

# AUDIT AND GOVERNANCE COMMITTEE

## AGENDA



**9th December 2025**

**at 5pm**

**in Council Chamber  
Civic Centre, Hartlepool**

### AUDIT AND GOVERNANCE COMMITTEE:

Councillors Boddy, Cook, Darby, Hall, Holbrook, Jorgeson, Male, Moore (C), Reeve and Roy.

Standards Co-opted Independent Members: - Mr Martin Slimings and Mr David Whitmore

Standards Co-opted Parish Council Representatives: Parish Councillor Kane Forrester (Wynyard) and Parish Councillor Patricia Andrews (Headland)

Local Police Representative

#### 1. **APOLOGIES FOR ABSENCE**

#### 2. **TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS**

#### 3. **MINUTES**

3.1 To receive the minutes from 4<sup>th</sup> November 2025.

#### 4. **AUDIT ITEMS –**

4.1 Internal Audit Plan 2025/26 – Update – *Head of Audit and Governance*

4.2 Draft Auditors annual report year ended 31 March 2025 – *Director of Finance, IT and Digital*

4.3 Treasury Management Strategy Update 2025/26 – *Director of Finance, IT and Digital*

#### 5. **STANDARDS ITEMS**

5.1 Strengthening the Standards and Conduct Framework for Local Authorities in England – *Director of Legal, Governance and Human Resources*

#### CIVIC CENTRE EVACUATION AND ASSEMBLY PROCEDURE

In the event of a fire alarm or a bomb alarm, please leave by the nearest emergency exit as directed by Council Officers. A Fire Alarm is a continuous ringing. A Bomb Alarm is a continuous tone.

The Assembly Point for everyone is Victory Square by the Cenotaph. If the meeting has to be evacuated, please proceed to the Assembly Point so that you can be safely accounted for.

## **6. STATUTORY SCRUTINY ITEMS**

### **Crime and Disorder Issues**

6.1 None

### **Health Scrutiny Issues**

6.2 Veterans' Health Investigation – *Democratic Services and Statutory Scrutiny Manager*

## **7. OTHER ITEMS**

7.1 Regulation of Investigatory Powers Act 2000 (RIPA) – Quarter 3 Update and Annual Report - *Director of Legal, Governance and Human Resources*

## **8. MINUTES FROM RECENT MEETINGS FOR RECIEPT BY THE COMMITTEE**

8.1 Health and Wellbeing Board – None

8.2 Finance and Policy Committee relating to Public Health issues – None

8.3 Tees Valley Health Scrutiny Joint Committee – None

8.4 Safer Hartlepool Partnership – 18<sup>th</sup> July 2025

8.5 Tees Valley Area Integrated Care Partnership – None

8.6 Regional Health Scrutiny – None

8.7 Durham, Darlington and Teesside, Hambleton, Richmondshire and Whitby STP Joint Health Scrutiny Committee - None

## **9. ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS URGENT**

For information: - forthcoming meeting dates: -

Tuesday 27<sup>th</sup> January 2026, 4pm

Tuesday 17<sup>th</sup> March 2026, 5pm



## **AUDIT AND GOVERNANCE COMMITTEE**

### **MINUTES AND DECISION RECORD**

#### **4 NOVEMBER 2025**

The meeting commenced at 4pm in the Council Chamber, Civic Centre, Hartlepool.

**Present:**

Councillor: Shane Moore (In the Chair)

Councillors: Boddy, Cook, Hall, Holbrook, Jorgeson, Male and Roy.

Standards Co-opted Members: Martin Slimings – Independent Member  
David Whitmore – Independent Member

Also present: Councillor Wallace  
Claire Brenchley, Operations Lead, Havelock Grange Medical Practice  
Michelle Harrety, Practice Manager, Havelock Grange Medical Practice  
Karen Hawkins, Director of Delivery (Tees Valley), North East and North Cumbria Integrated Care Board (NENC ICB)  
Stephen Thomas, Healthwatch Hartlepool  
Kellie Woodley, Director, People First Advocacy Service

Officers: Hayley Martin, Director of Legal, Governance and HR  
Joan Stevens, Democratic Services and Statutory Scrutiny Manager  
Gemma Jones, Scrutiny and Legal Support Officer

### **34. Apologies for Absence**

Cllr Darby.

### **35. Declarations of Interest**

None.

### **36. Minutes**

Minutes from 23<sup>rd</sup> September 2025 – received.

### **37. Regulation of Investigatory Powers Act 2000 (RIPA) – Quarter 1 update**

The Director of Legal Governance and HR was in attendance to provide the Committee with an update in relation to powers under RIPA to conduct authorised covert surveillance. This report was an update for Quarter 2 but had been labelled Quarter 1 in error. It was noted that in the Quarter to date of this meeting there had been 3 RIPA authorisations relating to directed surveillance. This was in connection with the selling of illicit tobacco and had resulted in completed closure orders.

#### **Recommended**

- i) That Members note the quarterly report.

### **38. Hartlepool NHS Complaints Advocacy Governance Report – *Northeast North Cumbria Director - People First***

The Director of People First provided an overview of the work undertaken by their service in supporting people with their complaints against the NHS. It was noted that the service had seen an increase in complex cases and an increase in the number of referrals received. The Director explained this could be attributed to an increased awareness of the service as a source of support. People First offer different levels of support in the complaints process.

Referring to Healthwatch, The Director informed Members that Healthwatch were a huge ally to the service. Although not reflected in the referral numbers on page 9 of the report, Healthwatch often assisted people to self-refer to the service. Referring to diversity and demographic it was emphasised that work was ongoing to raise awareness of the service to underrepresented communities.

When discussing the complaints by location (page 11 of the report), the Chairman asked if complaints relating to University Hospital of Hartlepool had been included in the numbers for 'North Tees University Hospital' or 'Teesside NHS'. The Director advised they would need to clarify this and bring this information to Committee at a later date. It was noted that reference to 'Tees NHS Newcastle Hospitals Trust' was an error in the table.

The Chairman queried the number of complaints about mental health and the services they related to. The Director advised they would need to clarify this and bring this information to the Committee at a later date.

With reference to the future of Healthwatch, the Chairman asked what impact this may have on the service. The Director advised that People First was promoted across a number of platforms and work would continue to raise awareness of their provision.

In terms of data regarding veteran specific complaints the Director advised that this information could be provided to the Committee at a later date.

Returning to the number of referrals from Healthwatch. The representative from Healthwatch Hartlepool stated they regularly speak to people about the Advocacy service and promote this at all events. The Healthwatch Hartlepool representative praised the work of People First in the local area and raised concerns about the difficulties some may face without the support from Healthwatch in the referral process in the future.

### **Recommended**

- i) That Members note the update and seek clarification on any issues, where required.
- ii) Utilise the information provided to assist in the development of its Work Programme for 2025/26.
- iii) Members be provided with further information in relation to the questions raised during this item.

## **39. Veteran access to primary healthcare services (GP's) – Initial Evidence – Democratic Services and Statutory Scrutiny Manager**

The Director of Delivery for NENC ICB was in attendance to provide members with an overview of how the ICB supports veteran access to GP services. Representatives from Havelock Grange Practice were also in attendance to discuss how their practice supports veterans.

The Director of Delivery explained that the Armed Forces Covenant legal duty places a legal obligation on the ICB to consider the needs of the Armed Forces community when exercising functions in specific areas. It was discussed that this legal duty did not extend to all providers of healthcare. Members were informed that the ICB has a veteran and armed forces champion.

Referring to the Veteran Friendly GP Accreditation scheme, Members were informed that all GP practices in Hartlepool had signed up to the scheme. This demonstrated a commitment from practices to supporting veterans, serving members and their families across the town. The Director added that along with GP access, healthcare was impacted by many other factors, such as housing, and welcomed the opportunity to look at this issue from a scrutiny perspective. With a view of considering further how GP practices can support veterans from an NHS perspective. It was also highlighted to committee that the CQC, as the Regulator when inspecting general practices, looks at how they provide care to their local population. This includes members of the armed forces community, which includes serving personnel (regular and reserve), service leavers, their families and veterans.

