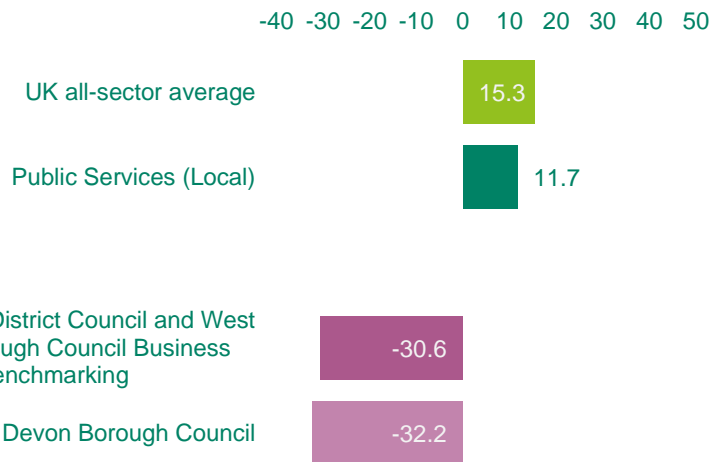


## UK Customer Satisfaction Index (UKCSI)

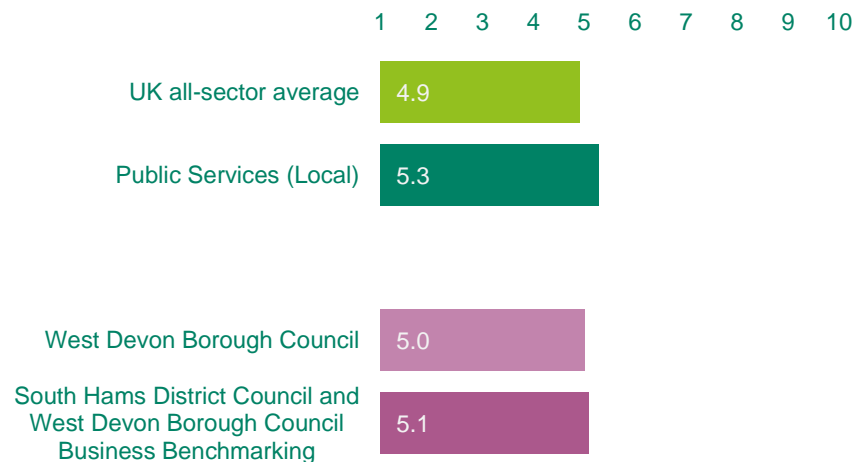


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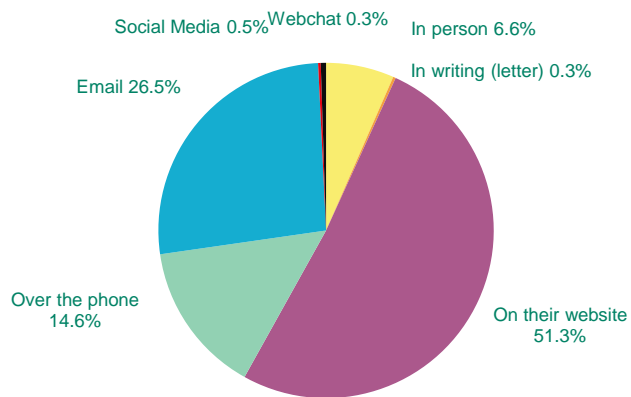
## Net Promoter Score



## Customer Effort



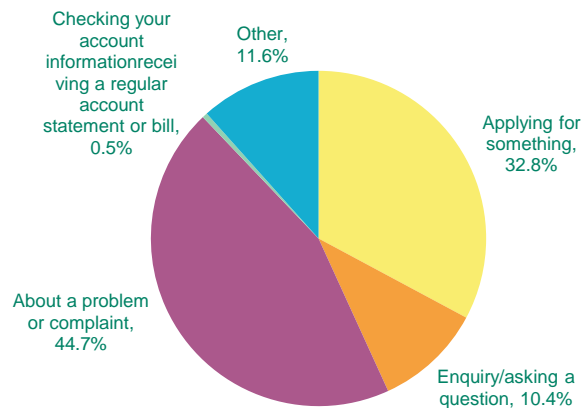
## Frequency of channel



The proportion of customers using each channel for their interaction, for South Hams District Council and West Devon Borough Council - West Devon Borough Council

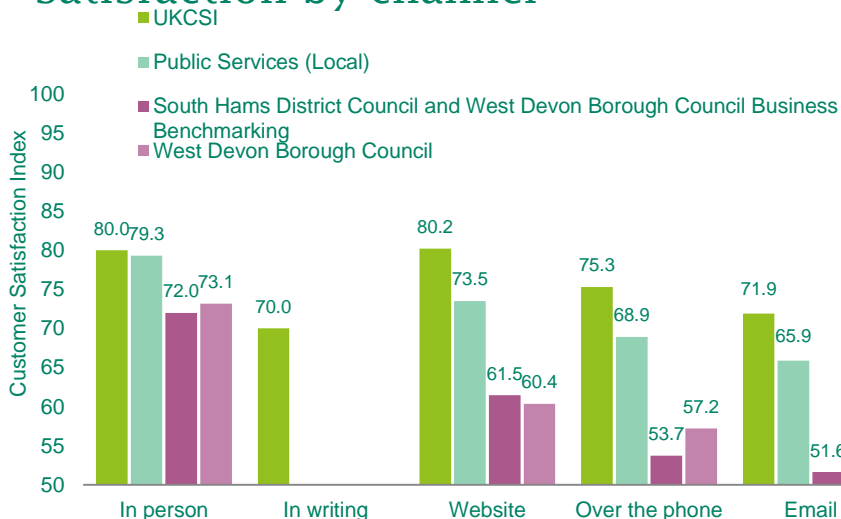
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## Frequency of reason for contact

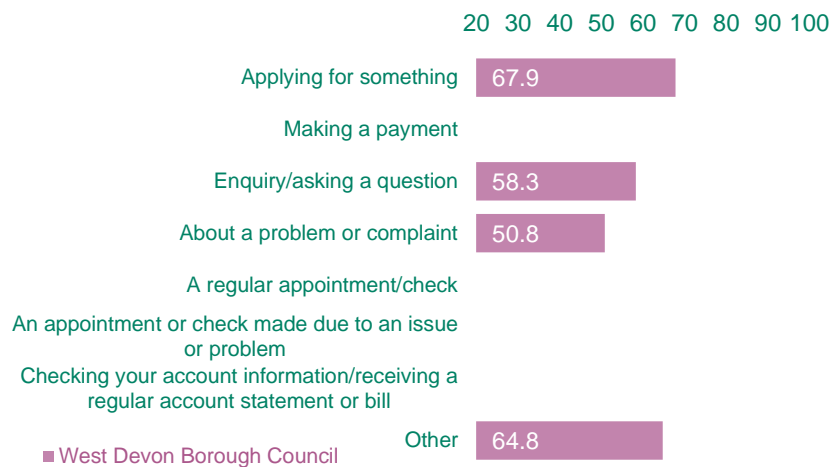


The proportion of customers stating each reason for contact, for South Hams District Council and West Devon Borough Council - West Devon Borough Council

## Satisfaction by channel



## Satisfaction by reason for contact







The Institute of  
Customer Service

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[instituteofcustomerservice.com](http://instituteofcustomerservice.com)

<b>ACTION</b>	<b>DURATION</b>	<b>Q3 2018/19</b>	<b>Q4 2018/19</b>	<b>Q1 2019/20</b>	<b>Q2 2019/20</b>	<b>Q3 2019/20</b>	<b>Q4 2019/20</b>
Customer Service Standards Launch	One off						
Promotion and Review of Customer Communication	On going						
Right First Time Team Meetings	Weekly						
Introduction of Recording Mechanism for Service Failure	One off						
Snagging Team Meetings	Fortnightly						
High Volume Service Review	2 months						
Customer Focus Groups	Half day						
How was it for you?' Surveys	Weekly						
Staff Training	On going						
Staff Performance Monitoring	On going						
Progress Reporting	Weekly						
National Customer Service Week	First week in October						
Customer Satisfaction Survey	Run for up to 4 weeks						
Preparation and Review of Survey Results	2 months						

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# Agenda Item 9

Report to: **Overview and Scrutiny Committee**  
Date: **6 November 2018**  
Title: **LOCALITIES TEAM UPDATE**  
Portfolio Area: **Customer First**  
**Portfolio holder: Cllr Annabel Roberts**

Wards Affected: **All**

Relevant Scrutiny Committee: **N/A**

Urgent Decision: **N** Approval and clearance obtained: **Y**

Date next steps can be taken: Any recommendations will be published to the Hub Committee on 20 November 2018

Author: **Catherine Bowen** Role: **Case Management Manager**  
**Richard Easthope** **Localities Team Leader**

Contact: [Catherine.Bowen@swdevon.gov.uk](mailto:Catherine.Bowen@swdevon.gov.uk)  
[Ricahrd.Easthope@swdevon.gov.uk](mailto:Ricahrd.Easthope@swdevon.gov.uk)

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## RECOMMENDATIONS

**That the progress of the Locality Team pending ongoing monitoring be noted with a further update report being presented to the Committee in 12 months' time.**

### 1. Executive summary

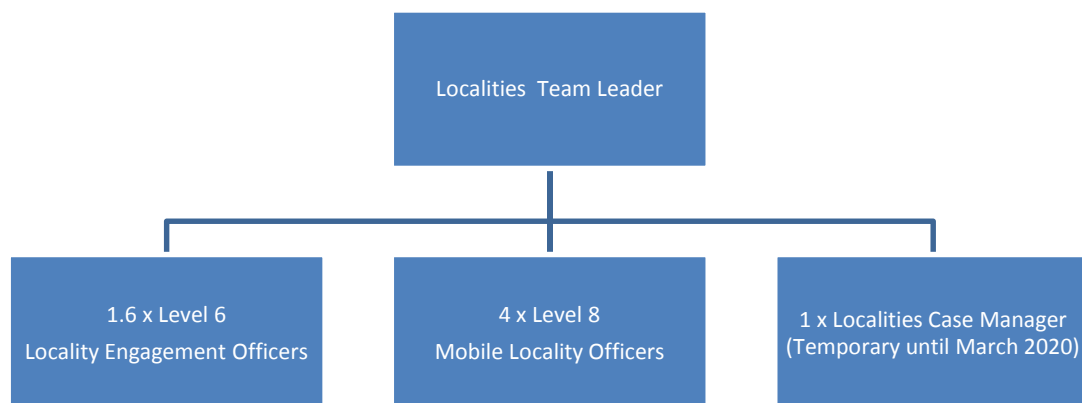
- 1.1 The Localities Team Leader brought a report to the Overview & Scrutiny Committee on 27 February 2018 detailing how the Localities Service had been operating in the previous 12 months, and how the Service had evolved from its initial inception in 2015. This report provides a further update on how the Localities Team has been operating since that report and also details changes that have taken place in the structure and operation of the Localities Team since the February report, together with the future direction of the Locality Service to continue to meet Council needs.
- 1.2 At the February 2018 meeting, the Overview & Scrutiny Committee recommended that the progress made in the Locality Team be noted, and that the effectiveness of the Locality based support provision in Okehampton be monitored and kept under review, with the five Okehampton Ward Members

being a key part of this process. The continuing presence in Okehampton will be reported on separately at a future meeting of this Committee (see paragraph 3.3 below).

- 1.3 The Localities Team continues to act as a link and support service providing information and support to Members, multi-agency partners, residents and officers on a wide range of resident-facing Council services. Locality working was a key and innovative part of the Council's transformation programme, and the Localities Team have been in operation for over three years. The Service continues to evolve and covers service elements previously covered by a number of departments across the Council. Work delivered by the Localities Team continues to be well received both within the Council and by residents and partners.

## 2 Background

- 2.1 The following background information provides an overview of how the Localities Team is currently working. The Locality Service acts as a liaison and support service which undertakes work on behalf of a number of services across the organisation.
- 2.2 There are four distinct job roles in the locality service as shown in the diagram below:



### 2.3 Mobile Locality Officers

There are currently four West Devon Mobile Locality Officers (Level 8) who cover designated areas across West Devon, and who are each equipped with a Council vehicle and an iPad. These officers undertake a wide range of routine tasks and continue to undergo extensive training to help them fulfil their roles. Current IT provision means Mobile Locality Officers are issued most of their workload manually on a daily basis via email. They receive work requests during the course of their day and are often able to respond quickly to cases requiring urgent attention within their area.



### 2.3.1 **Mobile Locality Officer Tasks**

The range of tasks undertaken by Mobile Locality Officers include:

- Regular information gathering (normally the supply of photos or the completion of short forms) for Assets, Council Tax, Elections, NNDR, Planning Enforcement, Environmental Health and Commercial Services.
- Property inspections including toilet checks and fire alarm testing
- Abandoned vehicle reports
- Fly-tipping reports
- Dog patrols
- Planning notices (and individual householder notifications)
- Private water supply testing
- Tree inspections to assess the condition of the trees
- Environmental nuisances
- Waste and cleansing issues – meeting with customers to resolve issues and encourage recycling
- Disabled Facility Grant visits
- Identifying street defects for repair / replacement
- Housing benefit/Universal Credit assistance visits
- Support at community and consultation events

2.3.2 It is important to note that many of the tasks undertaken by Level 8 Locality Officers were previously undertaken by a range of specialist officers across the organisation. The targeted use of Mobile Locality Officers for these tasks is therefore much more cost effective when taking into account officer time and travel costs. When one considers, for example, approximately 1,000 planning notices are posted over the course of the year, the savings soon stack up.

2.3.3 The workload of Mobile Locality Officers is extremely wide ranging, but is considered to be manageable, and the appointment of the Localities Case Manager (see paragraph 4.3 below) has led to greater consistency and an ease in identifying priority work and allocating officers accordingly. All Mobile Locality Officer tasks are recorded by email, with certain aspects recorded on W2 and All on Mobile. Team training has been carried out to ensure consistency of response for all customers.

### 2.4 **Locality Engagement Officers**

There are currently 1.6 Locality Engagement Officers (LEO) in West Devon, however the officer occupying the 0.6 post, is currently only carrying out case management duties for the Neighbourhood Planning function. The LEO for West Devon is a full time post-holder and uses her own vehicle for travel. The West Devon LEO's role is to provide a locality level, face to face point of contact, improving the customer experience by creating a seamless response to customer need.

#### 2.4.1 **Locality Engagement Officer Tasks**

The range of tasks undertaken by the West Devon Locality Engagement Officer include:

- Attendance at a variety of engagement events and Link Meetings to inform residents and Town & Parish representatives of Council services.
- Interacting with contractors, special community interest groups and partners.

- First point of contact for Members with responsibility for taking ownership of queries/complaints and seeing cases through to the point of resolution
- Processing place based cases in W2 and dealing with customer correspondence through a variety of methods
- Working closely with Mobile Officers to find solutions to long standing/complex cases
- Processing and advising on Community Grants

### **Localities Team Leader**

The Localities Service was initially set up and managed by a Level 3 Localities Manager. However, Localities now form part of the larger Case Management team within Customer First, and overall responsibility for the Service falls within the remit of one of the two Case Management Managers, who manage all of the Customer First case managers across both Councils. The Localities Team is now directly managed on a day to day basis (in line with other services within Case Management) by a Team Leader, who was appointed in October 2017. As well as line managing two Engagement Officers and 4 Mobile Locality Officers at West Devon, the Localities Team Leader directly manages a team of nine in South Hams. The main purpose of the Team Leader role is to lead, manage and motivate a team of staff in the Localities Team and ensure effective deployment of resources and to develop the range of locality services and support.

- 2.4.2 A key part of the Case Management Manager's role is working with the Extended Leadership Team to develop the Locality Service and ensure business demand across the organisation is met. The inherent flexibility of the Locality service has allowed Case Management to provide additional support in areas experiencing exceptionally high workload e.g. Waste Case Management.

## **3. PERFORMANCE**

- 3.1 From October 2017 to October 2018, the West Devon Locality Team delivered the following key outputs. It should be noted that the Team was operating with reduced capacity at 3 x FTE for this entire period due to long term sickness/redeployment).

- Undertook 400 routine public toilet inspections
- Affixed 550 planning notices and delivered over 3000 neighbour notifications
- Dealt with 56 abandoned vehicles
- Investigated 217 fly tips
- Undertook 400 individual dog patrols
- Currently following up 1500 household election forms
- Carried out 230 private water quality supply tests
- Visited 300 potentially empty properties
- Carried out 27 visits to complete housing benefit/universal credit claims with residents requiring digital assistance
- Delivered over 400 recycling boxes due to extreme customer demand
- Carried out 20 periodic housing inspections on Council Let properties

- 3.2 The Locality Engagement Officer has undertaken a variety of engagement events, with a particular focus on promoting the new recycling scheme and garden waste subscription service over the past year. The West Devon LEO has attended the Okehampton, Chagford and Lamerton shows, the Okehampton Food and Music Festival, The Dickensian and Edwardian

evenings, as well as holding regular engagement events at supermarkets in Tavistock and Okehampton. The LEO has also assisted with hand washing demonstrations for Junior Life Skills and with the Joint Local Plan consultation held at the beginning of November.

- 3.3 Since the closure of the CSC offices on St James Street in Okehampton, in line with this Committee's recommendations, the West Devon LEO has been based at the Ockment Centre twice a week, offering advice on a range of Council services, and assisting some residents to complete benefits, council tax and Devon Home Choice applications, in addition to dealing with a number of blue box queries following the introduction of the new scheme in April. A Task & Finish group of Members is being set up to report back on the effectiveness of this arrangement to a future Overview & Scrutiny Committee.
- 3.4 As well as carrying out engagement work, the LEO also assists with locality based enquiries and has dealt with over 1200 resident enquires in the past 12 months, resolving nearly 500, and allocating over 700 to other officers. The LEO also picks up any formal complaints relating to the waste contract, and works with residents and the contractors to resolve these.

#### **4. FUTURE LOCALITY SERVICE DEVELOPMENTS**

##### **4.1 Mobile Locality Officers**

The Mobile Locality Officers are well placed to offer a flexible, timely and a wide ranging support function to the entire organisation. Their current responsibilities mean that they are involved with every service area, and are able to re-prioritise their workload at short notice to provide support wherever it is most needed. Such is the range of their current responsibilities, it would be difficult to introduce more work into their daily schedules, without impeding on the quality/frequency of existing work. There have been initial discussions on how the Mobile Officers could be better integrated into the processes in commercial services to ensure that the customers in the high volume areas receive an excellent level of customer service. This work will coincide with the decisions due next month regarding the waste procurement.

The plan for the next 12 months will also include the better use of existing technology. This will enable us to monitor the location of officers in real-time and ensure that work is allocated to the closest possible officer, reducing unnecessary travelling time and associated fuel costs. Training for essential uses will be provided, however shadowing colleagues, and "job swaps" will be encouraged to broaden horizons and teach new skills in other areas.

New uniforms and vehicles are on order for all Mobile Officers, and, following the expiry of existing contracts, some of the new vehicles will include the advertisement of other internal services, and this will be trialled as a form of mobile advertising.

There will also be more targeted enforcement campaigns in the next 12 months, as we work closely with colleagues in Environmental Protection to target hot spots for littering and dog offences under the PSPO legislation.

#### 4.2 **Locality Engagement Officers**

The current engagement resource is restricted by current assignments, however there is a willingness to adapt the role to allow more time for proactive contract monitoring and ensuring that customer complaints are dealt with effectively first time around. This again, will be part of a wider consideration on how the Localities Team is best placed to meet the future needs of Commercial services, as well as the rest of the organisation.

#### 4.3 **Locality Team Case Manager**

The most significant change that has taken place in the structure and operation of the Localities Service since the February 2018 report, is the appointment last spring of a dedicated Case Manager (Level 8). The Case Manager is responsible for allocating the day-to-day work of the Mobile Locality Officers and also overseeing the internal working relationships between stakeholders and colleagues. This appointment has freed up the equivalent of a full time Locality Engagement Officer (Level 6), as this responsibility was previously split between the 4 Engagement Officers across both Councils. The creation of this temporary post has been extremely successful and the Case Manager offers an excellent level of support to the Mobile Officers whilst they are carrying out their day to day duties. The added level of consistency that this role has created has allowed us to identify improvements in processes and further improve the communication with our stakeholders. As well as allocating and collating work from the team, the Case Manager also answers resident enquiries and coordinates work activities with Specialists and Case Managers. As this is an intensive role, there is little scope to extend it to include more duties, and instead, the emphasis will be on further improving automation and work processes to ease the manual intervention required in many of our processes.

#### 4.4 **The Team**

The Localities Team are a cohesive unit and meets regularly in South Hams and West Devon to discuss any area specific issues, hear updates and talk about team performance. Occasionally the team meets as a whole for training, or dedicated workshops on specific areas. Earlier this year, the Team had an away day in Exeter, the emphasis on this was self-reflection, perception and team working. The day received excellent feedback, and the time spent as a group, especially for those who work alone, was invaluable.

We continue to receive compliments regularly, however we will be striving to improve the consistency of our communication this year, and ensure that everyone is well versed on how to provide the excellent level of customer service that we should be providing every time.

