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RUSHMOOR BOROUGH COUNCIL

AUDIT AND GOVERNANCE COMMITTEE

at the Council Offices, Farnborough on
Tuesday, 29th September, 2026 at 7.00 pm

To:

Cllr Bill O'Donovan (Chair)
Cllr M.J. Tennant (Vice-Chair)

Cllr P.J. Cullum
Cllr Craig Card
Cllr Thomas Day
Cllr Thomas Mitchell
Cllr Dhan Sarki
Cllr Ian Simpson
Cllr Sarah Spall
Cllr Paul Taylor
Vacancy

Standing Deputies:

Cllr Kevin Betsworth
Cllr Leola Card
Cllr Sue Carter
Cllr Sharon Harvey
Steve Masterson
Cllr Nicky Slater
Cllr Calum Stewart
Cllr Ivan Whitmee

Enquiries regarding this agenda should be referred to the Committee Administrator, Lucy Bingham, Democratic Services, Tel. (01252) 398128 Email lucy.bingham@rushmoor.gov.uk.

A G E N D A

1. **MINUTES –** (Pages 1 - 8)

   To confirm the Minutes of the Meeting held on 30th July, 2026 (copy attached).

2. **RESERVE RISK ASSESSMENT UPDATE REPORT –** (Pages 9 - 18)

   To receive Ernst & Young's Report (copy attached), which outlines the Reserve Risk Assessment Update, from the Council's external auditors.

3. **INTERNAL AUDIT PROGRESS REPORT –** (Pages 19 - 32)

   To consider Southern Internal Audit Partnership's Report No. SIAP26/05 (copy attached), which outlines the internal audit progress report from the Council's internal auditors.

4. **CORPORATE POLICY AND GUIDANCE AND THE USE OF THE REGULATION OF INVESTIGATORY POWERS ACT 2000 –** (Pages 33 - 92)

   To consider the Executive Head of Governance & Law's Report No. LEG2603 (copy attached), updating the Committee on the Council's surveillance activities within and outside the scope of the Regulation of Investigatory Powers (RIPA) Act 2000.

5. **ANNUAL OMBUDSMAN COMPLAINT REVIEW LETTER –** (Pages 93 - 94)

   To receive the Monitoring Officer's Report No. LEG2604 (copy attached), which summarises the outcome and findings of the Annual Review Letter 2025/26 from the Local Government & Social Care Ombudsman.

PUBLIC PARTICIPATION AT MEETINGS

Members of the public may ask to speak at the meeting on any of the items on the agenda by writing to the Committee Administrator at the Council Offices, Farnborough by 5.00 pm two working days prior to the meeting.

AUDIT AND GOVERNANCE COMMITTEE

Meeting held on Thursday, 30th July, 2026 at the Council Offices, Farnborough at 7.00 pm.

Voting Members

Cllr Bill O'Donovan (Chair)

Cllr P.J. Cullum
Cllr Craig Card
Cllr Dhan Sarki
Cllr Ian Simpson
Cllr Sarah Spall
Cllr Paul Taylor

Apologies for absence were submitted on behalf of Cllr M.J. Tennant, Cllr Thomas Day and Cllr Thomas Mitchell.

Cllr Steve Masterson, Nicky Slater and Ivan Whitmee attended the meeting as Standing Deputies.

4. MINUTES

The Minutes of the Meeting held on 10th June, 2026 were approved and signed as a correct record of proceedings.

5. INTERNAL AUDIT PROGRESS REPORT

The Chairman welcomed Natalie Jerams, Deputy Head of Southern Internal Audit Partnership (SIAP), and Nick Barrett, Audit Manager, from the Council's internal auditors, who joined the meeting remotely via Microsoft Teams.

The Committee received SIAP's Report No. SIAP26/04 which set out the Internal Audit Progress Report, which provided the Audit and Governance Committee with an overview of internal audit activity against assurance work completed in accordance with the approved audit plan. The Report also provided an overview of key updates pertinent to the discharge of the Committee's role, in relation to internal audit.

During discussion, Members raised questions regarding the Disabled Facility Grants (DFG) audit and the Agency Staff audit. Members noted that the limited assurance opinion for the Disabled Facilities Grants review reflected areas where controls and processes needed to be strengthened. It was also noted that the no assurance opinion for the Agency Staff review showed concerns regarding procurement legislation and internal governance standards. Further information on the Disabled Facilities Grants and Agency Staff audit reviews would be provided by SIAP at the next Committee Meeting.

Members stated that they wished for clarification regarding the legal requirements relating to Disclosure and Barring Service (DBS) checks for staff members. The Committee highlighted the need to ensure that risks identified through internal audit reports, together with any overdue audit actions, were appropriately considered within the Council's wider risk management arrangements. Members also emphasised the importance of audit action deadlines being met and noted that responsible officers could be required to attend Committee meetings to explain delays and outline mitigations where target dates had not been achieved. Members sought clarification that the requirement was clear to officers.

Members also discussed whether greater access to information from individual audit reports would support scrutiny, particularly for reviews that had received low or no assurance opinions, and requested additional detail where actions had been delayed.

ACTIONS:

What	**By Whom**	**When**
Provide Members with further detail on the findings of the Disabled Facilities Grants and Agency Staff audit reviews	Natalie Jerams - Deputy Head of Southern Internal Audit Partnership	For the next Committee meeting – 29th September
Review arrangements with the Senior Leadership Team (SLT) to ensure that risks identified through internal audit reports, together with any overdue audit actions, were appropriately considered within the Council's wider risk management arrangements	Amanda Bancroft – Executive Head of Governance and Law	Before the next Committee meeting – 29th September
Liaise with relevant officers regarding attendance at committee meetings where target dates were revised, and to report any revised dates in the next update.	Amanda Bancroft – Executive Head of Governance and Law Natalie Jerams – Deputy Head of Southern Internal Audit Partnership	Before the next Committee meeting – 29th September
Provide clarification on the legal requirements relating to DBS checks, including the circumstances in which councillors, employees and agency staff may require DBS clearance, and the arrangements in place to identify and evidence compliance with those requirements.	Amanda Bancroft – Monitoring Officer	Before the next Committee meeting – 29th September

RESOLVED: That:

(i) that SIAP's Report No. 26/04, be noted; and

(ii) the adjustments to the Internal Audit Plan 2026-27, as detailed in section 8 of Appendix A, be approved.

6. FREEDOM OF INFORMATION - ANNUAL UPDATE REPORT 2026

The Committee received the Executive Head of Governance and Law's Report No. LEG2602, which set out information about Freedom of Information (FOI) requests received by the Council, and performance on responses to FOIs.

The Freedom of Information Act 2000 (FOIA 2000) provided public access to information held by public authorities. Freedom of Information requests encouraged openness and scrutiny of the Council's decisions. Rushmoor Borough Council had a statutory duty to fulfil its obligations under FOIA 2000.

The Committee noted that the Council's performance on FOIs continued to steadily improve and had been responding within the target response rate. There was further work planned, including training, and publishing more information online to further enhance improvements already made. A new Microsoft Lists system had launched in Q2 of 2025 to improve resilience, and increase oversight by senior management, this had contributed to a positive improvement in response times.

RESOLVED: That officers:

(iii) continued the work on reducing the number of overdue FOIs within the system in 2026 and continued to ensure that at least 90% of requests were responded to within the statutory 20 working days, per the ICO target;

(iv) continued to raise FOI awareness and knowledge across employees, through regular training and guidance; and

(v) publish as much information proactively to reduce the number of FOI requests.

7. CORPORATE HEALTH AND SAFETY ARRANGEMENTS 2025/26

The Committee received the Executive Director's Report No. ED2613, which provided an update on the ongoing development and maintenance of the Council's corporate health and safety arrangements in 2025/26 and the plans in place for 2026/27.

The overall health and safety risk profile of the Council remained low, with the majority of high-risk work activity contracted out, only a few specific roles had an enhanced level of risk. Examples of these were technical staff working at Princes Hall and members of the Place Protection team.

It was noted that, the Corporate Health and Safety Advisor maintained a reporting regime on corporate health and safety matters that was taken quarterly to the Senior Leadership Team (SLT). This related predominately to operational matters. The numbers of accidents/incidents and violence at work incidents, including trends and a summary of those reports, was routinely reported to SLT and Cabinet via the quarterly performance management reporting process. The number of accidents and incidents seen at the Council was low and had remained relatively stable for a number of years, with a total number of 22 in 2025/26.

During discussion, Members sought clarification of the meaning of 'Other', with regard to reported incidents. Members noted that 'Other' referred to incidents reported by third parties, such as the police and other agencies. Members acknowledged measures in place to protect staff from abusive and challenging behaviour, including training, incident reporting procedures, access to counselling through the Employee Assistance Programme (EAP) and the involvement of the police, where necessary. Members were advised that staff perceptions of safety were monitored through regular staff surveys and that efforts continued to secure Trade Union Health and Safety representation at the Council.

ACTION:

What	By Whom	When
Clarify on future reports, that 'Other' refers to third party reporting of incidents.	Roger Sanders, Service Manager – Risk, Performance and Procurement	July 2027

RESOLVED: That the Executive Director's Report No. ED2613, be noted.

8. **TREASURY MANAGEMENT AND NON-TREASURY INVESTMENT OPERATIONS AND PRUDENTIAL INDICATORS - OUTTURN 2025-26 AND Q1 2026/27**

The Committee considered items 5 and 6 on the agenda together.

Treasury Management and Non-Treasury Investment Operations and Prudential Indicators - Outturn 2025-26

The Committee received the Executive Head of Finance Report No. FIN2615, which set out the draft activities of the Treasury Management and non-Treasury Investment Operations for Quarter 4, in the financial year 2025/26, and reported on compliance with Prudential Indicators, pending the statement of accounts being signed off by the Council's external auditors. The report was a statutory requirement under the Chartered Institute of Public Finance Accountants (CIPFA) Code of Practice on Treasury Management.

The Committee were advised that all activity was conducted within the approved Treasury Management Practices (TMPs). Borrowing maturity had moved towards longer term to give cost certainty and lower interest rate exposure risk, providing more interest rate stability on borrowing.

The Committee **RECOMMENDED TO THE CABINET** that the Executive Head of Finance Report No. FIN2615, in relation to the treasury management and non-treasury investment operations carried out, be approved.

Treasury Management and Non-Treasury Investment Operations and Prudential Indicators - Q1 2026/27

The Committee received the Executive Head of Finance Report No. FIN2616, which set out the activities of the Treasury Management and non-Treasury Investment Operations for Quarter 1 in the financial year 2026/27 and reported on compliance with Prudential Indicators. The report was a statutory requirement under the CIPFA Code of Practice on Treasury Management.

The Committee noted that all treasury activity had been conducted within the approved Treasury Management Practices. Borrowing maturity had moved towards longer term to give cost certainty and lower interest rate exposure risk, providing more interest rate stability on borrowing.

During discussion, Members raised questions regarding the Council's remaining short-term borrowing and whether it would be converted to longer-term borrowing. Officers advised that borrowing arrangements were reviewed regularly and that some short-term borrowing currently represented the most cost-effective approach. In response to a question about Union Yard, Members noted that the sale of Blocks C and D to Vivid, was due to be completed on 31st August.

The Committee **RECOMMENDED TO THE CABINET** that the contents of the Executive Head of Finance's Report No. FIN2616, in relation to the Treasury Management and non-Treasury Investment Operations carried out, be approved.

9. **UNAUDITED STATEMENT OF ACCOUNTS AND ANNUAL GOVERNANCE STATEMENT**

The Committee considered item 7 on the agenda, the Unaudited Statement of Accounts and the Annual Governance Statement, separately.

The Committee received the Executive Head of Finance's Report No. FIN2614, which set out, the unaudited Statement of Accounts for 2025/26, for review.

The Committee noted that the preparation of the Statement of Accounts and the audit scrutiny provided reassurance that the accounts gave a true and fair view of the financial position of the Council. Members' role in approval was to demonstrate their ownership of the Statement of Accounts and their confidence in both the Chief Finance Officer and the process by which the accounting records were maintained and the Statement of Accounts prepared.

The Accounts and Audit Regulations 2015 stated that, for each financial year, the Council must conduct a review of the effectiveness of the Council's internal control and prepare an annual governance statement for review and approval by the Committee prior to it being signed by the Chief Executive and Leader of the Council. The statement would then be finalised with the signed Statement of Accounts.

Members were advised that the Statement of Accounts had been published in accordance with statutory requirements and was currently subject to external audit. The first phase of the audit was nearing completion, with further audit work scheduled to take place in September.

The Committee were informed that, given the technical nature of the accounts, an informal workshop would be arranged in September or October to provide Members with an overview of the Statement of Accounts, explain the key issues and consider the findings of the External Auditor once available.

ACTION:

What	By Whom	When
Arrange a workshop to provide Members with an overview of the Statement of Accounts.	Peter Vickers, Executive Head of Finance.	September or October 2026

RESOLVED: That the unaudited Statement of Accounts, be noted.

10. **ANNUAL GOVERNANCE STATEMENT**

The Committee considered item 7 on the agenda, the Unaudited Statement of Accounts and the Annual Governance Statement, separately.

The Committee received the Executive Head of Finance's Report No. FIN2614, which set out the Annual Governance Statement for 2025/26, for approval.

The Report set out the procedure for compiling the Annual Governance Statement and the requirements of the Committee to ensure a meaningful review of the Annual Governance Statement. Members were reminded that they needed to be satisfied that the Annual Governance Statement reflected the governance environment and any actions required to improve it. Members also had to be satisfied that it demonstrated how governance supported the achievement of the Council's objectives.

During discussion, Members sought clarification regarding a reference to the Corporate Governance Group being on "hiatus" and were advised that the group was currently on hold pending a review of its terms of reference. Members questioned the use of procedural exemptions and suggested that the operation of these governance processes be reviewed through future Internal Audit work.

ACTION:

What	By Whom	When
Consider the operation and use of exemptions to normal decision-making procedures, as part of future Internal Audit work on governance arrangements.	Amanda Bancroft – Executive Head of Governance and Law and Natalie Jerams - Southern Internal Audit Partnership (SIAP)	Before the next Committee meeting – 29th September

RESOLVED: That the Annual Governance Statement, be approved.

11. STATUS OF THE FINANCIAL RECOVERY WORKING GROUP

The Committee received a verbal update on the Council's financial position and the arrangements that had been put in place to monitor delivery of the Budget Strategy.

Members were advised that a Financial Recovery Working Group had been established, following the approval of the Council's budget in February 2025, to oversee the delivery of actions required to return the budget to a balanced position. It was noted that the majority of these actions had now been completed, with only a small number of capital receipt matters remaining outstanding.

The Committee noted that, following the announcement of Local Government Reorganisation (LGR), the Council's financial strategy had changed. Rather than pursuing further service reductions, the focus was on maintaining service delivery, preparing for the new authority and ensuring that the Council remained financially sustainable until Vesting Day. Members were advised that monthly budget monitoring reports were the primary mechanism for managing financial risks and monitoring progress against the strategy.

During discussion, Members expressed concern regarding the Council's ongoing financial risks and emphasised the importance of regular Member oversight. It was confirmed that financial sustainability was included within the Council's corporate risk register. Members agreed that the Council's financial position would benefit from more regular Member scrutiny and oversight. Consequently, the Committee supported a proposal that Cabinet establish a politically balanced Member working group, meeting monthly for the remainder of the Council's term, to review the Council's financial management. The Chair advised that the recommendation would be raised with the Leader of the Council and, if it was not progressed by the Cabinet, it would be taken to Council.

ACTION:

What	**By Whom**	**When**
Write to the Leader of the Council, to recommend to the Cabinet to set up a Working Group to review the Council's financial management.	Cllr Bill O'Donovan – Chair of Audit and Governance Committee	Before the next Cabinet meeting – 4th August

The Committee **RECOMMENDED TO THE CABINET** that the Cabinet establish a politically balanced Member Working Group, meeting monthly for the remainder of the Council's term, to review financial management.

The meeting closed at 9.18 pm.

CLLR BILL O'DONOVAN (CHAIR)

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Rushmoor Borough Council

Rebuilding audit assurance: the path to an unqualified opinion

Year ended 31 March 2026

30 July 2026

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30 July 2026

Audit and Governance Committee
Rushmoor Borough Council
Council Office, Farnborough Road
Farnborough,
Hants
GU14 7 JU

Dear Audit and Governance Committee

Rebuilding audit assurance – risk assessment update

We attach our risk assessment update for consideration at the forthcoming meeting of the Audit and Governance Committee.

The purpose of this paper is to provide the Audit and Governance Committee with further detail on the risk assessment procedures performed in respect of opening reserve balances. These procedures have been undertaken in response to the prior-year disclaimed audit opinions and in accordance with the National Audit Office's Local Authority Reset and Recovery Implementation guidance.

This update should be read in conjunction with our Audit Planning Report for the 2025/26 audit, issued on 23 April 2026.

We welcome the opportunity to discuss this report with you at the meeting on 29 September 2026, and to understand whether there are any additional matters which the committee considers may influence our risk assessment.

Yours faithfully

Simon Mathers, Partner

For and on behalf of Ernst & Young LLP

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Contents

1 Background and regulatory context

2 Scope of our risk assessment

3 Summary of risk assessment findings

4 Implications for the 2025/26 audit

5 Appendix A

Public Sector Audit Appointments Ltd (PSAA) issued the 'Statement of responsibilities of auditors and audited bodies'. It is available from the PSAA website (https://www.psaa.co.uk/managing-audit-quality/statement-of-responsibilities-of-auditors-and-audited-bodies/statement-of-responsibilities-of-auditors-and-audited-bodies-from-2023-24-audits/). The Statement of responsibilities serves as the formal terms of engagement between appointed auditors and audited bodies. It summarises where the different responsibilities of auditors and audited bodies begin and end, and what is to be expected of the audited body in certain areas. The 'Terms of Appointment and further guidance (updated October 2025)' issued by the PSAA (https://www.psaa.co.uk/managing-audit-quality/terms-of-appointment/terms-of-appointment-and-further-guidance-1-july-2021/) sets out additional requirements that auditors must comply with, over and above those set out in the National Audit Office Code of Audit Practice 2024 (the NAO Code) and in legislation, and covers matters of practice and procedure which are of a recurring nature.