A Member welcomed all GP practices in Hartlepool being signed up to the scheme and asked how they were monitored in delivering the objectives. The Director advised that being part of the scheme was not a legal or contractual obligation, but

the expectation was that there would be a clinical lead in each practice who would lead on the implementation of the scheme.

The Director confirmed that, whilst there had been no veteran specific complaints received, there had been wider issues around access which were now being rectified. It was also discussed that work to address the health needs of veterans could perhaps be discussed at the Health and Wellbeing Board meeting, as a partnership of cross organisational representatives, to address any inequality. There was also an acknowledgement that the healthcare needs of veterans can be different from other patients so clinicians may need some understanding of military life.

The Democratic Services and Statutory Scrutiny Manager advised that a survey was being developed that would be circulated to all GP practices in the town to seek their views on this issue.

The Chairman asked what was in place at Havelock Grange Practice to support veterans. The practice representatives informed Members that at the point of sign up, new patients are asked if they are a veteran. Once coded as a veteran on the system, the clinical lead for armed forces contacts the veteran and discusses their medical records. If needed records are transferred from the military. Services that are veteran/armed forces specific are promoted in the practice alongside raising awareness of the needs of veterans. Sign posting to other services was also taking place. Existing patients are also encouraged to identify themselves as a veteran if not done so already. It was reported that veteran specific campaigns were taking place in the practice and that the number of patients identified as veterans was growing.

In terms of signing up to the Veteran Friendly GP accreditation scheme, the practice had been supported by the ICB and the Royal College of GPs, who manage the scheme. The practice had been given a toolkit to implement the scheme. A Member commented that a lot of work seemed to be taking place around this issue and asked if there had been any funding requirements. The practice commented that they had not faced any funding issues with this scheme. They explained that a Clinical Lead was required, this person was then responsible for attending training and disseminating information to others.

The Director for the NENC ICB discussed that they had in the past supported practices seeking accreditation with funding to allow staff to have protected learning time. The Armed Forces Lead for the ICB was undertaking a piece of work around veterans and would be working in the Hartlepool area in the near future. It was noted that the ICB were committed to supporting this scheme.

A Member queried the referral route for patients with Post Traumatic Stress Disorder, the practice explained that this would be between the GP and patient to decide on the most appropriate referral route.

The Director for the ICB emphasised, that whilst veterans were not entitled to prioritisation of their care as this is determined on clinical need, there is a commitment that some veterans may be considered for priority treatment for

conditions arising from their service. With this in mind, it is important that veterans identify themselves as early as possible to ensure that any issues are responded to appropriately. The issue of how many veterans were not identified by their GP practice was discussed.

It was noted by the representative from Healthwatch that there were lots of different community and voluntary organisations supporting veterans, including the work of social prescribers.

The Director noted that, whilst not having received specific feedback regarding poor access, it was highlighted that all practices had implemented the accreditation scheme differently. The key to the success of the scheme was understanding what was available in terms of support and resources, this would ensure signposting to appropriate services, as outlined by the Healthwatch representative.

The Democratic Services and Statutory Scrutiny Manager advised that, to build upon the work that had already been undertaken by the Armed Forces Champion, a veteran survey would be recirculated to allow the gathering of as many responses as possible. This would then provide a clearer understanding of veteran's experiences.

Whilst discussing the recommendations it was clarified that the focus of this piece of work would be specifically veteran access to GP services. This would allow for a more focussed investigation with deliverable outcomes.

The Director from the NENC ICB noted that there needed to be a clear narrative on the investigation when seeking the views of GP practices. Included in this, the acknowledgement that GP services were a small part of a much wider primary care service provision and a wider service provision that impacts on veteran health including education and housing. It was again highlighted that the legal duty was placed on the ICB and Local Authorities and that GP services were not contractually obliged to sign up to the accreditation scheme. Therefore, the scope of the investigation would need to be clear in terms of supporting practices in the town to better support veterans and their families. The Chairman advised that these comments would be taken into account.

### **Recommended**

- i) That the Committee considers the proposed aims, terms of reference and timeline of investigation as detailed in section 4 and 5 of this report.
- ii) Receives the information provided, as part of the first stage of the investigation.
- iii) That a clear focus of the investigation be agreed and that this be provided to the GP practices with a clear narrative when seeking their views.

## **40. Minutes from recent meetings for receipt by the Committee**

Noted

**41. Any other business which the Chairman considers urgent**

None

The meeting concluded at 5.05pm.

CHAIRMAN



# AUDIT AND GOVERNANCE COMMITTEE

9 December 2025



**Subject:** INTERNAL AUDIT PLAN 2025/26 UPDATE

**Report of:** Head of Audit and Governance

## 1. COUNCIL PLAN PRIORITY

**Hartlepool will be a place:**

- where people live healthier, safe and independent lives. (People)
- that is connected, sustainable, clean and green. (Place)
- that is welcoming with an inclusive and growing economy providing opportunities for all. (Potential)
- with a Council that is ambitious, fit for purpose and reflects the diversity of its community. (Organisation)

## 2. PURPOSE OF REPORT

- 2.1 To inform Members of the progress made to date completing the internal audit plan for 2025/26

## 3. BACKGROUND

- 3.1 In order to ensure that the Audit and Governance Committee meets its remit, it is important that it is kept up to date with the ongoing progress of the Internal Audit section in completing its plan. Regular updates allow the Committee to form an opinion on the controls in operation within the Council. This in turn allows the Committee to fully review the Annual Governance Statement, which will be presented at this meeting of the Committee, and after review, will form part of the statement of accounts of the Council.

## 4. PROPOSALS

- 4.1 That members consider the issues within the report in relation to their role in respect of the Councils governance arrangements. In terms of reporting internally at HBC, Internal Audit produces a draft report which includes a list of risks currently faced by the client in the area audited. It is the responsibility of the client to complete an action plan that details the actions proposed to mitigate those risks identified. Once the action plan has been provided to Internal Audit, it is the responsibility of the client to provide Internal Audit with evidence that any action has been implemented by an agreed date. The level of outstanding risk in each area audited is then reported to the Audit and Governance Committee.
- 4.2 The benefits of this reporting arrangement are that ownership of both the internal audit report and any resulting actions lie with the client. This reflects the fact that it is the responsibility of management to ensure adequate procedures are in place to manage risk within their areas of operation, making managers more risk aware in the performance of their duties. Greater assurance is gained that actions necessary to mitigate risk are implemented and less time is spent by both Internal Audit and management in ensuring audit reports are agreed. A greater breadth of assurance is given to management with the same Internal Audit resource and the approach to risk assessment mirrors the corporate approach to risk classification as recorded corporately. Internal Audit can also demonstrate the benefit of the work it carries out in terms of the reduction of the risk faced by the Council.
- 4.3 Table 1 of the report summarises the assurance placed on those audits completed with more detail regarding each audit and the risks identified and action plans agreed provided in **Appendix A**.

Table 1

<b>Audit</b>	<b>Assurance Level</b>
Museums	Limited
ICS Liquid Logic Children Services IT Application	Satisfactory
Local Council Tax Support Scheme	Satisfactory
Gas Safety Management	Satisfactory
Loans and Investments (Treasury Management)	Satisfactory
Schools Capital Programme	Limited
Council Tax	Satisfactory
Non-Domestic Rates	Satisfactory
Salaries and Wages	Satisfactory

- 4.4 For Members information, Table 2 below defines what the levels of assurance Internal Audit places on the audits they complete and what they mean in practice:

Table 2

Assurance Level	Meaning
Satisfactory Assurance	Controls are operating satisfactorily, and risk is adequately mitigated.
Limited Assurance	Several key controls are not operating as intended and need immediate action.
No Assurance	A complete breakdown in control has occurred needing immediate action.