### 5. **Implications**

<b>Implications</b>	<b>Relevant to proposals Y/N</b>	<b>Details and proposed measures to address</b>
Legal/Governance	Y	The Overview & Scrutiny Committee is responsible for considering and scrutinising how the Council is performing as an organisation.

Financial	N	There are no direct financial implications of the contents of the report.
Risk	N	Section 3 of the report shows the service is performing well.
Comprehensive Impact Assessment Implications		
Equality and Diversity	N	
Safeguarding	N	
Community Safety, Crime and Disorder	N	
Health, Safety and Wellbeing	N	
Other implications	N	

**Supporting Information**

**Appendices:**

None

**Background Information:**

Report to Overview & Scrutiny Committee meeting on 27 February 2018

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Report to: **Overview & Scrutiny Committee**  
Date: **6 November 2018**  
Title: **Ombudsman Annual Review Letter 2018**  
Portfolio Area: **Support Services**  
Wards Affected: **All**  
Relevant Scrutiny Committee: N/A

Urgent Decision: **N** Approval and clearance obtained: **N/a**

Date next steps can be taken: **Hub Committee meeting on 20 November 2018**

Author: **Sue Nightingale** Role: **Legal CoP Lead Specialist and Monitoring Officer**

Contact: **Email: [sue.nightingale@swdevon.gov.uk](mailto:sue.nightingale@swdevon.gov.uk)**

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## Recommendations:

- 1. To review the Ombudsman Annual Letter for 2018 (attached at Appendix A) and consider what corporate lessons may be learnt and whether further service improvements are required; and**
- 2. To make any recommendations to the Hub Committee.**

## 1. Executive summary

- 1.1. To consider the Local Government Ombudsman's Annual Review Letter 2018 regarding Ombudsman complaints received against the Council for the period 1 April 2017 to 31 March 2018 (attached as Appendix A to this report). This includes Annex 1 'cases received' and Annex 2 'cases decided'.
- 1.2. Members are requested to review the Annual Letter 2018 from the Ombudsman and consider what corporate lessons have been learnt (or can be learnt) from the outcome of the complaints and whether further service improvements can be made.

## 2. Background

- 2.1. The Local Government Ombudsman's corporate strategy is based on the twin pillars of remedying injustice and improving local public services, and as part of this role

the Ombudsman investigates complaints made by members of the public about public authorities. This currently excludes parish and town councils.

- 2.2. The Ombudsman will investigate a complaint if it relates to maladministration or injustice by the Council. The Ombudsman is not able to investigate all of the complaints referred to him, as some will fall outside of his remit, and the Ombudsman can only consider complaints that have first been considered through the Council's own internal complaints procedure; this is because the Council must have had the opportunity to consider, and respond to, the complaint first.
- 2.3. A complainant cannot appeal against the Ombudsman's decision, but complaints may be reviewed if new information is presented to the Ombudsman.

### **3. The Annual Letter 2018, Complaints and Decisions**

- 3.1. The Ombudsman's Annual Review Letter 2018 is attached at Appendix A and comprises a written report and two tables: Annex 1 shows the number and type of complaint received and Annex 2 shows the number, type and outcome of complaints that the LGO has decided between 1 April 2017 and 31 March 2018.
- 3.2. The Ombudsman's office changed its business processes during 2012 with the Annual Review Letter presenting only high level statistical information on the number of complaints received against the Council. However, the Ombudsman has recognised that presenting the total number of complaints may not, by itself, give a clear picture of how well these complaints have been responded to and in response to feedback from Local Authorities, the Ombudsman now includes data on the number of complaints upheld / not upheld, as well as highlighting the outcomes of those complaints rather than just the numbers received (see Annex 2). In making recommendations where the Ombudsman has found fault, the purpose is to remedy injustice caused to individuals and also to prevent future injustice to others by improving practice.
- 3.3. Previous Annual Letters included information on the Council's 'compliance rate' which indicated a council's compliance with the Ombudsman's recommendations to remedy a fault. However, the Ombudsman has established a new mechanism for ensuring that his recommendations are implemented and plans to report a more sophisticated suite of information about compliance and service improvement in the future.
- 3.4. A recent review of Local Government complaints for 2017/18 by the Ombudsman shows that, nationally, the Ombudsman is upholding more complaints. Significantly, the proportion of complaints it has upheld has increased to 57% - up from 54% the previous year. The Ombudsman has also issued 40% more public interest reports about local authorities in the same period.). The LGO's national report can be accessed at the following link: <https://www.lgo.org.uk/information-centre/news/2018/jul/a-tool-for-change-ombudsman-issues-annual-review-of-council-complaints>



- 3.5. Additionally, this year the Ombudsman has included some general guidance on reporting of Ombudsman outcomes to Members. This Council has been reporting to Members for some years following the receipt of the Ombudsman's Annual Letter together with a more detailed table of complaints received and decided during the previous financial year.
- 3.6. In the Annual Letter, the Ombudsman provides a breakdown of the investigations that he has upheld in order to show the number of cases where the Ombudsman's recommendations have remedied the fault, and to also show where the Council had already offered a satisfactory remedy during the local complaints part of the process. In these latter cases, the Ombudsman provides reassurance that the Council had satisfactorily attempted to resolve the complaint through its internal complaints process.
- 3.7. Where the Ombudsman finds that the Council has acted with fault, and that fault has caused injustice to the complainant, he will make recommendations to the Council to put things right and this can include; asking the Council to make an apology (if it has not already done so), reinstating a service, making a decision on something under the right grounds, or providing information. If injustice cannot be remedied through remedial action, the Ombudsman may recommend a financial payment.
- 3.8. The following table shows the number of complaints received and decided by the Ombudsman for last four years:

Year	Number of complaints received	Number of complaints decided
2017/18	12	11
2016/17	5	7
2015/16	8	7
2014/15	12	13

- 1.1. The Council is unlikely to be in a position where no complaints are referred to the Ombudsman, because some complainants will remain unsatisfied with the outcomes of the Council's investigations where there is no finding in their favour. The number of complaints where the Ombudsman has found fault has reduced to nil during the financial year.
- 1.2. A more detailed summary of the complaints and Ombudsman's decisions for 2017/18 is attached as Appendix B, and Members will note that the Ombudsman has upheld none of the complaints. The final column shows what actions or measures the Council has taken or put in place as a result of the complaint in order to improve services or processes.
- 1.3. Members will note that the complaints in the two Ombudsman tables (Annex 1 and Annex 2) do not strictly correspond with the complaints in the Council's records at Appendix B, and this is due to several factors; for example, the Ombudsman's figures include enquiries from people that they signpost back to the Council but who

may not necessarily make a complaint, and not every decision will relate to a complaint made in that financial year (it may have been received in the previous financial year but a decision made this year; conversely a complaint may have been received before 31 March 2018 and the decision not made until the next financial year).

## 2. Proposed Way Forward

- 2.1. Members will note that although the overall number of complaints received by the Ombudsman this year has increased, the number of upheld complaints has reduced to nil. The figures show that the Council continues to build on the implementation of the new corporate complaints policy introduced in 2015 which sets out a clear and consistent two-stage process across the Councils for considering complaints.
- 2.2. A further factor in the reduction in the number of complaints upheld can be attributed to the complaints-handling training undertaken by officers across the Authorities which has resulted in a more proactive approach by officers, with the aim of remedying any faults found in line with the Ombudsman's guidelines. Further officers have attended Ombudsman training in July this year. The LGO has produced an online manual for officers to refer to when dealing with complaints, and this has been circulated widely across the Council.
- 2.3. It is recommended that the Council continues to embed the corporate complaints policy across the Council and endeavour to resolve complaints at a local level, and implement the learning outcomes to enable even further improvements.

## 3. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	<p>The Local Government Ombudsman is governed by the Local Government Act 1974 and is responsible for considering complaints against local authorities which the complainant considers have not been resolved locally.</p> <p>The Overview &amp; Scrutiny Committee is responsible for having an overview of complaints handling and for an overview of Ombudsman complaints, and the Ombudsman Annual Review Letter is an important part of that process.</p> <p>The decisions in respect of each case are provided to the relevant service in order that any recommendations made by the Ombudsman are acted upon and lessons learnt can be implemented.</p>
Financial		Where is it necessary to settle a complaint by the payment of compensation (or the Council has already offered a settlement) payment is made out of the current year's revenue budget for the service in question.

		<p>Financial redress was offered in three of the cases that were upheld which amounted to £200.00.</p> <p>There are resource implications in the officer time spent in dealing with the complaint in both the initial stages under the Council's internal complaints policy as well as the resources required in responding to the Ombudsman complaint, but it is not currently possible to quantify this time.</p>
Risk		<p>It is important that the Council is aware of the number and type of complaints made to the Ombudsman together with the outcomes and lessons learnt.</p> <p>Whilst it is not possible to eliminate complaints, it is possible to manage the complaints efficiently and learn from the outcomes of these complaints to mitigate the risk of recurrence and deliver service improvements.</p>
Comprehensive Impact Assessment Implications		
Equality and Diversity		This has been considered in the Complaints policy and within the individual complaint's where relevant
Safeguarding		N/a
Community Safety, Crime and Disorder		N/a
Health, Safety and Wellbeing		N/a
Other implications		

### **Supporting Information**

#### **Appendices:**

Appendix A: The Local Government Ombudsman's Annual Review Letter 2017 (including Annexes 1 and 2 table of cases)

Appendix B: Table of West Devon Borough Council's Ombudsman Complaints for 2016 – 2017

#### **Background Papers**

None

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18 July 2018

*By email*

Sophie Hosking & Steve Jorden  
Executive Directors  
West Devon Borough Council

Dear Sophie Hosking & Steve Jorden,

### **Annual Review letter 2018**

I write to you with our annual summary of statistics on the complaints made to the Local Government and Social Care Ombudsman (LGSCO) about your authority for the year ended 31 March 2018. The enclosed tables present the number of complaints and enquiries received about your authority and the decisions we made during the period. I hope this information will prove helpful in assessing your authority's performance in handling complaints.

#### **Complaint statistics**

In providing these statistics, I would stress that the volume of complaints does not, in itself, indicate the quality of the council's performance. High volumes of complaints can be a sign of an open, learning organisation, as well as sometimes being an early warning of wider problems. Low complaint volumes can be a worrying sign that an organisation is not alive to user feedback, rather than always being an indicator that all is well. So, I would encourage you to use these figures as the start of a conversation, rather than an absolute measure of corporate health. One of the most significant statistics attached is the number of upheld complaints. This shows how frequently we find fault with the council when we investigate. Equally importantly, we also give a figure for the number of cases where we decided your authority had offered a satisfactory remedy during the local complaints process. Both figures provide important insights.

I want to emphasise the statistics in this letter reflect the data we hold, and may not necessarily align with the data your authority holds. For example, our numbers include enquiries from people we signpost back to the authority, some of whom may never contact you.

In line with usual practice, we are publishing our annual data for all authorities on our website, alongside an annual review of local government complaints. The aim of this is to be transparent and provide information that aids the scrutiny of local services.

### **Future development of annual review letters**

Last year, we highlighted our plans to move away from a simplistic focus on complaint volumes and instead turn focus onto the lessons that can be learned and the wider improvements we can achieve through our recommendations to improve services for the many. We have produced a new corporate strategy for 2018-21 which commits us to more comprehensively publish information about the outcomes of our investigations and the occasions our recommendations result in improvements to local services.

We will be providing this broader range of data for the first time in next year's letters, as well as creating an interactive map of local authority performance on our website. We believe this will lead to improved transparency of our work, as well as providing increased recognition to the improvements councils have agreed to make following our interventions. We will therefore be seeking views from councils on the future format of our annual letters early next year.

### **Supporting local scrutiny**

One of the purposes of our annual letters to councils is to help ensure learning from complaints informs scrutiny at the local level. Sharing the learning from our investigations and supporting the democratic scrutiny of public services continues to be one of our key priorities. We have created a dedicated section of our website which contains a host of information to help scrutiny committees and councillors to hold their authority to account – complaints data, decision statements, public interest reports, focus reports and scrutiny questions. This can be found at [www.lgo.org.uk/scrutiny](http://www.lgo.org.uk/scrutiny) I would be grateful if you could encourage your elected members and scrutiny committees to make use of these resources.

### **Learning from complaints to improve services**

We share the issues we see in our investigations to help councils learn from the issues others have experienced and avoid making the same mistakes. We do this through the reports and other resources we publish. Over the last year, we have seen examples of councils adopting a positive attitude towards complaints and working constructively with us to remedy injustices and take on board the learning from our cases. In one great example, a county council has seized the opportunity to entirely redesign how its occupational therapists work with all of its districts, to improve partnership working and increase transparency for the public. This originated from a single complaint. This is the sort of culture we all benefit from – one that takes the learning from complaints and uses it to improve services.

### **Complaint handling training**

We have a well-established and successful training programme supporting local authorities and independent care providers to help improve local complaint handling. In 2017-18 we delivered 58 courses, training more than 800 people. We also set up a network of council link officers to promote and share best practice in complaint handling, and hosted a series of seminars for that group. To find out more visit [www.lgo.org.uk/training](http://www.lgo.org.uk/training).

Yours sincerely,



Michael King  
Local Government and Social Care Ombudsman  
Chair, Commission for Local Administration in England

**Local Authority Report:** West Devon Borough Council  
**For the Period Ending:** 31/03/2018

For further information on how to interpret our statistics, please visit our website:  
<http://www.lgo.org.uk/information-centre/reports/annual-review-reports/interpreting-local-authority-statistics>

## Complaints and enquiries received

Adult Care Services	Benefits and Tax	Corporate and Other Services	Education and Children's Services	Environment Services	Highways and Transport	Housing	Planning and Development	Other	Total
0	3	1	0	2	0	1	5	0	12

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## Decisions made

				Detailed Investigations			
Incomplete or Invalid	Advice Given	Referred back for Local Resolution	Closed After Initial Enquiries	Not Upheld	Upheld	Uphold Rate	Total
0	0	6	5	0	0	0%	11

### Notes

Our uphold rate is calculated in relation to the total number of detailed investigations.  
 The number of remedied complaints may not equal the number of upheld complaints. This is because, while we may uphold a complaint because we find fault, we may not always find grounds to say that fault caused injustice that ought to be remedied.

### Complaints Remedied

by LGO	Satisfactorily by Authority before LGO Involvement
0	0

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Reference	Authority	Category	Received
16011897	West Devon Borough Council	Planning & Development	05/04/2017
16017239	West Devon Borough Council	Planning & Development	25/05/2017
17001370	West Devon Borough Council	Planning & Development	26/04/2017
17001681	West Devon Borough Council	Planning & Development	03/05/2017
17002879	West Devon Borough Council	Corporate & Other Services	23/05/2017
17003182	West Devon Borough Council	Housing	26/05/2017
17003255	West Devon Borough Council	Benefits & Tax	30/05/2017
17006251	West Devon Borough Council	Planning & Development	18/07/2017
17008576	West Devon Borough Council	Environmental Services & Public Protection & Regulation	24/08/2017
17013884	West Devon Borough Council	Environmental Services & Public Protection & Regulation	27/11/2017
17015226	West Devon Borough Council	Benefits & Tax	22/12/2017
17017414	West Devon Borough Council	Benefits & Tax	06/02/2018

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Reference	Authority	Category	Decided	Decision	Remedy
16011897	West Devon Borough Council	Planning & Development	25/04/2017	Closed after initial enquiries	Null
16017239	West Devon Borough Council	Planning & Development	21/06/2017	Closed after initial enquiries	Null
17001370	West Devon Borough Council	Planning & Development	26/04/2017	Referred back for local resolution	Null
17001681	West Devon Borough Council	Planning & Development	03/05/2017	Referred back for local resolution	Null
17002879	West Devon Borough Council	Corporate & Other Services	13/06/2017	Closed after initial enquiries	Null
17003182	West Devon Borough Council	Housing	26/05/2017	Referred back for local resolution	Null
17003255	West Devon Borough Council	Benefits & Tax	30/05/2017	Referred back for local resolution	Null
17006251	West Devon Borough Council	Planning & Development	18/07/2017	Referred back for local resolution	Null
17008576	West Devon Borough Council	Environmental Services & Public Protection & Regulation	16/10/2017	Closed after initial enquiries	Null
17015226	West Devon Borough Council	Benefits & Tax	26/01/2018	Closed after initial enquiries	Null
17017414	West Devon Borough Council	Benefits & Tax	06/02/2018	Referred back for local resolution	Null

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West Devon BC  
Decisions made in period (Apr 2015 - Mar 2016)

Ref	Category	Brief Description	Decision date	Decision	Decision Details	Learning Outcomes
1 16011897 Leonard	Planning & Environmental Health	Planning for a cattery/kennels was refused; developer took to PI; neighbours commissioned extra noise reports and wanted Council to pay for these.	25/04/17	Not investigating	No injustice to Mr Leonard & neighbours; second report commissioned by Mr L was his choice.	n/a
2 16017239 Taylor/Brunati	Planning & Environmental Health	Neighbour got planning for 3 flats in 5 bed family home; unlicensed HMO; shop selling wrong things; safety issues	21/06/17	Not investigating	No fault with Council granting planning permission; no fault with decision to take no enforcement action	n/a
3 17008576 Thornton	Customer service	Bad customer service	16/10/17	Not investigating	Not investigating as Council already apologised, has had review of call centre by outside authority, has reviewed his calls, and on-going training for staff	Already in place: ie external review, on-going training
4 17015226 Patrick	Revs and Bens	Business rate reduction not applied	26/01/18	Not investigating	Not investigating as Council had already resolved issue. Delay was due to testing software	n/a

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# Agenda Item 11

Report to: **Overview & Scrutiny Committee**

Date: **6 November 2018**

Title: **General Data Protection Regulation (GDPR) & Data Protection Policy Update**

Portfolio Area: **Cllr Chris Edmonds**

Wards Affected: **All**

Urgent Decision: **N** Approval and clearance obtained: **N/A**

Date next steps can be taken: **Hub 20 November 2018**

Author: **Darren Arulvasagam** Role: **Data Protection Officer & Group Manager Business Development**

Contact: [Darren.Arulvasagam@swdevon.gov.uk](mailto:Darren.Arulvasagam@swdevon.gov.uk) or 01803 861222

**That the Committee RECOMMENDS that the Hub Committee:**

- 1. APPROVES the amended Data Protection Policy as detailed in Appendix A;**
- 2. DELEGATES approval of the related codes of practice and protocol documents (as summarised in section 3 of this report) to the Council's Data Protection Officer; and**
- 3. NOTES and SUPPORTS the approach and progress made towards GDPR readiness by the Information Governance Group.**

**1. Executive summary**

- 1.1 On 25 May 2018 new rules came into force in respect of Data Protection – these are referred to as the General Data Protection Regulation (GDPR - EU regulation) and the Data Protection Act 2018 (UK Law).
- 1.2 This report provides an overview of the key requirements of the GDPR, outlines the approach that the Council has taken and recommends the adoption of an updated policy and associated guidance for the Council.
- 1.3 In order to be compliant with the new regulations, the Council has undertaken a comprehensive review of its policies, processes and procedures. This has resulted in the need to update the current, adopted policy (see appendix A).
- 1.4 GDPR places great emphasis on the documentation that the Council must maintain in order to demonstrate accountability. Compliance requires a detailed review of our approach to information governance, data protection and how we collect and process data.
- 1.5 A series of related codes of practice have also been prepared, which will underpin the work that the Council, its staff and Members will need to adhere to. These codes will be updated on a regular basis and can be viewed on the Council's intranet and ultimately, internet. Responsibility for keeping these documents updated will fall to the Council's Data Protection Officer and, as such, it is recommended that the approval of these documents is delegated to the Data Protection Officer.

1.6 A summary of the codes of practice is shown in section 3 of this report.

## **2. Background**

- 2.1 Data protection law changed from 25 May 2018. The previous law had been in place for twenty years - since before the use of the internet, emails and cloud storage services. The General Data Protection Regulation (GDPR) is an EU regulation drafted to be fit for purpose in the digital age.
- 2.2 GDPR is an EU sourced regulation. In the UK, the existing Data Protection Act which was developed in 1995 has been updated to adopt many of the GDPR requirements and is known as the Data Protection Act 2018. This move will ensure that 'Brexit' will necessarily lead to later changes in the law.
- 2.3 The new regulation enhances the rights of data subjects and gives them more control over what happens with their data. It also allows for financial penalties to be imposed on any organisation that breaches those rights or does not comply with the accountability principle.
- 2.4 Organisations need to put technical and organisational measures in place to protect data from loss, unauthorised access, etc. and to ensure the rights of data subjects are protected.
- 2.5 Under the GDPR, the Council is required to appoint a Data Protection Officer. The regulation states that the appointment must be made on an individual's professional qualities and expert Data Protection knowledge, laws and practices. The Data Protection Officer must also have a direct reporting line to the senior tier of management, and be able to act independently of the Council. The Senior Leadership Team appointed the Group Manager, Business Development to this role and specific training has been undertaken to ensure compliance.
- 2.6 The Council has an Information Governance Group which is responsible for ensuring the Council is compliant with all information regulation and laws (Data Protection Act, Freedom of Information Act, and Environmental Information Regulations, Data Security) as well as ensuring that suitable good practice advice and training is in place for staff. This group of officers meets regularly to monitor progress against plans. The comprises the Data Protection Officer, Monitoring Officer, Case Management Manager, Support Services Specialist Manager, and the ICT Specialist for Information Security.
- 2.7 The six general principles under the new legislation are:
- 2.7.1 Personal information shall be processed lawfully, fairly and in a transparent manner.
- 2.7.2 Personal information shall be collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes.
- 2.7.3 Personal information shall be adequate, relevant, and limited to what is necessary.
- 2.7.4 Personal information shall be accurate and, where necessary, kept up-to-date.
- 2.7.5 Personal information shall be retained only for as long as necessary.
- 2.7.6 Personal information shall be processed in an appropriate manner to maintain security.