This report is made solely to the **Audit Committee and management of Rushmoor Borough Council**. Our work has been undertaken so that we might state to the **Audit Committee and management of Rushmoor Borough Council** those matters we are required to state to them in this report and for no other purpose. To the fullest extent permitted by law we do not accept or assume responsibility to anyone other than the **Audit Committee and management of Rushmoor Borough Council** for this report or for the opinions we have formed. It should not be provided to any third-party without our prior written consent.

Management agree that they remain solely responsible for management decisions relating to the audited body and that we do not, and cannot, act in a managerial capacity nor can we make business decisions for management/the audited body in connection with the services or otherwise, nor advise or recommend that any accounting policy, treatment or reporting is suitable for any particular purpose or specific facts, and management agrees that they will not rely on us as having done so.

If you wish to discuss how our service to you could be improved, or if you are dissatisfied with the service you are receiving, you may raise the matter with the Key Audit Partner responsible for services provided under our appointment by PSAA Ltd. Alternatively, you may contact Stephen Reid, UK Head of Government and Public Sector Audit, at 1 More London Place, London SE1 2AF. We will consider any concerns carefully and promptly and will make every effort to explain our position clearly. If your concerns remain unresolved, you may escalate the matter to Anna Anthony, UK&I Regional Managing Partner, at 1 More London Place, London SE1 2AF. If you remain dissatisfied, you may refer the matter to PSAA Ltd or raise it with our professional institute; further details are available on request.

Rebuilding audit assurance – risk assessment update

1. Background and regulatory context

Appendix A explains the expected timeline to full assurance set out in the National Audit Office's (NAO) Local Authority Reset and Recovery Implementation Guidance (LARRIG 01), together with our assessment of Rushmoor Borough Council's (the Council's) current position. During 2023/24 and 2024/25, the focus of the rebuild process has been on the Council's "natural" rebuild, through completing planned audit procedures for each respective audit year.

Appendix A records that the planned procedures remained incomplete for both 2023/24 and 2024/25. In 2024/25, all planned audit work was completed, with the exception of procedures covering Property, Plant and Equipment and Investment Property. The "natural" rebuild process has therefore begun; however, assurance over Property, Plant and Equipment and Investment Property has not yet increased materially.

LARRIG 06, issued by the NAO, requires auditors to perform specific risk assessment procedures over reserves. The guidance recognises that reserves balances may contain the cumulative effect of unaudited transactions over more than one financial year and may therefore represent an area of accumulated audit risk. The purpose of this risk assessment is to identify the likelihood and potential magnitude of risks of material misstatement within reserves balances, together with management's readiness to support the historical rebuild process. This assessment informs audit planning and any potential rebuild of assurance over future audit cycles as well as completion of the capacity and risk assessment return that we are required to make to the Ministry for Housing, Communities and Local Government ('MHCLG').

2. Scope of our risk assessment procedures

Our risk assessment covered all reserves disclosed in the Council's Movement in Reserves Statement, including both usable and unusable reserves. In performing the assessment, we considered:

- the nature and purpose of individual reserves;
- the scale and significance of movements during periods subject to disclaimer;
- susceptibility to material misstatement, including the risks of fraud and management bias;
- the wider governance and control environment of the Council's financial reporting processes; and
- risks associated with the classification of reserves between usable and unusable categories.

The assessment did not seek to re-establish assurance over historic balances. Its objective was to determine whether, where and when, such assurance could be rebuilt over time.

Rebuilding audit assurance – risk assessment update

3. Summary of risk assessment findings

The risk assessment process identified that the risk of material misstatement is not uniform across reserves. Certain reserves were assessed as presenting a higher risk of material misstatement, reflecting factors including:

- the size of balances and the extent of movements during periods subject to disclaimed opinions;
- the degree of judgement required in determining the appropriate accounting treatment; and
- reliance on complex statutory and capital accounting arrangements.

Other reserves were assessed as lower risk, with characteristics that may support a more targeted and proportionate rebuilding of assurance, without undermining audit quality, subject to the availability of sufficient appropriate audit evidence. This assessment underpins the differentiation in audit response which will be adopted across reserves and is intended to promote a consistent and proportionate approach.

The following dashboard summarises our assessment of the risk of material misstatement by reserve following the disclaimers of opinion.

Reserve	Risk Assessment	Rationale for Risk Assessment
Revaluation Reserve	Significant risk	The Revaluation Reserve is assessed as a significant risk due to its reliance on valuation judgements and technical accounting adjustments arising from movements in property, plant, and equipment (PPE). Material balances requiring further audit procedures increase inherent risk, notwithstanding the mitigation provided through the use of external valuers. Significant issues were also identified in the prior year in relation to valuations of PPE and investment property (IP), which prevented the audit team from completing all planned procedures for the disclaimed periods.
Capital Adjustment Account	Significant risk	The Capital Adjustment Account is assessed as a significant risk due to the complexity and volume of statutory capital adjustments required, as well as its direct interaction with the General Fund. However, these adjustments are largely governed by statutory capital finance regulations and prescribed accounting treatments. As indicated above, significant issues were also identified in the prior year in relation to valuations of PPE and investment property (IP), which prevented the audit team from completing all planned procedures for the disclaimed periods. The reserve is also impacted by the MRP charge.
General Fund Balance	Higher inherent risk	Given the sensitivity of the General Fund balance as a key measure of financial resilience, together with its susceptibility to management bias in determining available usable reserves, and the material unaudited movements identified during the disclaimed periods, this reserve has been assessed as higher inherent risk.
Capital Grants Unapplied Account	Higher inherent risk	The Capital Grants Unapplied Account reserve requires judgement regarding the timing of grant recognition and includes material balances that require further risk assessment procedures.

Rebuilding audit assurance – risk assessment update

3. Summary of risk assessment findings

Reserve	Risk Assessment	Rationale for Risk Assessment
Pooled investments fund adjustment account	Higher inherent risk	This account has been assessed as a higher inherent risk because any misstatement could distort the authority's exposure to investment value movements and lead to inappropriate charges or credits to the General Fund. The reserve is moderately complex, requiring accurate identification of in-scope pooled investment funds, correct measurement of fair value movements, and proper application of statutory override regulations. There may also be an incentive to misstate or incorrectly apply adjustments where pressure exists to protect the General Fund from adverse market movements or present a stronger revenue position.
Earmarked Reserve	Lower inherent risk	The Earmarked Reserve is assessed as lower inherent risk, as its accounting treatment is relatively straightforward, representing amounts set aside for specific purposes, with movements driven by management decisions rather than complex statutory or technical adjustments. There is limited susceptibility to management bias, as the complexity and funding implications primarily reside within the General Fund rather than within the reserve itself.
Capital Receipts Reserve	Lower inherent risk	The Capital Receipt Reserve is assessed as lower inherent risk, as there is limited susceptibility to management bias.
Collection fund adjustment account	Lower inherent risk	The Collection Fund Adjustment Account is assessed as lower inherent risk, as it reflects timing differences between statutory collection fund arrangements and accrual-based accounting, with limited impact on the overall financial statements if misstated. Despite a degree of mechanical complexity, the reserve does not affect the reported financial position or financial resilience and provides limited scope or incentive for management bias.
Pension reserve	Aassurances obtained	We have obtained assurance over the closing balance as at 2024/25; therefore, no rebuild procedures are required.
Accumulated absences account	Immaterial	The reserve balance is immaterial

Rebuilding assurance over reserves – Risk assessment

4. Implications for the 2025/26 audit

Our risk assessment process has indicated that the pre-2023/24 gaps in assurance - particularly those relating to reserves and other cumulative balances - cannot be sufficiently addressed as part of the 2025/26 audit to support future progression towards qualified or unmodified audit opinions, for the following reasons:

- the scale and complexity of historic balances requiring reconstruction; and
- insufficient quality or availability of historic supporting evidence

In line with our established prioritisation principles, we will therefore focus our audit resources on rebuilding assurance for those bodies that have demonstrated they are able to adequately support the completion of all 2025/26 planned audit procedures, supporting the sector-wide objective of returning to unmodified audit opinions as quickly and sustainably as possible. It remains critical that management focus on producing high quality financial statements for publication and ensure high-quality working papers and robust audit evidence is available, and that the underlying issues identified in prior years are addressed as part of the 2025/26 audit cycle to facilitate the natural rebuild of assurance. This will be essential to avoid any further delay in the eventual process of rebuilding assurance over the Council's historic position, which is critical given the timing of upcoming Local Government Reorganisation. We will reperform our risk assessment procedures as part of our 2026/27 audit planning to update the assessment of whether the Council is in a position to proceed with the historical rebuild of assurance.

5. Fees

The activities undertaken in relation to this risk assessment, the preparation of the submission required by MHCLG, and the drafting of this addendum are outside the scope of the scale fee set out in our Audit Planning Report issued on 10 June 2026. In addition, procedures relating to the rebuilding of historical assurance will also be outside the scale fee.

Accordingly, we will seek a variation to the scale fee to reflect these changes to the scope of our work and will communicate further through our reporting once the costs are agreed.

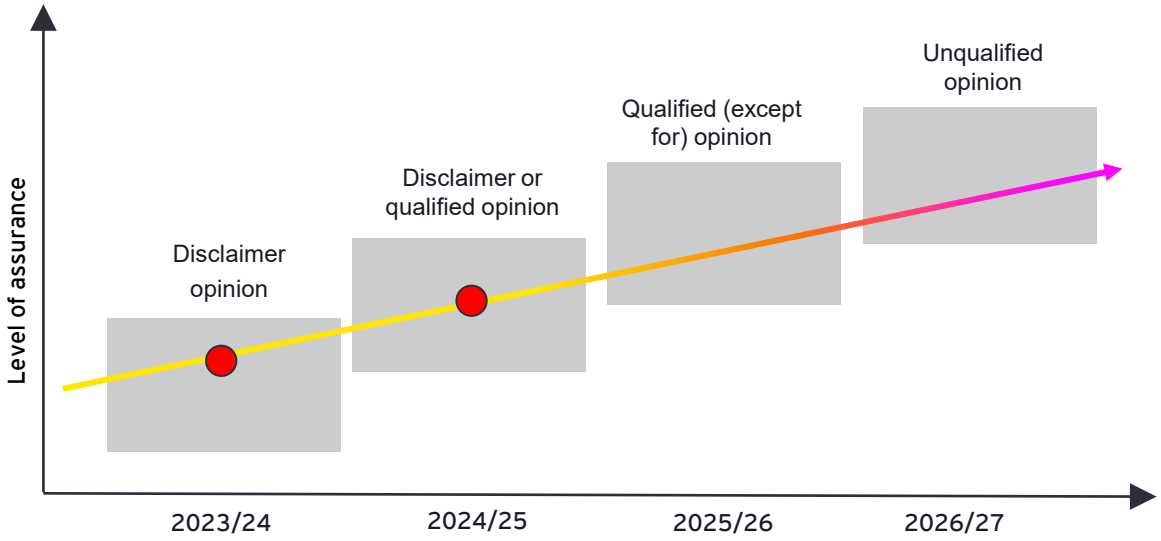
Appendix A

Appendix A – Rebuilding assurance

Progress to full assurance

The chart below illustrates the expected timescale for rebuilding audit assurance as set out in the NAO's LARRIG 01. It also shows our assessment of the Council's progress against that illustrative timescale, together with the reasons for that assessment and the key actions required to successfully rebuild assurance.

The guidance recognises that the journey to full assurance - and therefore an unqualified audit opinion - will typically take a number of years. Progress depends on sustained coordination and engagement between the Council and the audit team across successive audit cycles. Since 2022/23, we have applied a structured, risk-based prioritisation approach to local government audits. This approach is designed to support a return to unqualified audit opinions wherever feasible, while continuing to meet the statutory backstop requirements introduced as part of the local audit reset.



Council progress

In 2023/24 and 2024/25 a disclaimer of opinion was issued due to the application of the backstop. This means the auditor was unable to form an opinion on the financial statements.

In our view, the Council's progress falls behind the expected timescales set out in LARRIG 01. Until the natural rebuild process has commenced, it is not possible to complete the rebuild of assurance over the historic gaps in assurance arising from the disclaimers of opinion.

For 2025/26 the Council's focus should be on the preparation of high-quality financial statements and associated working papers to facilitate completion of the audit process and allow the natural rebuild of assurance to commence.

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UKC-038208 (UK) 03/25. Creative UK.
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AUDIT AND GOVERNANCE COMMITTEE **Deputy Head of Partnership**
REPORT NO. SIAP 26/05

29 September 2026

INTERNAL AUDIT PROGRESS REPORT

SUMMARY:

As required by the Global Internal Audit Standards in UK Public Sector this report presents the Internal Audit Progress Report.

- The Internal Audit Progress Report (Appendix A) provides the Audit and Governance Committee with an overview of internal audit activity against assurance work completed in accordance with the approved audit plan and to provide an overview of key updates pertinent to the discharge of the committee's role in relation to internal audit.

RECOMMENDATION:

Members are requested:

- to **note** the Internal Audit Progress Report (Appendix A).

1 Introduction

1.1 The mandate for internal audit in local government is specified within The Accounts and Audit Regulations 2015, which states:

'A relevant authority must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance.'

1.2 From 1 April 2025, the 'standards or guidance' in relation to internal audit are those laid down in the:

- Global Internal Audit Standards (GIAS),
- Application Note: Global Internal Audit Standards in the UK Public Sector (Application Note) and
- Code of Practice for the Governance of Internal Audit in UK Local Government.

The collective requirements shall be referred to as the Global Internal Audit Standards in the UK Public Sector (the Standards).

1.3 In accordance with proper internal audit practices (Global Internal Audit Standards in the UK Public Sector), the Chief Internal Auditor is required to provide a written status report to the Audit & Governance Committee, summarising:

- ongoing confirmation or otherwise regarding independence, and impairment [Standard 7.1]
- a summary of significant issues and escalation of matter of importance [Standard 8.1]
- overview and sufficiency of resourcing [Standards 8.2, 10.1, 10.2, and 10.3]
- communicating of unresolved issues that fall outside of the Council's risk tolerance [Standard 11.5]
- update on progress and any changes to the annual audit plan [Standard 9.4]
- internal audit performance measures [Standard 12.2]
- status of 'live' internal audit reports and status on the implementation of management actions [Standard 15.2]

1.4 Appendix A provides a summary of internal audit's ongoing progress.

2 Recommendation

2.1 Members are requested to note the Internal Audit Progress Report.

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HEAD OF SERVICE: Amanda Bancroft, Executive Head of Governance and Law (Monitoring Officer)

Southern Internal Audit Partnership

Assurance through excellence and innovation

Internal Audit Progress Report

Rushmoor Borough Council

Prepared by: Natalie Jerams, Deputy Head of Partnership

September 2026

1. Internal Audit Mandate

The mandate for internal audit in local government is specified within The Accounts and Audit Regulations 2015, which states:

'5. (1) A relevant authority must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance.

(2) Any officer or member of a relevant authority must, if required to do so for the purposes of the internal audit—

(a) make available such documents and records; and
(b) supply such information and explanations

as are considered necessary by those conducting the internal audit.'

The role of internal audit is best summarised through its definition within the Standards, as an:

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

The Council is responsible for establishing and maintaining appropriate risk management processes, control systems, accounting records and governance arrangements. Internal audit plays a vital role in advising the Council that these arrangements are in place and operating effectively.

The Council's response to internal audit activity should lead to the strengthening of the control environment and, therefore, contribute to the achievement of the organisation's objectives.

2. Internal Audit Standards

With effect from 1 April 2025, the 'Standards' against which internal audit within the public sector must conform are those laid down in the Global Internal Audit Standards, Application Note: Global Internal Audit Standards in the UK Public Sector and the Code of Practice for the Governance of Internal Audit in UK Local Government. The collective requirements are referred to as the Global Internal Audit Standards in the UK Public Sector.

3. Purpose of Report

In accordance with proper internal audit practices (Global Internal Audit Standards in the UK Public Sector), and the Internal Audit Charter the Chief Internal Auditor is required to provide a written status report to Senior Management and the Corporate Governance Audit & Standards Committee, summarising:

- The monitoring of 'live' internal audit reports
- an update on progress against the annual audit plan and any subsequent revisions
- acknowledgement of any actual or perceived impairments to internal audit independence
- internal audit performance, planning and resourcing issues
- results of audit assignments and insights.

Internal audit reviews culminate in an opinion on the assurance that can be placed on the effectiveness of controls in place focusing on those designed to mitigate risks to the achievement of management objectives of the service area under review. Assurance opinions are categorised as follows:

Substantial	A sound system of governance, risk management and control exists, with internal controls operating effectively and being consistently applied to support the achievement of objectives in the area audited.
Reasonable	There is a generally sound system of governance, risk management and control in place. Some issues, non-compliance or scope for improvement were identified which may put at risk the achievement of objectives in the area audited.
Limited	Significant gaps, weaknesses or non-compliance were identified. Improvement is required to the system of governance, risk management and control to effectively manage risks to the achievement of objectives in the area audited.
No	Immediate action is required to address fundamental gaps, weaknesses or non-compliance identified. The system of governance, risk management and control is inadequate to effectively manage risks to the achievement of objectives in the area audited.