- 4.5 As members will have noted Museums and Schools Capital Programme have been assessed as limited assurance. I have outlined the reasons for these assessments below.
- 4.6 The Museum Accreditation scheme was used as a benchmark to review HBC Museum operations. In the areas of Organisational Health, Users and Their Experiences, Budget, and GDPR/Data Protection the audit testing identified that controls are in place and operating as expected to help mitigate the risks.
- However, in relation to: Museum Accreditation - Collections Management and Insurances the audit testing identified that there were controls gaps and/or control failures in the following areas:
- fully documented inventory.
  - safe and secure locations for collection on display or in storage.
- This exposes the service to the risk of potential loss of collections valuable both financially and to the community. For this reason, the overall opinion is that limited assurance can be place on the controls in place to mitigate risk.
- 4.7 In order to mitigate the risks identified, comprehensive actions have been agreed with the Assistant Director (Preventative and Community Based Services). The agreed actions are detailed in **Appendix A** and cover the following areas:
- An updated Service Plan will be produced to bring together the current work programme and link into the Council Plan, agreed in April.
  - Staff will continue to work with Arts Council England National Security Accreditation advisor on exhibitions within the public facing venues at the Gallery and Museum developing tailor made assessments to individual exhibitions. Officers continue to engage with National Security advisors on the redevelopment of the Museum of Hartlepool to ensure the new building is fit for purpose. Officers will develop up to date risk assessments of security arrangements for Sir William Gray House and Hartlepool Art Gallery.
  - Officers will review and update the plans with support provided from HBC Building Maintenance and Building Consultancy Services to feed in support on specific roles and responsibilities for gallery and museum venues in an emergency event. Documents will be dated and reviewed annually once completed.
  - A review of the information regarding civic regalia held on the collection's spreadsheet will be completed and updates made as

necessary. Input to Modes IT system will be prioritised when resource permits.

- The decant of the fine art collection into storage is planned for February 2026. The decant and cataloguing would take approximately 3 months.
- Staff will develop a long-term plan to address the inventory backlog for the whole of the collection.
- An independent security audit of Sir William Gray House would be required to understand the full scale of the issue and advise on required improvements to infrastructure and similar. Funding is not available for this currently therefore to address this action, support would need to be provided in order to proceed with this. Meeting with Insurances has taken place and it has been agreed to develop a plan to review the high value and other small items from collections to verify values for insurance purposes with a view to seeing if additional items need adding to the insurance cover. Response needed from Insurances to help prepare plan. Services may need to be procured to action the plan.

4.8 Audit testing of the processes in place to manage Schools Capital Programme identified that there were controls gaps and failures in the following areas:

- Full compliance with Contract Procedure Rules with respect to 2 schemes reviewed due to failure to obtain approval for exemption to Contract Procedure Rules with respect to a scheme to provide a portable demountable.
- Quotations / tenders exceeding £25,000 not being advised to Corporate Procurement to create the relevant notices and update the contract register.
- Contract exceeding defined values not being forwarded to Legal Services for signature.
- Inadequate arrangements in place to monitor the procurement and management of schemes undertaken by Schools/Trusts.

4.9 In order to mitigate the risks identified, comprehensive actions have been agreed with the Assistant Director for Early Intervention, Performance and Commissioning. The agreed actions are detailed in **Appendix A** and cover the following areas:

- Contract Procedure Rules will be fully complied with moving forward as evidenced in the recent procurement in respect of a scheme at Kingsley Primary School. The Head of Service and team will attend training provided by the Procurement Team.
- Schools / Trusts will be required to provide details of works awarded and costs incurred during the scheme rather than provide retrospective assurance.
- Arrangements have been established to notify scheme overspends to Director of Finance, IT and Digital Services as a result of budget monitoring for reporting to the Finance Committee.

- 4.10 The ongoing progress of completing the agreed audit plan is detailed in Table 3 below:

Table 3

<b>Number of Audits Started</b>	<b>53</b>
Audits at planning stage	7
Audits at fieldwork stage	15
Audits at draft report	4
Audits finalised	27
<b>Actions agreed</b>	<b>24</b>
<b>Actions past agreed date and not implemented</b>	<b>0</b>

## 5. OTHER CONSIDERATIONS/IMPLICATIONS

<b>RISK IMPLICATIONS</b>	There is a risk that Members of the Audit and Governance Committee do not receive the information needed to enable a full and comprehensive review of governance arrangements at the Council, leading to the Committee being unable to fulfil its remit.
<b>FINANCIAL CONSIDERATIONS</b>	No relevant issues.
<b>SUBSIDY CONTROL</b>	No relevant issues.
<b>LEGAL CONSIDERATIONS</b>	No relevant issues.
<b>CHILD AND FAMILY POVERTY CONSIDERATIONS</b>	No relevant issues.
<b>EQUALITY AND DIVERSITY CONSIDERATIONS</b>	No relevant issues.
<b>STAFF CONSIDERATIONS</b>	No relevant issues.
<b>ASSET MANAGEMENT CONSIDERATIONS</b>	No relevant issues.
<b>ENVIRONMENT, SUSTAINABILITY AND CLIMATE CHANGE CONSIDERATIONS</b>	No relevant issues.
<b>CONSULTATION</b>	No consultation required.

## 6. RECOMMENDATIONS

- 6.1 It is recommended that Members note the contents of the report.

## **7. REASON FOR RECOMMENDATIONS**

- 7.1 To ensure that the Audit and Governance Committee meets its remit, it is important that it is kept up to date with the ongoing progress of the Internal Audit section in completing its plan.

## **8. BACKGROUND PAPERS**

- 8.1 Internal Audit Reports.

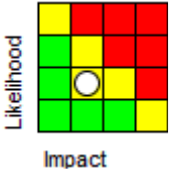
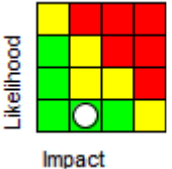
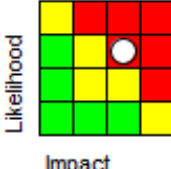
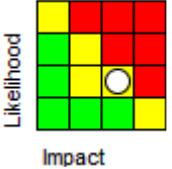
## **9. CONTACT OFFICER**

- 9.1 Noel Adamson  
Head of Audit and Governance  
Civic Centre  
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TS24 8AY

Tel: 01429 523173

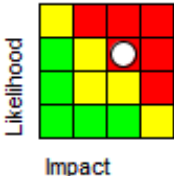
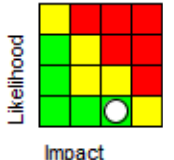
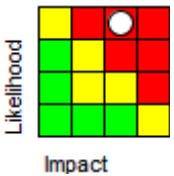
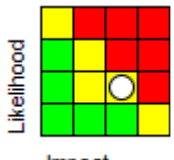
Email: [noel.adamson@hartlepool.gov.uk](mailto:noel.adamson@hartlepool.gov.uk)

## Appendix A

Audit	Objective	Assurance Level		
<b>Museums</b>	Review controls in relation to Museum Accreditation – Organisational Health, Managing Collections, Users and their Experiences, Insurance, Budget.	<b>Limited</b>		
Risk Identified	Risk Level prior to action implemented	Action Agreed	Risk Level after action implemented	
<p>Since achieving full accreditation in 2018 the service has not progressed its development and improvement plans, and/or has not updated key documents ready for the next accreditation visit, leading to gaps in significant areas that will be assessed such as overall governance of the museum infrastructure, collections management and user experience, resulting in the potential for not achieving full accreditation at the next scheduled visit, which could impact funding and resulting in poor customer experience which could damage reputation.</p>		<p>An updated Service Plan will be produced to bring together the current work programme and link into the Council Plan, agreed in April.</p>		
<p>Since achieving full accreditation in 2018 the service has not progressed its development and improvement plans, and/or has not updated key documents ready for the next accreditation visit, leading to gaps in significant areas that will be assessed such as overall governance of the museum infrastructure, collections management and user experience, resulting in the potential for not achieving full accreditation at the next scheduled visit, which could impact funding and resulting in poor customer experience which could damage reputation.</p>		<p>Staff will continue to work with Arts Council England National Security Accreditation advisor on exhibitions within the public facing venues at the Gallery and Museum developing tailor made assessments to individual exhibitions. Officers continue to engage with National Security advisors on the redevelopment of the Museum of Hartlepool to ensure the new building is fit for purpose. Officers will develop up to date risk assessments of security arrangements for Sir William Gray House and Hartlepool Art Gallery.</p>		