- 2.8 Personal information under GDPR includes:
- an identifier, e.g. a name, email address, phone number
  - personal identification numbers, e.g. bank account or national insurance numbers
  - factors specific to an individual's physical, physiological, genetic, mental, economic, cultural or social identity. This would include anything relating to a disability
  - location data - data that has any kind of geographic position attached to it, e.g. data collected by wireless networks, swipe cards and smart mobile devices that provide location tracking
  - online identifiers, e.g. mobile device IDs, browser cookies, IP addresses
- 2.9 Special Categories of Data are those which are particularly sensitive, e.g. race, ethnicity, political opinion, genetic or health related data and sexual orientation.
- 2.10 GDPR applies to 'controllers' and 'processors' – the controller says how and why personal data is processed and the processor acts on the controller's behalf. In most cases, WDBC (Officers and Members) is the controller and processor, but in some cases the data is processed by third parties.
- 2.11 The rights of individuals under the GDPR have seen some significant enhancements. Since May, individuals have:
- the right to be informed;
  - the right of access;
  - the right to rectification;
  - the right to erasure;
  - the right to restrict processing;
  - the right to data portability;
  - the right to object; and
  - the right not to be subject to automated decision-making including profiling
- 2.12 The biggest change that the Council needed to address is the ability to locate and delete individual's data across all of the Councils systems when legally required under the rules.
- 2.13 **Subject Access Requests (SARs).** The new regulations mean that we cannot charge for complying with SAR's and we have to comply with the request within a month rather than the previous 40 days allowed. Since January 2018 the Council has received seven SARs.
- 2.14 **Lawful basis for processing personal data.** For each processing activity that the Council undertakes, the Council needs to identify the lawful basis for the processing. It is important to assess this particularly in light of the right for data to be deleted – if the only lawful basis for processing is 'Consent' then the information must be deleted on request. The lawful basis for processing the information must also be included within the Privacy Notice.
- 2.15 **Consent.** The Council has reviewed how it seeks, records and manages consent. Consent for the Council processing data must be freely given, specific, informed and unambiguous. Consent must not be inferred. Consent

for data processing must be separate for any other terms and conditions in documents, web pages or other data capture means.

- 2.16 **Children.** For the first time, GDPR brought in special protection for children's personal data. If the Council obtains personal data in respect of children, the privacy notice must be written in a language that children will understand.
- 2.17 **Data Breaches.** The GDPR introduces a duty to report certain types of data breach to the ICO, and in some cases, to individuals. The Council will only have to report a breach to the ICO where it is likely to result in a risk to the rights and freedoms of individuals. Additionally, where there is a high risk to these rights and freedoms, resulting in potential for discrimination, reputational damage, financial loss, loss of confidentiality, etc. there is an additional requirement for the individual concerned to be notified. Not all breaches need to be reported to the ICO, but the potential breach must be assessed within the first 72 hours.
- 2.18 **Data Protection by design and Data Protection Impact Assessment.** GDPR makes 'privacy by design' an express legal requirement. It also makes Privacy Impact Assessments mandatory where a new technology is being deployed, where a profiling operation is likely to significantly affect individuals or where there is processing on a large scale of the special categories of data.
- 2.19 The Council has:
  - 2.19.1 Prepared a compliant General Data Protection Regulation Policy (see Appendix A)
  - 2.19.2 Delivered online training for Data Protection to all employees
  - 2.19.3 Delivered face to face training sessions for Information Asset Owners and key processing staff (60 staff already received training, with regular updates programmed to ELT and SLT)
  - 2.19.4 Prepared an information asset register for all processing activities and identified the lawful basis for such processing
  - 2.19.5 Prepared & communicated an information / training checklist for Members to advise how they should deal with personal data
  - 2.19.6 Updated its Privacy Notices to be compliant with the new regulation & prepared a data protection impact assessment for all relevant areas of data processing – these are viewable on the Council's website
- 3. **Outcomes**
  - 3.1 In order to ensure that the Council is compliant, the Information Governance Group commissioned an external "readiness" audit. A GDPR specialist visited the Council and interviewed key officers in order to ascertain priority areas for consideration. An action plan was created to address the points raised in the readiness audit. The first actions completed have been to appoint a Data Protection Officer (the author of this report) and to instigate a review of all of the Council's data protection policies and procedures. The updated policy has been finalised. Updated codes of practice and procedural documents have been produced and these are in the process of being rolled out across the organisation.
  - 3.2 It is requested that delegated authority is given to the Data Protection Officer, in consultation with the Information Governance Group, to finalise and keep updated the codes of practice and procedures relation to GDPR and Data Protection compliance.

- 3.3 The Codes of Practice can be found on the Council's intranet. In time, these will be published on the Council's website (as appropriate). A communications and training plan will be delivered to ensure staff understand and engage with the new and updated processes and forms. In actuality, there is little significant change from existing working practices. Operationally the Council has been working to the new regulations and following the recommended guidance since before the inception of GDPR, as the Council readied itself for the new legislation.
- 3.4 The Council has prepared and updated a series of Codes of Practice in accordance with GDPR and the Data Protection Act 2018 – these are the guidelines by which information is obtained, stored, shared and accessed. The following codes of practice have been prepared / updated:
- 3.4.1 Obtaining Personal Information
  - 3.4.2 Managing Personal Information
  - 3.4.3 Accountability and Governance
  - 3.4.4 Individuals Rights
  - 3.4.5 Disclosures and Information Sharing
  - 3.4.6 Information Security
  - 3.4.7 Privacy and Electronic Communications Regulations
  - 3.4.8 Code of Practice for Elected Members
  - 3.4.9 Security in Procurement
  - 3.4.10 Use of Surveillance Cameras and CCTV
  - 3.4.11 Processing for Law Enforcement Purposes
  - 3.4.12 Law Enforcement Policy Document for Sensitive Processing
  - 3.4.13 Special Category Information Processing Policy Document
- 3.5 These codes of practice and policy documents are intended to be living documents and will need to be updated as further guidance is received from the Information Commissioners Office. It is therefore recommended that the responsibility for the approval and review of these documents (and the addition of any further relevant codes and documents) is delegated to the Council's Data Protection Officer, in consultation with the Information Governance Group.
- 4 Options available and consideration of risk**
- 4.1 Members could opt to follow, amend or reject the recommendations.
  - 4.2 The updated Data Protection Policy has been designed to incorporate changes to the law, which came into force during 2018. Adoption of this updated policy will reflect the Council's compliance with this law. Operationally, the Council has already taken steps to ensure compliance. It is not considered that the Council is at risk of non-compliance.
  - 4.3 Delegating approval to finalise the codes of practice will ensure that the Council retains the agility to update its operating procedures in light of changes to working practices, complaints or breaches.
  - 4.4 Since January 2018, eight Data Protection investigations have been undertaken by the Council, two of which have been referred to the ICO for investigation by the complainants themselves. The Council has not

considered, based on the regulations, that any of the investigations have warranted reporting to the ICO.

## 5 Proposed Way Forward

- 5.1 If the Council approves this report's recommendations and adopts the updated policy and guidance (as shown in Appendix A), officers will finalise the codes of practice and policy documents and ensure these are embedded within the organisation, in order to maintain council compliance with the new act. The existing data protection policy will be replaced with the new policy.

## 6.0 Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	<p>Compliance with the regulations is critical in ensuring that the reputation of the Council is upheld and that the rights of individuals are protected.</p> <p>Our existing Data Protection policy required updating in order to be compliant – this work has been completed and the recommended policy is shown in Appendix A.</p>
Financial	Y	<p>There are no significant financial implications from achieving compliance – however, there is risk of significant financial penalties for non-compliance. At present, resources have been absorbed / pooled from Support Services, Customer First and Strategy &amp; Commissioning to prepare for and implement the new regulations, with no new budget pressures created.</p>
Risk	Y	<p>A significant amount of work has been undertaken to ensure compliance with the regulations. An action plan is in place and is monitored regularly. A project team has been formed which meets regularly, with oversight by the Information Governance Group and SLT.</p> <p>Training has been and will continue to be arranged for individuals at an appropriate level based on their role in the organisation to ensure awareness of the new regulation &amp; the impact that this has on their activities.</p>
Comprehensive Impact Assessment Implications		
Equality and Diversity	N	<p>There are no Equality and Diversity implications. The regulations apply to all individuals equally.</p>
Safeguarding	N	<p>None – Compliance with GDPR has implicit improvement impacts on safeguarding</p>
Community Safety, Crime and Disorder	N	<p>None</p>
Health, Safety and Wellbeing	N	<p>This is implicit with GDPR and will be dealt with through compliance and revised policies.</p>
Other implications	N	<p>Policies will be updated as a result of compliance with GDPR</p>

## **Supporting Information**

### **Appendices:**

Appendix A – Data Protection Policy (2018)

**Background Papers:** General Data Protection Regulation (GDPR) – Readiness & Impact, presented to Audit Committee, 22<sup>nd</sup> March 2018

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**South Hams District Council**

**&**

**West Devon Borough Council**



# **Data Protection Policy (2018)**

# Data Protection Policy (2018)

## 1. What is Data Protection?

**The General Data Protection Regulation 2016 (GDPR) and Data Protection Act 2018 (DPA)** apply to personal information that is held by the Council about living, identifiable individuals of any age. Examples of personal information includes an individual's contact information, details of the service we provide to the individual, recordings or photographs.

This personal information may be automatically processed, such as on a computer, smartphone, recording device or CCTV system, or in manual paper records, for example, hand-written meeting notes application forms, or printouts of what is held on computer.

Personal information includes information that has been 'pseudonymised' (a term used introduced by the GDPR where personal information has been removed from data); for example, information which has been given a reference number or code so that an individual cannot be identified, and the identifiable information is kept separately.

This Policy and associated Codes of Practice and Procedures are designed to promote and maintain compliance with the GDPR and the DPA. These two pieces of legislation work together in tandem; for example, the principles and requirements for handling personal information are set out in the GDPR, and exemptions, enforcement and penalties are set out in the DPA. The DPA also includes our obligations for processing personal information for law enforcement purposes.

## 2. When do the Data Protection rules apply?

The Data Protection rules apply to personal information about living, identifiable individuals who can be identified, directly or indirectly **wherever** that personal information is held, such as:

- Computer systems
- Audio recordings (such as telephone) or video recordings (such as CCTV)
- Mobile or smart phones
- Tablets or any device that can operate automatically in response to a set of instructions (such as a computer program). It does not matter whether the device is privately owned or owned by the Council. If the information held on it is used for Council purposes, then the Data Protection rules apply.
- Paper files that are structured (for example, alphabetically or in date order) and information can be easily accessed by looking up the name/address/postcode or other information about an individual.



- Paper records that are intended to be filed or transferred to computer, such as application forms.
- Unstructured paper records (for example, handwritten notes and jottings of a meeting that are not neatly filed away or indexed, nor transferred to computer).
- Expressions of opinion and intentions (for example, views expressed about someone in an email message).

Ultimately, if the Council obtains, holds or does something with personal information the Data Protection rules apply.

The Data Protection rules **do not apply** to:

- De-personalised, anonymised or statistical information where individuals cannot be identified;
- Businesses or organisations (unless it relates to a sole trader or partner in a business partnership)
- People who are deceased, although the DPA applies to those who remain. For example, there is a duty of confidentiality to those who may be named on the deceased's records.

### **3. The Data Protection Principles**

These are legally enforceable principles and requirements which are the foundation of good information management and help us to respect the rights of individuals.

The **GDPR Principles** require that personal information must be:

- Processed lawfully, fairly and in a transparent manner
- Collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes (purpose limitation)
- Adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed ('data minimisation')
- Accurate and, where necessary, kept up to date
- Kept in a form which permits identification of individuals for no longer than is necessary for the purposes for which the information is processed ('storage limitation').
- Processed in a manner that ensures appropriate security of the personal data (including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage) using appropriate technical or organisational measures ('integrity and confidentiality').
- Accountability: the controller (the Council) is responsible for, and must demonstrate compliance with the Principles.

- Individuals' rights and access to personal information must be upheld, including the right to:
  - be informed about what we do with his/her information
  - rectification
  - erasure / right to be forgotten
  - restriction of processing
  - data portability (i.e. the right to be provided with personal information in a structured, commonly used machine-readable format)
  - make an objection
  - Not to be subject to a decision based on automated individual decision-making and profiling
- Only transferring personal data to countries, territories or international organisations outside the European Union if there are adequate protections in place or safeguards.

#### **4. How do the Regulations and Data Protection Act affect me?**

The GDPR and DPA rules apply to anyone in the Council who has access to, uses or passes on personal information in his/her day-to-day work.

Breaches of the Principles may result in the Council facing substantial monetary penalties, being publicly named-and-shamed, and would result in the loss of trust from the people we provide services to.

For employees, it is a criminal offence to:

- Obtain, procure, handle, disclose or retain personal information without the Council's authorisation or consent
- Sell (or offer to sell) personal information that has been unlawfully obtained, which includes advertising it for sale.
- Re-identify personal information that has been de-identified.
- Alter, deface, block, erase, destroy or conceal information with the intention of preventing disclosure of all or part of the information that the requestor is entitled to receive.
- Force someone to make a subject access request to see information about their convictions, cautions, health records or Disclosure Barring Service information, as a method of vetting them.

#### **5. What is the Council's Data Protection Policy?**

The Council's aims are to make every effort to ensure:

- Compliance with the GDPR and DPA is maintained

- Personal information is well-managed, held securely and that the rights of individuals are respected.
- Data protection is integrated into the Council's working practices and information systems from the moment information is collected through to its destruction.
- Compliance with the accountability principle, being responsible for and able to demonstrate compliance with the other principles and requirements, such as:
  - Implementing appropriate technical and organisational measures such as internal data protection policies, procedures and codes of practice, staff reporting, provision of staff training, internal audits of processing activities, and reviews of internal Human Resources policies.
  - Maintaining documentation of our processing activities.
  - Appointing a Data Protection Officer.
  - Implementing measures that include:
    - Data minimisation
    - Pseudonymisation
    - Transparency
    - Allowing individuals to monitor processing
    - Creating and improving security features on an ongoing basis.
  - Conducting Data Protection Impact Assessments where appropriate.

This Policy is supported by the Senior Leadership Team (SLT) and commits the Council to providing the necessary resources to ensure that this Policy's aims can be achieved.

Procedures that describe the arrangements and processes for the implementation of this policy will be available on the Council's intranet.

## **6. Who is Responsible for Data Protection?**

### **Data Protection Officer**

The Council has appointed a Data Protection Officer (the DPO), Darren Arulvasagam.

The DPO reports to the Audit Committee (who will make any necessary recommendations to the Council) and is responsible for:

- Ensuring the objectives of the Data Protection Act 2018 and related legislation are achieved and assisting the Council with its compliance and maintaining standards of good practice.

- Ensure the objectives of the Information Governance Group are achieved, managing it and reporting progress to SLT.
- Providing advice to the Council for the resolution of queries and maintaining the accuracy of the Council's internal **Record of Processing Activities** and keeping it up to date.
- Managing data protection procedures, policies, codes of practice and revised documentation.
- Arranging training opportunities for employees and elected Members.
- Constructing and reviewing compliance monitoring programmes; ensuring their completion and reporting findings

### **Information Governance Group**

To ensure that the Council complies with all relevant legislation and best practice in relation to:

- Data Protection
- Freedom of Information
- Environmental Information
- Records Management / Document Retention
- Data Security

The Information Governance Group will meet regularly to maintain an overview, consider issues, monitor compliance and arrange for necessary action to be taken.

The Information Governance Group will:

- Ensure consistency and compliance with legislation and best practice
- Ensure that the Council develops and maintains corporate policy, procedures, and codes of practice
- Develop guidance for staff and Members
- Commission training for all Officers and Members
- Obtain specialist help when required
- Monitor and review performance to ensure compliance and improvement
- Devise a work plan

### **Managers and Service Area Leads**

Have overall responsibility for ensuring that personal information held within their service area is managed in a way which meets the aims of the Council's Data Protection Policy.

They should ensure that all staff responsible for managing personal information are appropriately trained or experienced and understand the need for Data Protection.

## **All Staff**

All staff who create, receive and use personal information have responsibilities under this Policy, Council Codes of Practice and to comply with the requirements of the GDPR and DPA.

It is the responsibility of managers to ensure that anyone who is sub-contracted or employed on a temporary or voluntary basis is made aware of this Policy, Codes of Practice and any relevant supporting procedures that are available.

Where personal data is disclosed to our service providers or anyone else acting on our behalf, they will ensure that there is a written contract in place that includes the requirement for them to comply with the GDPR and DPA (in particular the Security Principle).

## **7. What happens if I contravene this policy?**

Disciplinary action, including dismissal, may be taken against any member of staff who contravenes this Data Protection Policy and supporting Codes of Practice and Procedures.

On discovering that this Policy is not being complied with, or if an intentional breach of the Data Protection Principles, Undertaking, or criminal offence has taken place under the GDPR and DPA, the Data Protection Officer shall have full authority to take such immediate steps as considered necessary.

## **8. Is this policy linked to any other policies and procedures?**

This policy is linked to the following policies and information which are available on the Council's website:

- ICT Policy
- Freedom of Information Policy
- Regulation of Investigatory Powers Act Policy
- Records Management Policy
- Complaints Policy

## **Is there any guidance to help?**

You can find further help by:

- Looking at the various Codes of Practice on different aspects of Data Protection which are available on the Council's website
- Look at the guidance on the Information Commissioner's website
- Ask for further guidance from the Information Governance Group
- Contacting the Data Protection Officer via email to [data.protection@swdevon.gov.uk](mailto:data.protection@swdevon.gov.uk)

**9. Will this policy be monitored or reviewed?**

Compliance with the Data Protection Policy will be monitored by the DPO and Information Governance Group and reviewed every three years or earlier if required.

This Data Protection Policy has been authorised by the Data Protection Officer and approved by Members on **tbc** date 2018

Signed ..... Date .....

Data Protection Officer

Report to: **Overview & Scrutiny Committee**

Date: **6 November 2018**

Title: **Regulation of Investigatory Powers Act 2000 (RIPA) Policy and Update**

Portfolio Area: **Support Services**

Wards Affected: **All**

Relevant Scrutiny Committee: N/A

Urgent Decision: **N** Approval and clearance obtained: **N/a**

Date next steps can be taken: **Hub Committee**  
(e.g. referral on of recommendation or implementation of substantive decision)

Author: **Sue Nightingale** Role: **Deputy Monitoring Officer**

Contact: [sue.nightingale@swdevon.gov.uk](mailto:sue.nightingale@swdevon.gov.uk)

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## RECOMMENDATIONS

### That the Committee:

1. notes the IPCO report and recommendations attached at Appendix A;
2. approves the updated policy attached at Appendix B;
3. notes that there have been no RIPA Authorisations since the annual update to this Committee in September 2017 and makes any recommendations to the Hub Committee arising from this report; and
4. notes the amendments to the RIPA Act 2000 effective from 1 November 2018.

## 1. Executive summary

1.1. The purpose of this report is to:

1.1.1. review and approve the Council's RIPA policy.

1.1.2. update Members on the use of RIPA, and

1.1.3. report on training for Officers

- 1.2. 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. RIPA ensures that the right balance is achieved between public interest and individual human rights.
- 1.3. RIPA requires the Council to have in place procedures to ensure that when required, surveillance is seen as necessary, proportionate and is properly authorised. These procedures are set out in the RIPA Policy attached to this report (Appendix A) and they are designed to protect the Council against a claim of a breach of Article 8 of the Human Rights Act if correctly followed (right to respect for private and family life, home and correspondence).
- 1.4. The last report by the Investigatory Powers Commissioner's Office was produced by the Assistant Surveillance Commissioner His Honour Norman Jones QC on 7 September 2017 (Appendix A) following a 'paper review ' of the Council's procedures and records. The report contained a number of recommendations set out at paragraph 30 of the report.
- 1.5. The Surveillance Commissioner's guidance requires an annual update on RIPA is brought to the Council's Overview & Scrutiny Committee; the last report was brought to this Committee on 5 September 2017/9 November 2017 (SH).

## 2. RIPA Policy

- 2.1. The Council's revised RIPA Policy is attached at Appendix B. It has been amended following the 2017 report to reflect the amendments recommended by the Inspector, and to also reflect further changes to the Authorising Officers
- 2.2. From the 1st November 2018 two changes are being made to the RIPA Act.