4. Resourcing

As Chief Internal Auditor I maintain responsibility for ensuring that there is a sufficient level of resource available, supported by an appropriate range of knowledge, skills, qualifications and experience to deliver the internal audit plan (2026/27) and in the fulfilment of the audit mandate and delivery of the internal audit strategy

- **Human Resource -** the Southern Internal Audit Partnership has access to an appropriate range of knowledge, skills, qualifications and experience required to deliver the internal audit strategy and risk-based audit plan.
- **Financial Resource -** the Head of Southern Internal Audit Partnership will manage the internal audit budget to enable the successful implementation of the internal audit mandate and achievement of the plan. The budget includes the resources necessary for the function's operation, including training and relevant technologies and tools.
- **Technological Resource -** the internal audit function has the technology to support the internal audit process and regularly evaluates technological resources in pursuit of opportunities to improve effectiveness and efficiency.

I have not been made aware of any implications on organisational capacity that may adversely affect the delivery of the internal audit plan.

5. Independence

As your chief internal auditor, I retain no roles or responsibilities that have the potential to impair my independence, either in fact or appearance. Internal auditors engaged in the delivery of the 2026-27 internal audit plan have had no direct operational responsibility or authority over any of the activities reviewed. I can confirm there has been no interference encountered relating to the scope, performance, or communication of internal audit work during the year to date in the delivery of the internal audit plan or the fulfilment of the internal audit mandate.

6. Impairments

There have been no impairments to internal audit activity during the year. The internal audit function has remained free from all conditions that threaten our ability to carry out responsibilities in an unbiased manner, including matters of engagement selection, scope, procedures, frequency, timing, and communication. The internal audit team have maintained an unbiased mental attitude allowing them to perform engagements objectively enabling them to believe in their work product, with no compromise to quality, and no subordination to their judgment on audit matters, either in fact or appearance.

7. Rolling Work Programme

The internal audit plan for 2026-27 was originally presented to Senior Management and approved by the Audit & Governance Committee in March 2026. The audit plan remains fluid to provide a responsive service that reacts to the changing needs of the Council. Progress against the plan is detailed below.

Audit Review	Sponsor	Scoping Held	ToR Issued	Fieldwork Start	Draft Report	Final Report	Assurance Opinion	Comment
Annual Governance Statement	EHF / EHGL	05.06.26	11.08.26	01.09.26				Q1
Decision Making	CMD	21.07.26	13.08.26	01.09.26				Q1
Contract Management	Corporate							Q4
Data Quality & Retention	EHGL							Q2 ⇨ Q4
Procurement	ED	02.07.26						Q2 – Draft ToR issued 03.08.26
IT Asset Management	CMIT							Q3
Repairs & Maintenance	EHPG	09.07.26	04.09.26					Q2 – Fieldwork due to commence on 22.09.26
Development Management	EHPG	13.05.26	09.06.26	24.08.26				Q1
Climate Strategy	ED							Q3
Property Management	EHPG							Q4
Princes Hall	EHO							Q4
Agency Staff – Follow Up	CMP							Q2 ⇨ Q3
Armed Forces National Event	ED							Q3
Tree Inspections	EHO							Q3
Contingency - Devolution / Local Government Review	All							Q1-Q4

IMD	Interim Manging Director	EHO	Executive Head of Operations
ED	Executive Director	CMD	Corporate Manager, Democracy
EHF	Executive Head of Finance	CMIT	Corporate Manger, IT
EHGL	Executive Head of Governance and Law (Monitoring Officer)	CMP	Corporate Manager, People
EHPG	Executive Head of Property & Growth		

8. Adjustment to the Internal Audit Plan 2026-27

Internal Audit focus continues to be proportionate and appropriately aligned. The plan remains fluid and subject to on-going review and amendment, in consultation with the relevant audit sponsors, Senior Management, and Corporate Governance Audit & Standards Committee, to ensure internal audit are able to react to new and emerging risks and the changing needs of the Council.

Such amendments to the 2026-27 internal audit plan are detailed below with explanations for the proposed amendments. These were approved by the Audit & Governance Committee on 30 July 2026.

Additions	**Audit Review**	**Reason for inclusion in the plan**
	Tree Inspections	Risk reassessed at the request of the Audit & Governance Committee. To review the inspection regime and record keeping.
Withdrawals	**Audit Review**	**Reason for removal from the plan**
	MyHR Application	Removed to allow resource to be reallocated to the Tree Inspections internal audit review. Assessed as lower priority.

9. Acceptance of Risk

Internal audit reporting protocols are in place to ensure that the scope of work and findings for all assignments are reported appropriately and that agreed management actions are approved by senior management.

As per the officer report to the June 2026 Audit & Governance Committee, one action relating to the internal audit of Pay360 will no longer be implemented due to the cost of IT implementation and the timescales associated with LGR.

10. Fraud & Irregularity

In accordance with the internal audit charter and the audit plan, auditors will plan and evaluate their work so as to have a reasonable expectation of detecting fraud and identifying any significant weaknesses in internal controls.

Whilst not responsible for the detection of fraud within the Council, Southern Internal Audit Partnership's work during 2026/27 to date has not identified, and we have not been made aware of, any significant control deficiencies that may pose a significant fraud risk.

11. Executive Summaries of reports published concluding a 'Limited' or 'No' assurance opinion

There have been no new 'limited' or 'no' assurance opinion reports for the 2026/27 year to date.

12. Analysis of 'Live Audit Reviews'

This table reflects the status of management actions as at 31 August 2026.

Audit Review	Report Date	Audit Sponsor	Assurance Opinion	Management Actions														
				Agreed			Pending			Complete			Retired			Overdue		
				L	M	H	L	M	H	L	M	H	L	M	H	L	M	H
IT Software Development	2022/23	CMIT	Reasonable	2	8	1				2	7	1					1	
Information Governance	2022/23	CMLSMO	Reasonable	1	9					1	7						2	
Disabled Facility Grants	2024/25	EHO	Limited	1	10	8				1	10	7						1
Sales Ledger	2024/25	EHF	Reasonable		3						2						1	
Agency Staff	2025/26	CMP	No		11	12					4	11					7	1
Budget Management	2025/26	EHF	Reasonable	1	3					1	2						1	
Asset Management & Disposal	2025/26	EHPG	Reasonable	1	2		1	1			1							
Recruitment & Retention	2025/26	CMP	Reasonable	12	8					9	8					3		
Risk Management	2025/26	ED	Reasonable		3			1			2							
Cyber Security Training & Awareness	2025/26	CMIT	Reasonable		8			1			7							
Temporary Accommodation	2025/26	EHO	Reasonable	1	1		1				1							
Total				**19**	**66**	**21**	**2**	**3**	**-**	**14**	**51**	**19**	**-**	**-**	**-**	**3**	**12**	**2**

Annex 1

Overdue 'High Priority' Management Actions

Disabled Facilities Grants			
Observation: The Rushmoor Borough Council Retention Guidelines state that the retention period for grants made through RBC, is six years after the last payment. It is also a requirement of the Data Protection Act 2018 to not keep data for longer than is necessary. The Private Sector Housing Manager stated there is a known issue with retention adherence and support had been sought through the IT department, however, this remains a known issue that retention guidelines are currently unable to be maintained and complied with. Data from 2010 is currently still in circulation. It was also stated that retention adherence has not been possible to maintain within the UNIFORM system site.			
Risk: Breach of GDPR regulations leading to action from the Information Commissioners Office (ICO).			
Management Action	**Original Due Date**	**Revised Due Date**	**Latest Service Update**
This issue has been raised with the Senior IT Manager at Rushmoor. They are looking at a way forward and we will continue to chase a positive outcome to this risk. A response has been received from our IT team which confirms that we are currently working on a move across to IDOX Cloud for all Uniform applications throughout the Council. Once we go live there are retention capabilities available within the system. Meetings are taking place to discuss this transition which will enable us to address the problem.	30.09.25	**31.12.26** 31.03.26	This issue is part of a wider issue in the organisation for users of IDOX and UNIFORM. The matter is being dealt with at a corporate level.

Agency Staff			
Observation: Rushmoor Borough Council work with a range of agency firms for aspects such as technical input, project management and Finance. However, there is no evidence that the procurement of such services has followed the organisation's existing Contract Standing Order Rules. The Council's Contract Standing Orders, state within 'Item 6.5 Appendix - Contract Standing Orders' Page 4 - 1.1.6 "all procurements must be carried out within a specific legal framework and based on principles of equal treatment, transparency, and non-discrimination". "1.3 Application of the Rules (Regulated Procurements) 1.3.1 These rules govern: any contract for the supply, of goods, services or works" Testing found: • Agencies engaged by Rushmoor Borough Council are not recorded within the 'Current Contracts' section of the Council's Contracts List. • Full sample testing of eight roles for agency staff were found to be 'Interim' roles. • Testing is unable to provide evidence of Contract Standing Orders being followed for the engagement of agency staff.			
Risk: Non-compliance with procurement legislation and internal governance standards.			
Management Action	**Original Due Date**	**Revised Due Date**	**Latest Service Update**
It is intended that the automated process tool for a temporary worker will include a procurement step so it is not just reliant on the policy and procedure.	31.03.26	**30.09.26**	In the process of reviewing how the automated process, using Microsoft Forms, complies with data protection requirements. In the meantime, the process documentation associated with the engagement of a temporary worker is sent directly to the People Team for checking and authorising.

Annex 2

Overdue 'Low & Medium Priority' Management Actions

Audit Review	Report Date	Opinion	Priority		Due Date	Revised Due Date
			Low	Medium		
IT Software Development	2022/23	Reasonable		1	-	**31.12.26** 30.09.26 30.04.26 28.02.26
Information Governance	2022/23	Reasonable		1	Sep 2023	**30.09.26** 31.03.26
				1	Sep 2023	**30.09.26** 31.03.26
Sales Ledger	2024/25	Reasonable		1	30.11.25	**31.12.26** 31.03.26
Agency Staff	2025/26	No		1	31.03.26	**30.09.26**
				1	31.03.26	**30.09.26**
				1	31.03.26	**30.09.26**
				1	31.03.26	**30.09.26**
				1	31.03.26	**30.09.26**
				1	31.03.26	**30.09.26**
				1	31.03.26	**30.09.26**
Recruitment & Retention	2025/26	Reasonable	1		30.04.26	**31.12.26**
			1		30.07.26	**30.09.26**
			1		30.07.26	**30.09.26**
Budget Management	2025/26	Reasonable		1	30.04.26	**31.12.26**
Total			**3**	**12**		

Annex 3

Southern Internal Audit Partnership - Performance Measures

Performance Measure	Regularity	Target	Actual 26/27	Status
1. Percentage of the agreed audit plan completed (issue of draft / final report)	Ongoing	90%	0%	
2. Audits delivered within agreed timescales (% year to date)				
○ To issue of draft report	Ongoing	80%	n/a	n/a
○ To issue of final report	Ongoing	80%	n/a	n/a
3. Audits conducted optimising the effective use of data analytics (% year to date)	Ongoing	60%	n/a	n/a
4. Conformance with the Global Internal Audit Standards in the UK Public Sector	Annual	Generally conforms	Generally conforms	

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AUDIT AND GOVERNANCE COMMITTEE

29 September 2026

EXECUTIVE HEAD OF GOVERNANCE AND LAW
REPORT NO. LEG2603

CORPORATE POLICY AND GUIDANCE ON SURVEILLANCE AND THE USE OF THE REGULATION OF INVESTIGATORY POWERS ACT 2000

SUMMARY AND RECOMMENDATION:

SUMMARY:
To update Members of the Council's surveillance activities within and outside the scope of the Regulation of Investigatory Powers Act 2000 (RIPA).

RECOMMENDATION: To note the contents of this report.

1. INTRODUCTION

1.1 Most of the surveillance carried out by the Council will be done overtly, that is, that officers will be going about Council business openly.

1.2 The Council's corporate policy on the use of covert techniques under RIPA should be reviewed on a regular basis. The powers under RIPA are used infrequently, if at all some years.

1.3 The Investigatory Powers Commissioner's Office (IPCO) reviews Rushmoor Borough Council's policies and procedures relating to RIPA on a regular basis.

1.4 Most of the surveillance undertaken by the Council is outside of RIPA, for example, for planning enforcement purposes or under Licensing legislation. The IPCO have made clear in their guidance that robust processes and procedures need to be in place for any surveillance carried out, whether under the RIPA provisions or under separate legislation.

1.5 CCTV surveillance across the Borough is carried out by Runnymede Borough Council, on behalf of Rushmoor Borough Council, with the appropriate General Data Protection Regulation (GDPR) and contractual arrangements in place. The CCTV surveillance is outside of RIPA.

2. BACKGROUND

2.1 Council officers who carry out investigations as part of their duties sometimes need to consider using covert techniques, i.e., techniques that leave the subject of the investigation unaware that they are being observed or investigated.

2.2 RIPA provides a framework within which such techniques may be used. All RIPA authorisations must now be approved by the Magistrates' Court before any surveillance can take place.

2.3 It should be noted that surveillance outside of RIPA will be undertaken and it is important that this is lawful and takes account of human rights legislation.

2.4 Only trained and authorised Council officers may authorise and undertake covert surveillance, all of which is subject to detailed scrutiny by the Investigatory Powers Commissioner's Office (IPCO).

2.5 In March 2026, comprehensive training was provided to staff who are involved in surveillance activities.

3. UPDATE

3.1 There have been no requests for RIPA authorisation via Legal Services, since the last report in September 2025.

3.2 In April 2026, the Council completed a self-assessment of its RIPA activities at the request of the Investigatory Powers Commissioner's Office (IPCO).

3.3 On 13 April 2026, the IPCO confirmed that it was satisfied with the Council's self-assessment response which provided assurance that ongoing compliance with RIPA 2000 and the Investigatory Powers Act 2016 will be maintained. The IPCO confirmed it was content with the Council's RIPA policies and related governance in place and requested that the Council continue with ongoing training and awareness raising; internal compliance monitoring by lead Managers within their service areas; and the retention, review and destruction of any product obtained through the use of covert powers.

3.4 A further inspection by the IPCO is not expected until 2029 and the IPCO have been informed that by the time the next inspection is due to take place, this Council will have dissolved and will be part of a new unitary Council. In light of the government announcement relating to Local Government Reorganisation, once clarity is received from MHCLG, IPCO will be updated if necessary.

3.5 Over recent months, Legal Services have undertaken a comprehensive review of the Council's Surveillance and RIPA Policy and Guidance. The

review has informed the drafting of a new Surveillance and RIPA & Investigatory Powers Act 2016 (IPA) as Amended by Investigatory Powers (Amendment) Act 2024 Policy and Guidance, which is currently being finalised to ensure it remains accurate and up to date. A new Surveillance and RIPA & IPA Policy and Guidance incorporates all relevant updates to the RIPA & IPA Statutory framework namely:

i) CHIS Revised Code of Practice December 2022
ii) Covert Surveillance and Property Interference Revised Code of Practice February 2024
iii) Investigatory Powers (Amendment) Act 2024
iv) Communications Data Code of Practice June 2025

4. LEGAL IMPLICATIONS

4.1 A review of the Council's Surveillance and RIPA Policy and Guidance on the use of surveillance and use of powers under RIPA and IPA is required to ensure that it complies with any changes in the law.

5. FINANCIAL AND RESOURCE IMPLICATIONS

5.1 There are no additional financial implications.

6. EQUALITIES IMPACT IMPLICATIONS

6.1 No equalities issues arise, however before undertaking any covert surveillance an equalities impact assessment should be undertaken.

7. SUMMARY

7.1 No covert surveillance has been undertaken by the Council this year.

7.2 In April 2026, the Investigatory Powers Commissioner's Office confirmed that it was content with the Council's policies and RIPA activities.

7.3 A new Draft Surveillance and RIPA & IPA Policy and Guidance is submitted in conjunction with this Report for review by the Audit & Governance Committee for approval.

RECOMMENDATION: That the Audit and Governance Committee approve the Surveillance and RIPA & IPA Policy and Guidance at Appendix 1 to this report.

CONTACT DETAILS:

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Surveillance and Regulation of Investigatory Power Act 2000 (RIPA) & Investigatory Powers Act 2016 (IPA) as Amended by Investigatory Powers (Amendment) Act 2024

Policy and Guidance

_____ 202__

RUSHMOOR BOROUGH COUNCIL

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LIST OF ACRONYMS

ACRONYM	MEANING
RIPA	Regulation of Investigatory Powers Act 2000
IPA	Investigatory Powers Act 2016
IPCO	Investigatory Powers Commissioner's Office
NAFN	National Anti-Fraud Network
OCDA	Office for Communications Data Authorisations
JA	Judicial Approval
SRO	Senior Responsible Officer
AO	RIPA Authorising Officer
DSO	CD Designated Senior Officer
SPOC	Single Point of Contact
URN	Unique Reference Number
DS	Directed Surveillance
CHIS	Covert Human Intelligence Source
IS	Intrusive Surveillance
CD	Communications Data
CRR	Centrally Retrievable Record
DO	Disclosure Officer

PART A: RIPA 2000, Surveillance and Human Intelligence Sources

1. Introduction and Key Measures

1.1 Introduction

1.1.1 The performance of certain investigatory functions of Local Authorities may require the surveillance of individuals or the use of undercover officers and informants. Such actions may intrude on the privacy of individuals and can result in private information being obtained and as such, should not be undertaken without full and proper consideration.

1.1.2 The Human Rights Act 1998 (HRA) gave effect in UK law to the rights of individuals enshrined in the European Convention on Human Rights 1950 (ECHR). All surveillance activity can pose a risk to the Council from challenges under the Human Rights Act 1998 or other processes. Therefore, it must be stressed that all staff involved in the process must take their responsibilities seriously which will assist with the integrity of the Council's processes, procedures and oversight responsibilities.

1.1.3 When public authorities seek to obtain private information through covert surveillance, Article 8 of ECHR - which protects an individual's right to respect their private and family life, home, and correspondence - is the provision most likely to be engaged.

