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West Devon  
Borough  
Council

## WEST DEVON OVERVIEW AND SCRUTINY COMMITTEE - TUESDAY, 20TH SEPTEMBER, 2011

Agenda, Reports and Minutes for the meeting

### **Agenda No    Item**

1.    **Agenda Letter** (Pages 1 - 2)
2.    **Reports**  
      Reports to O&S:
  - a)    Item 6 - Committee Performance (Pages 3 - 10)
  - b)    Item 8 - Regulation of Investigatory Powers Act 2000: Report on Inspection and Authorisation (Pages 11 - 24)
3.    **Minutes** (Pages 25 - 28)

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# Agenda Item 1

## AGENDA - OVERVIEW & SCRUTINY COMMITTEE – 20 SEPTEMBER 2011

### PART ONE - OPEN COMMITTEE

	<b>PAGE</b>
<b>1. Apologies for absence</b>	
<b>2. Declarations of Interest</b> Members are reminded to declare any personal or prejudicial interests they may have in any agenda items	1
<b>3. Items Requiring Urgent Attention</b> To consider those items which, in the opinion of the Chairman, should be considered by the Meeting as matters of urgency (if any). To be taken at the end of the meeting.	
<b>4. Terms of Reference for Committee</b>	3
<b>5. Confirmation of Minutes</b>  Meeting held on 14 June 2011 (previously circulated)	
<b>6. Committee Performance</b> Report of the Improvement Programme Manager	6
<b>7. Post Offices</b> Up-date on position regarding new operating models being proposed by Post Office Limited	
<b>8. Regulation of Investigatory Powers Act 2000: Report on Inspection and Authorisation</b> Report of the Monitoring Officer	12

**NOTE: It is possible that part of this report may have to be taken in Part 2.**

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

The Committee is recommended to pass the following resolution:-

**“RESOLVED** that under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the Meeting for the under-mentioned item(s) of business on the grounds that exempt information may be disclosed as defined in the paragraph(s) given in brackets below from Part I of Schedule 12A to the Act”.

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 [psmith@westdevon.gov.uk](mailto:psmith@westdevon.gov.uk)

AGENDA  
ITEM

**6**

## WEST DEVON BOROUGH COUNCIL

AGENDA  
ITEM

**6**

<b>NAME OF COMMITTEE</b>	<b>Overview &amp; Scrutiny</b>
<b>DATE</b>	<b>20 September 2011</b>
<b>REPORT TITLE</b>	<b>Committee Performance Report</b>
<b>Report of</b>	<b>Improvement Programme Manager</b>
<b>WARDS AFFECTED</b>	<b>All Wards</b>

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### **Summary of report:**

To provide Members with information on those key indicators where performance was 10% or more below target for quarter one 2011-2012.

### **Financial implications:**

The financial implications in this report relate to the key performance indicators where income has been at least ten per cent below target (detailed in appendix A where applicable).

### **RECOMMENDATIONS:**

Members note the 2011-12 quarter one Performance Reports.

### **Officer contact:**

Katie Stephens, Improvement Programme Manager, [katie.stephens@southhams.gov.uk](mailto:katie.stephens@southhams.gov.uk), 01803 861493

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## **1. BACKGROUND**

1.1 Corporately, the Council is committed to performance management and quality of data, which includes the regular monitoring of performance and financial indicators. This makes sure that performance in all areas is on track and improving. This report is one of a series that will show how we are performing against the chosen indicators on a quarterly/annual basis. A summary page will provide a high level look at all performance indicators and a more detailed exception report will outline those performance indicators which have not met their target. It is hoped that it will save Members' time in looking through the report to focus on those performance measures which may need further scrutinising.

- 1.2 Senior Management Team, together with service managers, monitor all local indicators within their service.

## 2. ISSUES FOR CONSIDERATION

- 2.1 As the national indicator set has been removed, a Single Data Set has been introduced which is a single transparent list of every piece of data that central government requires from councils. This is to ensure that the authority is collecting and reporting on key data, some of this data was previously used to populate national indicators. Performance indicators which are of use to the Council will continue to be collected and reported on until new measures are introduced by the Council. A project has been incorporated in the Council's Transformation Programme '2015' to look at performance measures which are relevant and important to the local community. Members will be invited to be involved in this work as the project progresses.

## 3. PERFORMANCE REPORT

- 3.1 The Balanced Scorecard contains 26 performance indicators (three of which are data only). Appendix A provides an overview which summarises performance under each of the scorecard themes for all indicators. In addition, a detailed report provides useful facts and figures to help set the context and further information is provided on those indicators which have not met their target (exception reporting) for quarter one 2011/2012; where relevant notes are provided.

- 3.2 For each indicator the following information is made available:

- Actual performance for West Devon for 2010/11
- Actual performance and target for quarter one 2011/12
- Comments on the performance from the officer responsible for the indicator where appropriate.