### Change One.

Three statutory removals – involving reasons for which data can be retained or acquired;

Data can no longer be acquired or retained for;

S 22 (2) (e) - for the purpose of public health

S 22(2) (f) – for the purpose of assessing or collecting any tax, duty, levy or other impositions or contributions payable to a government department.

S22 (2) (j) – for the purposes of exercising functions relating to the regulations of financial services and markets or to financial stability.



## Change Two

Where the statutory purpose is crime, there is a new serious crime threshold for the acquisition of service or traffic data. Subscriber data can still be acquired for any crime – where necessary and proportionate to do so.

Serious crime is described in the guidance and includes offences punishable by 12 months imprisonment or more – for example Fly-tipping.

### **3. RIPA activity**

3.1. No RIPA authorisations have been applied for, or granted, since the report to Members in September 2017

3.2. The reasons are due a combination of factors, including the fact that for local authorities, the only statutory reason for a RIPA authorisation was for the purposes of preventing or detecting a criminal offence where that offence is punishable by a minimum term of at least 6 months imprisonment. In the past the OSC has also cited reduced resources, greater access to data-matching and overt, rather than covert law enforcement.

### **4. OSC report**

Inspections by the OSC are scheduled every three years but recent changes mean that the Commissioner's inspectors can conduct this by a 'paper' review (as was the last inspection in August 2017) rather than a visit; the Commissioner can decide to repeat the paper review or make a planned visit for the next inspection due in 2020.

### **5. Training**

5.1. The Senior Leadership Team (the Authorising Officers) together with the Monitoring Officer, and officers who would be responsible for carrying out any RIPA investigations, attended RIPA training in February 2017.

5.2. The relevant Officers will need to attend annual refresher and further training has been arranged for February 2019.

In addition the Deputy Monitoring Officer and RIPA Co-ordinating Officer are attending annual refresher training on November 28<sup>th</sup> 2018. . The training will include a review and update of;

- RIPA and Local Authorities
- Surveillance
- CHIS
- Communications Data
- Role of authorising officers
- Necessity and proportionality
- Judicial Approval

- Social Networks
- The Investigatory Powers Act 2016
- 2018 amendments to RIPA

## 6. Outcomes/outputs

- 6.1. The Council aims to achieve compliance with the RIPA requirements and where authorisations are granted, that these are authorised as necessary and proportionate and in accordance with Policy.
- 6.2. Regular reviews of Council Policy, monitoring and reporting of any RIPA activity will ensure that compliance is achieved.

## 7. Options available and consideration of risk

- 7.1. The Council is obliged under the Regulation of Investigatory Powers Act, a series of regulations and Home Office guidance, to have a RIPA Policy in place and ensure compliance with that Policy. Home Office guidance also requires that officers are trained in RIPA in the future event that the Policy needs to be applied and authorisations granted.
- 7.2. Failure to review the Policy and non-compliance with the Policy, exposes the Council to the risk that it breaches the Human Rights Act, and is unable to legally enforce against unlawful activity.

## 8. Proposed Way Forward

- 8.1. To consider the current Policy attached at Appendix B in line with the 2017 IPCO report.

## 9. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	The Council's duties for covert surveillance are set out in RIPA and these requirements are reflected in the Council's RIPA Policy at Appendix A. The Home Office guidance on covert surveillance recommends that Members should review the RIPA policy annually, and regularly consider reports on the use of RIPA. Reports on the use of RIPA will be brought to O&S if the Council grants any authorisations.
Financial	N	There are no direct financial implications to this report.

Risk	Y	Adoption of (and compliance with) a RIPA policy will minimise any risk to the Council of breaches of the Human Rights Act in any future investigations involving covert surveillance. Regular review of Policy and RIPA use, together with reporting to O&S will further mitigate that risk and ensure consistent application of the policy.
Comprehensive Impact Assessment Implications		
Equality and Diversity		There are no direct implications to this report but these issues are considered in each individual application and RIPA authorisation
Safeguarding		There are no direct implications to this report but these issues are considered in each individual application and RIPA authorisation
Community Safety, Crime and Disorder		There are no direct implications to this report but these issues are considered in each individual application and RIPA authorisation
Health, Safety and Wellbeing		There are no direct implications to this report but these issues are considered in each individual application and RIPA authorisation
Other implications		N/a

### **Supporting Information**

#### **Appendices:**

**Appendix A:** IPCO Report November 2017 (exempt); and  
**Appendix B:** Draft revised RIPA Policy

#### **Background Papers:**

Report to Overview & Scrutiny 5 September 2017

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**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
- Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment ) Order 2012, SI 2012/1500

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 12 months imprisonment.**

These penalties only apply to the authorisation of *directed surveillance* and not CHIS

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](http://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;

1. Training and awareness across the Councils
2. Oversight of Authorisations
3. Maintaining and storing records including a retrievable Central Register of authorisations
4. Annual reports to the relevant scrutiny committees
5. Updates and implementation of the RIPA Policy
6. Quarterly reports to the Community Safety Committee (do we have one of these?)

### **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 (CHIS)**

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) or in his/her absence the appointed deputy 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](http://www.ico.org.uk)

#### **Interception with the consent of both parties.**

Such interception does not require RIPA authorization, 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](http://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 12 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](http://www.homeoffice.gov.uk) or the Office of Public Sector Information website: [www.opsi.gov.uk](http://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 Head of Paid Service (or in his/her absence the appointed deputy ).

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](http://www.homeoffice.gov.uk) or the Office of Public Sector Information website: [www.opsi.gov.uk](http://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 Investigating 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 Coordinating 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 A**

### **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.

<b>EXECUTIVE DIRECTOR (Head of Paid Service) – Sophie Hosking</b>
<b>COMMERCIAL SERVICES GROUP MANAGER – Helen Dobby</b>
<b>CUSTOMER FIRST &amp; SUPPORT SERVICES GROUP MANAGER – Steve Mullineaux</b>
<b>BUSINESS SUPPORT GROUP MANAGER – Darren Arulvasagam</b>

NB. Only the Executive Director (Head of Paid Service) or in his/her absence the appointed deputy 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.

<b>EXECUTIVE DIRECTOR (Head of Paid Service) – Sophie Hosking</b>
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### **RIPA CO-ORDINATING OFFICER**

<b>Legal Specialist and Solicitor – Becky Fowlds</b>
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## ANNEX B

### Guidance on the use of Social Networking Sites for investigations

It is recognised that the use of the internet and, in particular, social networking sites, can provide useful information for South Hams District Council and West Devon Borough Council staff carrying out investigations. These investigations may relate to the various enforcement roles within the council – for example Fraud, Planning Enforcement, Licensing or Environmental Health, but will equally apply to some non-enforcement teams, such as Debt Collection or Housing. The use of the internet and social networking sites may fall within the definition of covert directed surveillance. This is likely to result in the breaching of an individual's Article 8 rights under the Human Rights Act (the right to privacy).

#### Social Networking Sites

There is a fine line between general observation, systematic observation and research and it is unwise to rely on a perception of a person's reasonable expectations or their ability to control their personal data.' The Councils' policy in relation to the use of social media for the gathering of evidence to assist in its enforcement activities is set out below:

- Officers of South Hams and West Devon must not 'friend' individuals on social networks as part of undertaking their roles and should not use their own private social networking accounts to view the social networking accounts of other individuals as part of their professional role
- officers viewing an individual's profile on a social networking site should do so only once in order to obtain evidence to support or refute their investigation
- further viewing of open profiles on social networking sites to gather evidence or to monitor an individual's status, must only take place once RIPA authorisation has been granted and approved by a Magistrate
- officers should be aware that it may not be possible to verify the accuracy of information on social networking sites and, if such information is to be used as evidence, steps must be taken to ensure its validity.

The **purpose** of this guidance note is to provide clarity on the Councils' position:

9. It is not possible to provide a definitive list of social networking sites, so this should be taken to mean any site which involves individuals creating a profile which contains personal information and is viewable by others, whether accepted as 'friends' or otherwise.

This might include sites such as 'Facebook' and 'LinkedIn'.

9. As the definition of 'private information' under RIPA includes:

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

Sites used to advertise goods and services should be included within the definition. Although there is likely to be a reduced expectation of privacy with this type of site, there is still the possibility of obtaining private information which may be subsequently used in any enforcement proceedings.

9. If an allegation is received or, as part of an investigation into an individual, it is necessary to view their social networking site, officers may access the main page of the individual's profile once in order to take an initial view as to whether there is any substance to the allegation or matter being investigated.
4. The initial viewing must be reasonable – for example, it would not be reasonable to spend any significant amount of time searching through various pages of the individual's profile or to print out several pages just in case they may reveal something useful.
5. In some cases where, for example, a link to a site is provided by a complainant, it may be relevant for the receiving officer to view the link before passing it onto the investigating officer to also view. This would count as one viewing. However, it would not be reasonable for each officer in a team to view the site in turn so that they may each gather some information.
6. Each single viewing of an individual's social networking site must be recorded on the log maintained by Legal Services (RIPA Co-ordinating Officer). This is to enable the reporting of the number of viewings to the Overview & Scrutiny Committee of each Council.
7. If it is considered that there is a need to monitor an individual's social networking site, authorisation must be obtained from an Authorising Officer.
8. If the offence being investigated falls under RIPA, a formal RIPA application must be completed, authorised by one of the Councils' Authorising Officers and then approved by a Magistrate.
9. If the offence being investigated falls outside of RIPA (for example if the offence does not carry a custodial sentence of at least 12 months imprisonment or is not a core function of the council) a non-RIPA form must be completed. General guidance on RIPA and appropriate forms can be found on the Councils' Intranet and in the main RIPA Policy document.

**Annex C**

**Procedure to be adopted for obtaining the approval of a magistrate**

The government guidance for obtaining authorisation from a magistrate for surveillance is contained in full at Annex D.

The relevant form is set out below as Form 1.

**FORM 1**

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

Local authority:.....

.....

Local authority department:.....

.....

Offence under investigation:.....

.....

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

.....

.....

Covert technique requested: (tick one and specify details)

Communications Data

Covert Human Intelligence Source

Directed Surveillance

Summary of details

.....

.....

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

Investigating  
Officer:.....  
.....

Authorising Officer/Designated  
Person:.....

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

Address of applicant  
department:.....  
.....

Contact telephone  
number:.....  
.....

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

Local authority  
reference:.....  
.....

Number of  
pages:.....  
.....

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

Magistrates'  
court:.....  
.....

Having considered the application, I (tick one):  
am satisfied that there are reasonable grounds for believing that the requirements of the Act were satisfied and remain satisfied, and that the relevant conditions are satisfied and I therefore approve the grant or renewal of the authorisation/notice.  
refuse to approve the grant or renewal of the authorisation/notice.  
refuse to approve the grant or renewal and quash the authorisation/notice.

Notes  
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Reasons  
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Signed:  
Date:  
Time:  
Full name:  
Address of magistrate

## Appendix D

# Protection of Freedoms Act 2012 – changes to provisions under the Regulation of Investigatory Powers Act 2000 (RIPA)



Home Office

Home Office guidance to local  
authorities in England and Wales  
on the judicial approval process for  
RIPA and the crime threshold for  
directed surveillance

October 2012

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# 1. INTRODUCTION: HOW THE LAW HAS CHANGED

1. On 1 November 2012 two significant changes will take effect governing how local authorities use RIPA.
  - **Approval of Local Authority Authorisations under RIPA by a Justice of the Peace:** The amendments in the Protection of Freedoms Act 2012<sup>1</sup> will mean that local authority authorisations and notices under RIPA for the use of particular covert techniques can only be given effect once an order approving the authorisation or notice has been granted by a Justice of the Peace (JP).
  - **Directed surveillance crime threshold:** Amendments to the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 (“the 2010 Order”)<sup>2</sup> mean that a local authority can now only grant an authorisation under RIPA for the use of directed surveillance where the local authority is investigating particular types of criminal offences. These are criminal offences which attract a maximum custodial sentence of six months or more or criminal offences relating to the underage sale of alcohol or tobacco.
2. This guidance is non-statutory but provides advice on how local authorities can best approach these changes in law and the new arrangements that need to be put in place to implement them effectively. It is supplementary to the legislation and to the statutory Codes of Practice. If a local authority has any doubts about the new regime they should consult their legal advisers. This guidance is intended for local authority investigation teams that may use covert techniques, including Trading Standards, Environmental Health and Benefit Fraud Officers. However, it will also be of use to authorising officers and designated persons and to those who oversee the use of investigatory techniques in local authorities including elected members.
3. Separate guidance is available for Magistrates’ Courts in England and Wales and local authorities in Scotland.

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<sup>1</sup> Sections 37 and 38 of the Protection of Freedoms Act 2012 amend RIPA and will come into force on 1 November 2012.

<sup>2</sup> The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 [SI 2010/521] will be amended by the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012 [SI 2012/1500] on 1 November 2012. See Section 5 for links.

## 2. LOCAL AUTHORITY USE OF RIPA

### THE EXISTING REGULATORY FRAMEWORK

4. RIPA sets out a regulatory framework for the use of covert investigatory techniques by public authorities. RIPA does not provide any powers to carry out covert activities. If such activities are conducted by council officers, then RIPA regulates them in a manner that is compatible with the European Convention on Human Rights (ECHR), particularly Article 8, the right to respect for private and family life.
5. RIPA limits local authorities to using three covert techniques (details set out below) for the purpose of preventing or detecting crime or preventing disorder.
6. Use of these techniques has to be authorised internally by an authorising officer or a designated person. They can only be used where it is considered necessary (e.g. to investigate a suspected crime or disorder) and proportionate (e.g. balancing the seriousness of the intrusion into privacy against the seriousness of the offence and whether the information can be obtained by other means). The relevant Codes of Practice should be referred to for further information on the scope of powers, necessity and proportionality.<sup>3</sup>

### THE TECHNIQUES WHICH LOCAL AUTHORITIES MAY USE

7. **Directed surveillance** is essentially covert surveillance in places other than residential premises or private vehicles<sup>4</sup>.
8. Local authorities cannot conduct 'intrusive' surveillance (i.e. covert surveillance carried out in residential premises or private vehicles<sup>5</sup>) under the RIPA framework.
9. A **covert human intelligence source (CHIS) includes** undercover officers, public informants and people who make test purchases.
10. **Communications data (CD)** is the 'who', 'when' and 'where' of a communication, but not the 'what' (i.e. the content of what was said or written). RIPA groups CD into three types:
  - 'traffic data' (which includes information about where the communications are made or received);
  - 'service use information' (such as the type of communication, time sent and its duration); and
  - 'subscriber information' (which includes billing information such as the name, address and bank details of the subscriber of telephone or internet services).
11. Under RIPA a local authority can only authorise the acquisition of the less intrusive types of CD: service use and subscriber information. Under **no circumstances** can local authorities be authorised to obtain traffic data under RIPA.
12. Local authorities are **not** permitted to intercept the content of any person's communications and it is an offence to do so without lawful authority.

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3 See section 5 for links to the relevant legislation and codes of practice.

4 Further information on directed surveillance can be found in the Covert Surveillance and Property Interference Code of Practice.

5 Places where legal consultations are likely to take place will also be treated as intrusive surveillance.

## **RANK OF LOCAL AUTHORITY AUTHORISING OFFICERS/DESIGNATED PERSONS**

13. Local authority authorising officers/designated persons will remain as designated by RIPA consolidating orders SI 2010 Nos.480 and 521:
  - Director, Head of Service, Service Manager<sup>6</sup> or equivalent.
14. The authorisation of directed surveillance or use of a CHIS likely to obtain confidential information or the deployment of a juvenile or vulnerable person (by virtue of mental or other condition) as a CHIS requires authorisation by the most senior local authority officer – Head of Paid Service or, in his/her absence, the acting Head of Paid Service.
15. If there is any doubt regarding sufficiency of rank you should contact your Local Authority Monitoring Officer who will be able to advise you.

## **TIME LIMITS**

16. The current time limits for an authorisation or notice will continue<sup>7</sup>. That is: 3 months for directed surveillance and 12 months for a CHIS (1 month if the CHIS is 18). Authorisations and notices for CD will be valid for a maximum of one month from the date the JP has approved the grant. This means that the conduct authorised should have been commenced or the notice served within that month.
17. A renewal must be authorised prior to the expiry of the original authorisation, but it runs from the expiry date and time of that original authorisation. Authorisations may be renewed more than once if still considered necessary and proportionate and approved by the JP.
18. Applications for renewals should not be made until shortly before the original authorisation period is due to expire but local authorities must take account of factors which may delay the renewal process (e.g. intervening weekends or the availability of the relevant local authority authorising officer and a JP to consider the application).

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<sup>6</sup> For CD RIPA applications, the Local Government Group and the Interception of Communications Commissioner's Office have advised that a Principal Trading Standards Officer is not considered to be of sufficient seniority to act as the Designated Person.

<sup>7</sup> See section 43 RIPA.

## 3. DIRECTED SURVEILLANCE CRIME THRESHOLD

19. The crime threshold applies only to the authorisation of **directed surveillance** by local authorities under RIPA, not to the authorisation of local authority use of CHIS or their acquisition of CD. The threshold will come into effect on 1 November 2012.
20. The amendments to the 2010 Order have the following effect:
  - Local authorities can only authorise use of directed surveillance under RIPA to prevent or detect criminal offences that are either punishable, whether on summary conviction or indictment, by a maximum term of at least 6 months' imprisonment **or** are related to the underage sale of alcohol and tobacco. The offences relating to the latter are in article 7A of the 2010 Order<sup>8</sup>.
  - Local authorities **cannot** authorise directed surveillance for the purpose of preventing disorder unless this involves a criminal offence(s) punishable (whether on summary conviction or indictment) by a maximum term of at least 6 months' imprisonment.
  - Local authorities may therefore continue to authorise use of directed surveillance in more serious cases as long as the other tests are met – i.e. that it is necessary and proportionate and where prior approval from a JP has been granted. Examples of cases where the offence being investigated attracts a maximum custodial sentence of six months or more could include more serious criminal damage, dangerous waste dumping and serious or serial benefit fraud.
  - Local authorities may also continue to authorise the use of directed surveillance for the purpose of preventing or detecting specified criminal offences relating to the underage sale of alcohol and tobacco where the necessity and proportionality test is met and prior approval from a JP has been granted.
  - A local authority **may not authorise** the use of directed surveillance under RIPA to investigate disorder that does not involve criminal offences or to investigate low-level offences which may include, for example, littering, dog control and fly-posting.
21. The change will affect authorisations or renewals which are granted on or after 1 November. It will not affect authorisations or renewals granted before that date.

### IMPACT ON INVESTIGATIONS

22. At the start of an investigation, council officers will need to satisfy themselves that what they are investigating is a criminal offence. Directed surveillance is an invasive technique and at the point it is decided whether or not to authorise its use it must be clear that the threshold is met and that it is necessary and proportionate to use it.
23. During the course of an investigation the type and seriousness of offences may change. The option of authorising directed surveillance is dependent on the offence under investigation attracting a sentence of a maximum six months imprisonment or more or being related to the underage sale of alcohol and tobacco. Providing the offence under investigation is one which appears on the statute book with at least a maximum six months term of imprisonment or is related to the specific offences listed in the order concerning the underage sale of alcohol and tobacco an application can be made. However, if during the investigation it becomes clear that the activity being investigated does not amount to a criminal offence or that it would be a less serious offence that does not meet the threshold the use of directed surveillance should cease. If a directed surveillance authorisation is already in force it should be cancelled.

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<sup>8</sup> See section 5 for links to the relevant legislation



24. Directed surveillance will be authorised against a specific offence which meets the threshold, and the type and the timing of the deployment of the surveillance will always reflect this. There may be cases where it is possible, with the same evidence obtained by the same deployment, to substantiate a variety of different charges, some of which fall below the threshold, it will be for the courts to decide whether to admit – and what weight to attach to – the evidence obtained in the lesser charges.
25. Local authorities will no longer be able to use directed surveillance in some cases where it was previously authorised. But this does not mean that it will not be possible to investigate these areas with a view to stopping offending behaviour. The statutory RIPA Code of Practice on covert surveillance makes it clear that routine patrols, observation at trouble ‘hotspots’, immediate response to events and overt use of CCTV are all techniques which do not require RIPA authorisation.<sup>9</sup>

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<sup>9</sup> See paragraphs 2.21-2.29 of the Covert Surveillance and Property Interference Code of Practice.

# 4. JUDICIAL APPROVAL

## WHAT THE CHANGES MEAN FOR LOCAL AUTHORITIES

26. From 1 November 2012, sections 37 and 38 of the Protection of Freedoms Act 2012 will commence. This will mean that a local authority who wishes to authorise the use of directed surveillance, acquisition of CD and use of a CHIS under RIPA will need to obtain an order approving the grant or renewal of an authorisation or notice from a JP (a District Judge or lay magistrate) before it can take effect. If the JP is satisfied that the statutory tests have been met and that the use of the technique is necessary and proportionate he/she will issue an order approving the grant or renewal for the use of the technique as described in the application.
27. The new judicial approval mechanism is in addition to the existing authorisation process under the relevant parts of RIPA as outlined in the Codes of Practice. The current local authority process of assessing necessity and proportionality, completing the RIPA authorisation/application form and seeking approval from an authorising officer/designated person will remain the same.
28. The inspection regimes of the independent RIPA oversight Commissioners will continue to apply to local authorities and the frequency and nature of their independent inspections of local authorities is not expected to change.
29. The judiciary is independent and it is not the role of the Commissioners to inspect the decision of the JP.<sup>10</sup> However the Commissioners will continue to have an important oversight role and will continue to inspect local authority use of RIPA. If the Commissioners identify an error in the authorisation process they will, as now, need to consider the best course of action. This may include asking the local authority to cancel the authorisation in question and, if appropriate, complete a new authorisation addressing their concerns which will need to be approved by the JP in the usual way. When an error is brought to the attention of a local authority they should cease the activity authorised.
30. The Commissioners will continue to advise local authorities of the procedures and training to adopt, on what is best practice and will continue to report to Parliament on relevant trends and findings.