1.1.4 Regulation of Investigations Powers Act 2000 (RIPA) provides the statutory framework to enable covert surveillance to be lawfully authorised and conducted and the Investigatory Powers Act 2016 (IPA) provides the statutory framework for the acquisition of Communications Data (CD) whilst ensuring the public authority does not infringe a person's Article 8 rights, except as may be permitted by Article 8(2). Consequently, a public authority can act in a way that is compatible with the ECHR and HRA.

1.1.5 If having read this document you are unclear about any aspect of the process, seek advice from Legal Services.

1.2 Purpose and Objectives

1.2.1 The purpose of this Policy is to ensure there is a consistent approach to the undertaking and authorisation of surveillance activity that is carried out by the Council. This includes the use of undercover officers and informants, known as Covert Human Intelligence Sources (CHIS). This will ensure that the Council complies with RIPA.

1.2.2 This document provides guidance on the authorisation processes and the roles of the respective staff involved.

1.2.3 The Senior Responsible Officer (SRO) is duly authorised by the Council to monitor, review, and amend this Policy as and when required. **Appendix 1** sets out the designation of the Senior Responsible Officer. For administration and operational effectiveness, the SRO is also authorised to add or substitute an Authorising Officer or Designated Senior Officer when required.

1.2.4 The policy also provides guidance on surveillance which is necessary to be undertaken by the authority but cannot be authorised under the RIPA legislation. This type of surveillance will have to be compliant with the Human Rights Act.

1.2.5 The policy also identifies the cross over with other policies and legislation, particularly with the Data Protection Act and the Criminal Procedures Act.

1.2.6 All RIPA covert activity will have to be authorised and conducted in accordance with this policy, the RIPA legislation and Codes of Practice. Therefore, all officers involved in the process will have regard to this document and the Statutory RIPA Codes of Practice issued under section 71 RIPA for both Directed Surveillance and the use of Covert Human Intelligence Sources (CHIS). The Codes of Practice are available from:

1.2.7 Covert surveillance code of practice - GOV.UK - current version issued in February 2024

1.2.8 Covert Human Intelligence Sources code of practice 2022 - GOV.UK - current version issued in December 2022.

1.3 Background to RIPA and Lawful Criteria

1.3.1 On 2nd October 2000 the Human Rights Act 1998 (HRA) came into force, making it potentially unlawful for a Local Authority to breach any article of the ECHR.

1.3.2 Article 8 of the European Convention on Human Rights states that: -

1.3.2.1 Everyone has respect for his private and family life, his home and his correspondence.

1.3.2.2 There shall be no interference by a Public Authority with the exercise of this right except such as 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 and morals or for the protection of the rights and freedoms of others.

1.3.3 The right under Article 8 is a qualified right and Public Authorities can interfere with this right for the reasons given in 4.2 (2) above if it is necessary and proportionate to do so.

1.3.4 Those who undertake Directed Surveillance or CHIS activity on behalf of a Local Authority may breach an individual's Human Rights, unless such surveillance is lawful, consistent with Article 8 of the ECHR and is both necessary and proportionate to the matter being investigated.

1.3.5 RIPA provides the legal framework for lawful interference to ensure that any activity undertaken, together with the information obtained, is HRA compatible.

1.3.6 However, under RIPA, Local Authorities can now only authorise Directed Surveillance for the purpose of preventing or detecting conduct which constitutes a criminal offence which is punishable (whether on summary conviction or indictment) by a maximum term of at least six months imprisonment; (serious crime criteria) or involves the sale of alcohol or tobacco to children.

1.3.7 The lawful criteria for CHIS authorisation is prevention and detection of crime and prevention of disorder and the offence does not have to have a sentence of 6 months imprisonment.

1.3.8 Furthermore, the Council's authorisation can only take effect once an Order approving the authorisation has been granted by a Justice of the Peace (JP).

1.3.9 RIPA ensures that any surveillance which is undertaken following correct authorisation and approval from the Justice of the Peace is lawful. Therefore, it protects the authority from legal challenge. It also renders evidence obtained lawful for all purposes.

1.4 Legal implications

1.4.1 Although the lack of authorisation does not automatically make surveillance activity unlawful, it may result in significant legal and procedural consequences:

1.4.1.1 Evidential Impact: Any evidence obtained may be deemed inadmissible in court proceedings.

1.4.1.2 Human Rights Claims: Individuals subject to surveillance may pursue claims under Article 8 of the Human Rights Act, alleging an infringement of their right to privacy.

1.4.1.3 Reputational and Financial Risk: A successful Article 8 challenge could result in reputational damage to the Council and potential liability for financial compensation.

1.4.1.4 Tribunal Complaints: The Government has established the Investigatory Powers Tribunal (IPT), which allows individuals to lodge complaints if they believe their rights have been breached.

1.4.1.5 Regulatory Reporting: The activity may be classified as an error, requiring investigation and a formal report by the Senior Responsible Officer to the Investigatory Powers Commissioner's Office (IPCO).

1.5 Financial Implications

1.5.1 Failure to obtain proper authorisation may result in indirect costs such as legal challenges, reputational damage, and potential compensation claims.

1.6 Impact assessment (IA) record

Data Protection IA required?	(No)
Equalities IA required?	(Yes)
Climate Change IA required?	(No)

2. Surveillance

2.1 Surveillance for the purposes of RIPA includes:

2.1.1 monitoring, observing, or listening to persons, their movements, their conversations or their other activities or communications;

2.1.2 recording anything monitored, observed, or listened to in the course of surveillance;

2.1.3 surveillance by or with the assistance of a surveillance device.

2.2 Scope of Surveillance

2.2.1 Surveillance may be conducted with or without the assistance of a surveillance device, includes the recording of any information obtained and can be undertaken

whilst on foot, mobile or static. Surveillance also includes references to the interception of a communication in the course of its transmission by means of a postal service of telecommunication system, if and only if the communication is sent by, or intended for, a person who has consent to the interception of their communications, and there is no separate warrant authorising that interception.

2.3 Methods of recording

2.3.1 Methods of "recording," surveillance were expanded by the Protection of Freedoms Act 2012, which dealt with the regulation of CCTV and other surveillance camera technology and introduced the Surveillance Camera Code of Practice. The Act states "surveillance camera systems include… any other systems for recording or viewing visual images for surveillance purposes" which includes Body Worn Videos.

2.4 Lawful Surveillance

2.4.1 Surveillance will be lawful if an authorization confers an entitlement to engage in that conduct on the person whose conduct it is and his conduct is in accordance with an authorisation.

2.5 Types of Surveillance

There are two types of surveillance, namely overt and covert.

2.5.1 **Overt Surveillance**. Most surveillance carried out by the Council will be overt, thus it will fall outside the remit of RIPA. An example of overt surveillance is the Council's overt CCTV.

2.5.2 **Covert Surveillance**. Surveillance is covert if and only if, it is carried out in a manner that is calculated to ensure that persons who are the subject to the surveillance are unaware that it is or may be taking place.

2.5.3 **Categories of Covert Surveillance**. There are three categories of covert surveillance:

(i) Directed
(ii) Covert Human Intelligence Source (CHIS)
(iii)**Intrusive**. Please note, local authorities are prohibited from conducting intrusive surveillance.

2.5.4 **Directed Surveillance**. Directed surveillance (DS) is covert but not intrusive surveillance which is undertaken:

(i) for the purposes of a specific investigation or a specific operation;
(ii) in such a manner as is likely to result in the obtaining of private information about a person (whether or not one specifically identified for the purposes of the investigation or operation); and
(iii)is conducted otherwise than by way of an immediate response to events or circumstances the nature of which is such that it would not be reasonably practicable for an authorisation to be sought for the carrying out of the surveillance.

2.5.4.1 Example. An Investigation into a suspect (target) who claimed Direct Payment from a Council based upon his declared disabilities. It is suspected the target is not disabled, partially sighted and/or has substantially exaggerated his injuries. Officers wish to undertake a covert DS operation involving officers positioned in an unmarked van outside of the target's home address. The intended directed surveillance operation intends to capture by photographs and video, the target attending and/or exiting the property, to ascertain his method of transport, whether he is the driver or passenger and the extent to which he can walk unaided.

2.5.4.2 The proposed DS operation is covert, is to be used for a specific investigation and will be conducted in a manner likely to result in obtaining private information about the target, namely his movements, mobility, family members and his daily activities in and around his home address. Accordingly, the intended surveillance operation constitutes DS, therefore a RIPA DS authorisation and Judicial Approval is required.

2.5.5 **Covert Human Intelligence Sources (CHIS)**. A CHIS is perhaps more commonly known as an informant.

2.5.5.1 A person is a CHIS if they/them:

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

2.5.5.2 A relationship is established or maintained for a covert purpose if any only if it is conducted in a manner that is calculated to ensure that one of the parties to the relationship is unaware of the purpose. A covert relationship and information obtained from it is disclosed covertly, if and only if it is to be used, or as the case may be, disclosed in a manner that is calculated to ensure that one of the parties to the relationship is unaware of the use or disclosure in question.

2.5.5.3 Most CHIS applications are for both use and conduct of a CHIS as the CHIS is usually tasked to undertake covert action and once completed to respond to tasking. Care should be taken to ensure the CHIS is clearly instructed on the type and remit of the task and that all CHIS activities are properly risk-assigned.

2.5.5.4 In practice the reactive nature of the work of a CHIS and the need for a CHIS to maintain cover may make it necessary to engage in conduct which was not envisaged at the time the authorisation and Judicial Approval was granted. Such conduct is deemed incidental and is regarded as property authorised even if not included in the initial authorisation but is likely to occur only in exceptional circumstances.

2.5.6 Key Difference Between Directed Surveillance (DS) & CHIS

The key difference is that DS involves obtaining private information through covert means, whereas a CHIS involves the manipulation of a relationship to obtain information.

2.5.7 Establishing, Maintaining & Using a Relationship

Establishing a relationship means the "set up," and maintenance of the relationship but which does not require endurance over any particular period e.g. a relationship of seller and buyer may be deemed to exist between a shopkeeper and customer even if only a single transaction takes place. Repetition of a sale does not determine the existence of a relationship as this is determined on all the circumstances including the length of time of the contact between the two and the nature of any covert activity.

Example 1
Intelligence suggests a local shopkeeper openly sells alcohol to underage customers without asking any questions. The Council task a trained juvenile to make a purchase of alcohol where no prior discussion between the shopkeeper and juvenile is required and thus it is not necessary to establish a relationship between the two. The tasked juvenile is not a CHIS, but it is good practice to obtain a Directed Surveillance Authorisation.

Example 2
A like scenario but where the shopkeeper only sells to juveniles known to and trusted by them from a room at the back of the shop. To gain access to the room it is necessary for the trained tasked juvenile to first be deployed to establish a relationship between the two so that he can gain the shopkeeper's trust. In these circumstances a relationship was necessary and so was established and maintained for a covert purpose, thus a CHIS authorisation is required

2.5.8 A CHIS may be an officer or member of the public.

2.5.9 Relevant Source

This is a CHIS who holds an office, rank or position with the public authority. Local authorities are prohibited from using this type of CHIS.

2.5.10 Participating CHIS's

This type of CHIS is specifically authorised to participate in criminal conduct. Local authorities are prohibited from using this type of CHIS.

2.5.11 Online Role Player

2.5.11.1 Suspects' increased use of social media has led to CHIS techniques expanding to include the use of online CHISs, known as a "role players" who do not disclose their true identity. Any covert online operation that meets the definition set out in paragraph 2.5.5.1 constitutes the use of a CHIS, even where the relationship exists solely in an online environment.

2.5.11.2 The fora in which online role players can be deployed in include social media sites, chatrooms and online gaming apps. In some scenarios the amount of interaction required will not be sufficient to establish a relationship, so the role player will not be a CHIS but will still require a DS authorisation if the other criteria are met. E.g. sending or receiving a friend request, liking a post, or even entering a closed group known to be administered by a subject of interest. By contrast, if once in that closed group, the officer seeks to obtain information by establishing a relationship with a member, they are a CHIS.

2.5.11.3 Where the use of the internet is part of the tasking of a CHIS, the risk assessment carried out in accordance with the CHIS Revised Code December 2022, should include consideration of the risks arising from that online activity, including factors such as the length of time spent online and the material to which the CHIS may be exposed. This should also take into account of any disparity between the technical skills of the CHIS and those of the handler or AO and the extent to which this may impact on the effectiveness of oversight.

2.5.11.4 Where it is intended that one or more officer shares the same online persona, each officer should be clearly identifiable within the overarching authorisation for that operation. The authorisations should provide clear information about the conduct required of each officer and including risk assessments in relation to each officer involved.

2.5.12 Test Purchasing

The Council's position regarding test purchases for one-off sales carried out by either an adult or juvenile is that such conduct does not constitute CHIS, as the purchaser is not required to, nor does he/she establish any relationship in a one-off sale. However, you should consider whether test purchasing requires a DS authorisation, particularly where it is intended to covertly record the test purchase.

2.5.13 Public Volunteer

2.5.13.1 In many cases involving human sources, a relationship will not have been established or maintained for a covert purpose. Members of the public often volunteer or provide information which they have observed or acquired other than through a relationship and without having been induced, asked, or tasked which is not a CHIS scenario. Even if the volunteer was subsequently tasked to continue to obtain and provide such information to the Council if it is not necessary to establish or maintain a relationship in order to obtain and provide this information the informant does not become a CHIS, although it would require a DS authorisation.

2.5.13.2 A resident contacts Rushmoor Borough Council to report suspected drug dealing in a council-owned car park in Farnborough, based on what they have casually observed while parking their own vehicle.

The resident is not a CHIS at this point, as the information is volunteered and not obtained through a relationship established or maintained for a covert purpose. However, if council officers later ask the resident to keep watch on specific individuals, note vehicle registration numbers, or report patterns of activity during particular times, and the resident agrees to do so, the resident would then be tasked to obtain further information. At that point, a CHIS authorisation would be required. This change in role constitutes "status drift".

2.5.14 Use of Equipment by a CHIS

A CHIS wearing or carrying a surveillance device does not need a separate directed or intrusive surveillance authorisation provided the device will only be used in the presence of the CHIS. Please note, local authorities are prohibited from carrying out Intrusive Surveillance.

2.5.15 Local Considerations & Community Impact Assessments

For CHIS applications the Applicant, AO and Magistrate need to be aware of any sensitivities in the local community where the CHIS is being used and of similar activities being undertaken by other public authorities which could have an impact on the deployment of the CHIS. Consideration should also be given to any adverse impact on community confidence or safety that may result from the use or conduct of a CHIS or use of information obtained from that CHIS. The Code recommends that where an AO considers that conflicts may arise, they should consult a senior officer within the police force areas in which the CHIS is deployed. All public authorities should also consider consulting with other relevant public authorities to gauge community impact.

2.6 Special Considerations for CHIS Authorisations

For both vulnerable individuals and juveniles, only the Head of Paid Service or the person acting as Head of Paid Service are permitted to authorise CHIS Applications and/or Renewals. Further, the Investigatory Powers Commissioner's Office must be informed within 7 days of a CHIS authorisation of a vulnerable adult or a juvenile source.

2.6.1 Vulnerable Individuals

A "Vulnerable Individual," is a person who is or may be in need of community care services by reason of mental or other disability, age, or illness and who is or may be unable to take care of themselves, or unable to protect themselves against significant harm or exploitation. A vulnerable individual should only be authorised to act as a CHIS in the most exceptional circumstances.

2.6.2 Juveniles

Whilst it is unlikely the Council will deploy a juvenile CHIS, if utilised, the following enhanced safeguards for Juvenile CHIS's (under 18) must be complied with:

(a) Juvenile CHIS only authorised in exceptional circumstances and subject to enhanced risk assessment process for which where appropriate, external advice should be sought;
(b) CHIS under 16 must not be authorised to give information against their parents or person with parental responsibility for them;
(c) Juvenile CHIS Authorisation duration 4 months;
(d) Separation between those responsible for the investigation and those authorising and managing CHIS;
(e) Appropriate adult normally parent or guardian unless unavailable or specific reasons to exclude them;

In addition to the requirements and safeguards of RIPA, the Orders and Code of Practice, relevant public authorities may also wish to put in place further internal guidance to support their staff in the operation of a CHIS, for example a process to be followed as to how to safeguard and promote the wellbeing of the juvenile CHIS, including how to assess their maturity and capacity to give informed consent; a requirement to ensure the handlers are property trained to deal with young people and requirements to consider all aspects of safeguarding to a young person.

2.7 Management of a CHIS

2.7.1 Tasking is the assignment given to the CHIS asking them to obtain, provide access to or disclose information. In order, for an Authorising Officer ("AO") to be able to grant a CHIS authorisation, both the AO and Magistrate, must believe that in addition to the operation being necessary and proportionate, arrangements exist ensuring:

(a) there will be at all times a "handler," of the specified rank with the relevant investigatory authority, with day-to-day responsibility for the source." The handler is responsible for dealing with the CHIS; directing day to day activities; recording the information supplied by the CHIS and monitoring the CHIS's security and welfare.

(b) that there will be at all times a "controller," of the specified rank with the relevant investigatory authority with general oversight of the use made of the source, responsible for the management and supervision of the handler and general oversight of the us of this CHIS.

2.8 CHIS Records

Detailed records must be kept of the authorisation and use made of a CHIS. In addition, records of copies of the following should be kept for at least six years:

(a) a copy of the authorisation together with any supplementary documentation and notification of the approval given by the authorising officer;
(b) a copy of any renewal of an authorisation, together with the supporting documentation submitted when the renewal was requested;

(c) the reason why the person renewing an authorisation considered it necessary to do so;
(d) any authorisation which was granted or renewed orally (in an urgent case) and the reason why the case was considered urgent;
(e) any risk assessment made in relation to the CHIS;
(f) the circumstances in which tasks were given to the CHIS;
(g) the value of the CHIS to the investigating authority;
(h) a record of the results of any reviews of the authorisation;
(i) the reasons, if any, for not renewing an authorisation;
(j) the reasons for cancelling an authorisation; and
(k) the date and time when any instruction was given by the authorising officer that the conduct or use of a CHIS must cease.