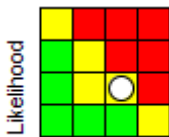
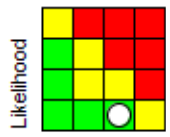

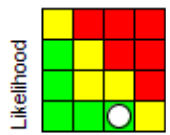
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Since achieving full accreditation in 2018 the service has not progressed its development and improvement plans, and/or has not updated key documents ready for the next accreditation visit, leading to gaps in significant areas that will be assessed such as overall governance of the museum infrastructure, collections management and user experience, resulting in the potential for not achieving full accreditation at the next scheduled visit, which could impact funding and resulting in poor customer experience which could damage reputation.	<p>Likelihood</p> <p>Impact</p>	A review of the information held on the spreadsheet will be completed and updates made as necessary. Input to MODES will be prioritised when resource permits.	<p>Likelihood</p> <p>Impact</p>
Since achieving full accreditation in 2018 the service has not progressed its development and improvement plans, and/or has not updated key documents ready for the next accreditation visit, leading to gaps in significant areas that will be assessed such as overall governance of the museum infrastructure, collections management and user experience, resulting in the potential for not achieving full accreditation at the next scheduled visit, which could impact funding and resulting in poor customer experience which could damage reputation.	<p>Likelihood</p> <p>Impact</p>	The decant of the fine art collection into storage is planned for February 2026. The decant and cataloguing would take approximately 3 months.	<p>Likelihood</p> <p>Impact</p>

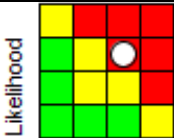
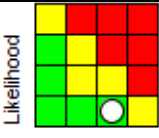


<p>Since achieving full accreditation in 2018 the service has not progressed its development and improvement plans, and/or has not updated key documents ready for the next accreditation visit, leading to gaps in significant areas that will be assessed such as overall governance of the museum infrastructure, collections management and user experience, resulting in the potential for not achieving full accreditation at the next scheduled visit, which could impact funding and resulting in poor customer experience which could damage reputation.</p>		<p>Staff will develop a long-term plan to address the inventory backlog for the whole of the collection.</p>	
<p>The collections are not insured at all, not all the collections are insured, not all collections are insured for the correct value, or not all collections have the correct type of insurance cover, leading to insufficient or inadequate coverage or coverage of an insufficient value to compensate for loss or damage to collections, resulting in unnecessary costs to the organisation along with the loss of the collection to the public.</p>		<p>An independent security audit of Sir William Gray House would be required in order to understand the full scale of the issue and advise on required improvements to infrastructure and similar. Funding is not available for this currently therefore in order to address this action, support would need to be provided in order to proceed with this. Meeting with Insurances has taken place and it has been agreed to develop a plan to review the high value and other small items from collections to verify values for insurance purposes with a view to seeing if additional items need adding to the insurance cover. Response needed from Insurances to help prepare plan Services may need to be procured to action the plan</p>	

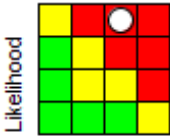
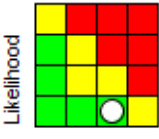
Audit	Objective		Assurance Level
ICS Liquid Logic Children Services IT Application	Ensure IT application/administration controls in place.		Satisfactory
Risk Identified	Risk Level prior to action implemented	Action Agreed	Risk Level after action implemented
No unmitigated risk identified.			

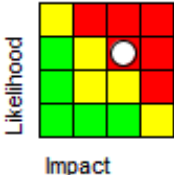
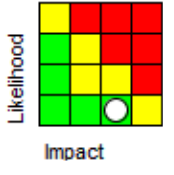
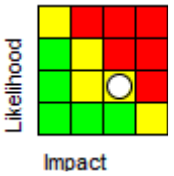
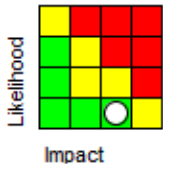
Audit	Objective			Assurance Level
Local Council Tax Support Scheme	Assess and provide assurance on the controls in place to mitigate risks in the following areas: Legislation, Financial Viability, Delivery of Outcomes.			Satisfactory
Risk Identified		Risk Level prior to action implemented	Action Agreed	Risk Level after action implemented
No unmitigated risk identified.				

Audit	Objective		Assurance Level	
Gas Safety Management	Review arrangements for complying with relevant legislative requirements / HSE guidance in respect of HBC operational and domestic properties.		Satisfactory	
Risk Identified		Risk Level prior to action implemented	Action Agreed	Risk Level after action implemented
Arrangements in place do not ensure that all relevant appliances in HBC Housing Stock are subject to Gas Safety Checks in accordance with legislation leading to potential failure of equipment causing injury / loss of life resulting in breach of legislation and significant financial penalties.			If such certification isn't produced to us in a reasonable time, we will send reminders. Ultimately, if they still refuse to provide evidence then we'll enforce under the lease. Such leases are technically commercial leases and not residential and are easier to enforce.	
Staff do not comply with HBC Information Governance Policies and Procedures leading to non-compliance with the Data Protection Act resulting in a fine from the ICO.			A privacy notice will be developed and published	
Staff do not comply with HBC Information Governance Policies and Procedures leading			process will be developed to delete any relevant documentation after 5 years	

to non-compliance with the Data Protection Act resulting in a fine from the ICO.	 Likelihood Impact		 Likelihood Impact
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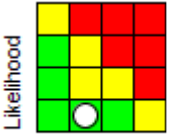
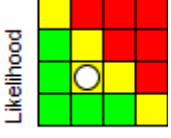
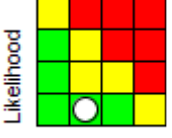




Audit	Objective			Assurance Level
<b>Loans and Investments (Treasury Management)</b>	Provide assurance on the controls in place to mitigate risks in the following areas: Legislative/Regulatory requirements, Treasury Management Practices (TMPs) 1-12, Transactions, Insurance, Data Security.			<b>Satisfactory</b>
Risk Identified		Risk Level prior to action implemented	Action Agreed	Risk Level after action implemented
No unmitigated risk identified				

Audit	Objective			Assurance Level
<b>Schools Capital Programme</b>	Provide assurance on the controls in place to mitigate risks in the following areas: Approval of Capital Programme, Awarding of works in compliance with Contract Procedure Rules, Arrangements for determining DfE capital allocations to fund schemes that meet highest priorities, Compliance with terms and conditions, Arrangements for managing Capital Schemes in line with contractual arrangements.			<b>Limited</b>
Risk Identified		Risk Level prior to action implemented	Action Agreed	Risk Level after action implemented
Contracts for goods / services are not awarded in line with Contract Procedure Rules, leading to failure to achieve value for money and potential accusation of favouritism resulting in potential reputational damage and legal repercussions from unsuccessful suppliers.		 Likelihood Impact	Contract Procedure Rules will be fully complied with moving forward as evidenced in the recent procurement in respect of a scheme at Kingsley Primary School. The Head of Service and team will attend training provided by the Procurement Team.	 Likelihood Impact

Contracts for goods / services are not awarded in line with Contract Procedure Rules, leading to failure to achieve value for money and potential accusation of favouritism resulting in potential reputational damage and legal repercussions from unsuccessful suppliers.		Schools / Trusts will be required to provide details of works awarded and costs incurred during the course of the scheme rather than provide retrospective assurance	
Contracts for goods / services are not awarded in line with Contract Procedure Rules, leading to failure to achieve value for money and potential accusation of favouritism resulting in potential reputational damage and legal repercussions from unsuccessful suppliers.		Arrangements have been established to notify scheme overspends to Director of Finance, IT and Digital Services as a result of budget monitoring for reporting to the Finance Committee.	