- 3.3 **Some areas to note:**

There are five performance indicators that are now 10% or more below target:

**a. 'Percentage of major applications determined within 13 weeks (NI 157a)'**

Performance indicator has not met its target. There were two major applications delegated within the 13 weeks and five major applications were taken to Committee.

**b. 'Percentage of planning appeals allowed (BV 204)'**

Performance indicator did not meet its target. There were 15 appeals (13 were delegated decisions and two were Committee decisions). Out of the 15 appeals, there were nine appeals that were allowed (seven were delegated decisions and two were Committee decisions).

**c. 'Time taken to process housing benefit/council tax benefit new claims and change events (NI 181)'**

Performance indicator has not met its target by one day.

**d. 'Working days lost to sickness absence (BV12)'**

Performance indicator has not met its target. This is due to two instances of long-term sickness.

**e. 'Percentage of calls answered in 20 seconds (CST5)'**

Performance indicator has not met its target due to the fact that summonses were issued at the beginning of the month which has adversely affected the service level. Performance is improving towards the end of the month and the service level averaged in the mid 70s.

**4. LEGAL IMPLICATIONS**

4.1 Within the Constitution, the Overview & Scrutiny Committee oversees performance management at the authority to ensure that poor and deteriorating performance is addressed.

**5. FINANCIAL IMPLICATIONS**

5.1 The financial implications in this report relate to the key performance indicators where income has been at least ten per cent below target as detailed in Appendix A (where applicable).

**6. RISK MANAGEMENT**

6.1 The risk management implications are:

<b>Opportunities</b>	<b>Benefits</b>
Accurate performance management information enables the authority to effectively manage its services and meet its targets for service delivery.	Reporting of performance against targets means that the authority can ensure that resources are targeted towards key priority areas and that projects are completed.
<b>Issues/Obstacles/Threats</b>	<b>Control measures/mitigation</b>
There can be delays with the collation of performance information as certain performance indicators, due to their nature, take time to compile.	Information is made available as soon as it is collated. The Senior Management Team monitor key performance indicators on a quarterly basis to ensure that they are on track to meet their target.
There may be factors which result in projects not being completed on schedule or delayed until the following financial year.	The reports include responsible officer comments and these should detail the reasons behind any delay or changes to the projects.

## 7. OTHER CONSIDERATIONS







<b>Corporate priorities engaged:</b>	(i) Community Life, (ii) Economy, (iii) Environment and (iv) Homes
<b>Statutory powers:</b>	Local Government Act 2000
<b>Considerations of equality and human rights:</b>	There are no equality implications as a result of this report.
<b>Biodiversity considerations:</b>	There are no biodiversity implications as a result of this report.
<b>Sustainability considerations:</b>	There are no sustainability implications as a result of this report
<b>Crime and disorder implications:</b>	There are no crime and disorder implications as a result of this report.
<b>Background papers:</b>	n/a
<b>Appendices attached:</b>	Appendix A – Performance report





**Corporate Balanced Scorecard**  
West Devon Borough Council

**CUSTOMER FIRST**




**COUNCIL PRIORITIES**

	<b>NI 157a</b> % of major planning app's determined within 13 weeks
	<b>NI 157b</b> % of minor planning app's determined within 8 weeks
	<b>NI 157c</b> % of other planning app's determined within 8 weeks
	<b>BV 204</b> % of planning appeals allowed
	<b>NI 181</b> Days for processing HB /CTB claims avg (new + change of circs)
	<b>NI 181 ii</b> Number of Benefit claims




**Environment**

	<b>NI 192</b> % of household waste sent for reuse, recycling and composting
	<b>NI 191</b> Residual household waste per household

**Homes**







	<b>NI 156</b> No. of households living in temp accommodation
	<b>NI 155</b> No. of affordable homes delivered
	<b>BV 213</b> No. of households where homelessness prevented







**Community Life**

	<b>CST 3</b> No. of visitors to Outreach
	<b>CST 5</b> % of calls answered in 20 seconds
	<b>CST 4</b> % of calls answered

**THE ORGANISATION**

**FINANCE**

	<b>BV 12</b> Working days lost due to sickness absence
	<b>PP5</b> % staff turnover
	<b>BV 8</b> % invoices paid on time
	<b>BV 9</b> % of Council tax collected
	<b>BV 10</b> % of NNDR collected
	<b>BV 12d</b> % of sickness that is long term

	Income Collected- Car Parks (cumulative)
	Income (Actual) Employment Estates
	Income Collected - Land Charges
	Income Collected - Applications and Appeals
	Income Collected - Building Control
	Investment Income

**Facts & Figures**

Household number = 24,474, Population number = 53,100, Unemployment in the district (JSA claimants at Jun 11) = 614 (1.9% of economically active), Average weekly earnings in the district (2009) = £446.40, Number of FTEs = 123.16

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## Overview & Scrutiny- Quarter 1- 2011-2012 Performance Report