2.9 Security & Welfare

Any public authority deploying a CHIS should take into account the safety and welfare of the CHIS when carrying out actions in relation to an authorisations or tasking, and the foreseeable consequences to others of that tasking11 and undertake a risk assessment before granting the authorisation. The ongoing security and welfare of the CHIS after the cancellation of the authorisation should also be considered at the outset and reviewed during the authorisation period of the CHIS.

Consideration must also be given to the management of any requirement to disclose information which could risk revealing the existence or identity of the CHIS. Strategies minimising the risks to a CHIS or others should be put in place.

2.10 Intrusive Surveillance

As set out above, local authorities are prohibited from carrying out intrusive surveillance. Intrusive surveillance involves the presence of an individual on residential premises or in a private vehicle or is carried out by means of a surveillance device. Surveillance equipment outside the premises or vehicle will not be intrusive unless the device consistently provides information of the same quality and detail as might be expected from a device that is in the premises/vehicle. DS carried out on premises ordinarily used for legal consultations at a time when they are being used as such is to be treated as intrusive surveillance.

2.11 Online Overt & Covert Surveillance including Social Media/Networking Sites

2.11.1 The Council has in place a Council Internet and Social Media Research Investigations Procedure, which specifically addresses the use of social media for investigative purposes.

2.11.2 Permitted Online Access. To undertake any form of overt and/or covert online surveillance Staff/officers must only use a social media account; account name; login details that have been authorised, created, and is controlled by an AO on behalf of the Council.

2.11.3 Officers are prohibited from:

2.11.3.1 using their own personal social media accounts and /or their personal login details to undertake intelligence gathering and/or any form of overt or covert surveillance;

2.11.3.2 using a false identity(pseudonym) to carry out overt surveillance;

2.11.3.3 using a false identity (pseudonym) to carry out covert surveillance unless this activity, pseudonym, and details of the true identity of the officer are all contained in the DS or CHIS application, which must be authorised by an AO and Judicial Approval granted;

2.11.3.4 adopting the identity of a person known, or likely to be known to the subject of interest and/or users of the site for either overt and/or covert DS or to be used by a CHIS;

2.11.4 Online Overt Activity. Publicly Available information (PAI)

2.11.4.1 In addition to utilising online role players as CHIS's, there is a wealth of information available online which provides opportunities to view and/or gather intelligence and/or evidence. This is often referred to as publicly available information (PAI) or open source research.

2.11.4.2 The fact content of many social media sites and websites are freely accessible requires consideration of and in accordance with RIPA. Consideration must therefore be given as to the likelihood of the subject knowing that the surveillance is or may be taking place. Where a public authority has taken reasonable steps to inform the public or particular individuals that the surveillance is or may be taking place, the activity may be regarded as overt and therefore a DS authorisation is not required. Information about an individual on a publicly accessible database such as Companies House is where the individual is unlikely to have any reasonable expectation of privacy over the monitoring by public authorities of that information, hence a DS authorisation is not required.

2.11.5 Online Covert Activity

2.11.5.1 The use of a Council controlled account(s) to undertake online covert activity to undertake initial intelligence; establish or check basic facts or carry out general observation duties including the monitoring of publicly accessible areas of the internet in circumstances where it is not part of a specific investigation or operation does not require a DS authorisation.

2.11.5.2 Where online monitoring or investigation is conducted covertly for the purpose of a specific investigation or operation and is likely to result in the obtaining of private information about a person or group

including the systematic collection and recording of information, a DS authorisation should be considered. When it is intended to engage with others online without disclosing their identity, a CHIS authorisation may be needed.

2.11.5.3 The key issue to determine if a DS authorisation is required is the intended purpose and scope the online activity is proposed to undertake.

2.11.6 Online Covert Directed Surveillance

2.11.6.1 Factors to be considered in establishing whether a DS authorisation is required for online covert directed surveillance include:

i) Whether the investigation or research is directed towards an individual or organisation;
ii) Whether it is likely to result in obtaining private information about a person or group of people (taking account of the guidance at paragraph 3.6 above);
iii) Whether it is likely to involve visiting internet sites to build up an intelligence picture or profile;
iv) Whether the information obtained will be recorded and retained;
v) Whether the information is likely to provide an observer with a pattern of lifestyle;
vi) Whether the information is being combined with other sources of information or intelligence, which amounts to information relating to a person's private life;
vii) Whether the investigation or research is part of an ongoing piece of work involving repeated viewing of the subject(s);
viii) Whether it is likely to involve identifying and recording information about third parties, such as friends and family members of the subject of interest, or information posted by third parties, that may include private information and therefore constitute collateral intrusion into the privacy of these third parties;
ix) An example would be a local Facebook

2.11.6.2 An example would be a local Facebook buy and sell group with 5000 members. The Council is investigating a subject and it was known the subject advertised counterfeit items for sale within this Facebook group which first required the group's administrator to accept the invite request to join. If an officer sent an invite to join the group in order to identify, access and monitor the posts of the subject as part of this investigation, then despite the fact it was a large Facebook group with no privacy settings once membership was authorised, a DS authorisation should be sought as when the administrators made the group publicly available with no privacy settings, it was not anticipated that the information accessible would be used for a covert purpose such as this investigation.

2.11.7 Repeated or systematic viewing, collecting, or recording of private information from "open," social media sources such as Facebook, Snapchat, and LinkedIn including information relating to the interests, activities and movements of individuals and their associates could be regarded as covert surveillance. Once the access and study of an individual's online presence becomes persistent or where any material obtained is to be extracted and recorded and may engage privacy

considerations, such as screenshotting a Facebook account, then a DS RIPA authorisation should be obtained.

2.11.8 Please note, internet searches carried out by third parties on behalf of a public authority may still require a DS authorisation.

2.11.9 Online Covert CHIS

2.11.9.1 Any member of a public authority, or person acting on their behalf, who conducts activity on the internet in such a way that they may interact with others, whether by publicly open websites such as an online news and social networking service, or more private exchanges in circumstances where the other parties could not reasonably be expected to know their true identity, they should consider whether the activity requires a CHIS authorisation.

2.11.9.2 An example would be the Council tasks an officer to covertly purchase goods from several websites to obtain information about the identity of the seller, country of origin of the goods and banking arrangements. In doing so the officer will be required to engage with the seller to obtain the information required and to complete the purchases. This scenario requires the officer to establish and maintain a relationship with the seller and therefore a CHIS authorisation is required.

2.11.9.3 This section should be read in conjunction with CHIS – Online Role Players above.

2.12 Local Authority RIPA Prohibitions

2.12.1 Local authorities are prohibited from carrying out:

i) Intrusive Surveillance;
ii) Property Interference;
iii) Authorising urgent authorisations;
iv) CHIS Criminal Conduct authorisations;

2.12.2 If any officer considers trespass is required as part of any authorised surveillance this would constitute property interference which is prohibited. The surveillance should therefore cease immediately, and the operation should be referred to both the AO and SRO as a matter of urgency

2.13 Local Authority RIPA Limitations

2.13.1 Judicial Approval of Local Authority RIPA authorisations

Authorisations and notices under RIPA for the use of directed surveillance and CHIS are not effective until Judicial Approval has been granted by a Justice of the Peace

2.14 Directed surveillance Crime Threshold Test

2.14.1 The Crime Threshold Test only applies to authorisations and renewals for Directed Surveillance. Local authorities are only permitted grant an authorisation for directed surveillance for criminal offences which either are:

i) punishable by a maximum custodial sentence of six months or more; or
ii) related to the underage sale of alcohol or tobacco; or
iii) related to underage sale and/or proxy purchasing of nicotine inhaling products

2.14.2 If an officer is unsure of the relevant criminal offence(s) being investigated or the penalties, legal advice should be obtained from Legal Services. If no offence is identified and/or the offences identified do not satisfy the Crime Threshold Test, a DS RIPA application should not be submitted and/or authorised.

2.15 Prevention of Disorder

Local authorities cannot authorise directed surveillance for the purpose of preventing disorder unless it involves a criminal offence punishable by a maximum of term of at least 6 months. Local authorities are therefore no longer permitted to use RIPA for low level offences. These restrictions therefore require consideration at the commencement of an investigation if the conduct amounts to criminal offence which would satisfy the Crime Threshold test. If during the investigation the position changes so the conduct amounts to a less serious offence not meeting the threshold, then any live directed surveillance authorisation should be cancelled forthwith.

2.16 Two Mandatory Test For Directed Surveillance & CHIS

2.16.1 Necessity

2.16.1.1 A local authority AO shall not grant an authorisation for the carrying out of Directed Surveillance and/or CHIS unless they believe the authorisation is necessary. The sole necessity ground applicable to local authorities is," for the purpose of preventing or detecting crime or disorder."

2.16.1.2 The officer completing and submitting the application must carefully explain why it is necessary to use the covert technique requested and the AO must explain why/she is satisfied the covert surveillance is necessary. Please note, in the case of Directed Surveillance the Crime Threshold Test must also be satisfied (see above).

2.16.2 Proportionality

2.16.2.1 A local authority AO shall not grant an authorisation for the carrying out of Directed Surveillance and/or CHIS unless they believe the authorised surveillance is proportionate to what is sought to be achieved by carrying it out. No activity should be considered proportionate if the information which is sought could reasonably be obtained by other less intrusive means.

2.16.2.2 The following should be considered in determining proportionality:

i) balancing the size and scope of the proposed activity against the gravity and extent of the perceived crime or harm;
ii) explaining how and why the methods to be adopted will cause the least possible intrusion on the subject and others;

iii) considering whether the activity is an appropriate use of the legislation and a reasonable way, having considered all reasonable alternatives, of obtaining the information sought;
iv) evidencing, as far as reasonably practicable, what other methods had been considered and why they were not implemented, or have been implemented unsuccessfully;

2.16.2.3 The AO must consider the risk of obtaining private information about persons who are not the subjects of the surveillance (collateral intrusion) and whether the proposed activity is proportionate. The AO's considerations need to be fully documented within the RIPA Form.

3. Key Roles (RIPA – Covert Surveillance & CHIS)

3.1 Senior Responsible Officer

3.1.1 The Council's Senior Responsible Officer (SRO) is the Executive Head of Governance & Law (Monitoring Officer).

3.1.2 The Codes for Directed Surveillance, CHIS and Communications Data specify the SRO is responsible for:

3.1.2.1 The integrity of the process in place within the public authority to authorise directed surveillance and request communications data;

3.1.2.2 Compliance with RIPA, Investigatory Powers Act (IPA) and Codes of Practice

3.1.2.3 Oversight of the reporting errors to the Investigatory Powers Commissioner (IPC) and the identification of both the cause(s) of errors and implementation of processes to minimize repetition of errors;

3.1.2.4 Engagement with IPCO and inspectors who support the Commissioner when they conduct their inspections;

3.1.2.5 Where necessary, overseeing the implementation of any post-inspection action plans recommended or approved by a Judicial Commissioner, similarly the Investigatory Powers Commissioner (IPC).

3.1.2.6 Ensuring that all authorising officers are of an appropriate standard, addressing any recommendations and concerns in the inspection reports prepared by the IPC

3.1.2.7 The SRO is responsible for and required to provide or organise training for AO's and certifying any new AO. The SRO is authorised to retract an AO's certification and authorisation if it is felt the AO has either not complied with the statutory framework and/or this Policy. To reactivate an AO's RIPA certificate of authorisation further approved training will be required. The SRO is also responsible for ensuring all relevant members of staff who do or may utilise RIPA as "Applicants," receive RIPA training including refresher training, to ensure they are aware of the RIPA statutory framework and process.

3.2 Authorising Officers

3.2.1 A designated AO is lawfully permitted to grant authorisations for Directed Surveillance or use of a CHIS and responsibility remains with the AO after Judicial Approval. AOs must also authorise reviews, renewals and cancellations. The rank of local (AO's) lawfully permitted to act as AO are Director, Head of Service, Service Manager or equivalent. The council's list of AOs is contained within the **Appendix 2**. Before and in order to become an AO, training must be completed and the SRO must authorise the AO to commence their role. Only the Head of Paid Service can authorise juvenile CHISs or vulnerable persons (see paragraph 2.6).

3.2.2 The AO must be satisfied that the proposed activity is both necessary and proportionate. AO's should routinely sate the "who, what, when and how," regarding the proposed activity. Care must also be taken to ensure the words used do not unintentionally limit the activity which can be avoided by using words such as "and/or" to permit both alternatives. AOs must also pay particular attention to Health & Safety issues that may arise or be raised by proposed surveillance and must not approve an application for either DS or CHIS unless they are satisfied that the Health & Safety risks are managed and proportionate. If any AO is in doubt, they should obtain prior guidance from a member of the Council's Health & Safety Officer and/or the SRO. All AOs should wherever possible be independent of the investigation and this is one of the criteria within the RIPA URN Request Form, a template of which is contained within the **Appendix 10**. Where the AO authorises their own activity, this will be recorded in the RIPA Centrally Retrievable Record. A template of the Record is contained within the **Appendix 5** and should be highlighted to the IPCO inspector at the next inspection.

4. RIPA Defined Terms

4.1 Private Information

4.1.1 Private information relates to a person who has or may have a reasonable expectation of privacy, including any information relating to his private or family life, such as a person's private or personal relationship with others such as family and professional or business relationships. Whilst a person may have a reduced expectation of privacy in a public place, covert surveillance of that person's activities may still result in obtaining private information.

4.2 Collateral Intrusion

4.2.1 Directed Surveillance

Collateral intrusion is the obtaining of private information about persons who are not subject of the surveillance. Measures should be taken wherever practicable to avoid or minimise unnecessary intrusion into the privacy of non-subjects. Where such collateral intrusion is unavoidable, the activities may still be authorised, provided the intrusion proportionate to what is sought to be achieved. Where the proposed surveillance is specifically against non-subjects in the overall

investigation, interference with that person's privacy should not be considered as collateral intrusion but intended intrusion. Where the Council intends to access a social media or other online account to which they have been given access by consent of the owner, the applicant officer will need to consider whether the account may contain information about others who have not given their consent. If there is a likelihood of obtaining private information about others, a DS Authorisation should be obtained as the third party has not consented to and is likely to be unaware of the surveillance.

4.2.2 CHIS

Before authorising the use or conduct of a CHIS, the AO should take into account the risk of interference with and wherever practicable, avoid or minimise interference with the private or family life of persons who are not the intended subjects of the CHIS activity.

4.3 Confidential Or Privileged Material

4.3.1 Particular consideration must be given in cases where the subject of the investigation/operation might reasonably assume a high degree of confidentiality. This includes material from the following categories:

(a) Confidential journalistic material or a journalist's source;
(b) Legally privileged;
(c) Confidential personal information such as medical records or communications between an MP and another person or constituency business;

4.4 Confidential Information

4.4.1 Confidential information is information held in confidence concerning an individual (living or dead) who can be identified from it and the material in question relates to their physical or mental health or spiritual counselling. Authorisations containing confidential information can only be authorised by the Chief Executive (Head of Paid Service).

4.5 Confidential Journalistic Material & Journalistic Sources

4.5.1 Confidential journalistic material includes material acquired or created for the purposes of journalism and held subject to an undertaking to hold it in confidence, as well as communications resulting in such information being obtained. A journalistic source is a person who provides the material intending the recipient to use it for the purpose of journalism or knowing it is likely to be so used. Where material is created or acquired with the intention of furthering a criminal purpose, the material is not to be regarded as having been created or acquired for the purposes of journalism. The likelihood of a local authority dealing with either of these issues is highly unlikely.

4.6 Items Subject to Legal Privilege

In general, communications between professional legal advisers and their clients are subject to legal privilege unless they are intended for the purpose of furthering criminal acts. The acquisition of material subject to legal privilege is particularly sensitive and may give rise to issues under Article 6 ECHR (right to a fair trial) as well as engaging Article 8 ECHR. As such, any covert surveillance of a lawyer known to be acting in their professional capacity should be assumed to fall in scenario (b) below. There are three scenarios where legally privileged items will or may be obtained:

(a) Where privileged material is intentionally sought;
(b) Where privileged material is likely to be obtained; and
(c) Where a purpose is to obtain items that, if they were not generated or held with the intention of furthering a criminal purpose, would be subject to privilege.

4.6.2 All three scenarios relate to the acquisition of privileged material during legal consultations which constitutes intrusive surveillance which as set out above, local authorities are prohibited from doing, hence no further details are required.

5. Additional Surveillance matters (outside of RIPA)

5.1 Activity Not Falling Within The Definition Of Covert Surveillance

5.1.1 The effect of RIPA Section 80 is to make authorised surveillance lawful, but it does not make unauthorised surveillance unlawful. The Council reserves the right to exercise it discretion regarding an investigation to determine that an alternative view or approach is required where the operation lies outside of the RIPA regime and controls. In such cases where the Crime Threshold is not met, the Council will adhere the Non-RIPA Surveillance Protocol and create and maintain written logs of activity which will be made available to internal and external oversight by IPCO.

5.1.2 Activity including immediate response to events; routine patrols (general observation activities), observation at trouble "hotspots;" covert surveillance not covered by a statutory ground in RIPA; overt use of CCTV and ANPR are all techniques not requiring RIPA authorisation.