Audit	Objective			Assurance Level
Council Tax	Provide assurance on the controls in place to mitigate risks in the following areas: Legislative/Corporate Requirements, Valuation, Liability, Credit balances and refunds.			Satisfactory
Risk Identified		Risk Level prior to action implemented	Action Agreed	Risk Level after action implemented
No unmitigated risk identified				

Audit	Objective			Assurance Level
Non-Domestic Rates	Provide assurance on the controls in place to mitigate risks in the following areas: Legislative/Corporate Requirements, Valuation, Liability, Credit balances and refunds.			Satisfactory
Risk Identified		Risk Level prior to action implemented	Action Agreed	Risk Level after action implemented
No unmitigated risk identified				

Audit	Objective	Assurance Level	
<b>Salaries and Wages</b>	Provide assurance on the controls in place to mitigate risks in the following areas: Master Data, Starters /Leavers, Pay Grade Changes, Deductions, Claim Based Pay, Data processing, Reconciliation to FMS, Parameters, Data Security, GDPR/Data Protection, Transparency Code of Practice.	<b>Satisfactory</b>	
Risk Identified	Risk Level prior to action implemented	Action Agreed	Risk Level after action implemented
Salary deductions are not promptly and accurately recorded in the payroll system due to processing errors leading to incorrect deductions to staff salary resulting in inaccurate payment of salaries.	 <p>Likelihood</p> <p>Impact</p>	Payroll Manager arranged meeting on the 3/10/25 to discuss issue and resolve balancing problems. Reconciliation will be sent to Audit Team.	 <p>Likelihood</p> <p>Impact</p>
Payment of claim-based pay may not be accurate, complete and authorised due to input processing errors leading to inaccurate payment of salaries and financial loss.	 <p>Likelihood</p> <p>Impact</p>	Payroll Manager arranged Meeting with Shared Services Manger to go through ELT process 6/10/25. Action will be taken to the next ELT meeting.	 <p>Likelihood</p> <p>Impact</p>
Incorrect payroll costs entered into FMS from the Payroll System due to input errors leading to inaccurate budget reporting and accounts resulting in potential financial penalties.	 <p>Likelihood</p> <p>Impact</p>	March 25 payroll to Integra reconciliation was carried out and discrepancies found, these have been emailed the Payroll Manager for review.	 <p>Likelihood</p> <p>Impact</p>
Staff do not comply with HBC Information Governance Policies and Procedures leading to non-compliance with the Data Protection Act resulting in a fine from the ICO.	 <p>Likelihood</p> <p>Impact</p>	Payroll Manager booked meeting with Shared Services Manager to review and update.	 <p>Likelihood</p> <p>Impact</p>

# AUDIT AND GOVERNANCE COMMITTEE

9 December 2025



**Subject:** DRAFT AUDITORS ANNUAL REPORT YEAR  
ENDED 31 MARCH 2025

**Report of:** Director of Finance, IT and Digital

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## 1. COUNCIL PLAN PRIORITY

<b>Hartlepool will be a place:</b>
- where people live healthier, safe and independent lives. (People)
- that is connected, sustainable, clean and green. (Place)
- that is welcoming with an inclusive and growing economy providing opportunities for all. (Potential)
- a place with a Council that is ambitious, fit for purpose and reflects the diversity of its community. (Organisation)

## 2. PURPOSE OF REPORT

- 2.1 To inform Members of the Audit and Governance Committee that arrangements have been made for representatives from Forvis-Mazars to be in attendance at this meeting, to present the content of the Draft Auditors Annual Report for year ended 31 March 2025.

## 3. BACKGROUND

- 3.1 This report updates the Audit and Governance Committee on the work Forvis-Mazars have undertaken as the auditor for the Council for the year ended 31 March 2025, covering:
- Audit of the financial statements;
  - Commentary on VFM arrangements;
  - Other reporting responsibilities; and
  - Audit fees and other services.

#### 4. FINDINGS OF FORVIS-MAZARS

4.1 Details of key messages are included in the main body of the report, which is attached as **Appendix 1**. Overall it is a positive report, but does include two “other” recommendations in respect of Value for Money, covering:

- Financial Sustainability
- Financial Sustainability (Dedicated Schools Grant)

4.2 Members will be aware of the significant financial challenges facing the Council and the reports presented to Finance and Corporate Affairs committee on the 24 November point to further in year overspend and a significant budget gap for 2026/27. As such, the recommendations are a reminder of the need to continue with actions that will support our financial sustainability.

#### 5. OTHER CONSIDERATIONS/IMPLICATIONS

<b>RISK IMPLICATIONS</b>	There is a risk that Members of the Audit and Governance Committee do not receive the information needed to enable a full and comprehensive review of governance arrangements at the Council, leading to the Committee being unable to fulfil its remit.
<b>FINANCIAL CONSIDERATIONS</b>	There are no specific financial implications of the report, but the wider financial considerations arising from the recommendations made are addressed in section 4.2 above.
<b>SUBSIDY CONTROL</b>	No relevant issues.
<b>LEGAL CONSIDERATIONS</b>	No relevant issues.
<b>CHILD AND FAMILY POVERTY CONSIDERATIONS</b>	No relevant issues.
<b>EQUALITY AND DIVERSITY CONSIDERATIONS</b>	No relevant issues.
<b>STAFF CONSIDERATIONS</b>	No relevant issues.
<b>ASSET MANAGEMENT CONSIDERATIONS</b>	No relevant issues.
<b>ENVIRONMENT, SUSTAINABILITY AND CLIMATE CHANGE CONSIDERATIONS</b>	No relevant issues.
<b>CONSULTATION</b>	No consultation required.

#### 6. RECOMMENDATIONS

- 6.1 It is recommended that Members note the contents of the report, including the recommendation made by Forvis-Mazars in relation to Value for Money.

## **7. REASON FOR RECOMMENDATIONS**

- 7.1 To ensure that the Audit and Governance Committee meets its remit and is updated on the work of the external auditor.

## **8. BACKGROUND PAPERS**

- 8.1 Audit Strategy Memorandum – report to the Audit and Governance Committee, 23 September 2025.

## **9. CONTACT OFFICER**

James Magog  
Director of Finance, IT and Digital  
Telephone: 01429 523093  
Email: [james.magog@hartlepool.gov.uk](mailto:james.magog@hartlepool.gov.uk)





**DRAFT** Auditor's Annual Report  
Hartlepool Borough Council – year ended 31 March 2025

17 November 2025

# Contents

- 01 Introduction
- 02 Audit of the financial statements
- 03 Commentary on VFM arrangements
- 04 Other reporting responsibilities
- 05 Audit fees and other services

- A Appendix A: Further information on our audit of the Council’s financial statements

Our reports are prepared in the context of the ‘PSAA Statement of Responsibilities of Auditors and of Audited Bodies’ and the ‘Appointing Person Terms of Appointment’ issued by Public Sector Audit Appointments Limited. This document is to be regarded as confidential to Hartlepool Borough Council. It has been prepared for the sole use of the Audit and Governance Committee as the appropriate sub-committee charged with governance. We do not accept any liability or responsibility to any other person in respect of the whole or part of its contents.

# 01

Introduction

# Introduction

## Purpose of the Auditor’s Annual Report

Our Auditor’s Annual Report (AAR) summarises the work we have undertaken as the auditor for Hartlepool Borough Council (‘the Council’) for the year ended 31 March 2025. Although this report is addressed to the Council, it is designed to be read by a wider audience including members of the public and other external stakeholders.

Our responsibilities are defined by the Local Audit and Accountability Act 2014 and the Code of Audit Practice (‘the Code’) issued by the National Audit Office (‘the NAO’). The remaining sections of the AAR outline how we have discharged these responsibilities and the findings from our work. These are summarised below.



### Opinion on the financial statements

We issued our audit report on [insert date – to be confirmed]. Our opinion on the financial statements was unqualified [to be confirmed upon audit completion].



### Value for Money arrangements

We did not identify any significant weaknesses in the Council’s arrangements to secure economy, efficiency and effectiveness in its use of resources. Section 3 provides our commentary on the Council’s arrangements. We have provided a commentary based on our work up to the date of this report. We reserve the right to amend our findings to reflect additional information that is relevant up to the date of issuing our audit opinion on the financial statements (planned for February 2026).