Indicator	Managed By	2010/11	April 2011	May 2011	June 2011	Q1 2011/12	2011/12		Comments	
		Value	Value	Value	Value	Value	Value	Target		
NI 157a Processing of planning applications: Major applications	Marion Playle	63.64%	20.00%	50.00%	0%	28.57%	28.57%	60.00%	2 delegated – under 13 weeks 5 – committee decisions	●
BV204 Planning appeals allowed	Marion Playle	31.3%	66.7%	50.0%	57.1%	60.0%	56.3%	35.0%	1 appeal allowed - Planning and Licensing Committee 15 Appeals - 13 Delegated, 2 Committee 9 Upheld 7 Delegated and 2 Committee	●
181 Time taken to process Housing Benefit/Council Tax Benefit new claims and change events	Darren Cole	10.1	14.3	18.2	12.8	14.9	14.0	13.0		●
BV12 Working Days Lost Due to Sickness Absence (average days per full-time equivalents)	Jan Montague	4.38	Not measured for Months			2.38	2.38	1.62	Average increased by 2 instances of long term sickness this continues to be managed through the application of strong policies, and the support of Occupational Health. Short term absence figures are considerably better than the national average for the Public Sector and across all major work sectors.	●
CST 5 Percentage calls answered in 20 seconds	Darren Cole	77.3%	56%	64%	74%	74%	67%	80%	Figures for Shared service. The issue of summonses at the beginning of the month has adversely affected the service level. Performance improving towards the end of the month means that our service level averaged in the mid 70's	●

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AGENDA  
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**8**

## WEST DEVON BOROUGH COUNCIL

AGENDA  
ITEM

**8**

<b>NAME OF COMMITTEE</b>	<b>Overview &amp; Scrutiny</b>
<b>DATE</b>	<b>20 September 2011</b>
<b>REPORT TITLE</b>	<b>Regulation of Investigatory Powers Act 2000: Report on Inspection and Authorisation</b>
<b>Report of</b>	<b>The Monitoring Officer</b>
<b>WARDS AFFECTED</b>	<b>All</b>

**Summary of report:**

The Borough Council received a triennial inspection visit on 27 July. This report sets out the Inspector's findings and recommendations for action. The Monitoring Officer will orally update the Committee in exempt session regarding one application for authorisation for surveillance that has been granted since the Committee last met.

**Financial implications:**

There are no financial implications in this report that cannot be contained within existing budgets.

**RECOMMENDATIONS:**

Members agree that officers take the necessary steps to implement the recommendations of the Regulation of Investigatory Powers Act (RIPA) Inspector as contained in his report.

**Officer contact:**

Delyth Jenkins Evans, Monitoring Officer

Tel: 01822 813680; email [delyth.jenkins-evans@westdevon.gov.uk](mailto:delyth.jenkins-evans@westdevon.gov.uk)

**1. BACKGROUND**

1.1 In exercising its statutory obligations under the Regulation of Investigatory Powers Act 2000 (RIPA), the Borough Council is subject to the overview of the Office of the Surveillance Commissioners (OSC). Every three years or so, the Borough Council's arrangements for dealing with RIPA are inspected on the Commissioner's behalf and the Council is expected to implement the recommendations made.

- 1.2 The latest inspection was made by His Honour Judge N. Jones, a retired judge, on 27 July. It seems that the Office of the Surveillance Commissioners became interested in the shared service arrangements operating with South Hams DC and the inspection was of both Councils' arrangements. The Inspector's report is appended to this report at Appendix A.

## **2. ISSUES FOR CONSIDERATION**

- 2.1 The Inspector made the following recommendations: that as the two Councils are sharing services with a common officer cadre, they should
- a. conduct RIPA authorisations and operation through a unified system
  - b. ensure the Senior Responsible Officer and RIPA Co-ordinator exercise robust oversight and quality control
  - c. appoint authorising officers who can authorise RIPA surveillance for either Council
  - d. provide training for authorising officers soon and follow it with refresher training about every 18 months
  - e. produce a unified policy and procedures document for the two Councils.
- 2.2 These recommendations are essentially for actions that would have been necessary in any event to unify and harmonise the processes for the operation of RIPA between the two Councils, but it was helpful to have the independent and experienced views of HHJ Jones to discuss the various aspects and advise exactly what should be done to achieve compliance with the authorities' statutory requirements.
- 2.3 The Monitoring Officer is now planning the process by which these steps should be achieved, notably harmonising the policies by taking the best of each - the new policy will be reported for adoption by Council in due course - and training for officers. The last (joint) training session was in February 2010 since when use of RIPA processes has been infrequent (see below). Regular updating is, therefore, essential and the Council will engage an external trainer to do that.

## **3. RIPA AUTHORISATIONS**

- 3.1 There has been one request for authorisation of covert surveillance which was granted by the Head of Environmental Health & Housing, a duly authorised officer, regarding a benefits matter. The Monitoring Officer will report on this at the meeting but if either the surveillance or the investigation is then incomplete, it will have to be in exempt session in order not to prejudice the investigation of crime.