5.1.3 Certain surveillance does not constitute either intrusive or directed surveillance. In the following scenarios, either an authorisation cannot be granted due to the specific circumstances, or an authorisation is not required BUT all such activity is permitted:

5.2 General Observation Activities

5.2.1 General observation duties whether overt or covert do not require RIPA authorisations as they form part of the legislative functions of public authorities as opposed to pre-planned surveillance of a specific person or group. At that stage there is not a specific investigation and instead the intention is through reactive enforcement to identify potential offenders. As part of this general duty of a public

authority, the obtaining of private information is unlikely and so a DS authorisation is not required

5.3 Surveillance not relating to specific grounds or core functions

5.3.1 RIPA is required by public authorities who wish to carry out "core functions," which are specific public functions as opposed to "ordinary functions," undertaken by all authorities such as employment and contractual issues. Ordinary functions do not fall under the remit of RIPA as they are covered by the Data Protection Act 2018 and the Information Commissioner's Employment Practices Code.

5.3.2 If a Council employee is suspected of undertaking additional employment during work hours, or during sick or annual leave and the Council wishes to carry out covert surveillance outside of the employee's Council role, whilst there is a high likelihood of obtaining private information about the staff member, the surveillance would not constitute DS, as is it relates to the Council's ordinary functions, namely employment and contractual obligations, which are not core functions.

5.3.3 If a Council employee is on long term paid sick leave for injuries alleged to have been sustained during his employment and it is suspected the employee has had exaggerated and/or fabricated the purported injuries, the application for and receipt of full sick pay gives rise to the potential criminal offence of fraud. If the Council wished to carry out DS to ascertain if the employee is injured as declared or at all, the proposed investigation would relate to a core function of the Council , and the proposed DS is likely to result in obtaining private information. Accordingly, a DS authorisation should be considered and is required.

5.4 Overt Surveillance Cameras – CCTV & ANPR (Automatic Number Plate Recognition)

5.4.1 The Council's overt CCTV is governed by the Surveillance Camera Code of Practice and overseen by the Biometrics & Surveillance Camera Commissioner. The Code provides a framework of good practice including the processing of personal data and a public authority's duty to comply with Human Rights Act 1998. Please note the remit of surveillance cameras and the Council's cctv_code_of_practice_-_2020 regarding third party requests for use of the Council's CCTV.

5.5 Specific Situations – Authorisations Not Available

5.5.1 The following examples do not constitute directed or intrusive surveillance, but such activity is permitted:

5.5.1.1 Use of a recording device by a CHIS for which a conduct authorisation permitted the recording of any information already exists;

5.5.1.2 Overt or covert recording of the interview of a member of the public in a voluntary interview conducted by a public authority;

5.5.1.3 Covert recording of noise where the recording is decibels only nor non-verbal noise such as music, machinery or the recording of verbal content is made at a level that does not exceed that which can be heard on the street outside or adjoining property with the naked ear;

5.5.1.4 Entry on or interference with property or wireless telegraphy (not permitted by local authorities);

5.6 Combined Authorisation

5.6.1 Combined authorisations are permitted but are less likely to occur within the Council due to local authority restrictions and prohibitions regarding of certain surveillance categories.

5.7 CCTV Third Party Requirements

5.7.1 A third party (other agency e.g., the police) may request the Council to undertake surveillance for them by using the Council's resources, for example CCTV. Directed Surveillance requests to access/use the Council's CCTV must comply with the Council's CCTV Code of Practise. The Council will only permit the Police and other third parties to use its CCTV systems to carry out targeted covert surveillance (which includes the disclosure of recordings) if the requirements of the Code are adhered to.

5.7.2 An example would be where the police request the use of the Council's overt CCTV cameras by diverting and directing them for a pre-planned, specific investigation, focusing on access points and an adjacent alleyway, where intelligence indicates that a drug den is operating in a vacant commercial property nearby.

5.7.3 The police's intended directed surveillance is to be used in a manner that is likely to result in obtaining private information and the police must obtain a directed surveillance authorisation which specifically includes the required use of the Council's CCTV system. However, if an armed robbery took place and whilst the police were in pursuit of the suspect, they required urgent assistance to track the suspect's route to locate and arrest them, the police's request to divert and utilise the Council's overt town centre CCTV is an immediate response to an event hence, a DS authorisation application is not practicable and is therefore not required.

5.7.4 If any officer is in doubt as to how to proceed, please consult the Senior Responsible Officer at the earliest opportunity.

5.8 Consequences Of Non-Compliance With RIPA

5.8.1 Where covert surveillance is proposed for activity falling within the ambit of RIPA, this Policy and Processes must be strictly adhered to, to protect both the Council and individual officers from the following:

5.8.1.1 Evidence Rendered Inadmissible:
If covert surveillance is not lawfully undertaken the evidential product obtained may be deemed inadmissible by a trial judge in criminal proceedings, because the prejudicial effect of adducing it outweighs any probative value.

5.8.1.2 Legal Challenge:
Article 8 ECHR establishes a "right to respect for private and family life, home and correspondence". Any potential breach could give rise to an application for Judicial Review proceedings in the High Court by the aggrieved person or claim in the Investigatory Powers Tribunal.

6. RIPA Process

6.1 Mandatory URN

6.1.1 If DS satisfies the Crime Threshold Test or for a CHIS, officers must first obtain a Unique Reference Number [URN] for the operation from the SRO responsible for the Centrally Retrievable Record of Authorisations (**Appendix 4**) , prior to the completion and/or submission of an application for DS or CHIS to an (AO).

6.2 RIPA URN Request From

6.2.1 The applicant/officer must answer the following six questions within the RIPA URN Request Form (**Appendix 10**)

(a) Is DS/CHIS for the prevention or detection of Crime or disorder?
(b) If so, specify the criminal offence(s) being investigated and the statute(s);
(c) For Directed Surveillance only, does the criminal offence(s) being investigated meet the Crime Threshold Test (punishable with a period of at least six months imprisonment); or
(d) Does the offence(s) relate to the underage sale/supply of alcohol or tobacco/nicotine?
(e) Is the proposed covert surveillance both necessary and proportionate?
(f) Have you considered collateral intrusion and how this could be minimised?

6.2.2 The completed RIPA URN Request Form must be emailed to the Officer responsible for the Centrally Retrievable Record of Authorisations. Once the RIPA URN Request Form is received, considered, and satisfied, an URN will be allocated. All relevant information from this form must be inputted in the Centrally Retrievable Record of Authorisations and completed RIPA URN Request Form emailed to the applicant and named AO.

6.3 Required Forms

6.3.1 All RIPA forms are to be accessed from the Home Office website.

6.4 Application

6.4.1 The application form should be submitted to an AO from the list of certified Aos. The Applicant should ensure the Application sets out all relevant facts. It is not permitted to leave aspects of the application to be provided orally by the Applicant or to be solely contained in supporting documents.

6.4.2 All applications should be completed and authorised in a bespoke form rather than cutting and pasting the basis for the application or reasoning for the decision from previous applications. Best practice for all authorisations permitted by local authorities is contained in the Code;

- The reason why the authorisation is necessary and proportionate;
- Where a specific investigation or operation is involved, the nature of that investigation;
- For Directed Surveillance, the crime(s) being investigated that satisfy the Crime Threshold Test;
- CHIS applications should include the purpose for which the CHIS will be tasked or deployed;
- CHIS applications should include the nature of what the CHIS conduct will be;
- Details of potential collateral intrusion and why it is justified;
- Details of any material subject to legal privilege or other confidential information that may be obtained as a consequence of the authorisation;
- Applications should avoid repetition of any information;
- Information contained in applications should be limited to that required by the relevant legislation and code;
- The case for an authorisation should be presented in the application in a fair and balanced way and all reasonable efforts should be made to take account of information which supports or weakens the application for authorisation;
- An application should not require the sanction of any person other in a public authority other than an AO;
- Where it is foreseen, that other agencies will be involved in carrying out the surveillance, these agencies should be detailed in the application;
- Authorisations should not generally be sought for activities already authorised;

6.5 Authorisation

6.5.1 Officers must obtain both an internal authorisation of the application/renewal by an AO and Judicial Approval. To avoid any suggestion that any form has been simply signed off by an AO it is recommended that a copy is retained with the AO's wet signature i.e., original handwritten one, not merely a typed or electronic signature. The Council must be ready and able to provide the relevant witness if authenticity is ever questioned in Court.

6.6 Judicial Approval

6.6.1 An authorisation or renewal for Directed Surveillance or a CHIS is not activated until Judicial Approval is granted by a Magistrate and is both dated and timed.

6.7 Officers Authorised to apply for Judicial Approval

6.7.1 The Council has a list of authorised officers who are lawfully permitted to appear on behalf of the Council to apply for Judicial Approval **(Appendix 6).** It is anticipated that the officer will be the Applicant of the authorisation and Judicial Approval Application, as they will have full knowledge of the application and intended surveillance operation.

6.8 Judicial Approval Outcomes

6.8.1 There are 3 potential outcomes

(a) Application Granted [effective from that date and time];
(b) Refuse to grant or renew the Authorisation [Applicant can then re-apply once the gap/error has been corrected];
(c) Refuse to grant or renew the Authorisation and quash the AOs Authorisation.

6.8.2 Note: the Magistrate can only quash the Authorisation if the Applicant has had at least 2 business days' notice, from the date of refusal, in which to make representations against the refusal.

6.9 Duration

6.9.1 The period of validity for all authorisations commences on the date Judicial Approval is granted, not the date the Authorising Officer approved the application. The duration of the authorised surveillance is as follows:

6.9.1.1 Directed Surveillance : 3 months
6.9.1.2 CHIS: 12 months
6.9.1.3 Juvenile CHIS: 4 months (see review requirements)

6.10 Reviews

6.10.1 Regular reviews of all authorisations are required, the frequency of which should be determined and timetabled by the AO, once the authorisation has been granted and Judicial Approval obtained. The results of the review should be recorded in the Centrally Retrievable Record of Authorisations.

6.11 Directed Surveillance

6.11.1 Any proposed or unforeseen changes to the nature or extent of the activity which may result in further or greater intrusion into the private life of any person such as an additional person who has been identified as being an associate of the main subject, should also be brought to the attention of the AO by way of a review. The AO should consider if the proposed changes are proportionate before approving or rejecting them and any changes must be highlighted at the next renewal if one is required

6.11.2 If the identity of an individual becomes known during the course of directed surveillance, the terms of the authorisation should be amended at review to include the identity of the individuals and it would be appropriate to convene a review

specifically for this purpose. Where the surveillance provides access to confidential information or involves collateral intrusion, the AO should conduct regular more frequent reviews.

6.12 CHIS

6.12.1 Where a CHIS authorisation provides for interference with the private or family life of initially unidentified individuals whose identity is later established, a new authorisation is not required provided the scope of the original authorisation envisaged interference with the private or family life of such individuals and this should be highlighted at renewal. Further, if the nature or extent of intrusion into the private or family life of any person becomes greater than anticipated at the original authorisation, the AO should immediately review the authorisation and reconsider the proportionality of the operation which should then be highlighted at renewal.

6.12.2 A juvenile CHIS authorisation is valid for 4 months but there is a requirement to review the authorisation at not less than monthly intervals to ensure it is maintained for no longer than necessary. The monthly reviews will take into account the operational case for maintaining the deployment and will also consider the impact on the mental and physical welfare of the young person.

6.13 Renewals

6.13.1 Renewals are permitted more than once, and the fact and outcome should be recorded in the Centrally Retrievable Record Authorisations. The AO must consider the application afresh including taking into account the benefits of the surveillance undertaken to date and any collateral intrusion that has occurred. If the application has resulted in the obtaining of confidential or legally privileged items, this fact should be highlighted in the renewal application.

6.13.2 Please note an authorisation will automatically expire unless a Renewal Application is made prior to its expiration and Judicial Approval is obtained. Applicants and AOs should be proactive about diarising, renewing, and cancelling authorisations as appropriate.

6.14 Cancellation

6.14.1 The officer has a duty to request the AO to cancel the authorisation when it no longer meets the criteria upon which it was originally authorised. If the original AO is no longer available, this duty falls to the person who has taken over the role or the person acting as the AO.

6.14.2 An example would be where a DS authorisation was obtained in order to conduct test purchases which were completed within 21 days. Consequently, the authorisation is no longer required, and it is bad practice to simply let the authorisation run to the automatic expiration date. Therefore, as soon as a decision is taken to discontinue the authorisation, the instruction must be given to those involved to stop all surveillance of the subject(s) as soon as reasonably practicable.

6.14.3 The RIPA cancellation form must be completed by the officer, authorised by the AO and the original form must be provided by hand (see above) to the SRO, following which the Centrally Retrievable Record Authorisations must be updated. It is good practice that a record should be retained detailing the product obtained from the surveillance and whether or not the objectives were achieved.

6.15 RIPA Documentation - Centrally Retrievable Records

6.15.1 The SRO is also required to ensure the following is obtained and retained for all covert surveillance operations the following, in a restricted location:

(a) RIPA URN Request Form;
(b) All original applications, any supplemental documentation, and the authorisations;
(c) Copy of the granted Judicial Approval Form; (Application/Renewal);
(d) Copy of the Order granting Judicial Approval (Application/Renewal);
(e) A record of the period over which the surveillance has taken place;
(f) The frequency of reviews prescribed by the AO;
(g) A record of the result of each review;
(h) A copy of any renewal of an authorisation together with the supporting documentation submitted when the renewal was requested;
(i) The date and time when any instruction to cease surveillance was given;
(j) The date and time when any other instruction was given by an AO.

6.15.2 AOs or officers must provide by hand all original RIPA forms to the SRO within 7 days of grant in a double sealed envelope marked "OFFICIAL - Strictly Private & Confidential" and/or email a scanned copy it to the SRO via the email address. The Judicial Approval Applicant must similarly provide the SRO by hand the original Judicial Approval granted/refused Form within 7 days of grant in a sealed envelope marked "Strictly Private & Confidential," and/or email a scanned copy to the SRO via the email address.

6.16 Retention of Records

6.16.1 Records must be available for inspection by the Investigatory Powers Commissioner and for the Investigatory Powers Tribunal (IPT). Please note the IPT will consider complaints made up to one year after the conduct to which the complaint relates to and may consider older or ongoing complaints where equitable to do so. Although records are only required to be retained for at least three years, it is therefore desirable, if possible, to retain records for up to six years.

7. RIPA Safeguards

7.1 Dissemination

7.1.1 Dissemination must be limited to the minimum necessary for authorised purposes if the material:

(a) is or is likely to become necessary for any of the statutory purposes set out in RIPA in relation to covert surveillance;

(b) is necessary to facilitate the carrying out of the functions of the public authorities under RIPA;
(c) is necessary for facilitating the carrying out of any functions for the Commissioner of IPT;
(d) is necessary for the purposes of legal proceedings; or
(e) necessary for the performance of the functions of any person by or under any enactment

7.1.2 In addition to limiting the number of persons to whom the material should be disseminated, there are also restrictions of the extent of the material disseminated for example, providing a summary of the material rather than copies of all authorisations and/or logs regarding the remit of the operation and evidence obtained. Please note, RIPA does not prevent material obtained under Directed Surveillance authorisations from being used to further any other investigations where it becomes relevant and in accordance with the safeguards required by the Code.

7.2 Use of Material as Evidence

7.2.1 Subject to the statutory framework governing the admissibility of evidence material obtained from directed surveillance or a CHIS is admissible as evidence in criminal proceedings. It is therefore vital for officers to ensure there is evidential integrity of the product obtained from the covert surveillance operation and the product is retained in accordance with the disclosure regime (see below).

7.3 Handling Material

7.3.1 All public authorities are required to have internal arrangements for the dissemination, copying, storage and destruction of private information obtained through covert surveillance. Further, the personal data obtained must be safeguarded by the AO and Data Controller in accordance with the Data Protection Act 2018 and the Council's Data Protection Policy including the necessity to report breaches to the Information Commissioner.

7.4 Copying Material

7.4.1 Copying material obtained from covert surveillance including summaries and extracts of the material is only permitted in accordance with the dissemination necessity principles (see above).

7.5 Storage of Material

7.5.1 All material obtained through covert surveillance and any copies/extracts from it must all be handled and stored securely to minimise the risk of loss or theft. Material must not be accessible to officers not connected to the operation or officers connected but to the operation but not authorised by the Officer in Charge to have access to it.

7.6 Destruction of Material

7.6.1 Information obtained through covert surveillance and all copies, extracts, summaries which contain such material should be scheduled for deletion or destruction and securely destroyed as soon as they are no longer needed for the authorised purpose(s). If such information is retained, it should be reviewed at appropriate intervals to confirm that the justification for its retention is still valid. Please note, if the material is necessary for the purposes of legal proceedings, in particular a prosecution, the disclosure regime must be complied with regarding the retention of material.

7.7 Protection of the identity of a CHIS

7.7.1 All organisations have a responsibility to protect the identity of those working as a CHIS and others who may be affected by the disclosure of the CHIS's identity. Attempts to protect the identity of the CHIS's must be made using all reasonable and lawful means possible and where appropriate, neither confirming or denying (NCND) the existence of or identity of the CHIS.

7.7.2 There are well-established legal procedures under Public Interest Immunity (PII) or closed material procedures that can be applied when seeking to protect the fact and identity of a CHIS from disclosure which would be dealt with by Legal Services and prosecution counsel in conjunction with the AO, as the Council would be the prosecuting authority.

PART B: IPA 2016, Acquisition of Communications Data

8. Acquisition of Communications Data

8.1 Statutory Authority

8.1.1 The Investigatory Powers Act 2016 (IPA), as amended by the Investigatory Powers (Amendment) Act 2024 and the Communications Data Code of Practice 2025 provide the statutory framework for the lawful acquisition of communications data (CD) by relevant public authorities. Local authorities are deemed to be a relevant public authority

8.2 Investigatory Powers Commissioner's Office (IPCO)

8.2.1 The Investigatory Powers Commissioner's Office is responsible for the independent authorisation and oversight of CD requests.