### Wider reporting responsibilities

The NAO, as group auditor, requires us to complete the Whole of Government Accounts (WGA) Assurance Statement in respect of its consolidation data. As in previous years, we anticipate a delay before we will be able to issue our 2024/25 audit certificate, as we await NAO clearance on whether we will be required to undertake additional procedures as a sampled component.

## Audit of the financial statements

# Audit of the financial statements

## Our audit of the financial statements

Our audit was conducted in accordance with the requirements of the Code, and International Standards on Auditing (UK) (ISAs). The purpose of our audit is to provide reasonable assurance to users that the financial statements are free from material error. We do this by expressing an opinion on whether the statements are prepared, in all material respects, in line with the financial reporting framework applicable to the Council and whether they give a true and fair view of the Council’s financial position as at 31 March 2025 and of its financial performance for the year then ended. Our audit report will not be issued until February 2026.

A summary of the significant risks we identified when undertaking our audit of the financial is outlined in Appendix A. We will conclude on these in our final report in February 2026. In this appendix we also outline the uncorrected misstatements we identified and any internal control recommendations we made.

## Local Government Pension Scheme assets and liabilities

In February 2025, the Pension Fund auditor communicated their intention to issue a disclaimed audit opinion on the Teesside Pension Fund financial statements for the year ended 31 March 2024.

Work on asset valuations was not complete before the 28 February 2025 backstop date. This lack of assurance meant that we modified our audit opinion in 2023/24 for the Council to reflect this.

We expect to receive assurance from the Teesside Pension Fund auditor but this will not be available until January/February 2026.

## Significant difficulties during the audit

There were no significant difficulties noted during the audit. We received the full co-operation of management during the audit. **To be confirmed on audit completion.**

Reporting responsibility	Outcome
Narrative Report	This work is not completed at this time.
Annual Governance Statement	This work is not completed at this time.

Our work on Value for Money  
arrangements



# VFM arrangements

## Overall Summary








# VFM arrangements – Overall summary

## Approach to Value for Money arrangements work

We are required to consider whether the Council has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources. The NAO issues guidance to auditors that underpins the work we are required to carry out and sets out the reporting criteria that we are required to consider. The reporting criteria are:

- 

**Financial sustainability** - How the Council plans and manages its resources to ensure it can continue to deliver its services.
- 

**Governance** - How the Council ensures that it makes informed decisions and properly manages its risks.
- 

**Improving economy, efficiency and effectiveness** - How the Council uses information about its costs and performance to improve the way it manages and delivers its services.

Our work is carried out in three main phases.

### Phase 1 - Planning and risk assessment

At the planning stage of the audit, we undertake work so we can understand the arrangements that the Council has in place under each of the reporting criteria; as part of this work we may identify risks of significant weaknesses in those arrangements.

We obtain our understanding of arrangements for each of the specified reporting criteria using a variety of information sources which may include:

- NAO guidance and supporting information
- Information from internal and external sources, including regulators
- Knowledge from previous audits and other audit work undertaken in the year
- Interviews and discussions with officers

Although we describe this work as planning work, we keep our understanding of arrangements under review and update our risk assessment throughout the audit to reflect emerging issues that may suggest there are further risks of significant weaknesses.

### Phase 2 - Additional risk-based procedures and evaluation

Where we identify risks of significant weaknesses in arrangements, we design a programme of work to enable us to decide whether there are actual significant weaknesses in arrangements. We use our professional judgement and have regard to guidance issued by the NAO in determining the extent to which an identified weakness is significant.

We outline the risks that we have identified and the work we have done to address those risks on page 10.

### Phase 3 - Reporting the outcomes of our work and our recommendations

We are required to provide a summary of the work we have undertaken and the judgments we have reached against each of the specified reporting criteria in this Auditor's Annual Report. We do this as part of our Commentary on VFM arrangements which we set out for each criteria later in this section.




We also make recommendations where we identify weaknesses in arrangements or other matters that require attention from the Council. We refer to two distinct types of recommendation through the remainder of this report:

- **Recommendations arising from significant weaknesses in arrangements** - we make these recommendations for improvement where we have identified a significant weakness in the Council's arrangements for securing economy, efficiency and effectiveness in its use of resources. Where such significant weaknesses in arrangements are identified, we report these (and our associated recommendations) at any point during the course of the audit.
- **Other recommendations** - we make other recommendations when we identify areas for potential improvement or weaknesses in arrangements which we do not consider to be significant, but which still require action to be taken.

The table on the following page summarises the outcome of our work against each reporting criteria, including whether we have identified any significant weaknesses in arrangements, or made other recommendations.

# VFM arrangements – Overall summary

## Overall summary by reporting criteria

Reporting criteria	Commentary page reference	Identified risks of significant weakness?	Actual significant weaknesses identified?	Other recommendations made?
 <b>Financial sustainability</b>	11	Yes – see page 12	No	Yes – see page 14
 <b>Governance</b>	15	No	No	No
 <b>Improving economy, efficiency and effectiveness</b>	18	No	No	No

# VFM arrangements

## Financial Sustainability

How the body plans and manages its resources to ensure it can continue to deliver its services



# VFM arrangements – Financial Sustainability

## Risks of significant weaknesses in arrangements in relation to Financial Sustainability

We have outlined below the risks of significant weaknesses in arrangements that we have identified as part of our continuous planning procedures, and the work undertaken to respond to each of those risks.

Risk of significant weakness in arrangements	Work undertaken and the results of our work
<p><b>Financial sustainability</b> The Council has reported significant budget deficits in recent years and as at February 2025 was forecasting a £2.2m deficit in 2024/25. This has been largely due to a £7m overspend in children’s social care</p> <p>1 Our work in 2023/24 did not identify any evidence to indicate a significant weakness in arrangements. However, we raised an ‘other recommendation’ to recognise that the Council needed to take action in future years to address the cost pressures (particularly in children’s social care) and deliver savings set out in the Transformation and Efficiency Strategy necessary to prevent any further draw on reserves.</p>	<p><b>Work undertaken</b> We considered the final outturn position for 2024/25 including the achievement of savings targets and the Council’s reserves. We reviewed the 2025/26 medium term financial plan and monitoring of in-year financial performance. We have considered how the Council is addressing the significant overspends in children’s social care and the achievement of its savings targets and delivery of the Transformation and Efficiency Strategy.</p> <p><b>Results of our work</b> Based on our review we have not identified any evidence to indicate a significant weakness in arrangements. We have, however, identified two ‘other recommendations’ which reflect the ongoing pressures in the Councils budget. We will continue to monitor the Council position in our future value for money work.</p>



# VFM arrangements – Financial Sustainability

## Overall commentary on Financial Sustainability

### Overall responsibilities for financial governance

We have reviewed the Council's overall governance framework, including Council, Finance and Corporate Affairs Committee (previously known as Finance and Policy Committee) and Audit and Governance Committee reports, the Annual Governance Statement, and the Annual Report and Accounts for 2024/25.

The Council receives assurance on all aspects of financial management and operational performance through reports to the Finance and Corporate Affairs Committee. This includes:

- overseeing and assuring financial and operational performance;
- considering the risks associated with any material financial transactions;
- considering the financial and operational risks involved in the Council's business and how they are controlled and monitored by management; and
- taking action needed to address issues raised or to make improvements.

Our review of supporting papers confirmed these arrangements were in place for 2024/25.

### How the body ensures that it identifies all the significant financial pressures that are relevant to its short and medium-term plans and builds these into them

The 2024/25 budget and Medium Term Financial Strategy (MTFS) was approved by the Council in February 2024 and the 2025/26 budget in February 2025. Management demonstrated that the MTFS development is an iterative process as the MTFS is updated during the year to reflect the latest forecasts, as detailed in Finance and Corporate Affairs Committee. An initial assessment is reported in June to Finance and Corporate Affairs Committee, refined in November and final form in January ahead of full Council approval in February. We confirmed the latest update was in June 2025 with the updated MTFS covering a 4 year period 2026/27 to 2029/30. The MTFS details continued budget pressures including; uncertainty with increasing children's social care demand, school high needs demands, and inflationary costs as well as continued uncertainty on central government funding which is not expected to be confirmed until late 2025. We confirmed the MTFS quantifies financial risks and links to the capital programme and reserves strategy, which are included as appendices.