## **4. LEGAL IMPLICATIONS**

- 4.1 The Council is required by law to abide by the requirements of RIPA and has been found by inspection to be doing so.
- 4.2 Other legal implications are covered in the report and the Appendix.

## 5. FINANCIAL IMPLICATIONS

- 5.1 The principal cost arising from this report will be the provision of refresher training for officers. The last time this was provided, training was cost-effectively carried out jointly with South Hams District Council and it would be proposed to do that again. There is provision in existing budgets to cover for staff training and so there are no additional financial implications.
- 5.2 Harmonisation of policies will be included in the workstream of the Legal team so again, there are no additional financial implications.

## 6. RISK MANAGEMENT

- 6.1 The risk management implications are:

<b>Opportunities</b>	<b>Benefits</b>
To harmonise policies and streamline operational practice	Harmonising policies will reduce the scope for errors, as will updated training
<b>Issues/Obstacles/Threats</b>	<b>Control measures/mitigation</b>
Failure to harmonise policies will result in adverse criticism from the OSC, might lead to poor practice and unreasonable or unreliable enforcement action	Provide a clear and unambiguous policy document and updating or refresher training for all operational staff working in this field

## 7. OTHER CONSIDERATIONS

<b>Corporate priorities engaged:</b>	Community Life
<b>Statutory powers:</b>	Regulation of Investigatory Powers Act 2000
<b>Considerations of equality and human rights:</b>	The human rights of persons under surveillance during the investigation of crime are engaged
<b>Biodiversity considerations:</b>	None are engaged in this report
<b>Sustainability considerations:</b>	None are engaged in this report
<b>Crime and disorder implications:</b>	Proper surveillance will lead to the obtaining of evidence suitable to be used in court in order to enforce various regulatory statutes. It is expected, however, that these powers will be used only rarely.
<b>Background papers:</b>	Report of the Surveillance Commissioner, dated 17 August 2011
<b>Appendices attached:</b>	A: Report of the Surveillance Commissioner, dated 17 August 2011

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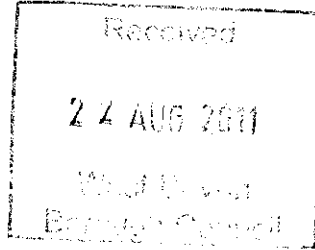


Office of Surveillance  
Commissioners



Chief  
Surveillance  
Commissioner

**Restricted**



17<sup>th</sup> August 2011

*Sean M. Sheard,*

### **Covert Surveillance**

On 27<sup>th</sup> July 2011, an Assistant Surveillance Commissioner, HH Norman Jones QC, again, visited your Council on my behalf to review your management of covert activities. I am grateful to you for the facilities afforded for the inspection.

I enclose a copy of Mr Jones's report which I endorse. Your Council has not used its covert powers but has to know what to do should the need arise. For some time officers have been shared with South Hams DC. There has now been a full fusion of administrative services which will be followed by a single RIPA management system and policy, necessitating fresh training and the appointment of appropriate officers.

The recommendations, as in relation to South Hams District Council, are that the two Councils construct a unified system suitable for both with the SRO and RIPA Co-ordinating officer exercising robust oversight and quality control, that authorising officers be appointed who can authorise for both Councils, that training for officers who may be involved in RIPA be provided soon and followed by refresher training about every 18 months and that a unified policy and procedures document be produced to cover the future requirements of both Councils.

I shall be glad to learn that your Council accepts the recommendations and will see that they are implemented.

One of the main functions of review is to enable public authorities to improve their understanding and conduct of covert activities. I hope your Council finds this process constructive. Please let this Office know if it can help at any time.

*Yours sincerely,  
Christy Hooper*

Mr Richard Sheard  
Chief Executive  
West Devon Borough Council  
Kilworthy Park  
Tavistock  
Devon, PL19 0BZ

Chief Surveillance Commissioner,  
Office of Surveillance Commissioners,  
PO Box 29105,  
London,  
SW1V 1ZU.

4<sup>th</sup>. August 2011

## **INSPECTION REPORT WEST DEVON BOROUGH COUNCIL**

Inspection                    27th. July 2011.

Inspector                    His Honour Norman Jones QC.  
Assistant Commissioner

### **West Devon Borough Council.**

1.     West Devon Borough Council administers an area of South Devon half of which consists of part of the Dartmoor National Park. It serves a population of about 50,000. Main areas of habitation are found in Tavistock, Okehampton, Princetown and Chagford. Otherwise the Council serves a rural community living in a number of small, scattered villages and hamlets.
2.     For some years West Devon BC has shared a number of officers, including the Chief Executive, with the neighbouring South Hams DC. Since April of this year the Council has taken this arrangement a step further and joined administratively with South Hams District Council. Consequently there is now one management structure covering both Councils. The senior management is presently engaged in restructuring the departmental systems of each Council to form single administrative units which will cover both Councils. Consequently this report will consider the changes needed to create a single effective *RIPA* system for both Councils. This is made easier by the fact that all Council Officers are now officers of both Councils.
3.     The new Corporate Management structure consists of the Chief Executive, Mr. Richard Sheard, who is supported by two Corporate Directors. These officers have largely strategic responsibilities. They are immediately supported by seven Heads of Services.
4.     West Devon Borough Council was last inspected by me in April 2009.
5.     Since the last inspection West Devon BC has not authorised covert surveillance.