## PROCEDURE FOR APPLYING FOR JUDICIAL APPROVAL

### Making the Application

31. The flowchart at Annex A outlines the procedure for applying for judicial approval. The application must be made by the public authority that has granted the authorisation<sup>11</sup>. Following approval by the authorising officer/designated person the first stage of the process is for the local authority to contact Her Majesty's Courts and Tribunals Service (HMCTS) administration team at the magistrates' court to arrange a hearing.

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<sup>10</sup> See section 62(2A) RIPA.

<sup>11</sup> Some local authorities may enter into arrangements to form a regional group with other local authorities but the group cannot itself make the application. Only local authority officers in local authorities described in Ss 2010 Nos.480 and 521 are able to authorise under RIPA.

32. The local authority will provide the JP with a copy of the original RIPA authorisation or notice and the supporting documents setting out the case. This forms the basis of the application to the JP and **should contain all information that is relied upon**. For communications data requests the RIPA authorisation or notice may seek to acquire consequential acquisition of specific subscriber information. The necessity and proportionality of acquiring consequential acquisition will be assessed by the JP as part of his consideration (see Annex C for considerations relating to CD authorisations and notices).
33. The original RIPA authorisation or notice should be shown to the JP but will be retained by the local authority so that it is available for inspection by the Commissioners' offices and in the event of any legal challenge or investigations by the Investigatory Powers Tribunal (IPT). The court may wish to take a copy.
34. In addition, the local authority will provide the JP with a partially completed judicial application/order form (at Annex B).
35. Although the local authority is required to provide a brief summary of the circumstances of the case on the judicial application form, this is supplementary to and does not replace the need to supply the original RIPA authorisation as well.
36. The order section of this form will be completed by the JP and will be the official record of the JP's decision. The local authority will need to obtain judicial approval for all initial RIPA authorisations/ applications **and renewals** and the local authority will need to retain a copy of the judicial application/ order form after it has been signed by the JP. There is no requirement for the JP to consider either cancellations or internal reviews.

### **Arranging a Hearing**

37. It will be important for each local authority to establish contact with HMCTS administration at the magistrates' court. HMCTS administration will be the first point of contact for the local authority when seeking a JP approval. The local authority will inform HMCTS administration as soon as possible to request a hearing.
38. On the rare occasions where out of hours access to a JP is required then it will be for the local authority to make local arrangements with the relevant HMCTS legal staff. In these cases the local authority will need to provide two partially completed judicial application/order forms so that one can be retained by the JP. The local authority should provide the court with a copy of the signed judicial application/order form the next working day.
39. In most emergency situations where the police have power to act, then they are able to authorise activity under RIPA without prior JP approval. No RIPA authority is required in immediate response to events or situations where it is not reasonably practicable to obtain it (for instance when criminal activity is observed during routine duties and officers conceal themselves to observe what is happening).
40. Where renewals are timetabled to fall outside of court hours, for example during a holiday period, it is the local authority's responsibility to ensure that the renewal is completed ahead of the deadline. Out of hours procedures are for emergencies and should not be used because a renewal has not been processed in time.

## Attending a Hearing

41. The hearing is a 'legal proceeding' and therefore local authority officers need to be formally designated to appear, be sworn in and present evidence or provide information as required by the JP.
42. The hearing will be in private and heard by a single JP who will read and consider the RIPA authorisation or notice and the judicial application/order form. He/she may have questions to clarify points or require additional reassurance on particular matters.
43. Local authorities will want to consider who is best able to answer the JP's questions on the policy and practice of conducting covert operations and detail of the case itself. It is envisaged that the case investigator will be able to fulfil this role. The investigator will know the most about the investigation and will have determined that use of a covert technique is required in order to progress a particular case. The local authority may consider it appropriate for the SPoC (single point of contact) to attend for applications for CD RIPA authorisations or notices (see Annex C for considerations relating to CD authorisations and notices). This does not, however, remove or reduce in any way the duty of the authorising officer to determine whether the tests of necessity and proportionality have been met. Similarly, it does not remove or reduce the need for the forms and supporting papers that the authorising officer has considered and which are provided to the JP to make the case (see paragraphs 47-48).
44. The usual procedure would be for local authority Standing Orders to designate certain officers, including SPoCs, for the purpose of presenting RIPA cases to JPs under section 223 of the Local Government Act 1972. A pool of suitable officers could be designated at the start of the year when the Orders are examined and adjusted as appropriate throughout the year.
45. It is not envisaged that the skills of legally trained personnel will be required to make the case to the JP and this would be likely to, unnecessarily, increase the costs of local authority applications.

## Decision

46. The JP will consider whether he or she is satisfied that at the time the authorisation was granted or renewed or the notice was given or renewed, there were reasonable grounds for believing that the authorisation or notice was necessary and proportionate. They will also consider whether there continues to be reasonable grounds. In addition they must be satisfied that the person who granted the authorisation or gave the notice was an appropriate designated person within the local authority and the authorisation was made in accordance with any applicable legal restrictions, for example that the crime threshold for directed surveillance has been met.<sup>12</sup>

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<sup>12</sup> Further information on these restrictions can be found in the Regulation of Investigatory Powers Act 2000: Consolidating Orders and Codes of Practice, SI 2012 No.1500 (The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment), SI 2000 No.2793 (The Regulation of Investigatory Powers (Juveniles) Order 2000) and the OSC Procedures and guidance manual, available to public authorities on request from the Office of Surveillance Commissioners.

47. **The forms and supporting papers must by themselves make the case. It is not sufficient for the local authority to provide oral evidence where this is not reflected or supported in the papers provided.** The JP may note on the form any additional information he or she has received during the course of the hearing but information fundamental to the case should not be submitted in this manner.
48. If more information is required to determine whether the authorisation or notice has met the tests then the JP will refuse the authorisation. If an application is refused the local authority should consider whether they can reapply, for example, if there was information to support the application which was available to the local authority, but not included in the papers provided at the hearing.
49. The JP will record his/her decision on the order section of the judicial application/order form. HMCTS administration will retain a copy of the local authority RIPA authorisation or notice and the judicial application/order form. This information will be retained securely. Magistrates' courts are not public authorities for the purposes of the Freedom of Information Act 2000.
50. The local authority will need to provide a copy of the order to the communications the SPoC (Single Point of Contact) for all CD requests. SPoCs must not acquire the CD requested, either via the CSP or automated systems until the JP has signed the order approving the grant.

## Outcomes

51. Following their consideration of the case the JP will complete the order section of the judicial application/order form (see form at Annex B) recording their decision. The various outcomes are detailed below and reflected on the flowchart at Annex A.
52. The JP may decide to<sup>13</sup> –

- **Approve the Grant or renewal of an authorisation or notice**

The grant or renewal of the RIPA authorisation or notice will then take effect and the local authority may proceed to use the technique in that particular case.

In relation to CD, the local authority will be responsible for providing a copy of the order to the SPoC.

- **Refuse to approve the grant or renewal of an authorisation or notice**

The RIPA authorisation or notice will not take effect and the local authority may **not** use the technique in that case.

Where an application has been refused the local authority may wish to consider the reasons for that refusal. For example, a technical error in the form may be remedied without the local authority going through the internal authorisation process again. The local authority may then wish to reapply for judicial approval once those steps have been taken.

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<sup>13</sup> See sections 23B(3) and 32B(3) of the Regulation of Investigatory Powers Act 2000.

- **Refuse to approve the grant or renewal and quash the authorisation or notice**

This applies where a magistrates' court refuses to approve the grant, giving or renewal of an authorisation or notice and decides to quash the original authorisation or notice.

The court must not exercise its power to quash that authorisation or notice unless the applicant has had at least 2 business days from the date of the refusal in which to make representations.

### **Complaints/Judicial Review**

53. There is no complaint route for a judicial decision unless it was made in bad faith. Any complaints should be addressed to the Magistrates' Advisory Committee.
54. A local authority may only appeal a JP decision on a point of law by judicial review. If such a concern arises, the local authority should consult their legal advisers.
55. The IPT will continue to investigate complaints by individuals about the use of RIPA techniques by public bodies, including local authorities. If, following a complaint to them, the IPT does find fault with a RIPA authorisation or notice it has the power to quash the JP's order which approved the grant or renewal of the authorisation or notice.

## 5. OTHER SOURCES OF REFERENCE

- The Regulation of Investigatory Powers Act 2000  
<http://www.legislation.gov.uk/ukpga/2000/23/contents>
- RIPA Explanatory Notes  
<http://www.legislation.gov.uk/ukpga/2000/23/notes/contents>
- RIPA statutory codes of practice
  - Covert Surveillance and Property Interference  
<http://www.homeoffice.gov.uk/publications/counter-terrorism/ripa/forms/code-of-practice-covert>
  - Covert Human Intelligence Sources  
<http://www.homeoffice.gov.uk/publications/counter-terrorism/ripa/forms/code-of-practice-human-intel>
  - Acquisition & Disclosure of Communications Data  
<http://www.homeoffice.gov.uk/publications/counter-terrorism/ripa/forms/code-of-practice-acquisition>
- SI 2000 No.2793 (The Regulation of Investigatory Powers (Juveniles) Order 2000)  
<http://www.legislation.gov.uk/uksi/2000/2793/made>
- SI 2010 No.480 – Regulation of Investigatory Powers (Communications Data) Order 2010  
<http://www.legislation.gov.uk/uksi/2010/480/contents/made>
- SI 2010 N0.521 – Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010  
<http://www.legislation.gov.uk/uksi/2010/9780111490365/contents>
- SI 2010 No.461 (The Regulation of Investigatory Powers (Extension of Authorisation Provisions: Legal Consultations) Order 2010)  
<http://www.legislation.gov.uk/uksi/2010/461/contents/made>
- SI 2012 No.1500 (The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012)  
<http://www.legislation.gov.uk/uksi/1500/contents>

## 6. HOME OFFICE POINT OF CONTACT

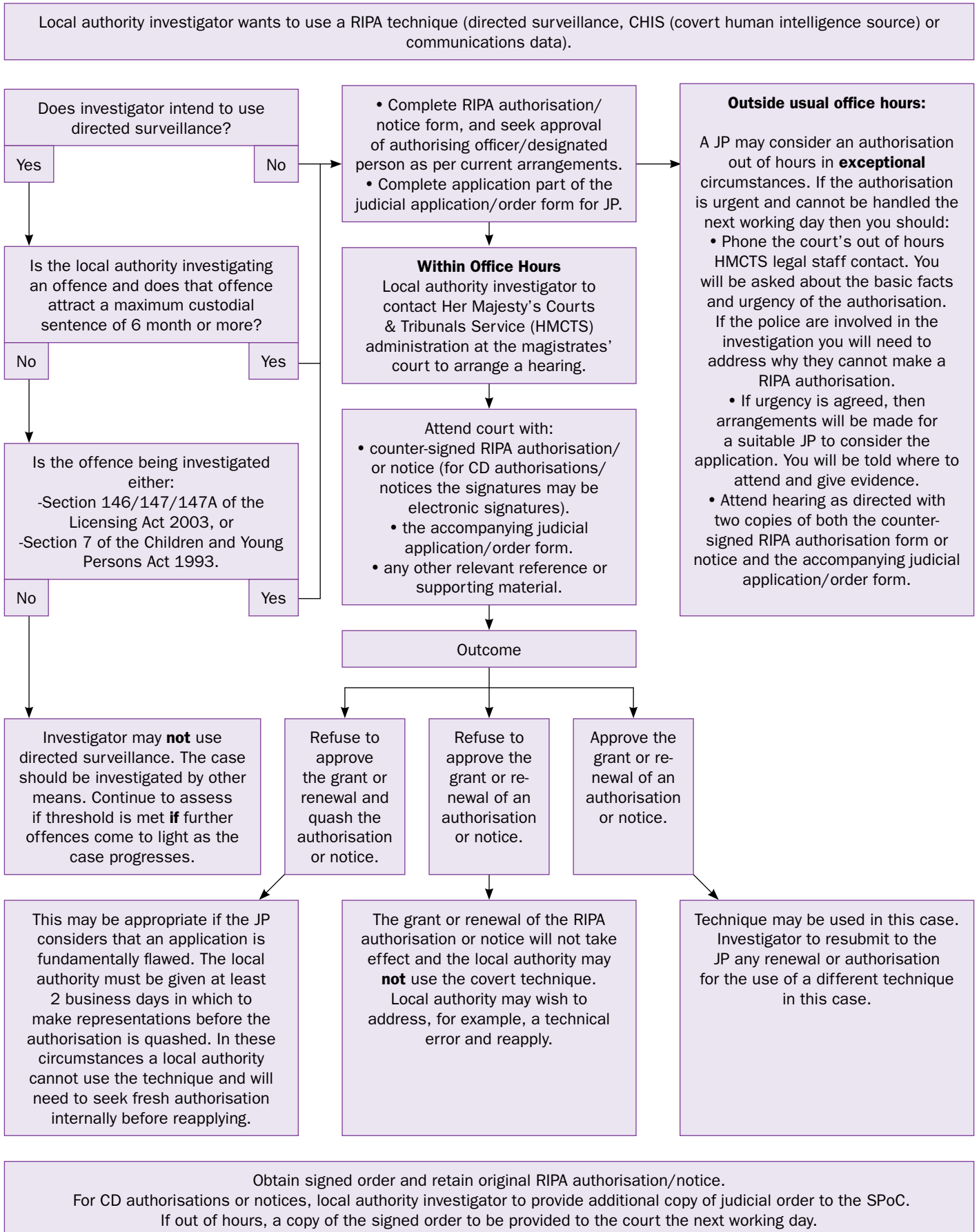
Further information is available on request from:

RIPA Team  
Home Office  
5th Floor Peel Building  
2 Marsham Street  
London SW1P 4DF  
Email: [commsdata@homeoffice.x.gsi.gov.uk](mailto:commsdata@homeoffice.x.gsi.gov.uk)



# ANNEX A

## LOCAL AUTHORITY PROCEDURE: APPLICATION TO A JUSTICE OF THE PEACE SEEKING AN ORDER TO APPROVE THE GRANT OF A RIPA AUTHORISATION OR NOTICE



# ANNEX B

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

Local authority:.....

Local authority department: .....

Offence under investigation:.....

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

.....

.....

Covert technique requested: (tick one and specify details)

**Communications Data**

**Covert Human Intelligence Source**

**Directed Surveillance**

Summary of details

.....

.....

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.....

.....

.....

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

Investigating Officer:.....

Authorising Officer/Designated Person: .....

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

Address of applicant department:.....

.....

Contact telephone number:.....

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

Local authority reference: .....

Number of pages:.....

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

Magistrates' court:.....

Having considered the application, I (tick one):

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

Notes

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.....  
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Reasons

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.....  
.....  
.....  
.....

Signed:

Date:

Time:

Full name:

Address of magistrates' court:

# ANNEX C

## COMMUNICATIONS DATA (CD) RIPA AUTHORISATIONS OR NOTICES

### Single Point of Contact (SPoC)

1. For CD requests, a Single Point of Contact (SPoC) undertakes the practical facilitation with the communications service provider (CSP) in order to obtain the CD requested. They will have received training specifically to facilitate lawful acquisition of CD and effective co-operation between the local authority and communications service providers.
2. Local authorities unable to call upon the services of an accredited SPoC should not undertake the acquisition of CD.
3. For CD requests the Home Office envisages that the local authority may also choose to authorise, under section 223 of the Local Government Act, their SPoC in order that they may appear in front of the JP. In cases where the type of CD or its retrieval is technically complex and the JP wants to satisfy him/herself that the CD sought meets the test, then the SPoC may be best placed to explain the technical aspects.
4. Following the hearing the SPoC may acquire the data. SPoCs must not acquire the data via a CSP or using automated systems until after the JP has signed the order approving the grant. The one month time limit will commence from the date of the JPs signature giving approval.

### The National Anti Fraud Network (NAFN)

5. The National Anti-Fraud Network provides a SPoC service to local authorities, precluding each authority from the requirement to maintain their own trained staff and allowing NAFN to act as a source of expertise. Local authorities using the NAFN SPoC service will still be responsible for submitting any applications to the JP and a designated person in the local authority is still required to scrutinise and approve any applications. The accredited SPoCs at NAFN will examine the applications independently and provide advice to applicants and designated persons to ensure the local authority acts in an informed and lawful manner.
6. The local authority investigator (i.e. the applicant) will then submit the relevant judicial application/order form, the RIPA application (authorisation or notice) and any supporting material to the JP. As above, following a private hearing, the JP will complete the order section of the judicial application/order form, reflecting their decision. The local authority investigator will then upload a copy of this order to the NAFN SPOC.
7. The NAFN SPoC will then acquire the CD on behalf of the local authority in an efficient and effective manner.

## Consequential Acquisition

8. Section 3.31 of the Code of Practice for the Acquisition and Disclosure of CD outlines that a designated person may, at the time of granting an authorisation or notice for service usage data, also authorise the consequential acquisition of specific subscriber information. The designated person may only do so to the extent where it is necessary and proportionate. The consequential acquisition may only be for subscriber data, not traffic data, which local authorities may not acquire nor service usage data. Where a SPoC has been authorised to engage in conduct to obtain details of a person to whom a service has been provided and concludes that data is held by a CSP from which it cannot be acquired directly, the SPoC may provide the CSP with details of the authorisation granted by the designated person in order to seek disclosure of the required data<sup>14</sup>.
9. In cases where an authorisation or notice seeks to acquire consequential acquisition of specific subscriber information the JP will assess this as part of his/her consideration. The local authority investigator should be prepared to explain to the JP the reasoning behind the request for consequential acquisition and be able to show how it meets the necessity and proportionality tests.
10. In cases where consequential acquisition is approved, but where a notice is required (which must specify the name of the CSP to whom it is given, and be signed by the designated person), a further grant of a notice will be required. This is a new legal instrument and therefore will require further approval to the designated person and the JP, despite authority for the human rights interference having already been given.

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<sup>14</sup> Acquisition and Disclosure of Communications Data Code of Practice, Paragraph 3.30.



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# Agenda Item 13

Report to: **Overview & Scrutiny Committee**

Date: **6 November 2018**

Title: **Q2 Performance Measures**

Portfolio Area: **N/A**

Wards Affected: **All**

Relevant Scrutiny Committee:

Urgent Decision: **N** Approval and clearance obtained: **Y / N**

Date next steps can be taken:  
(e.g. referral on of recommendation or implementation of substantive decision)

Author: **Jim Davis** Role: **Specialist – Performance & Intelligence**

Contact: **EXT:1493**  
**Email: jim.davis@swdevon.gov.uk**

---

## **Recommendations:**

### **That Members note the:**

- 1. performance levels against target communicated in the Balanced Scorecard and the performance figures supplied in the background and the exception report; and**
- 2. proposed format and give consideration and approval of the new format.**

## **1. Executive summary**

Performance measures for Quarter 2 have generally continued at a high level with only 2 measures at 'red' for this quarter.

The % of Benefits change of circumstances completed online has been slowly increasing as predicted and is approaching the target level.

A new format for displaying performance reports is attached for consideration, to better show trends within the data. It is graphically based and as such contains a lot more information than the text based report, with data going back up to three years. It is designed to be viewed online as the online page enables access to all the data behind the charts. Adoption of this approach would be coupled with a simpler narrative report, similar to the final column on the current background report whilst retaining the exception report format.

Live O&S dashboard can be viewed at:

<https://swdevon.pentanarpm.uk/portalgroups/view/3843/wd-o-s>

## **2. Background**

The Balanced Scorecard has suffered from scope creep over the years where some measures are reported to Committee for interest rather than to fulfil a scrutinising role and generates questions rather than helps to provide answers. There is an ongoing review of performance indicators that are considering the Council Strategy and current emphasis on Customer Service. There is a downloadable app from the council catalogue for Pentana (the new name for Covalent), or it can be accessed from [swdevon.pentanarpm.uk](http://swdevon.pentanarpm.uk)

## **3. Outcomes/outputs**

**Appendix A** is the balanced scorecard – this contains the high level targeted performance information.

**Appendix B** is an information and exception report. This contains the data only performance information for context and the detail of the targeted measures which have fallen below target in the quarter being reviewed.

**Appendix C** contains the description of the targets chosen for the Balanced Scorecard – Updated with information on the reason for certain targets

**Appendix D** is the Development Management measures

**Appendix E** is a screen shot view of the proposed report format

## **4. Options available and consideration of risk**

Dashboards can be tailored by type, interest or area. We have updated the customer contact centre dashboard, a planning and planning enforcement dashboard, and the information that forms part of this report.