8.3 Communications Data Definition

8.3.1 Communications Data is information about communications: the "who," "when," "where," "when" "how," and "with whom," of a communication but not what was written or said (the content). Generally, CD is acquired from a Telecommunications Operator (TO), the definition of which is extensive.

8.4 Categories of Communications Data

8.4.1 All communications data held by a telecommunications operator or that which is obtainable from a telecommunications system now falls into two categories of CD.

8.4.2 Entity Data

8.4.2.1 Entity data is about entities or links between them and describes or identifies the entity but does not include information about individual network events which those entities are involved in. Entities could be individuals, groups and objects (such as mobile phones or other communication devices). Entity data can change over time if for example someone moves house, the address held by a TO will be updated and changed. This category of CD broadly replaces subscriber data and includes:

(a) Subscriber information: identify of the person to whom the services are provided
(b) Subscriber checks: who is the subscriber of the phone number 01234 567890
(c) Subscriber/account holder: names, address of installing, billing payments etc.
(d) Connection/disconnection: what the account holder is allocated or has subscribed to Reconnection information
(e) Apparatus/device information: e.g. VIN Vehicle Identification Number when linked with a SIM card imbedded within a vehicle
(f) PUK Code: Personal Unlocking Key code for SIM cards

8.4.2.2 Events data identifies or describes time bound events taking place across a telecommunications system (TS), limited to communication events describing the transmission of information between two or more entitles over a TS. Events data includes the following details regarding the communication:

(a) Date and time sent
(b) Duration
(c) Frequency;
(d) Call diversion;
(e) IP address;
(f) Information tracing the origin or destination of a communication that is or has been in transmission;
(g) Sender or recipient of a communication
(h) Information identifying the location of apparatus when a communication is, has or may be made or received (e.g., the location of a mobile phone);
(i) Itemised telephone call records;
(j) Volume of data downloaded and/or uploaded;
(k) Use of services i.e., conference calling, call messaging, call waiting

8.5 Local Authority Prohibitions

8.5.1 The Local Authority is prohibited from;

8.5.1.1 obtaining the content of any communication i.e., what was said or written;

8.5.1.2 acquiring the Internet Connection Records (ICRs)

8.6 Two Mandatory Tests for Communications Data Requests

8.6.1 Necessary

8.6.1.1 Local authorities are only permitted to internally grant and seek external authorisation from NAFN and thereafter IPCO if and only if they are necessary for the applicable crime purpose.

8.6.1.2 Applicable Crime Purpose test depends on whether the CD being sought is entity or events data:

(a) where the communications data is wholly or partly events data, the purpose of preventing or detecting serious crime;

(b) in any other case, the purpose of preventing or detecting crime or preventing disorder; Serious Crime Threshold – Applicable to Events Data Only

8.6.1.3 Serious Crime Threshold – Applicable to Events Data Only, offences that satisfy the threshold are:

(a) An offence capable of attracting a prison sentence of 12 months or more (for persons 18+ in England)

(b) An offence by a person who is not an individual (i.e., corporate body);

(c) An offence which involves, as an integral part of it, the sending of a communication;

(d) An offence which involves, as an integral part of it, a breach of a person's privacy;

(e) An offence falling within the definition of serious crime (i.e., where the conduct involves the use of violence, results in substantial financial gain or is by a large number of persons in pursuit of a common purpose);

8.6.2 Proportionate

8.6.2.1 The conduct the subject matter of the Application must be proportionate to what is sought to be achieved.

9. Key Roles (IPA – Communications Data)

9.1 Senior Responsible Officer (SRO)

9.1.1 The Council's Senior Responsible Officer (SRO) is the Council's Executive Head of Governance & Law. The Communications Data Code of Practice specifies the SRO is responsible for:

(a) the integrity of the process in place within the public authority to acquire communications data;

(b) engagement with authorising officers in IPCO; IPA; Code of Practice, including responsibility for novel or contentious cases;

(c) oversight of the reporting of errors to the IPC and the identification of both the cause(s) of errors and the implementation of processes to minimise repetition of errors;

(d) ensuring the overall quality of applications submitted to IPCO;

(e) engagement with the IPCO's inspectors when they conduct their inspections; and
(f) where necessary, oversight of the implementation of post-inspection action plans approved by the IPC

9.2 Designated Senior Officer (DSO)

9.2.1 A Designated Senior Office (DSO) for local authorities must be an individual who holds the position of director, head of service or service manager (or equivalent); or a high position, which mirrors the rank required for RIPA AOs. The Council's DSOs are listed in **Appendix 3**.

9.2.2 A DSO must be independent from the operations or investigations and so should be far enough removed from the applicant's line management chain or the investigation so as to not be influenced by operational imperatives, such as pressure to expedite results on a particular operation. The DSO should therefore not be within the same department or unit or an integral part of the investigation. It is not considered good practice for applicants to be able to choose a designated senior officer on a case-by-case basis. Accordingly, the DSO should be selected from a different department.

9.3 NAFN – Local Authorities

9.3.1 All local authorities wishing to acquire CD must be members of and use NAFN throughout the application process via their online portal. The council must ensure the DSO is aware the application is being made before it is submitted. The Council's CD Single Point of Contact (SPOC) listed in **Appendix 9** will assist the DSO and Applicant where required. NAFN's role includes provision of advice to the Applicant officer including:

(a) Whether it is reasonably practical to obtain the data;
(b) Interpretation of IPA, particularly whether an authorisation is appropriate;
(c) Ensure authorisations are lawful under IPA and meet the Serious Crime Threshold Test for Events Data requests;
(d) Possible unintended consequences of the application such as excess data; sensitive professions and collateral intrusion;
(e) Why the service(s) recommended support the objective(s) of the investigation;
(f) Add value in comments, considerations and recommendations as prescribed in the Code of Practice under the roles and responsibilities of the SPOC;
(g) Where appropriate, flag any issues regarding quality assurance of the application to be remedied before submission of the application;
(h) Monitor applications returned for rework or rejected by IPCO and determine the reasons why;
(i) Provide organisational and/or individual training as and where necessary, sharing best practice advice and support;

9.3.2 NAFN must be provided coverage for all CD acquisitions they intend to make and if the Application passes NAFN's assessment, NAFN will then submit it to IPCO for consideration of authorisation.

10. Key Terms

10.1 Telecommunications Operator (TO)

10.1.1 A person who offers or provides a telecommunications service to persons in the UK or controls or provides a telecommunications system which is wholly or partly in the UK or controlled from the UK. TO's may provide applications, websites (chat function not required) or some interface with the internet that facilitates electronic signals being sent between persons or things.

10.2 Content

10.2.1 Content is any element of a communication, or the data attached to it or associated with it that might reasonably be considered to be the meaning of the communication. Obtaining such information would constitute Targeted Intercept which local authorities are prohibited from obtaining.

10.3 Postal Operator (PO)

10.3.1 Postal items include letters, postcards, packets, and parcels and therefore the remit of postal operators includes companies beyond the Post Office such as Amazon, DPD etc.

10.4 Postal Definitions

10.4.1 Communications data in relation to a postal service has 3 elements:

(a) Postal data which is or has been compromised in or attached to the communication for the purpose of the service which it was transmitted;
(b) Data relating to the use made by a person of a postal service;
(c) Information held or obtained by a postal operator about persons to whom the postal operator provides or has provided a communications service, and which relates to the provision of the service

10.5 Internet Connection Records (ICRs)

10.5.1 An ICR provides details of the internet service that a specific device has connected to (e.g., a website or instant messaging application). Please note local authorities are prohibited from obtaining ICRs.

10.6 Third Party Data

10.6.1 Where a communication is sent there may be multiple providers involved in the delivery of the communication and each provider may require different elements of communications data to route the communication. For example, when sending an email there will be the email provider, the internet access provider for the sender and the internet access provider for the recipient.

10.6.2 Where one TO is able to see or access the communications data in relation to applications or services running over their network, in the clear, but does not process that communications data in any way this is regarded as third party data. A TO is considered to process data if it specifically looks at an item of data in order to determine what action to take or it has a specified process.

10.6.3 A communications data authorisation may be given for the acquisition by a public authority of third party data on a forward looking basis where necessary and proportionate in relation to a specific investigation. A TO or PO need only obtain and disclose third party data where reasonably practicable to do so. Where such data is encrypted by the third party a telecommunications operator is under no obligation to decrypt such information.

10.7 Collateral Intrusion

10.7.1 The risk of obtaining communications, equipment data or other information about nontargets. Each Application should identify the risk of collateral intrusion and specify what steps will be undertaken to reduce it.

10.8 Journalistic Sources

10.8.1 The only category of CD which requires local authorities to first obtain authorisation and approval by an IPCO Judicial Commissioner is where the purpose of a CD application is to identify a journalistic source. The Applicant and SPOC should pay special consideration to these applications and inform their DSO.

10.9 Novel Or Contentious Circumstances

10.9.1 Due to ongoing improvements in technology, there will be circumstances where the potential acquisition of CD may be considered novel or contentious. In such circumstances, public authorities are permitted to see guidance from IPCO prior to progressing any conduct to acquire CD.

11. Acquisition Of Communications Data Process

11.1 National Prioritisation Grade (NPG)

11.1.1 The CD Application must include the NPG which will be independently assessed by NAFN, to assist IPOC as to the operational urgency. There are four prioritisation categories and local authorities are only permitted to use Priorities 2-4:

11.1.2 See Table.

IPCO PRIORITIES - OPERATIONAL PRIORITISATION	**DEFINITION**
Priority 1	
Immediate Threat to Life or Serious Harm	**Not applicable to local authorities**
Priority 2	
Urgent Operational Necessity (6 working hours)	The urgent acquisition of CD will directly assist the **prevention or detection of the commission of a serious crime, or the making of arrests or the seizure of illicit material, or where there the operational opportunity will be lost**. Or any of the scenarios described for Priority 1 which whilst urgent do not require immediate action
OPERATIONAL PRIORITISATION	**DEFINITION**

Priority 3	
Routine **(Time Critical Enquiry)** (1 working day/15 working hours)	Not urgent but include specific or time critical issues such as bail or court dates or where a specific line of investigation into a serious crime and early acquisition of CD will directly assist in the prevention or detection for that crime or safeguarding and preservation of human life
Priority 4	
Routine (6 working days)	Matters that support a specific line of investigation into a crime or incident but are not urgent and do not meet any time critical issues. The acquisition of CD as a matter of course will assist in that investigation

11.2 Category Of Communications Data Required

11.2.1 Consideration must be given at the outset as to whether Entity or Events Data is required. Usually, it is appropriate to start with obtaining entity data to confirm information within the investigation. However, if there is sufficient information known at the outset, it may be appropriate to request Events Data first. For example:

(a) a victim reports receiving nuisance or threatening telephone calls or messages;
(b) a person who is the subject of an investigation or operation is identified from intelligence to be using a specific communications service;
(c) a victim, a witness or a person who is the subject of an investigation or operation has used a public payphone;
(d) a mobile telephone is lawfully seized, and communications data is to be acquired relating to either or both the device or its SIM card(s);

11.3 Application

11.3.1 Officers should complete a Communications Data Application form on NAFN's portal, ensuring it is clear as to whether the application is for Entity or Events Data; is necessary; that it satisfies the Applicable Crime Purpose test; and for Events Data that it also satisfies the Serious Crime Threshold Test. All Applications must also be proportionate and the Application to acquire CD must:

(a) describe the communications data required, specifying, where relevant, any historic or future date(s) and, where appropriate, time period(s);
(b) specify the purpose for which the data is required, by reference to a statutory purpose under the Act;
(c) include a unique reference number;
(d) include the name and the office, rank or position held by the person making the application;
(e) describe whether the communications data relates to a victim, a witness, a complainant, a suspect, next of kin, vulnerable person, or other person relevant to the investigation or operation;
(f) include the operation name (if applicable) to which the application relates;
(g) identify and explain the time scale within which the data is required;
(h) address necessity and proportionality;
(i) present the case for the authorisation in a fair and balanced way. In particular, all reasonable efforts should be made to take account of information which supports or weakens the case for the authorisation;

(j) consider and, where appropriate, describe any meaningful collateral intrusion and why that intrusion is justified in the circumstances;
(k) consider and, where appropriate, describe any possible unintended consequences of the application; and
(l) where data is being sought from a telecommunications operator or postal operator, specify whether the telecommunications operator or postal operator may inform the subject(s) of the fact that an application has been made for their data.

11.3.2 General guidance for Applications is:

(a) All addresses should be accurately validated based on source material before the completion of the application form by both the Applicant and SPOC
(b) Keep all applications simple, legal, and concise;
(c) Avoid acronyms and abbreviations unless explained first;
(d) Use standard terminology to describe the main subject in your application (e.g., victim, witness, complainant, suspect etc.);
(e) Clearly state the crime, offence, and purpose at the start of the Application;
(f) Be specific about daters of intelligence within the Application;
(g) Do not refer to another application, document, or system instead of addressing necessity and proportionality;
(h) Be specific about how you have or have tried to attribute the identifier (e.g., name/date of birth/home address/email address) to the person the subject of the Application;
(i) Clearly state the objective of your application. Do not name the services or products from the service provider;
(j) Always consider the victim's right of privacy when describing events within applications. These can be high level descriptions and do not need to contain graphic details of offences.

11.4 DSO Process

11.4.1 Before an application is submitted to NAFN, it must be brought to the attention of the DSO who has been given the designated role of overseeing the Applications before submission to NAFN. Guidance for DSO's when considering a CD Application is:

(a) Objectively review the application and the relevant individuals' right to privacy;
(b) Provide a bespoke authorisation avoiding use of standard phrases such as "the data should be held in accordance with the policy;
(c) Explicitly state the crime/offence understood to be the subject of the investigation;
(d) Clearly record having fully considered and understood the Application;
(e)
(f) Clearly record necessity and proportionality are understood and have been considered;

(g) Clearly record consideration has been given to any potential for the authorisation to result in unintended consequences (e.g., collateral intrusion);
(h) Specifically state how the service requested will support the objective outlined in the Application;
(i) For applications into certain professions, explicit consideration must be given and recorded regarding any unintended consequences of such applications and address whether the public interest is best served by the Application;
(j) If it is a novel or contentious Application, clearly explain why you consider the application to be so and include why this is considered to be a lawful request

11.4.2 Where an authorising individual does not consider the acquisition of communications data specified in the application to be necessary and proportionate, they may either seek further information from the applicant or refuse the request.

11.5 Submission to NAFN

11.5.1 Once the Application has been submitted on NAFN's portal, the DSSO will be notified and asked within the portal to confirm they are aware of the application.

11.6 IPCO's Refusal To Grant Authorisation

11.6.1 Where a request is refused by a IPC there are three options:
(a) not proceed with the request;
(b) resubmit the application with a revised justification and/or a revised course of conduct to acquire communications data;
(c) resubmit the application with the same justification and same course of conduct seeking a review of the decision by IPCO. A public authority may only resubmit an application on the same grounds to IPCO where the senior responsible officer or a person of equivalent grade in the public authority has agreed to this course of action. IPCO will provide guidance on its process for reviewing such decisions.

11.6.2 If NAFN refuse to submit the application to IPCO or IPCO refuse the Application for CD, the activity cannot commence.

11.7 Authorisation

11.7.1 An authorisation provides the following types of conduct may be authorised:

11.7.1.1 conduct to acquire communications data - which may include the public authority obtaining communications data themselves or asking any person believed to be in possession of or capable of obtaining the communications data to obtain and disclose it; and/or

11.7.1.2 the giving of a notice - allowing the public authority to require by a notice a telecommunications operator to obtain and disclose the required data.

11.7.2 An authorisation of conduct to acquire communications data may be appropriate where, for example

(a) there is an agreement in place between a public authority and a TO or PO to facilitate the secure and swift disclosure of communications data.
(b) where the data can be acquired directly from a telecommunication system and the activity does not constitute interception or equipment interference; or
(c) where a public authority considers there is a requirement to identify a person to whom a service is provided but the specific TO or PO has yet to be conclusively determined as the holder of the communications data.

11.8 Notices In Pursuance Of An Authorisation

11.8.1 The giving of a notice is appropriate where a TO or PO is able to retrieve or obtain specific data, and to disclose that data, and the relevant authorisation has been granted. A notice may require a TO or PO to obtain any communications data if that data is not already in its possession. The decision to authorise the issuing of a notice must be based on information presented in an application. Once IPCO has authorised the giving of a notice, it will be given to the TO or PO in writing. The notice should contain enough information to allow the telecommunications operator or postal operator to comply with the requirements of the notice. A TO or PO is not required to do anything under a notice which it is not reasonably practicable for it to do. A notice may only require a TO or PO to disclose the communications data to the public authority.

11.9 Duration

11.9.1 Once granted the CD authorisation is valid for one month.

11.10 Renewal

11.10.1 A renewed authorisation takes effect upon the expiry of the authorisation it is renewing. The renewal application will similarly have to be submitted to NAFN for its authorisation and onward submission to IPCO. Accordingly, the time required to complete this process must be factored in and back calculated from the current date of expiration.

11.11 Cancellations

11.11.1 The DSO granting the authorisation must cancel it if at any time after the grant of authorisation by IPCO, it is no longer necessary for a statutory purpose, or the conduct required by the authorisation is no longer proportionate to what was sought to be achieved.

11.12 Communications Data Centrally Retrievable Record

11.12.1 The Council CD electronic centrally retrievable register (CD CRR) is maintained by a Legal Services' Officer.

11.13 Record Keeping

11.13.1 A copy of the online Application/Review/Renewal or Cancellation form submitted online to NAFN must be retained and be provided to the SRO by hand, within 7 days, in a double sealed envelope marked "OFFICIAL SENSITIVE - Strictly Private & Confidential" and/or emailed to the SRO via the designated email. Due to

the degree of sensitivity and risk arising from obtaining and retaining documents in a central database, IPCO only retains the CD applications for a limited period. Public authorities are therefore required to keep records of both CD applications issued and decisions received from IPCO. The Council has mirrored the retention period for covert surveillance documentation and will retain records for a period of six years.