6. The Senior Responsible Officer (SRO) for both Councils is Ms. Tracey Winser, Corporate Director and authorising officer, who was on leave at the time of the inspection and unable to attend. However Mr. Alan Robinson, the other Corporate Director and an authorising officer, attended the latter part of the inspection. Ms. Delys Jenkins-Evans is the Councils' Head of Legal Services and Monitoring Officer and an authorising officer. She has responsibility for keeping the Central Record of Authorisations. Ms. Catherine Bowen is a Principal Solicitor (Corporate), and authorising officer. Ms Becky Fowlds is also a Principal Solicitor (Regulatory Team) and likewise is an authorising officer. Both of these officers held responsibility for *RIPA* previously, Ms. Bowen in West Devon and Ms. Fowlds in South Hams DC.
7. The Council headquarters is at the Council Offices, Kilworthy Park, Tavistock, Devon, PL19 0BZ.

### **Inspection.**

8. I received a warm welcome from Ms. Jenkins-Evans, Ms. Bowen and Ms. Fowlds who remained throughout. Mr. Ian Bollans, Head of Environmental Health and an authorising officer joined later as did Mr. Robinson. All officers made substantial and enthusiastic contributions and afforded all assistance during the inspection for which I am most grateful.
9. The inspection was conducted by interview of and discussion with the officers. An examination of the Central Record and one authorisation was undertaken. Among issues discussed was the advisable future *RIPA* management structure, action taken on previous recommendations, authorising officers, training, policy and procedures, the Central Record of Authorisations, Elected Members responsibilities, noise nuisance and *CHIS*.
10. Because of the restructured administration it was considered appropriate to conduct a joint inspection of West Devon BC and South Hams DC. Consequently much of the content of this report will be common to both Councils. At this time separate reports for each Council have been produced since the joint administration has only been effective in relation to each Council for a part of the time since it was last inspected. In the future it may well be advisable to produce a single report covering both Councils.

### **Management Structure for *RIPA***

11. Separate structures have existed for *RIPA* management in the two Councils. We considered whether such a system should be retained or whether to create a unified structure for the two Councils. It was felt that as the aim of the Councils was to unify all management structures then such would be the best approach for *RIPA*. The problems which can arise in Councils which merely share the services

of officers who are appointed officers of one Council do not arise since all officers are now officers of both Councils.

12. The decision has already been taken to appoint one *SRO* and it would be illogical to then have two separate *RIPA* management teams reporting to her.
13. The *SRO* is aware of her duties which are outlined in the Council's *RIPA* Policy and Procedures document. They include responsibility for the integrity of the *RIPA* process within the Council; for compliance with *RIPA* and its regulatory framework; for engagement with the Commissioners and Inspectors when they conduct inspections; for overseeing the implementation of any recommendations made by the OSC and for ensuring that authorising officers are of the appropriate standard.
14. The requirement to have one officer with day to day responsibility for *RIPA* was revisited. It was agreed that this was a sensible approach and that one such officer should be appointed to cover both Councils. S/he would best be entitled the *RIPA Co-ordinating Officer*. A decision would be taken about which officer best would suit the role which would include: (a) maintaining the Central Record of Authorisations and collating the original applications/authorisations, reviews, renewals and cancellations; (b) oversight of submitted *RIPA* documentation; (c) organising a *RIPA* training programme; and (d) raising *RIPA* awareness within the Council.
15. It was recognised that both officers held a responsibility to exercise oversight on authorisations and the general *RIPA* process within the Councils. This would require the *RIPA Co-ordinating Officer* reviewing each authorisation and ancillary *RIPA* document as it was submitted. The *SRO* also should periodically review the submitted documentation. Documentation which either officer felt was not of a good standard should be referred back to the authorising officer, if necessary with a request to cancel and reissue. It is by such robust oversight procedures that quality control is maintained and compliance ensured.

**See recommendation**

### **Authorising Officers**

16. Two officers, the Chief Executive and Mr. Robinson are authorising officers for all purposes at South Hams, but Mr. Robinson is not an authorising officer for West Devon, and the Chief Executive authorises only for the statutory sensitive cases at West Devon. This position should be regularised. There is little point in the Chief Executive authorising for other than the employment of juvenile or vulnerable *CHIS* or for the acquisition of *confidential information*. If Mr. Robinson is to authorise it should be for all purposes for both

Councils. Both officers, as with any authorising officer, require to be fully trained.