We confirmed there was regular monitoring of the budget with quarterly reports presented to the Finance and Corporate Affairs Committee. These reports highlighted the significant and continued financial pressures being experienced by the Council. The main pressures being inflationary on goods and services, pressure in income generation and significant pressure in Children's Social Services. As detailed further below, the Council have also experienced pressure in the high needs Dedicated Schools Grant (DSG).

We confirmed the final position was presented in the year end outturn report in June 2025. The report detailed that reserves were required to balance the 2024/25 budget, with £3.2m earmarked for use from the Budget Support Fund.

### How the body plans to bridge its funding gaps and identifies achievable savings

The 2024/25 MTFS detailed a financial gap of £13.1m which was to be covered through savings, increase in council tax (including adult social care precept), increased business rates, increased non recurrent government funding and planned use of reserves. As detailed in the MTFS the budget support reserve will be used to support the budget over the period of the MTFS. The MTFS sets out the risks of continued reliance on reserves to balance the budget, however by using reserves it is intended to afford the Council time to identify and implement sustainable plans, including implementation of the Council's Transformation Programme. The Council's Transformation Plan, which was approved by the Finance and Corporate Affairs Committee in June 2024, outlines the approach and principles to achieve the Target Operating Model for the Council. This was further expanded in February 2025 and includes 12 programmes of work. The areas of focus include demand management in adult and children's social care and waste services; targeted service reviews in leisure, culture, schools catering, and cleaning; and strategic reviews of land, property, fees, and charges. Additionally, digitalisation efforts are underway to enhance customer contact, income management, revenue collection, and ICT systems through the Digital Blueprint initiative. We confirmed progress is reported during the year with updates detailed as an appendix of the MTFS presented in June 2025 to the Finance and Corporate Affairs Committee.

We confirmed the 2025/26 MTFS was approved by the Finance and Performance meeting January 2025 and Full Council meeting February 2025. This again recognised a challenging position for the Council in delivery. This highlighted new pressures from the 2024/25 MTFS including the increased pay and price inflation, increased employer National Insurance Contributions and the continued increasing demand in the Children's Social Services. We have critically assessed the underlying assumptions used in the MTFS and identified no evidence of a significant weakness in arrangements. The MTFS is underpinned by workforce planning and capital programmes and considers risks arising during the year and planning assumptions within the Council Plan. We have not identified any inconsistency between the various plans in prior years or from our review of the Council Plan. We note the continued pressure in Children's Social Care which is resulting in a significant cumulative pressure. As detailed in the latest outturn report this is mainly owing to increased demand (i.e. higher than forecast) as well as higher third party costs of providing required care. Having reviewed the outturn position and the MTFS we are satisfied there is no evidence of a significant weakness in the Council's arrangements.

# VFM arrangements – Financial Sustainability

## Overall commentary on Financial Sustainability - continued

However this is an area of pressure that the Council needs to address over the MTFS. Consequently, we have raised an ‘other recommendation’ associated with this matter. We will continue to monitor in our future value for money work.

The Council’s year end useable reserves is reported as £38.339m at 31 March 2025 compared to £39.753m at 31 March 2024. The use of the Budget Support Reserve in year was £3.422m which is broadly in line with the MTFS. The Budget Support Reserve balance at 31 March 2025 is reported as £7.62m (£7.947m at 31 March 2024). The 2025/26 MTFS includes £1m use of the Budget Support Fund. A further £17.983m capital reserves, £1.384m schools balances and £2.9m Housing Revenue Account Reserves (HRA) were held at 31 March 2025. As noted in the MTFS these reserves are committed to specific schemes and their use will reduce available reserves over the life of the MTFS meaning the use of reserves to balance future budget gaps is not sustainable.

### Other recommendation

#### Other recommendation: Financial Sustainability

The Council’s MTFS continues to report challenging financial pressures over the life of the MTFS, most recently in June 2025. The latest Government Finance Settlement (2025/26) has seen an increase in funding which has improved the position but pressures still remain and there is continued uncertainty over future funding settlements. In particular, the Council continues to report overspends in the Children’s Social Care service. This is owing to increased costs and higher than forecast demand. This continued cost is putting considerable pressure on the MTFS. In their reporting to the Finance and Corporate Affairs Committee, the Section 151 officer has highlighted the pressures faced by the Council and the risks over the life of the MTFS. In particular, they have highlighted the importance to deliver the Council’s Transformation and Efficiency Strategy. While reserves are available to mitigate the pressures in the short term their continued use is not sustainable in the medium term. It is therefore critical that the Council continue to manage costs and demand, particularly in Children’s Services, ensure delivery of the Transformation Programme and identify, where possible, additional income sources.

Pressure continued in the High Needs Block element of the Dedicated School Grant (DSG). Until 2022/23, Hartlepool Borough Council successfully managed High Needs Block (HNB) spending within annual grant allocations and reserves, despite rising demand and pandemic-related pressures. However, in 2023/24, the Council recorded an overspend of £2.348 million. After applying all Dedicated Schools Grant (DSG) reserves, the final overspend stood at £1.589 million, which was transferred to the DSG Adjustment Account in line with accounting regulations. This deficit triggered the requirement for a DSG Management Plan, submitted to the Education Skills and Funding Agency (ESFA), detailing historical, current, and projected data. The Plan has since been approved and we confirmed through discussion with officers is regularly updated. In 2024/25, the HNB exceeded its funding allocation by £3.343 million.

A one-year recovery plan was implemented, including measures to cap inflation on Top-Up and Special School funding, reduce out-of-area placements, and reallocate the Growth Fund from the Schools Block. The overall cumulative DSG deficit of £4.932 million is reported in the 2024/25 statement of accounts. This poses a significant financial risk when the current accounting override expires, though additional funding for 2025/26 has been allocated and the position remains under close review. Note the government has announced its intention to extend the override to 2027/28 so the immediate risk has been mitigated, however the Council is still required to plan to address the deficit in the period leading up to the end of the override. When the statutory override ends the cumulative deficit, as things stand, will need to be funded from the General Fund. While uncertainty over demand remains the Council is forecasting there will be a cumulative deficit in 2027/28 and as such it is important that the Council establish plans to mitigate the impact on the General Fund when the override ends. We have raised an other recommendation.

### Other recommendation

#### Other recommendation: Financial Sustainability (Dedicated Schools Grant)

In 2024/25 the Council reported a deficit on its High Needs Block of the Dedicated Schools Grant (DSG). It is reporting further pressures in 2025/26 and over the life of the MTFS a cumulative deficit is forecast. As required the Council has worked with the Education and Skills Funding Agency (ESFA) to develop and agree a DSG Management Plan which will look to control the deficit position however an overall continued deficit is forecast. The temporary statutory override introduced by central government is currently planned to cease in 2027/28. At this stage any deficit will need to be funded by the Council’s General Fund. It is essential that Council delivers the Management Plan to address the deficit position in the DSG position. The Council will need to ensure there is a plan in place to address the cumulative deficit when the statutory override ceases in 2027/28 and mitigate the risk on its General Fund. This will include implementing arrangements to;

- ensure the MTFS continues to highlight the risk posed when the statutory override ceases;
- identify and deliver programmes to reduce demand and costs; and
- liaise with Government to discuss further options to reduce the deficit.

### Conclusion

Based on our review we have not identified any evidence to indicate a significant weakness in arrangements. We have, however, identified two ‘other recommendations’ which reflect the ongoing pressures in the Councils budget. We will continue to monitor the Council position in our future value for money work.

# VFM arrangements

## Governance

How the body ensures that it makes informed decisions and properly manages its risks





# VFM arrangements – Governance

## Overall commentary on Governance reporting criteria

### Council Governance Structure

The Council governance structure has not changed significantly in year. The governance structure is detailed in the Annual Governance Statement (AGS). This is supported by the Council's Constitution and scheme of delegation. Executive Directors have clear responsibilities linked to their roles and the structure in place at the Council is designed to allow for effective oversight of the Council's operations and activity. We reviewed these documents and confirmed they were consistent with our understanding of the Council's arrangements.