Other dashboards can be created to explore other areas of concern/interest.



## 5. Proposed Way Forward

- 1) The Balanced Scorecard and background report as shown in the Appendices are approved.
- 2) Members consider the proposed report format and corresponding dashboard online and consider whether the format offers an improvement over the current format.

## 6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	N	Whilst there are no statutory performance measures anymore, some are still reported nationally. We collect these in the same format as required to improve consistency. Other measures are to improve efficiency or to understand workload.
Financial	N	
Risk	Y	Poor performance has a risk to the Council's reputation and delivery to our residents. These proposals should give Scrutiny the ability to address performance issues and develop robust responses to variation in delivery
<b>Comprehensive Impact Assessment Implications</b>		
Equality and Diversity	N	
Safeguarding	N	
Community Safety, Crime and Disorder	N	
Health, Safety and Wellbeing	N	
Other implications	N	

## **Supporting Information**

### **Appendices:**

- Appendix A – Corporate Balanced Scorecard
- Appendix B – Background and Exception Report
- Appendix C – Corporate Balanced Scorecard Targets

### **Background Papers:**

None

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# Corporate Balanced Scorecard

## Community/Customer

Q1	Q2	
		Overall waste recycling rate %
		Residual waste per household
		Average no. of missed bins
		<b>CST:</b> % of calls answered
		<b>CST:</b> % of calls answered in 20 secs
		<b>CST:</b> % calls answered in 5 mins

## Online uptake

Q1	Q2	
		% of Benefits new claims online (IEG4)
		% of Benefits change of circumstances online (IEG4)
		Ratio of web/call-post-email submissions (W2)

Updated measures to replace the T18 programme measures that added little extra information.

Additional measures to better quantify online uptake and benefit to the council will be developed as new website transactions goes live.

## Processes

Q1	Q2	
		% of planning applications determined within time frame
		Major
		Non-Major
		<i>Other – no longer report this distinction. Applications captured above</i>

Q1	Q2	
		Avg End to End time Benefits New Claims
		Avg End to End time Benefits Change of circumstances

## Performance

Q1	Q2	
		<b>EH:</b> % of nuisance complaints resolved at informal stage
		Avg days short term sickness/FTE
		Complaint response speed

## Key

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

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# 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.

Performance measure	Managed By	Q2 17/18	2017/18	Q2 2018/19			18/19	Comment (If Applicable)
			YTD or Total		Total	Avg Time (Days)	YTD or total	
<b>Planning Enforcement</b>	Pat Whymer	211	-	206			-	<p>See Appendix D for more data</p> <p>This is now the total figure for all enforcement caseload rather than separating out the historic backlog.</p> <p>Cases closed: Q2 - 42</p>
<b>All: Complaints received</b> Complaints logged against each Service per quarter. Highlights changes over time and the effects of initiatives.	Area	Complaints rec. last qtr Q1 2018/19		Total	Avg Time (Days)	Total no. of complaints YTD	<p>This breakdown of area and average time to complete timings is only available for the completed complaints.</p> <p>53 complaints were logged during the quarter. 33 were service issues that was dealt with immediately and isn't a formal complaint. There are 8 remaining active processes that could be service issues or formal complaints but haven't been completed yet. There was 1 complaint that was for another organisation.</p> <p><b>Note:</b> Service Issues – Some issues are logged as complaints as the customer has a justified concern. Often these are simple issues resolved by talking with the customer or are complaining through us against a third party. They don't form part of our formal complaints process but still are captured for improvement and analysis purposes</p> <p><u>Ombudsman Complaints</u></p> <p>0 received during the quarter.</p>	
	Council Tax/NNDR	2	Council Tax/NNDR	1	7	3		
	Customer Services	2	Customer Services	-	-	2		
	Planning	6	Planning	2	46	8		
	Waste	35	Waste	4	27	39		
	Commercial Services	1	Commercial Services	1	34	2		
	Parking	-	Parking	1	26	1		
	Benefits	-	Benefits	1	25	1		
	EH	-	EH	2	10	2		
	Housing	-	Housing	-	-	-		
	Strat Planning	-	Strat Planning	-	-	-		
	Total	46	Total	12	26	58		
Service Issues	18	Service Issues	33	-	51			
<b>All: Compliments received</b>			Service	No.	YTD	We re-launched the compliments process towards the end of this quarter after limited uptake previously.		
			Assets	-	1			



Performance measure	Managed By	Q2 17/18	2017/18	Q2 2018/19		18/19	Comment (If Applicable)
			YTD or Total			YTD or total	
Compliments logged against each Service per quarter. Highlights changes over time and the effects of initiatives.				Commercial Services	2	3	It asks for: service area, team (or staff member), type (helpfulness, solved a problem, above & beyond the call of duty {ABCD}, speed), and a description, which we can make available for managers or members.  The process is quick to do and the compliment can be captured by anyone and sent to the staff member involved or their manager for recognition.  Reminders for staff to log them are going in the Friday flash regularly so we can simply report out the data.
				Comms	-	-	
				Council Tax	-	-	
				CST	20	34	
				Domestic Waste	8	18	
				Housing Advice	1	1	
				Housing Benefits	1	2	
				ICT	1	1	
				Localities	1	1	
				Planning	1	1	
Street naming and numbering	1	1					
<b>Long term sickness (days)</b> Number of days lost due to long term sickness	Andy Wilson	85	YTD 164	73		81	Equivalent to 0.79 days/FTE. Low numbers of staff in WD means that any long term sickness has a disproportionate effect on days/FTE  Two instances, one has returned to work and the other is still on long term sickness.
<b>Short term sickness (days)</b> Number of days lost due to short term sickness	Andy Wilson	55	YTD 88	61		106	Equivalent to 0.66 days/FTE for the quarter.  Public sector averages for all sickness (long term and short term) are around 2-3days/FTE
<b>CS: Top 5 call types</b>	Anita ley			1) Call dealt (1st) with on switchboard 2) Garden Waste renewal 3) Garden Waste - Manual Payment 4) Garden Waste - New subscription 5) Move - (1st) Move		-	Last Qtr  1) Call dealt (1st) with on switchboard 2) Move - (1st) Move 3) Enforcement - Responding to reminder / final notice etc 4) Transfer to Housing Advice 5) Application query- DHC

Performance measure	Managed By	Q2 17/18	2017/18	Q2 2018/19	18/19	Comment (If Applicable)
			YTD or Total		YTD or total	
						As the CST deal with such a wide range of processes the most common call types are often the grouped types. We have always received a high number of calls for other agencies, particularly: DCC, the CAB, Housing associations or other organisations people mistakenly believe we are responsible for.
<b>Top 5 website processes</b>	Kate Hamp		-	1) Garden waste subscription 2) Letter of Representation 3) Missed waste report 4) General waste enquiry 5) Planning application enquiry	-	1) Recycling sack/waste container request 2) Missed waste report 3) Letter of Representation 4) Planning application enquiry 5) Garden waste order
<b>% of customer contact through online interaction (Workflow360)</b> Demonstrating channel shift	Kate Hamp	55%	55%	49%	Q1 18 48%	Figures seem to be settling around 50% of all transactions.  Additional online routes are coming onstream to keep the channel shift progressing and improvements to existing processes to increase automation keep being made. There are additional access routes that are being offered if it provides a better customer experience, such as IEG4, Goss webforms, etc, which keeps the online interactions increasing across all services.
<b>Total number of online transactions</b>	Kate Hamp	20700	38120	Workflow360(W2): 16541	32207	The levels are beginning to level off so further rises from these levels will likely be smaller and based on additional processes coming online and in response to channel shift activities.
<b>CS: % of calls resolved at first point of contact</b>  Percentage of calls which are resolved at initial contact with CST	Anita Ley	65%	65%	-	-	<i>Measure no longer captured in new phone system. Online CST dashboard has more measures data updated monthly and broken down into call types and answer speed.</i>
<b>Nuisance complaints Received</b>	Ian Luscombe	130	212	127	215	The nuisance process (covering noise, odours, smoke, etc) has now gone into Workflow360, this has moved the processes into the Customer Service Team and case

Performance measure	Managed By	Q2 17/18	2017/18	Q2 2018/19	18/19	Comment (If Applicable)
			YTD or Total		YTD or total	
						management with specialist involvement only required later for more complex investigation.
<p><b>EH: Average time taken for Disabled Facilities Grants (Fast track) (work days)</b></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>	Ian Luscombe	0	0	0	0	<p>This is the portion of the process completely under the council's control (from application to approval). Our target is completion within 5 days.</p> <p>All applications received during the quarter were completed in the same working day as they were received.</p>



## Exception Report:

Performance measure	Managed by	Prev Status	Last Qtr	Jul 2018	Aug 2018	Sep 2018	Q2 2018/19		Action Response
			Q1	Value	Value	Value	Value	Target	
<b>% of Benefits change of circumstances completed online (IEG4)</b>	Lorraine Mullineau x		18.3%	15.8 %	20.4 %	23.9 %	19.8 %	25%	This is a relatively new measure and a very stretching target to try and channel shift a large proportion of customers who are used to interacting with us in more traditional ways. The uptake of new claims online has been very good (>65%). The change of circumstances online process has seen a steady increase since its inception and the level is still creeping up. If the trend in the data continues the measure should be above target in the next quarter. This measure deals specifically with submission of processes through IEG4 and the benefits portal but there is an increased number of documents received through other electronic means. Whilst submission via the IEG4 portal has the most benefits for customers and staff, further work is being planned to make work submitted by customers choosing these other routes as efficient as possible and reduce the administrative workload further.
<b>% of calls answered in 20 secs</b>	Anita Ley		21%	30%	36%	27%	31%	50-80%	As predicted there has been an improvement in this measure, even over the busy Quarter 2 period due to the reallocation of resources within the team. There has been a corresponding improvement in total calls answered as well as the measure for calls answered in 5 minutes being back above target levels.

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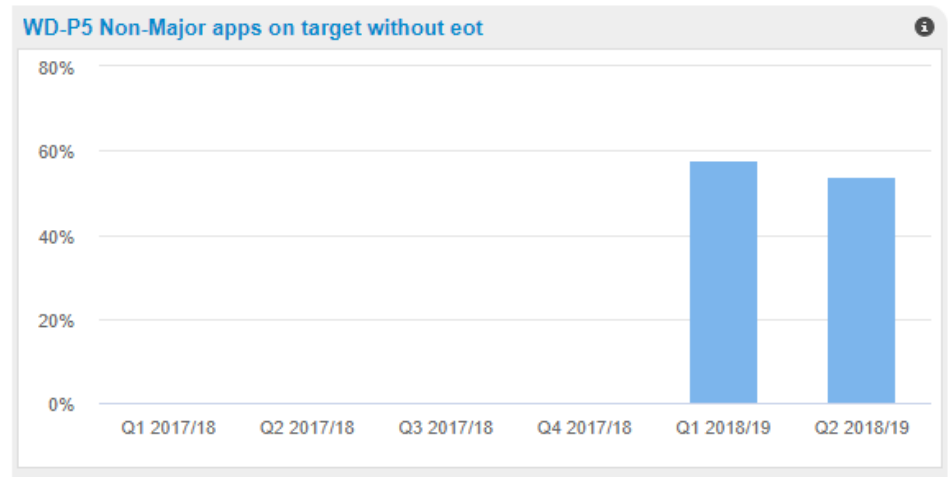
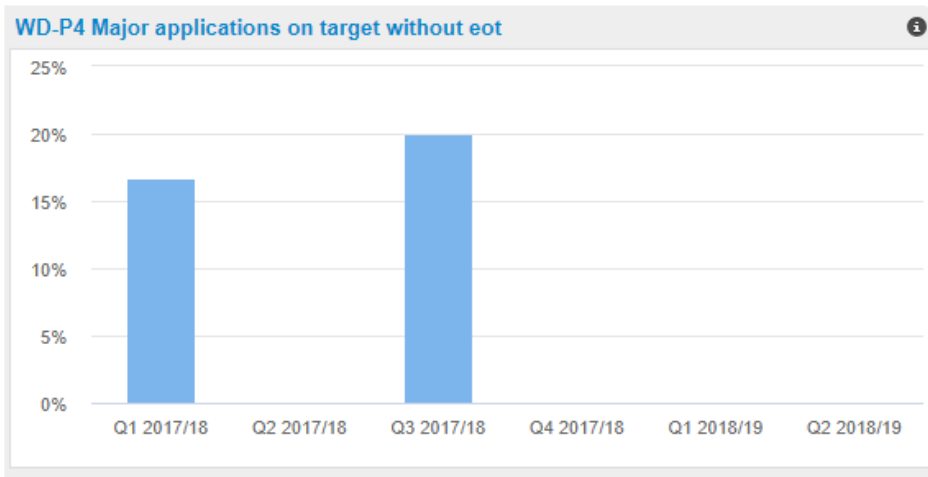
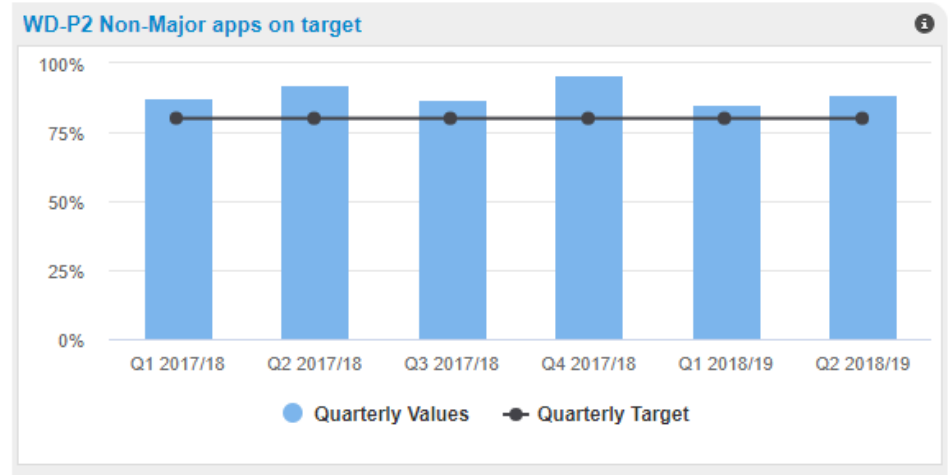
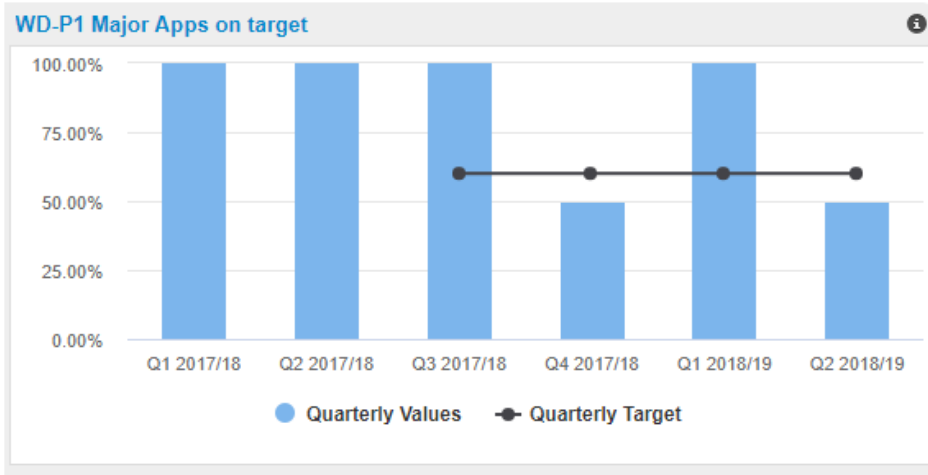
Measure	Target	Explanation	Reason for target
Overall waste recycling rate %	55%	A combination of recycling, re-use & composting for household waste. Changes in legislation can have a large effect of rates.	A self-set stretching target based on historic collection rates and current ambitions. Different recycling waste streams are included/excluded and this can change dependent on national/local priorities so comparison with historic data can be hard
Residual waste per household	92kg/qtr	The residual waste left after recycling and re-use. Equivalent to c.14kg per fortnightly collection per household	There is a need to manage waste that cannot practically or economically be recycled. This measure is a stretching target based on our historic collection levels but too strong a focus on weight means that it may reduce the focus on lighter waste streams that may have better environmental outcomes, such as plastic.
Avg number of missed bins	<75 per 100,000	A calculated figure based on 100,000 bin collections. This figure is calculated based on all refuse collections and an estimate of a recycling participation rate of 60%. This increases the relative figure for missed collections but is more in line with other councils.	A standard figure used by a high number of councils. Targets tend to be lower in city districts and higher in more rural districts due to the challenges associated with large geographic areas.
% of calls answered	90%	Target set at this level as we would expect some calls dropped as customers choose to follow recorded message recommendation and submit requests online rather than hold on the phone	Set at this level to be achievable and allow for customers to choose to change the channel they use as well as capture the customers abandoning the call due to wait times.
% of calls answered in 20 secs	50%-80%	A goldilocks measure that captures how much time CST have without a queue. Being too high would signify over-resourcing	Answering a call within 20 seconds, when the average call and wrap up time is around 6 mins, is very low if all lines are already busy. This measure therefore acts as a proxy for calculating when you have free CST agents available. The measure should maintain a middle ground, not too high, not too low and should be viewed in conjunction with long wait times
% calls answered in 5 minutes	70%	New measure added to capture long waits.	Self-selected measure to capture long waits. Set at a level similar to average call length and in consideration of how long customers wait on hold before abandoning

% of Applications determined within time frame Major	60%	Statutory performance measure target	
% of Applications determined within time frame Non-Major	80%	Old statutory performance measure target	
<i>% of Applications determined within time frame Other</i>	80%	<i>Old statutory performance measure target - Obsolete</i>	
Avg End to End time Benefits New Claims	24 days	Time for processing new claims	Historic National Indicator target
Avg End to End time Benefits Change of circumstances	11 days	Time for processing changes to existing claims	Historic National Indicator target
% of nuisance complaints resolved at informal stage	90%	Handling nuisance complaints informally saves time and money and often provides a more satisfactory outcome for all involved	
Avg days short term sickness/FTE	1.5days/qtr	Private sector average of c.6 days/year, Public sector average of c.8 days has informed this initially stretching target.	Agile working has had a very positive impact on sickness as people feeling under the weather have remained at home, working and reduced the likelihood of transfer of communicable infections to colleagues. This level is regularly surpassed so we may review in the future. It is harder to directly manage out short term sickness whereas long term sickness is actively managed within the organisation
Complaint response speed	30 days	Time to respond to a Level 1 complaints	Taken from council policy

Ratio of web/call-post-email submissions (W360)	20% increasing over time	Ratio for customers calling vs self-servicing using integrated processes online. Customers currently fill in online forms but this then requires input into our systems. The new integrated approach inputs directly to our system and routes work where needed. Initially requires creation of account before first submission so expectation of slight drop off in ratio to begin with and then increasing as more customers sign up.	This target was set at the start of the T18 programme as it was far above the online performance. Now with data spanning the whole of the programme the level should be reviewed to a more stretching target
Ratio of benefit new claims web/post submissions (IEG4)	60%	Ratio of submissions via the new IEG4 portal	Aspirational target for a new process. No data available to set it.
Ratio of benefit change of circumstances web/post submissions (IEG4)	25%	Ratio of submissions via the new IEG4 portal	Challenging target for a new process. No data available to set initial level but target seems to be achievable with ongoing effort. Natural increase was expected as more new customers apply online, so that online route is the only route they will know.