17. Tracey Winser, as *SRO*, is an authorising officer, though she should only authorise in exceptional circumstances since regular authorisation would conflict with her oversight responsibilities. Either Ms. Winser or Mr. Robinson would be expected to deputise for the Chief Executive in his absence.
18. Ms. Jenkins Evans, Mr. Ian Bollans, Ms. Lisa Buckle (Head of Finance), and Mr. Darren Cole (Head of Revenues and Benefits) are all nominated authorising officers for West Devon. In addition Ms. Fowlds is an authorising officer for South Hams DC. With the exception of Mr. Cole, who has joined the Council recently, all received training at a training session in 2010 conducted by professional trainers.
19. A decision should be made as to the numbers of authorising officers required by the joint administration. West Devon BC traditionally has not undertaken covert surveillance and South Hams DC very little. It may well be that fewer authorising officers are required.

**See recommendation**

### **Previous Recommendations**

20. Recommendations made in the last inspection report were:
  - I. *The RIPA Monitoring Officer should heighten RIPA awareness throughout the Council to ensure that unauthorised covert surveillance does not occur.*

West Devon continues to avoid conducting covert surveillance. However the officers are aware of the risks of unauthorised surveillance and have taken steps to ensure that there is awareness throughout the Council of the need to consider authorisation under *RIPA* whenever surveillance is a possible option in an investigation. Following the last inspection emails were circulated on the Council intranet drawing attention to this need. In addition information was cascaded down from management meetings to departmental staff. However this has not been done in the last year due to the demands of restructuring within the Council. Council departments likely to resort to covert surveillance do not do so since alternative overt means of investigation have been found to be successful. This recommendation has been discharged, but will require to be reactivated.

- II. *The RIPA Monitoring Officer should ensure that adequate RIPA training is undertaken expeditiously by all those who may be*

*involved in applying for, or authorising, covert surveillance for the Council.*

A full day training session was held in February 2010 jointly with South Hams DC and was conducted by the professional trainers "Act Now". Care was taken to ensure that all staff who may have recourse to *RIPA* attended. Twenty four officers attended from both Councils. This recommendation has been discharged.

- III. *The number of authorising officers should be reduced and they should be identified by name and rank in the Annex to the RIPA Policy and Procedures document.*

This was undertaken following the inspection and West Devon reduced its authorising officers to four. This recommendation has been discharged.

- IV. *Some amendments should be made to the RIPA Policy and Procedures document.*

These amendments have been made. This recommendation has been discharged.

## **Training.**

21. Some new and untrained officers have been appointed and a new *RIPA* management system will be put in place. Consequently it is felt that this is an opportune time for refresher training to be undertaken. We discussed the options of conducting it by "in house" training by the *RIPA Co-ordinating Officer* or by again employing an external trainer. It was felt that it would be beneficial to adopt the latter course which would ensure that all officers would be trained to a high standard, and that thereafter refresher training could be conducted "in house".
22. Refresher training should be undertaken at eighteen monthly intervals to accommodate both changes in *RIPA* and its regulatory framework, and the requirements of any newly appointed officers.

**See recommendation**

## **Policy and Procedures**

23. The West Devon BC *RIPA Policy and Procedure* document was last edited in April 2010 to accommodate the changes in the revised *Codes of Practice*. It is an accurate and eminently readable document cogently setting out all the requirements of any applicant or authorising officer. It contains a description of the responsibilities of the *RIPA SRO* but will require a further amendment to add the responsibilities of the *RIPA Co-ordinating Officer*.

24. The South Hams DC *Policy for Ensuring Compliance with RIPA, Covert Surveillance and Use of Covert Human Intelligence Sources* was last edited earlier in this year. Again it is a commendable document though different in style to that of West Devon. It requires a paragraph outlining the responsibilities of the SRO and it would be helpful if the responsibilities of the *RIPA Co-ordinating Officer* were set out in a separate paragraph.
25. However the prime change which should now be undertaken is to construct a unified policy and procedures document for both Councils. We discussed the best approach and it was felt that the style of the West Devon document was probably the best to adopt, and that the content should seek to adopt the best from each existing document.

**See recommendation**

#### **Central Record of Authorisations.**

26. At West Devon BC this document has remained in the same format since 2003. It is fully compliant with the *Code of Practice for Covert Surveillance and Property Interference (8.1)* but would benefit from the inclusion of details of reviews. A similar record would be appropriate for South Hams DC.
27. Such a Central Record would benefit from being set up in spreadsheet format which would make it an excellent tool for quality control and oversight by both the *RIPA Co-ordinating Officer* and the SRO.
28. The Councils should decide whether to retain separate Central Records of Authorisations as at present, or whether to set up a single document to cover both Councils. In any event it would be appropriate to retain the files of authorisations and ancillary documents separately for each Council. If a decision is taken to create a unified spreadsheet Central Record then the Council for which an authorisation is granted should be recorded against each grant.