11.13.2 Each relevant public authority must also keep a record of the following information:

(a) the number of applications submitted by an applicant to a SPOC seeking the acquisition of communications data;
(b) the number of applications submitted by an applicant to a SPOC seeking the acquisition of communications data, which were referred back to the applicant for amendment or declined by the SPOC, including the reason for doing so;
(c) the number of applications submitted to an authorising individual for a decision to obtain communications data, which were approved after due consideration by the DSO and thereafter by IPCO;
(d) the number of applications submitted to an authorising individual for a decision to obtain communications data, which were referred back to the applicant or rejected after due consideration, including the reason for doing so;
(e) the number of authorisations of conduct to acquire communications data granted by the DSO and thereafter IPCO;
(f) the number of authorisations to give a notice to acquire communications data granted by the DSO and thereafter ICPO
(g) the number of notices given pursuant to an authorisation requiring disclosure of communications data;
(h) the priority grading of the authorisation for communications data (see Operational Prioritisation Table above);
(i) whether any part of the authorisation relates to a person who is a member of a profession that handles privileged or otherwise confidential information (such as a medical doctor, lawyer, journalist, member of a relevant legislature, or minister of religion) (and if so, which profession);
(j) the number of times an authorisation is granted to obtain communications data in order to confirm or identify a journalist's source; and
(k) the number of items of communications data sought, for authorisation granted by a DSO and thereafter IPCO.

11.13.3 These records should distinguish between requests considered by IPCO and those considered by designated senior officers.

11.13.4 For each item of communications data (including consequential data) included within a notice or authorisation, the relevant public authority must also keep a record of data required by the Code, which is contained in the Council's Electronic Communications Data Centrally Retrievable Register (CD CRR) **Appendix 8**. If the advice of a Judicial Commissioner or IPC has been sought prior to the acquisition of communications data that could be considered novel or contentious, the fact and views of IPCP or the Judicial Commissioner will be recorded in the CD CRR. It is the responsibility of the Senior Responsible Office to maintain this

record. These records must be sent in written or electronic form to the IPC, as requested by them.

12. IPA Safeguards

12.1 General Handling

12.1.1 In addition to the requirements of the data protection legislation, CD held by a public authority should be treated as information with a classification marking of Official with a caveat of Sensitive, though it may be classified as higher if appropriate. Communications data acquired under the Act and all copies, extracts and summaries of it, must be held in a manner which provides an adequate level of protection for the relative sensitivity of the data and meets the data protection principles outlined in relevant data protection legislation. All required documentation is to be provided to the SRO by hand within 7 days of grant in a double sealed envelope marked "OFFICIAL SENSITIVE - Strictly Private & Confidential" and/or emailed to the SRO via the designated email address. The SRO will retain all material in a secure location with access restricted to the SRO and officer responsible for maintaining the CD Centrally Retrievable Record. Details of the officer responsible for maintaining the centrally retrievable Communications Data (CD) register are provided in **Appendix 7**. The CD CRR should be retained for perpetuity.

12.2 Retention

12.2.1 Communications data may only be held for as long as the relevant public authority is satisfied that it is still necessary for a statutory purpose. When it is no longer necessary or proportionate to hold such data, all copies of relevant data held by the public authority must be destroyed. Data must be deleted such that it is impossible to access at the end of the period for which it is required. If such material is retained, it should be reviewed when appropriate to confirm that the justification for its retention is still valid for one or more of the authorised purposes. Records must be available for inspection by the Investigatory Powers Commissioner and for the IPT. Although records are only required to be retained for at least three years, it is therefore desirable, if possible, to retain records for up to six years.

12.3 Notification

12.3.1 Where communications data is being sought from a TO or PO, if either the TO or PO is permitted to notify the subject(s) of the fact that a request has been made for their data the relevant public authority must specify this when requesting the data. The public authority must, at the point of application, consider whether it would be damaging to investigations to notify the individual that their data will be acquired. Please note, if the CD is required for the purpose of a criminal investigation, care must be taken not to tip the subject off prior to the completion of the investigation and outside of the formal pre- interview disclosure and/or disclosure process (see below).

12.4 Notification of Serious Errors

12.4.1 If the CD is wrongly acquired or disclosed, the public authority making or establishing an error has been made must report the error to the SRO and IPC. The criteria for the IPC to notify an individual of the error is that it is a serious error and it is in the public interest for the individual concerned to be informed of the error. If the person is informed, they must be informed of their right to apply to IPT.

12.5 Notification of acquisition in criminal proceedings

12.5.1 Where communications data has been acquired during the course of a criminal investigation that comes to trial an individual will be made aware, in most cases, that data has been obtained. Where communications data is used to support the prosecution case it will be served as evidence on the defendant. Additionally in compliance with its disclosure the prosecution will reveal the existence of communications data (and potentially the material generated in the process of it being obtained) to a defendant on a schedule of non-sensitive unused material if that data is relevant. Please see Disclosure Duties & Obligations for further guidance.

12.6 Compliance & Offences

12.6.1 It is an offence for a person without lawful authority to knowingly or recklessly obtain CD from a TO or PO. It is a defence to show the person acted in the reasonable belief that the person had lawful authority to obtain the CD.

Part 3: Shared Duties, Obligations and Oversight (RIPA & IPA)

13. RIPA &IPA Oversight

13.1 Approval of Policy

13.1.1 The Council's RIPA & IPA Policy and Processes is submitted to Cabinet for its approval.

13.2 Annual Review of Policy

13.2.1 The Code requires a review of the Policy at least annually. The SRO is responsible for preparing the annual RIPA & IPA Report and Review of the RIPA & IPA Policy to the Audit & Resources Committee which provides members the basis to consider and review the adequacy of the Council's RIPA & IPA Policy. The Code also recommends elected members consider internal reports on the use of RIPA and CD on a regular basis, to ensure that it is being used consistently with the local authority's policy and that the policy remains fit for purpose. Accordingly, following each annual RIPA/IPA Bi-Annual meeting the SRO will prepare an internal report to the elected members as to the content and outcome of the meeting.

13.3 Designated Officers Annual Meetings

13.3.1 This meeting is to be chaired by the SRO for designated officers to ensure relevant updates to the statutory framework and any issues arising from the SRO's internal monitoring of the RIPA CRR are addressed and remedied in a timely manner. As

set out above the SRO will prepare and submit an internal Report to the elected members following the annual meeting

13.4 Internal Monitoring

13.4.1 The SRO will undertake an internal reviews and audit of the RIPA Centrally Retrievable Record (CRR) and the CD Centrally Retrievable Record not less than quarterly. The SRO will also identify any issues arising from the internal audit and raise such issues at the RIPA bi-annual meeting with AOs to address and resolve the live issues. Any urgent matters should be raised with the AO's as soon as is possible and, in any event, prior to the next meeting.

13.5 Training

13.5.1 All new AOs and DSOs are appointed by the SRO who will ensure all AOs and DSOs attend suitable training and refresher courses. All Council officers utilising RIPA and/or IPA must also have attended a suitable training and refresher courses. Whilst undertaking the internal audits of the RIPA CRR, the SRO will also identify any training needs for staff and/or monitoring issues to be raised with individual AO's and/or at a RIPA & IPA bi-annual Meeting. Additionally, the SRO will provide RIPA and IPA updates/advice notes and briefings to all relevant staff when required.

13.6 Codes of Practice

13.6.1 The Home Office publishes Codes of Practice for Covert Surveillance & Property Interference; CHIS; Communications Data and the Surveillance Camera. Public authorities like the Council may be required to justify the use, granting or refusal of authorisations by reference to the Codes. If any officer is uncertain as to the meaning or application of any aspect of the Codes, legal advice should be obtained from the SRO.

13.7 Investigatory Powers Tribunal (IPT)

13.7.1 The IPT is an independent body with full powers to investigate and decide any case within its jurisdiction. The IPT can order compensation, quashing of a warrant or authorisation or the destruction of any records of information held unlawfully.

14. Reporting to the Commissioner

14.1 Reporting Errors

14.1.1 Public authorities are expected to have thorough procedures in place to comply with RIPA. The SRO will undertake regular reviews of errors and a written record must be made of each review.

14.1.2 An error must be reported if it is a "relevant error," by a public authority in complying with any requirements that re imposed on it by any enactment which are subject to review by a Judicial Commissioner. Errors must be notified to the Investigatory Powers Commissioner as soon as is reasonably practicable and no later than ten working days after the error has been identified. Where the full facts cannot be ascertained within that time, an initial notification must be sent with an

estimated timescale for the error being reported in full and an explanation of the steps being undertaken to establish the full facts of the error.

14.2 Serious Errors

14.2.1 IPCO is under a statutory duty to inform the person of any relevant error relating to that person if the Commissioner considers that the error is a serious error and that it is in the public interest for the person concerned to be notified of the error. The error is deemed serious if the error has caused significant prejudice or harm to the person concerned. Factors to be considered when determining if it is in the public interest to inform the person of the error are;

(a) The seriousness of the error and its effect on the person concerned;
(b) The extent to which disclosing the error would be contrary to the public interest or prejudicial to:
(c) National security;
(d) The prevention or detection of serious crime;
(e) The economic well-being of the UK; or
(f) The continued discharge of the functions of any of the intelligence services;

14.2.2 The Commissioner must seek submissions from the public authority before deciding whether to inform the person regarding the error.

14.3 Investigatory Powers Commissioner's Office (IPCO)

14.3.1 The Investigatory Powers Commissioner's Office (IPCO) is the supervisory body for RIPA & IPA and following the merger with OCDA it deals with Communications Data authorisations as well as oversight.

RIPA & IPA POLICY - APPENDICES

APPENDIX 1: SENIOR RESONSIBLE OFFICER (RIPA & COMMUNICATIONS DATA)

NAME	POSITION	EMAIL
Amanda Bancroft	Executive Head of Governance & Law (Monitoring Officer)	Amanda.Bancroft@rushmoor.gov.uk

APPENDIX 2: RIPA AUTHORISING OFFICERS

NAME	POSITION
Ian Harrison	Chief Executive and Head of Paid Service
James Duggin	Chief Operating Officer
Nikki Fleming	Financial Governance Manager
Colin Alborough	Service Manager – Place

APPENDIX 3: COMMUNICATIONS DATA DESIGNATED SENIOR OFFICERS

NAME	POSITION
Ian Harrison	Chief Executive and Head of Paid Service
James Duggin	Chief Operating Officer
Nikki Fleming	Financial Governance Manager
Colin Alborough	Service Manager – Place

APPENDIX 4: OFFICER RESPONSIBLE FOR MAINTAINING RIPA CENTRALLY RETRIEVABLE REGISTER

NAME	POSITION
Amanda Bancroft	**Executive Head of Governance and Law**

APPENDIX 5: THE RIPA CENTRALLY RETRIEVABLE RECORD (template)

Unique reference number (URN) of the investigation	Name of Officer Completing Record of Authorisation	Type of authorisation or notice	Date provisional authorisation or notice was given	Name and rank/grade of the authorising officer	Is authorising officer directly involved in the investigation?	Date judicial approval was received or refused (add link to supporting application & authorisation decision)	Title of investigation or operation, including a brief description and names of subjects, if known	Whether the investigation or operation is likely to result in obtaining confidential or privileged information per code of practice	What surveillance product will result e.g. still imagery, video imagery (with or without sound), officer observations which will then be written into a report	If the authorisation or notice is renewed, when it was renewed and who authorised the renewal, including the name and rank/grade of the authorising officer and the date of judicial approval	Review Date (s)	Date the authorisation or notice was cancelled	Officer cancelling the authorisation or notice	Review of the surveillance product status (note the surveillance product should be destroyed as soon as no longer needed for investigatory purposes)	Other comments

APPENDIX 6: OFFICERS AUTHORISED TO APPLY FOR JUDICIAL APPROVAL

The following officers are authorised by the Council to apply for Judicial Approval for Directed Surveillance or CHIS:

NAME	POSITION
Amanda Bancroft	Executive Head of Governance and Law

APPENDIX 7: OFFICER RESPONSIBLE FOR MAINTAINING COMMUNICATIONS DATA (CD) CENTRALLY RETRIEVABLE REGISTER

NAME	POSITION
Amanda Bancroft	**Executive Head of Governance and Law**

APPENDIX 8: COMMUNICATIONS DATA CENTRALLY RETRIEVABLE REGISTER (template)

Unique CD Reference Number	Related Case / Investigation Ref	Date Entry Created	Applicant Name	Applicant Role / Service	Type o CD	Purpose o Request	Statutory Power (IPA 2016 Part 3)	Designated Senior Officer	Date of Authorisations	Judicial Approval Required (Yes/No)	Judicial Authority	Date Judicial Approval Granted/ Refused	SPoC	Communications Service Provider	Date Request Served	Date Data Received	Retention Period	Date Data Deleted

APPENDIX 9: COMMUNICATIONS DATA SPOC

NAME	POSITION
Amanda Bancroft	Executive Head of Governance and Law

APPENDIX 10: RIPA URN REQUEST FORM

RIPA URN REQUEST FORM

APPLICANT'S DETAILS	
Department Seeking URN	
Name of Officer Seeking URN	
Role of Officer Seeking URN	
TYPE OF COVERT SURVEILLANCE	
Directed Surveillance or CHIS	
SUBJECT	
Name of Subject or Location if specific subject not identified	
Is Confidential Information likely to be obtained?	
PRE-CONDITION TESTS	
Is DS/CHIS for the Prevention or Detection of Crime?	
Specify Criminal Offence(s) being investigated & statute(s)	
For Directed Surveillance Only: Does the Criminal Offence(s) satisfy the Crime Threshold Test? Or	
Is the offence(s) for the underage sale of alcohol/tobacco/ or underage sale and/or proxy purchasing of nicotine inhaling products	
APPLICATION	
Operation Reference	
Name of Authorising Officer	
Is the Authorising Officer directly involved in the Operation or Investigation?	
Is Confidential Information likely to be obtained?	
Was the Application granted?	
Was Judicial Approval Obtained?	
Date & Time of Judicial Approval Order	
Expiry Date	
URN	
URN issued	
Officer issuing URN	
Date & Time URN issued	
KEY DATES	
Authorised	
Judicial Approval	
Review	
Renewal	
Cancellation	

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AUDIT AND GOVERNANCE COMMITTEE

29th SEPTEMBER, 2026

MONITORING OFFICER'S REPORT NO. LEG2604

ANNUAL OMBUDSMAN COMPLAINT REVIEW LETTER 2025 to 2026 (LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN)

Summary and recommendations:

Rushmoor Borough Council receives an annual summary from the Local Government and Social Care Ombudsman (LGSCO), which reviews how many complaints have been received by the Ombudsman. This year's review period covered 1 April 2025 to 31 March 2026. One complaint was received by LGSCO in that period which required investigation. The Committee has been advised that LGSCO makes available information regarding complaints and decisions concerning the Council, including published reports and agreed service improvements resulting from Ombudsman investigations.

1. Background:

For the relevant period, LGSCO received nine complaints concerning Rushmoor Borough Council. Of these, five were either outside Ombudsman's jurisdiction or were not yet ready for investigation. Three complaints were assessed and closed without formal investigation. One complaint proceeded to investigation and was not upheld.

There are, therefore, no further recommendations for service improvement received from LGSCO.

2. Conclusion:

It is recommended the Committee note the report and commend officers on their service offering to residents. Rushmoor Borough Council will continue to monitor and review the effectiveness of its policy and responses. This report provides committee with the evidence that the Council is responding well to complaints and has in effect a "clean bill of health" from a credible third party.

There are no legal, financial, or equality implications arising from this report.

Appendices:

LGSCO summary

Amanda Bancroft
Executive Head of Governance & Law (Monitoring Officer)
Contact: **amanda.bancroft@rushmoor.gov.uk**

Local Government & Social Care OMBUDSMAN

20 May 2026

By email

Mr Harrison
Interim Managing Director
Rushmoor Borough Council

Dear Mr Harrison

Annual Review letter 2025-26

I write to you with your annual summary of complaint statistics from the Local Government and Social Care Ombudsman for the year ending 31 March 2026.

We recognise that local authorities continue to face significant pressures in delivering services to their communities. We hope the data and insight we share with you each year remains a useful tool for reflection and continuous improvement. Please consider it as part of your corporate governance processes.

Your annual statistics are available here.

In addition, you can find the detail of the decisions we have made about your Council, read reports we have issued, and view the service improvements your Council has agreed to make as a result of our investigations, as well as previous annual review letters.

We will write to organisations in July where there is exceptional practice or where we have concerns about complaint handling. Not all organisations will get a letter. If you do receive a letter it will be sent in advance of its publication on our website on 15 July 2026.

Supporting complaint and service improvement

We remain committed to supporting the sector to embed effective systems of redress. Where authorities are navigating reorganisation and devolution, we are ready to help ensure that robust complaint handling is built into new arrangements from the outset. Please do get in touch if your organisation would benefit from our advice and guidance.

Our Complaint Handling Code, in force since April 2025, is now applied in our casework and offers structure and support to your local complaint system. Our training programme provides a flexible, expert-led route to building complaints capability across your teams, with courses open for individual delegates to book. Contact training@lgo.org.uk for more information.

Our Annual Review of Local Government Complaints will be published in July 2026, setting out the national picture of complaints, trends across service areas, and emerging systemic issues. We encourage you to read it alongside your own organisation's data.

Yours sincerely,

A. K. Clarke

Amerdeep Clarke
Local Government and Social Care Ombudsman
Chair, Commission for Local Administration in England