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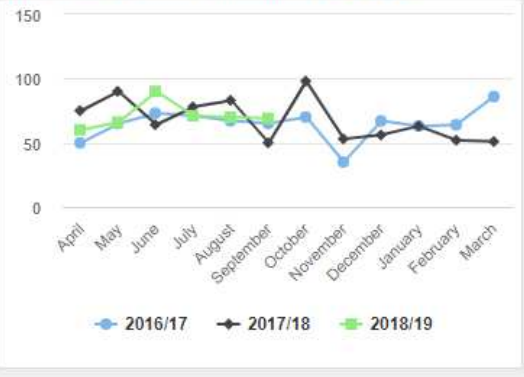
Appendix D – Development management measures



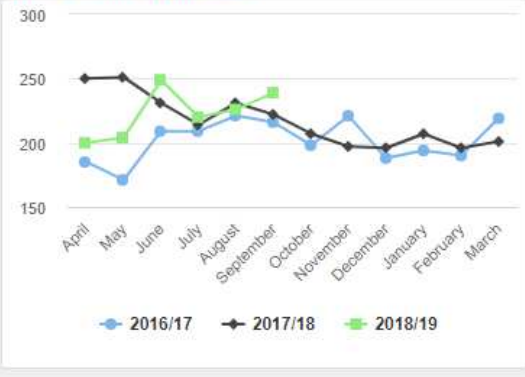




WD-P7 No of planning applications registered



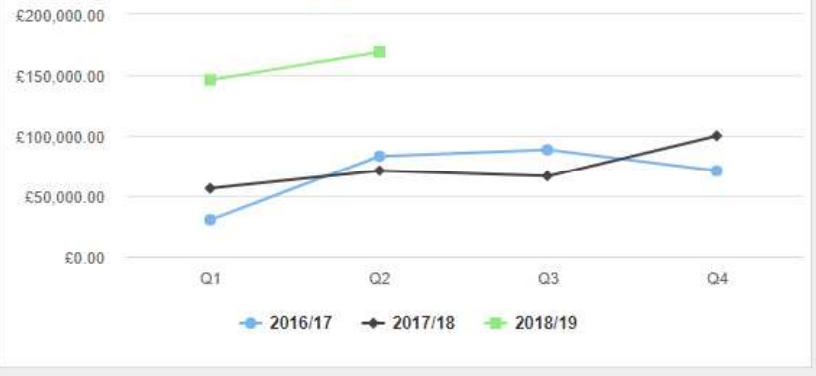
WD-P8 Planning Workload



WD-P9 Applications determined



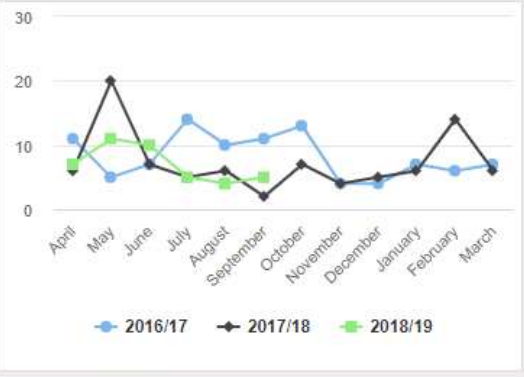
WD-P10 Fee Income from Planning Applications



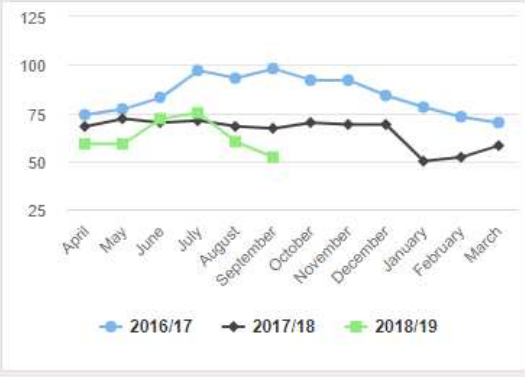
WD-P11 Fee Income from Pre-Apps



WD-P12 Pre-Apps Received

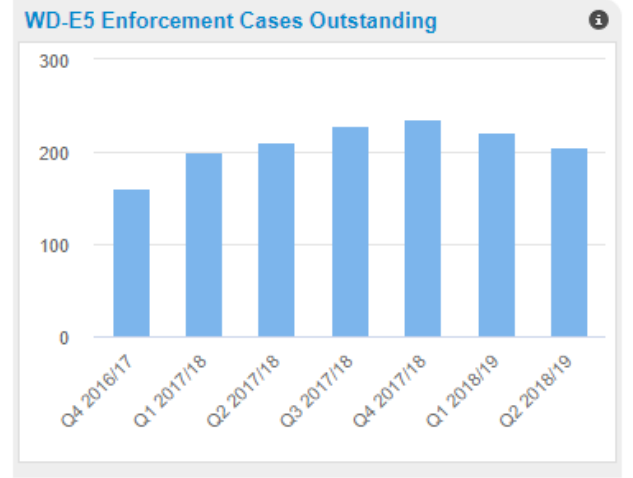
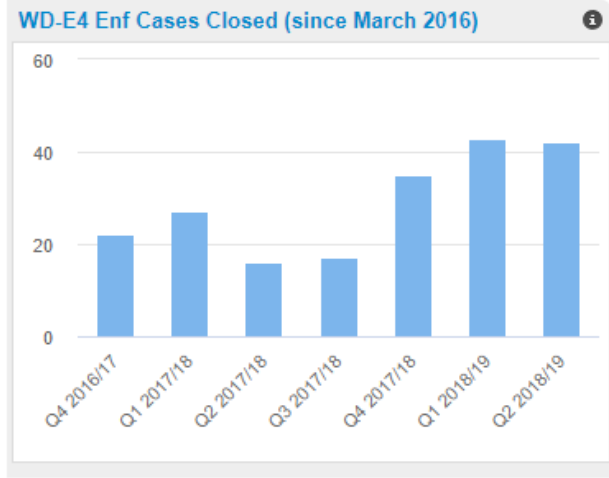
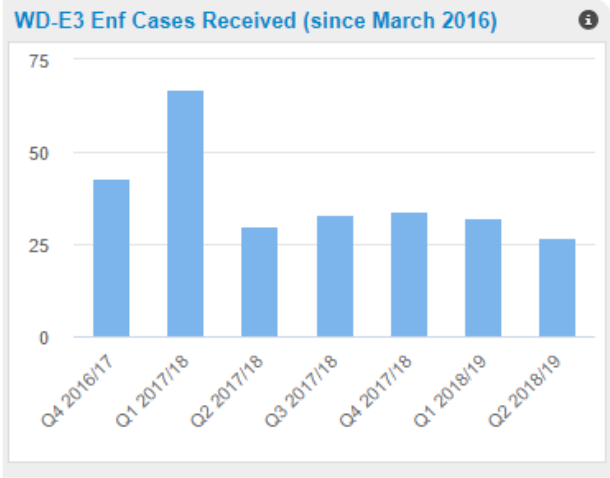


WD-P13 Pre-Application workload

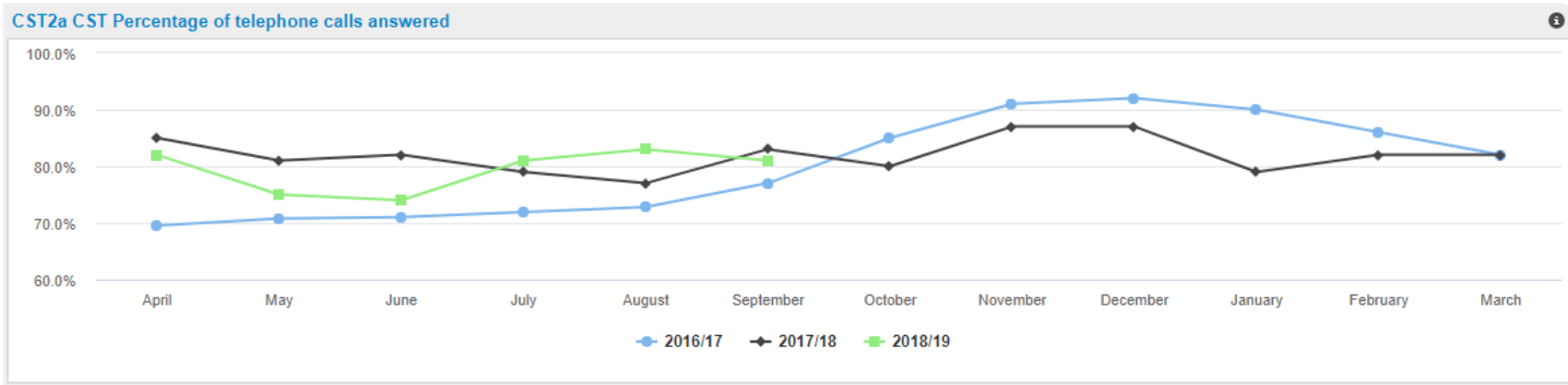
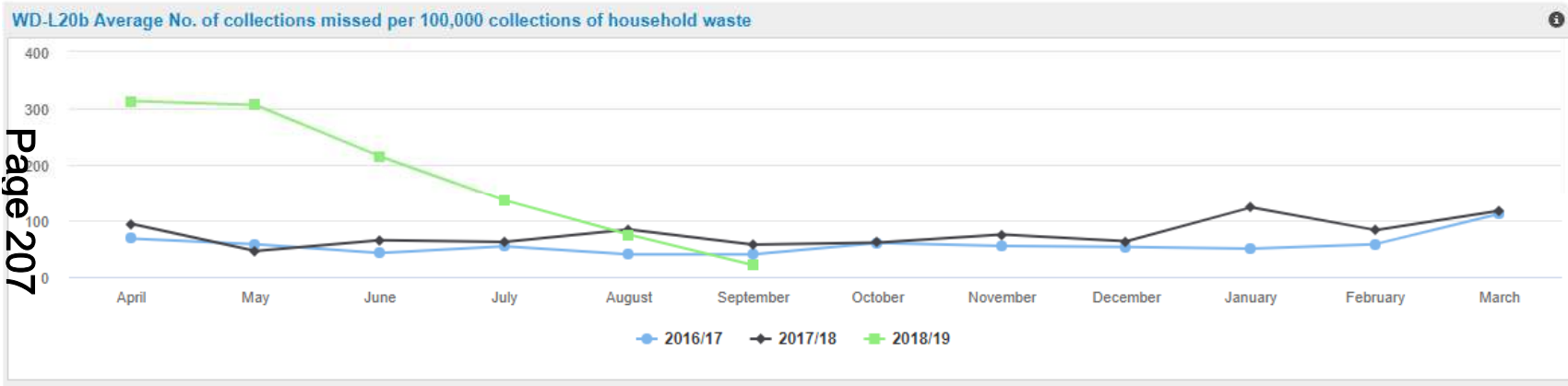
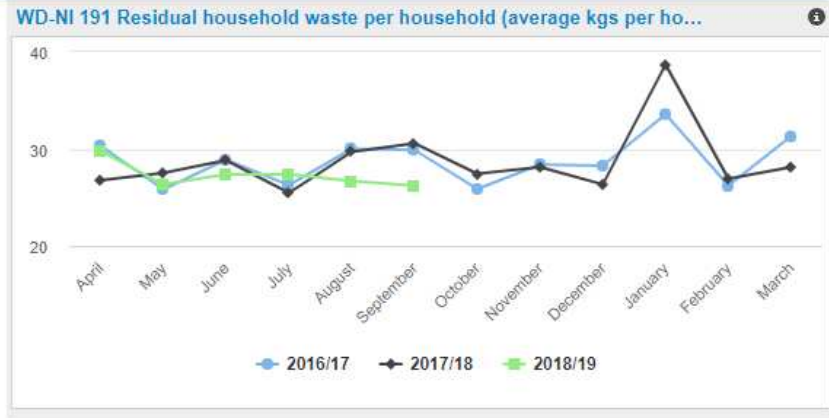


WD-P14 Pre-Apps closed





Appendix E - Proposed report format



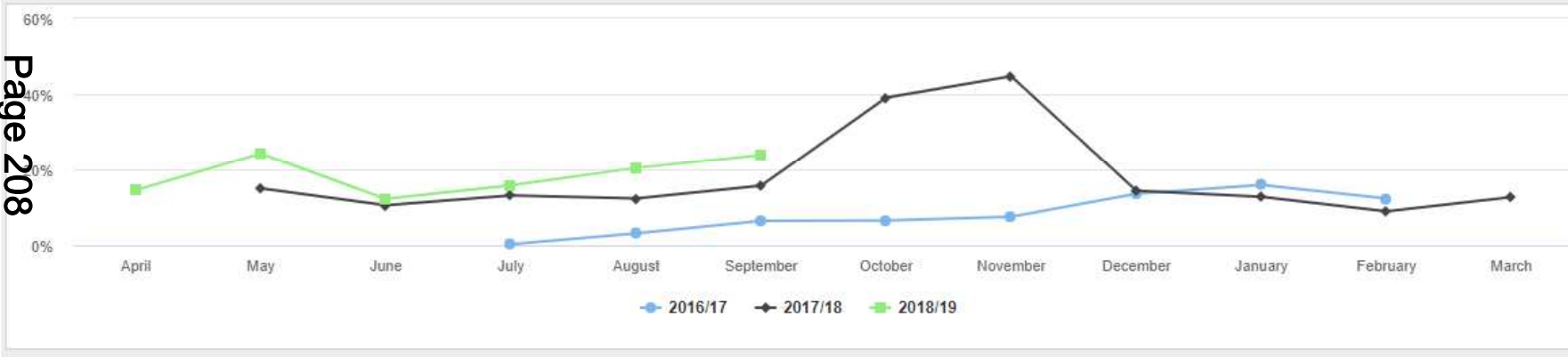
CST1a CST Grade of Service (% of calls answered within 20 seconds)



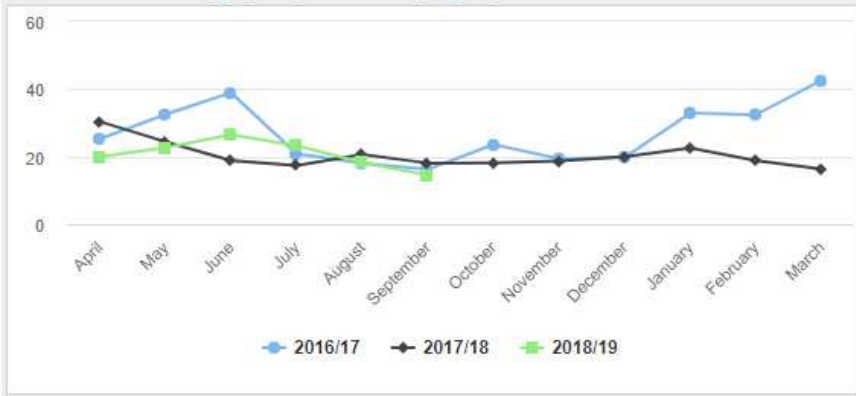
CST3a % calls answered within 5 mins



WD - BEN1 % of online CoC

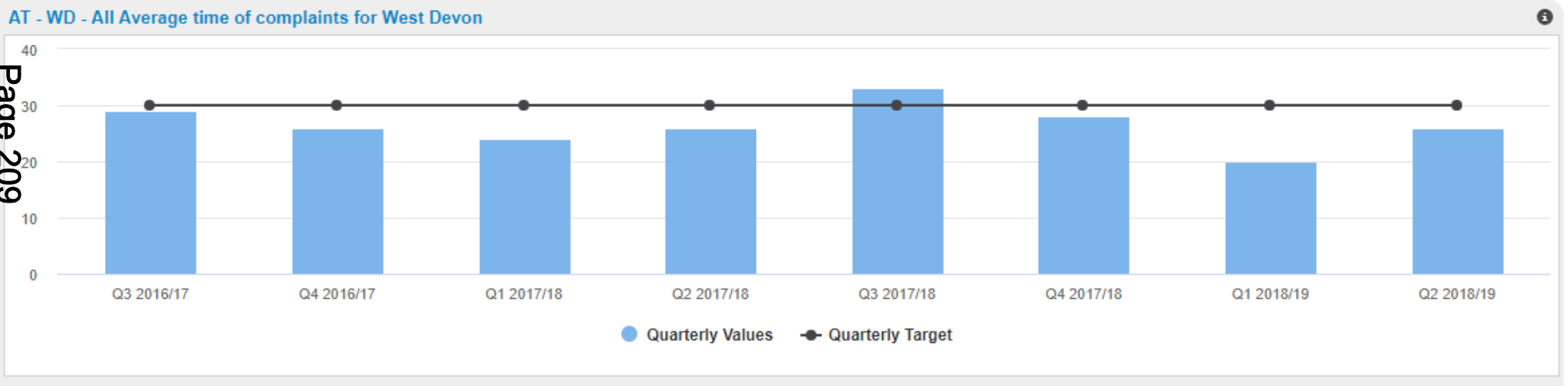
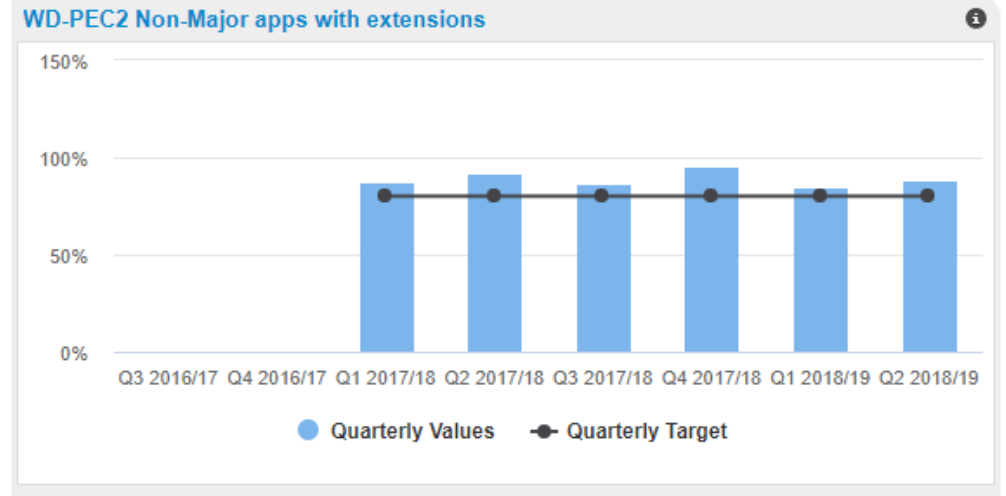
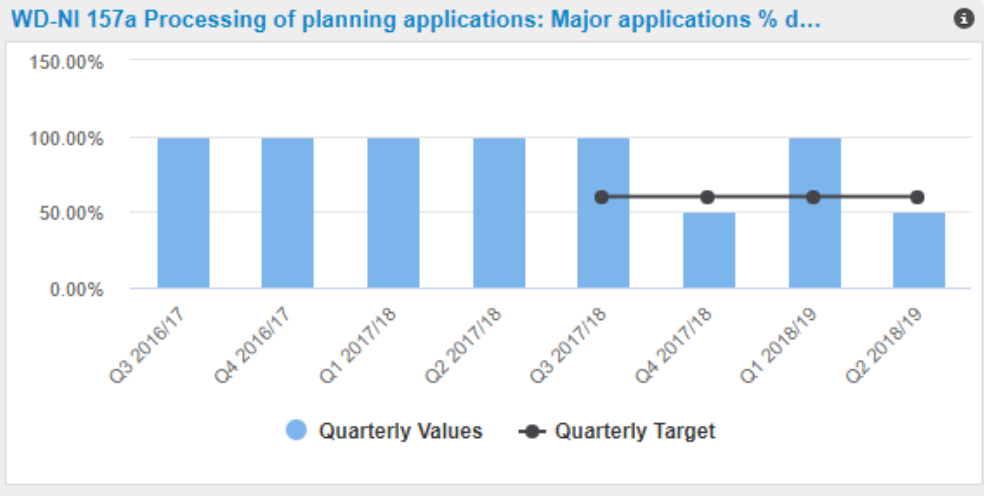