**See recommendation**

#### **Elected Members**

29. Elected Members have a responsibility to ensure that the policy and procedures for *RIPA* adopted by the Council are compliant with the legislation and regulatory framework and are fit for purpose. To enable them to adequately discharge these responsibilities information is required to be placed before them which will enable them to make appropriate decisions.
30. The *Codes of Practice* recommend that quarterly and annual reports should be prepared for Councillors. Such reports are presently



prepared by West Devon DC. These may contain statistical information about the numbers and types of authorisations granted, and will indicate the granting departments and the areas of work affected. An annual report should go to the Council Members setting out any matter which may affect their considerations. However Councillors must not be involved in individual authorisations and should not be given information from which it may be possible to identify persons subjected to covert surveillance.

### **Noise Nuisance**

31. Mr. Bollens indicated that, following the failure of a letter to a perpetrator producing a reduction of the disturbances, the Councils used Matron equipment to record noise nuisance. Such equipment, either before the operator switches it on or after it is switched off, does have the facility to pre and post record noise for short periods. Warning was given that such would amount to *intrusive surveillance* unless the householder operator was told of the facility beforehand. Local authorities are not empowered to undertake *intrusive surveillance*. However it was the personal experience of Ms. Bowen that such warnings were given.
32. Similarly the capacity of such machines to record low level speech could also give rise to *intrusive surveillance* and must be avoided.

### **Covert Human Intelligence Sources (CHIS)**

33. West Devon BC has never employed and is unlikely to employ a CHIS. The position is similar at South Hams DC. Nevertheless the requirement to manage a CHIS sometimes arises unexpectedly and the Councils must be prepared for such an eventuality. At present no officer is trained specifically for this purpose. It would be advisable to identify appropriate officers and to particularly invite the anticipated professional trainers to address this issue in future training

**See recommendation**

### **Conclusions**

34. West Devon BC has not been a user of covert surveillance and is satisfied that, for its purposes, overt means of investigation are adequate. However it has to be in a state of preparedness since it has been given the right to use RIPA procedures to protect the Council from the possible legal consequences of such conduct. It has officers who understand RIPA and who are ensuring that the Council would be RIPA compliant if it resorted to covert surveillance.
35. Officers have been shared for some time with South Hams DC and this arrangement has been turned into a full fusion of administrative services. This will now be followed by a single RIPA management

system and policy and procedures covering both Councils. Officers appointed to *RIPA* roles will act for both Councils. This will involve some fresh training and the appointment of *RIPA* officers common to both Councils. The *SRO* has already been appointed. This is an interesting and challenging development which should be for the benefit of both Councils.

36. There will continue to be a need to be vigilant that unauthorised covert surveillance is not occurring, and the *RIPA Co-ordinating Officer* must recommence the practices designed to raise *RIPA* awareness in the Council.
37. The *SRO* and *RIPA Co-ordinating Officer* must act robustly in undertaking their oversight and quality control functions.

### **Recommendations**

38.
  - I. West Devon BC together with South Hams DC should reconstruct their *RIPA* management systems to produce a unified system suitable for the purposes of both Councils, and the *SRO* and the *RIPA Co-ordinating Officer* should exercise robust oversight and quality control. ((paragraphs 11 to 15 and 28)
  - II. Authorising officers should be appointed sufficient to authorise for both Councils. (paragraph 19)
  - III. Training of all officers who may be involved in the *RIPA* process should be undertaken in the near future. This should include training of officers who could have specific *CHIS* responsibilities. Thereafter regular refresher training should occur at about eighteen monthly intervals. (paragraphs 22 and 33)
  - IV. A unified policy and procedures document should be produced to cover both West Devon BC and South Hams DC future requirements. (paragraph 25)

**His Honour Norman Jones, QC.**  
**Assistant Surveillance Commissioner.**

At a Meeting of the **OVERVIEW & SCRUTINY COMMITTEE** held in the **COUNCIL CHAMBER, KILWORTHY PARK, TAVISTOCK** on **TUESDAY** the **20<sup>th</sup>** day of **SEPTEMBER 2011** at **4.30pm**

**Present:**

- Mr D Cloke – Chairman
- Mr D Whitcomb – Vice Chairman
- Mr R Baldwin
- Mr D Lake
- Mrs L Rose

Head of Corporate Services  
Monitoring Officer  
Improvement Programme Manager  
Borough Committee Secretary

**In attendance** Mr T Pearce

**OSC 9 APOLOGIES FOR ABSENCE**

An apology for absence was received from Mrs A Clish-Green.

**\*OSC 10 CONFIRMATION OF MINUTES**

The Minutes of the meeting held on 14 June 2011 were agreed and signed by the Chairman as a true record.

**\*OSC 11 COMMITTEE PERFORMANCE**

The Improvement Programme Manager presented a report (page 6 to the agenda) which provided Members with information on those key indicators where performance was ten per cent or more below target for Quarter One of 2011-2012. Appendices were attached to the report which gave a snapshot of performance against key indicators and also more detail on those where performance was below target. The five indicators highlighted which were ten per cent below target were:

**a. *'Percentage of major applications determined within 13 weeks (NI 157a)'***

Performance indicator had not met its target. There were two major applications delegated within the 13 weeks and five major applications were taken to Committee.