WD-BV78a Processing Speed (New claims) avg days

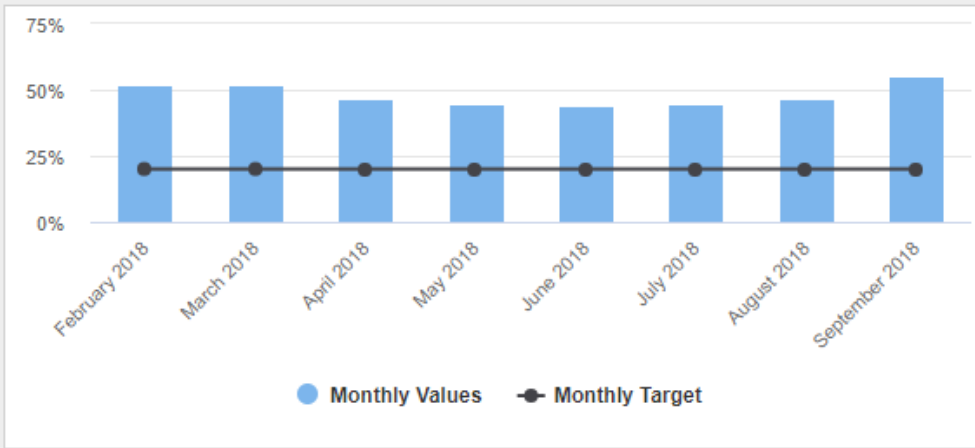


WD-BV78b Processing Speed (Change of circumstances) avg days

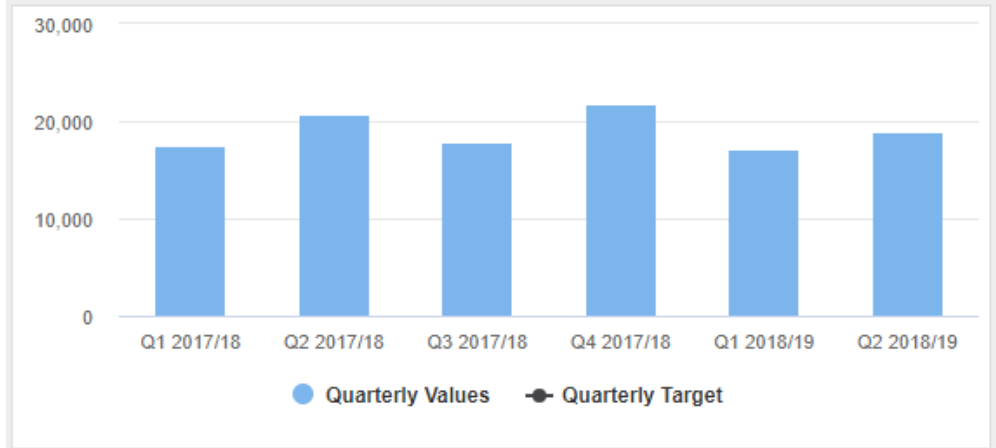




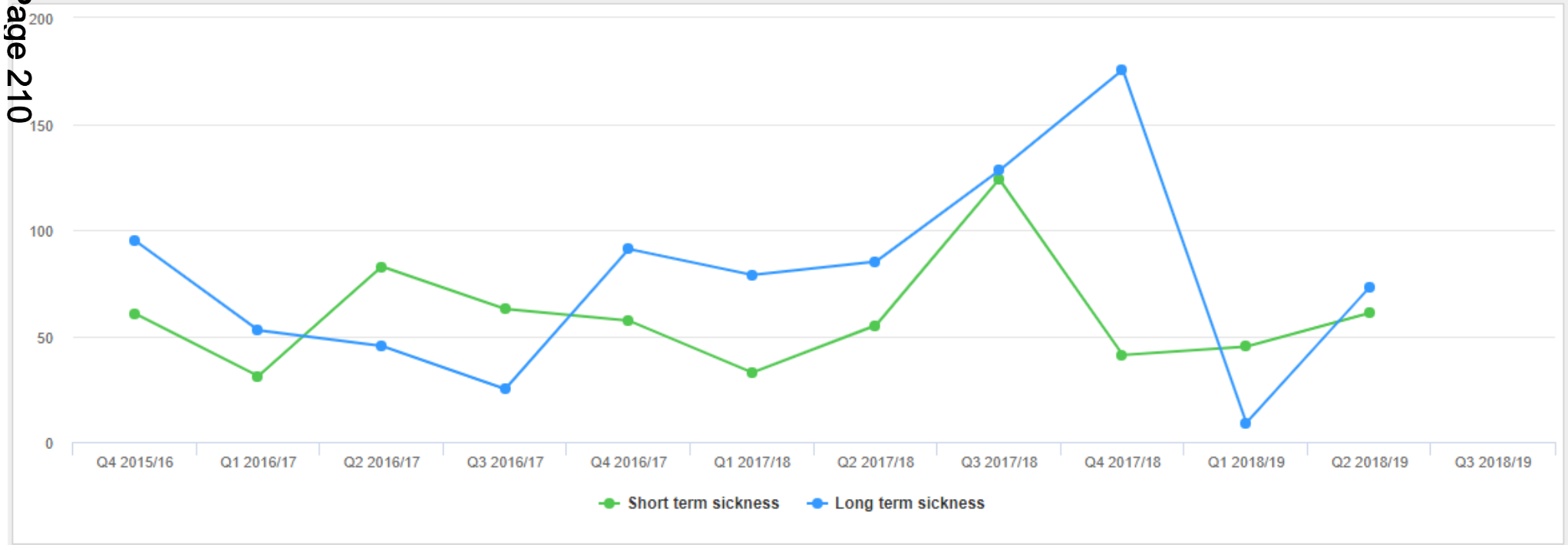
ICT&CS 7 % of customer contact through online interaction (W2)



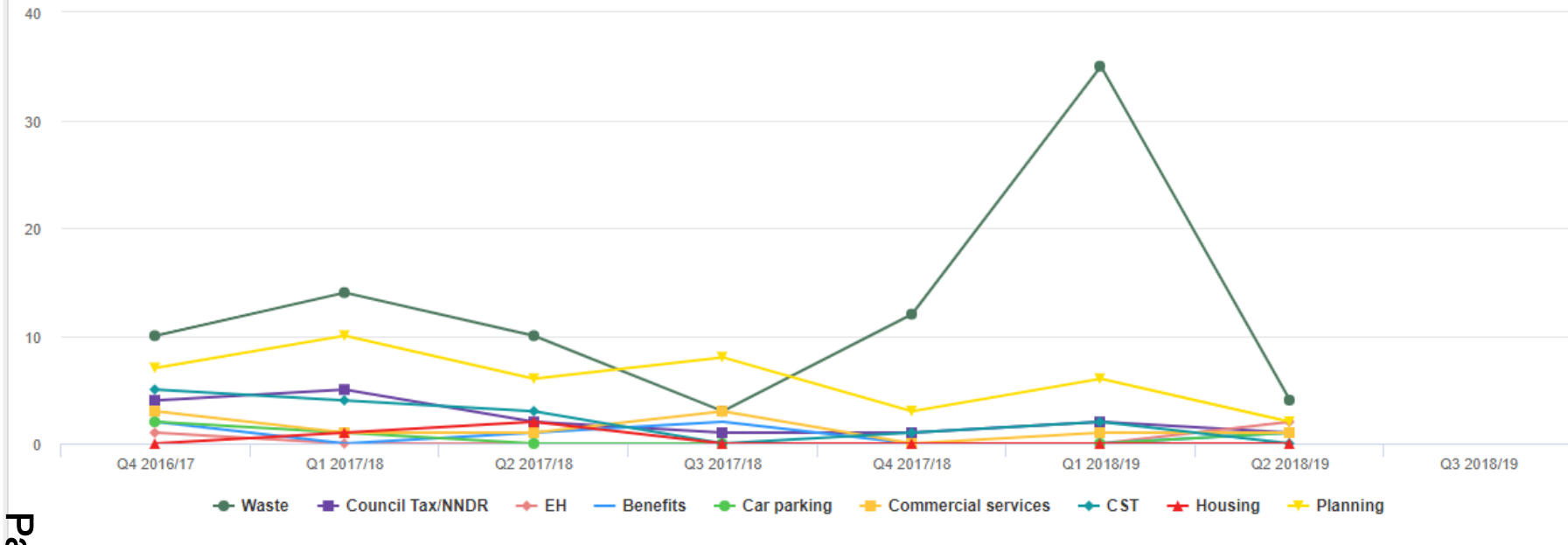
WEB Online submissions - Goss & W2



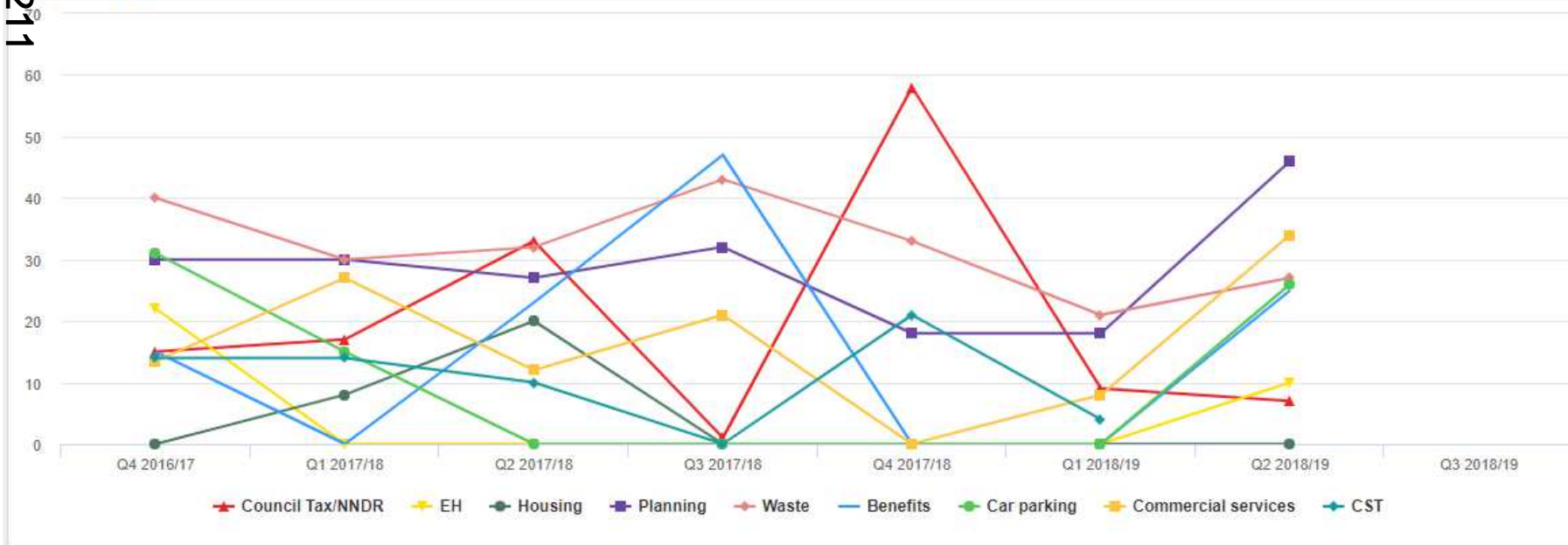
FD Sickness

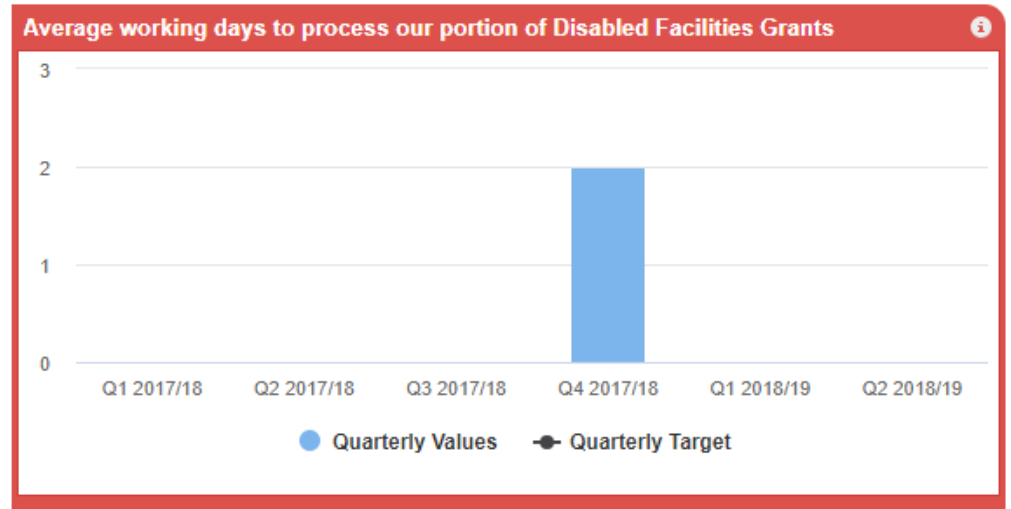
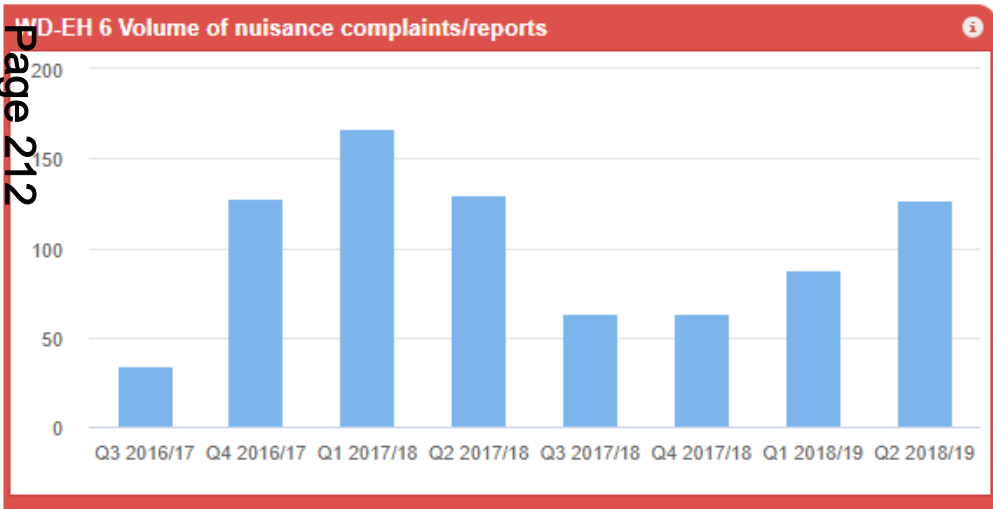
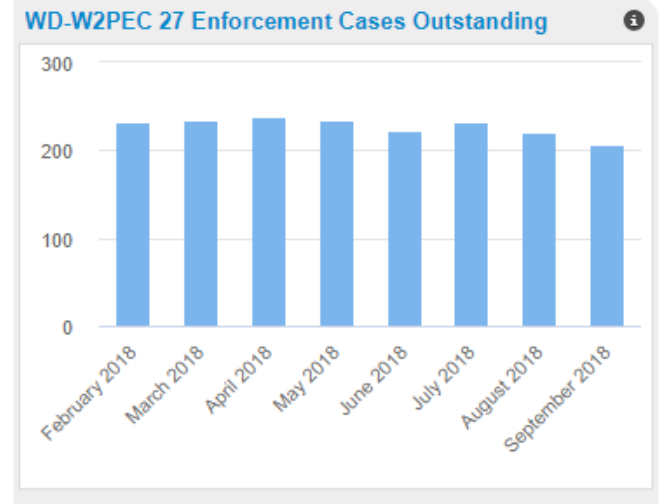
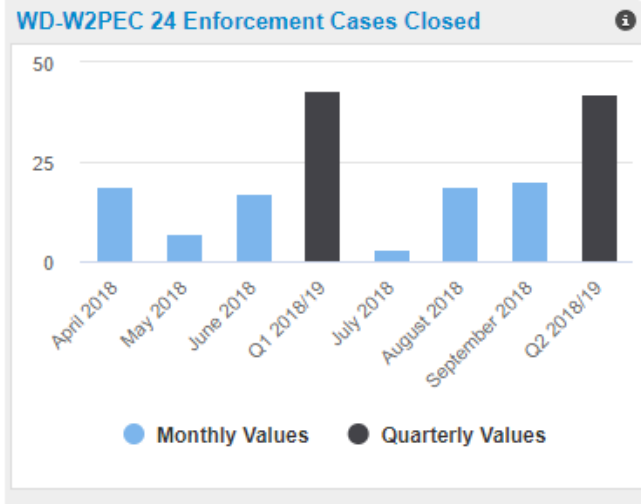
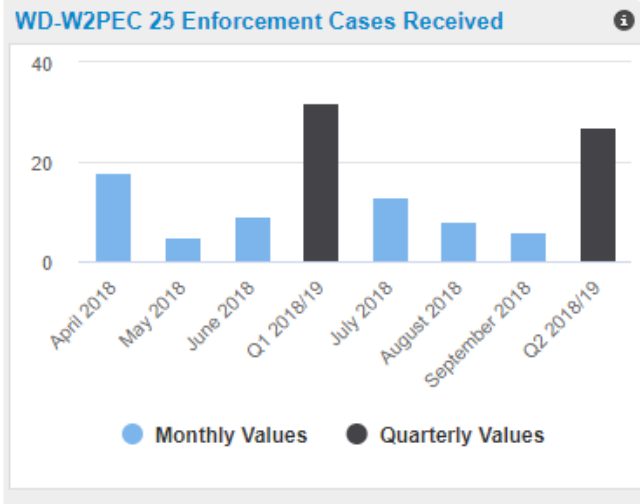


### Complaints



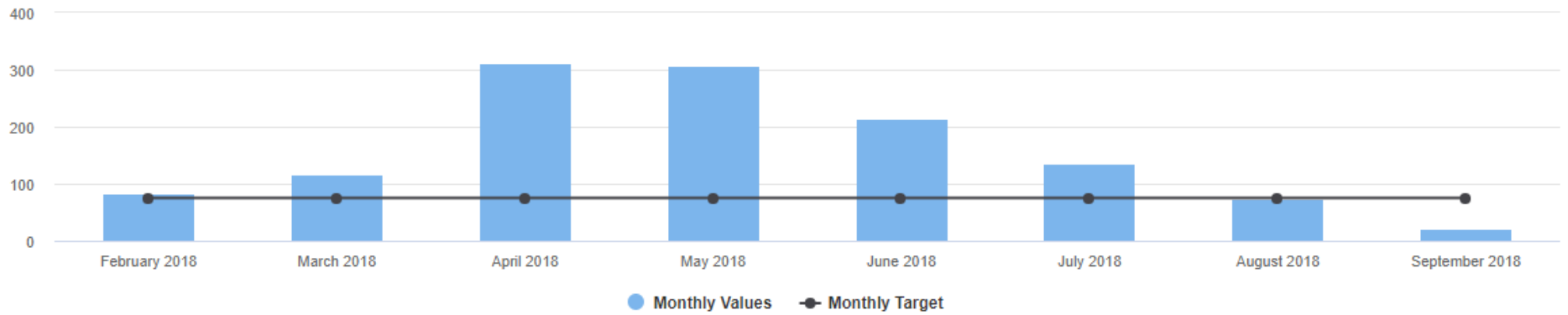
### Complaint Avg Time







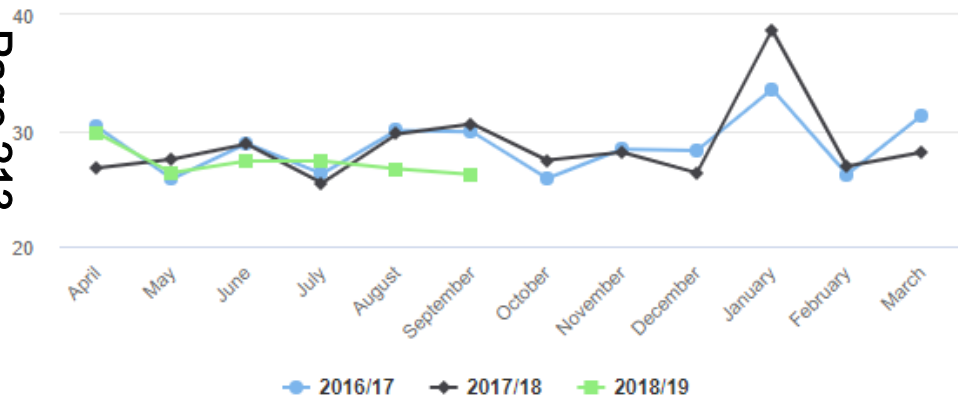
WD-L20b Average No. of collections missed per 100,000 collections of household waste



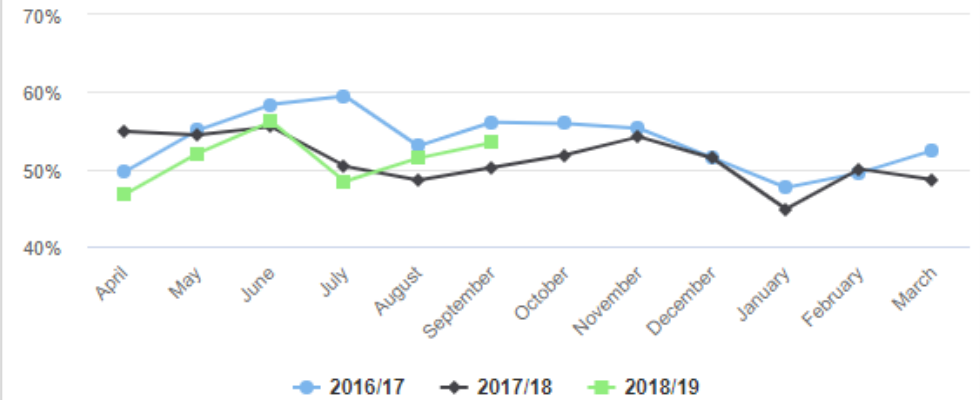
WD-NI 191 Residual household waste per household (average kgs per ho...)



Page 213



WD-NI 192 Percentage of household waste sent for reuse, recycling and ...



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## OVERVIEW AND SCRUTINY COMMITTEE

### DRAFT ANNUAL WORK PROGRAMME – January to April 2019

Date of Meeting	Report	Lead Officer / Member
15 January 2019	Task and Finish Group Updates: Northern Link Area Outreach Services (Concluding Report)	Catherine Bowen / Cllr Roberts
	Corporate Strategy Performance Measures	Nadine Trout / Cllr Edmonds
	Hub Committee Forward Plan: - Peer Review	Kathy Trant / Cllr Sanders SLT / Cllr Sanders
	Joint Local Plan Update	Tom Jones / Cllr Mott
	Planning Enforcement Plan / Protocol and Actions – Review	Pat Whymer / Cllr Roberts
	Update from the Financial Stability Review Group	Lisa Buckle / Cllr Jory
	Draft Budget 2019/20	Lisa Buckle / Cllr Sanders
16 February 2019	Task and Finish Group Updates (if any)	
	Hub Committee Forward Plan	Kathy Trant / Cllr Sanders
	Joint Local Plan Update	Tom Jones / Cllr Mott
	Update from the Financial Stability Review Group	Lisa Buckle / Cllr Jory
	Fusion Annual Report	Jon Parkinson / Cllr Sampson
	Q3 Performance Indicators	Jim Davis / Cllr Edmonds
	Community Safety Partnership Annual Report	Louisa Daley / Cllr Samuel
	Safeguarding Update	Louisa Daley / Cllr Leech
2 April 2019	Task and Finish Group Updates (if any)	
	Hub Committee Forward Plan	Kathy Trant / Cllr Sanders
	Joint Local Plan Update	Tom Jones / Cllr Mott
	Update from the Financial Stability Review Group	Lisa Buckle / Cllr Jory
	Draft O+S Annual Report 2018/19	Darryl White

Future Item(s) to be programmed:  
Community Housing Briefing (Rob Ellis)

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