**b. *'Percentage of planning appeals allowed (BV 204)'***

Performance indicator did not meet its target. There were 15 appeals (13 were delegated decisions and two were Committee decisions). Out of the 15 appeals, there were nine appeals that were allowed (seven were delegated decisions and two were Committee decisions).

- c. ***'Time taken to process housing benefit/council tax benefit new claims and change events (NI 181)'***  
Performance indicator had not met its target by one day.
- d. ***'Working days lost to sickness absence (BV12)'***  
Performance indicator had not met its target. This was due to two instances of long-term sickness.
- e. ***'Percentage of calls answered in 20 seconds (CST5)'***  
Performance indicator had not met its target due to the fact that summonses were issued at the beginning of the month which had adversely affected the service level. Performance was improving towards the end of the month and the service level averaged in the mid 70%.

The national indicator set had been removed and a single data set had been introduced. This was a single transparent list of every piece of data that central government required from councils.

It was also reported that a project had been incorporated in the Council's Transformation Programme to look at performance measures which were relevant and important to the local community. Members would be invited to be involved in the work as the project progressed. It was planned that the revised indicators would be introduced in April 2012.

It was **AGREED** that Members note the 2011-12 Quarter One performance reports.

**\*OSC 12 POST OFFICES**

Following on from the notification reported at the last Overview & Scrutiny meeting regarding the proposed new operating models for Post Offices, concerns had been raised about the effect these would have on West Devon Post Offices. A request had been made to send out a survey to all Post Offices similar to one sent out by Eastleigh Borough Council in order to gauge the perceived effects of changes proposed by Post Office Limited. The question of carrying out such a survey for local Post Offices was discussed but it was decided not to commit to one at this time.

In the interim, a meeting was arranged with a representative from Post Office Limited. However, before this took place, details of the pilot scheme were announced and, as there were no post offices in West Devon taking part, it was decided that it was too early in the process for the Council to meet with Post Office Limited.

Apparently, there had been a huge amount of interest in the pilot scheme and, as a result, it has been over-subscribed. Since Post Office Limited was only looking to pilot a small number of branches during this particular phase of activity, not everyone who had shown an interest would be taking part.

An e-mail from Post Office Limited stated that it was now looking ahead beyond this year of continuing with the pilots to the wider roll-out of main and local branches. Whilst it needed to maintain its nationwide coverage and ensure the network was commercially successful, wherever possible it wanted to introduce the new models where they fitted the wishes and plans of sub postmasters, customers and stakeholders such as local authorities.

The Council had been assured by Post Office Limited that the new operating models would be voluntary and those post offices that did not want to change would continue to receive core funding.

Concern was expressed at the meeting that the range of services provided at Post Offices was too limited.

Members **AGREED** not to carry out a survey at this time but to maintain a 'watching brief' on the situation and asked for more information to be obtained on the proposed changes and for a list of those Post Offices included in the pilots.

**\*OSC 13**

**REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA):  
REPORT ON INSPECTION AND AUTHORISATION**

The Monitoring Officer presented a report (page 12 to the agenda) which outlined details of the triennial inspection visit by the Office of the Surveillance Commissioners together with the findings and recommendations for action. A copy of the His Honour Judge N Jones' report was attached as an appendix to the agenda.

The Inspector made the following recommendations: that as the two Councils were sharing services with a common officer cadre, they should

- a. conduct RIPA authorisations and operations through a unified system;
- b. ensure the Senior Responsible Officer and RIPA Co-ordinator exercise robust oversight and quality control;
- c. appoint authorising officers who can authorise RIPA surveillance for either Council;

- d. provide training for authorising officers soon and follow it with refresher training about every 18 months;
- e. produce a unified policy and procedures document for the two Councils.

These recommendations were, essentially, for actions that would have been necessary in any event to unify and harmonise the processes for the operation of RIPA between the two Councils, but it was helpful to have the independent and experienced views of HHJ Jones to discuss the various aspects and advise exactly what should be done to achieve compliance with the authorities' statutory requirements.

The Monitoring Officer was now planning the process by which these steps should be achieved, notably harmonising the policies by taking the best of each (the new policy would be reported for adoption by Council in due course) and training for officers. The last (joint) training session was in February 2010, since when use of RIPA processes had been infrequent. Regular updating was, therefore, essential and the Council would engage an external trainer for this purpose.

There has been one request for authorisation of covert surveillance which was granted by the Head of Environmental Health & Housing, a duly authorised officer, regarding a benefits matter.

Members **AGREED** that officers take the necessary steps to implement the recommendations of the Regulation of Investigatory Powers Act (RIPA) Inspector as contained in his report.

(The Meeting Closed at 5.00pm)