The Councils Code of Corporate Governance sets out overall arrangements for implementing risk and performance management and ensuring they work effectively. The Risk Management Framework ensures that the risk management system formally identifies and manages risks; involves elected members in the risk management process; maps risk to financial and other key internal controls; incorporates service continuity planning and reviews. The Finance and Corporate Affairs Committee have overarching responsibility for risk management and considers the content of the Strategic Risk Register when monitoring implementation of the Council Plan. Our review of minutes confirmed this occurred in 2024/25. The Strategic Risk Register is reviewed quarterly at Executive Leadership Team (ELT) and takes account of any changes in the entity's internal and external environments.

The Council expects the highest standards of conduct from both its Members and Officers. The Council has approved and adopted a Code of Corporate Governance applicable to Members, which is consistent with good practice set out by the Chartered Institute of Public Finance (CIPFA) and Society of Local Authority Chief Executives (SOLACE). Management are committed to integrity and ethical behaviour, and this is evident from our attendance at Committees and meetings with management. In 2023 the Council approved a new Anti-Fraud and Corruption Strategy, which includes a Whistleblowing Policy. We confirmed that registers of interest are maintained and available on the Council website. As noted, Codes of Conduct for Members and Officers are in place detailing expectations. Our review of related party disclosures included consideration of members declarations of interest. While our work is ongoing in this area we have identified no matters, to date, indicating a significant weakness in arrangements.

### The Council's risk management and monitoring arrangements

We confirmed a Strategic Risk Register is in place which articulates each individual risk, quantifies its likelihood and potential impact, and names the senior officer who owns the risk. Risks and control measures relating to the Council Plan are analysed within performance reports to help ensure that risk and performance reporting are linked.

The Finance and Corporate Affairs Committee have overarching responsibility for risk management and considers the content of the Strategic Risk Register regularly when monitoring implementation of the Council Plan.

As detailed in the Constitution the Audit and Governance Committee responsibilities include considering the overall effectiveness of the Authority's corporate governance arrangements, risk management and anti-fraud and anti-corruption arrangements. We confirmed the Committee received updates on risk management during the year.

### The Council's arrangements for internal control

The Council has an Internal Audit function in place. We confirmed through review of minutes and attendance at Audit and Governance Committee that Internal Audit reported its findings on a regular basis during the year. This included reporting on progress management had taken in addressing recommendations for improvement.

As detailed in the Annual Governance Statement Internal Audit were subject to an external review by CIPFA in late 2024. Our review of CIPFA's findings does not indicate any evidence of a weakness in arrangements with CIPFA reporting that the Internal Audit 'generally conform' to the requirements of the Public Sector Internal Audit Standards. Internal audit also had responsibility for the prevention and detection of fraud as outlined in the Councils Anti-Fraud and Corruption Policy.

The Head of Internal Audit Report was presented in June 2025 to the Audit and Governance Committee. This provided a positive opinion stating 'Based on the audit work undertaken for the 2024/25 internal audit plan, the internal control environment (including the key financial systems, risk and governance) is well established and operating effectively in practice'. Our review of Internal Audit reporting in 2024/25 has not identified any evidence of a weakness in arrangements. Our attendance at Audit and Governance Committees throughout the year confirmed the importance placed on internal audit findings by members of the Committee. Where they deem necessary, Members of the Committee actively request management attendance at meetings to discuss findings from Internal Audit reports. The 2025/26 Internal Audit Plan was approved by Audit and Governance Committee in June 2025.

### The Council's arrangements for budget setting and budgetary control

The Council's Constitution outlines the framework for budget setting, assigning responsibilities across governance structures. The Finance and Corporate Affairs Committee is tasked with leading the development of the Medium-Term Financial Strategy (MTFS), while individual policy committees are responsible for scrutinising savings proposals and service-level financial plans. Final approval of the MTFS and associated budget proposals rests with Full Council, ensuring democratic oversight and accountability. Our review of minutes has confirmed this was the case in 2024/25.



# VFM arrangements – Governance

## Overall commentary on Governance reporting criteria - continued

The formal budget-setting process commences in September. At this stage, Heads of Finance undertake detailed financial planning for their respective service areas, producing departmental forecasts and identifying pressures and opportunities. These inputs are consolidated and reviewed by the Executive Leadership Team (ELT), alongside an updated MTFS that reflects the broader financial outlook and strategic priorities. The initial MTFS is presented to the Finance and Corporate Affairs Committee before full Council. Formal approval is granted in February, in accordance with the Constitution. The final budget is incorporated into the MTFS, which includes the Section 151 Officer's statutory declaration on the robustness of the estimates and the adequacy of reserves.

We confirmed through observation there was regular budget outturn reporting throughout the year which highlighted budget pressures and mitigation. This included reporting by the S151 officer to Executive Leadership Team and Finance and Corporate Affairs Committee. Monthly budgetary control reports continue to be sent to budget managers at month-end. Budget reports are designed to show the actual expenditure and income compared to what was budgeted and highlight any variances which budget holders are required to explain. The Council's finance team support the budget holders in updating their year-end forecasts and identifying any remedial action required. A RAG (Red / Amber / Green) basis is used to ensure remedial action can be initiated swiftly and emerging risks fed back to the Director of Finance, IT and Digital. Budget clinics continue to be held with each individual Director, the Director of Finance, IT and Digital, his deputy and the Council's Chief Executive on a monthly basis to review and challenge the budget position. High level monthly budget monitoring reports are discussed at Leadership Team, and the results are summarised in regular updates on the Financial Position to the Finance and Corporate Affairs Committee.

### The Council's arrangements for performance management

In April 2025, the Council formally adopted a new Council Plan covering the period up to 2030. The Council Plan sets out the Council's vision for the future of Hartlepool in 2030. The Council Plan, like the one before it, is intended to articulate the Council's objectives and how progress will be monitored. A suite of Performance Indicators (PIs) have been identified that demonstrate the delivery of the Council Plan. These are reported to the Finance and Corporate Affairs Committee at regular intervals. Performance indicators are compared against Hartlepool performance, England and North-East. Direction of travel and RAG ratings allow for Council performance to be assessed.

### Other recommendation: Follow up

In our 2023/24 Auditors Annual Report we identified an 'other recommendation':

*We reported in our Audit Completion Report a non material error associated with residential care payments. This was a historic matter with a small amount each year being potentially unrecognised. It is estimated that cumulative net impact of this at the 31 March 2024 was c.£3.6m of unrecognised liabilities. Whilst the Council has paid suppliers for care costs the historic accounting treatment means the Council's useable reserves as reported in the statement of accounts is c.£3.6m higher than actual amount available. Management have provided assurances that this matter is isolated to residential care payments. Management have explained they are aware of this matter and they have confirmed rectification has been factored into the current MTFS. In particular the issue has been recognised as a pressure that management intend to address in the MTFS. The improved settlement from Government means management have been able to balance the MTFS. It is essential management take appropriate action to rectify this historical accounting error and ensure useable reserves are reported on an accurate basis. A full review should be completed to ensure further errors are prevented in future years.*

We have met with officers who have confirmed that the historic accounting discrepancy has been addressed in the 2024/25 accounting period. This included use of reserves being allocated to fund the correction. Officers have also confirmed that the current budgetary provision is sufficient to meet ongoing financial commitments, and no further impact from the historic issue is anticipated in this area. The correction has been appropriately accounted for in 2024/25 and therefore will not span multiple financial years. While our work on the statement of accounts is ongoing based on the assurance provided this recommendation has been addressed and is not, in our view, therefore indicative of a significant weakness in arrangements.

### The Council's arrangements for performance management

We confirmed that progress against the Council Plan is reviewed by the Executive Leadership Team during the year, and this is followed by reports to Finance and Corporate Affairs Committee.

### Conclusion

We have not identified any evidence of a significant weakness in the Council's arrangements in relation to the governance reporting criteria.

# VFM arrangements

## Improving Economy, Efficiency and Effectiveness

How the body uses information about its costs and performance to improve the way it manages and delivers its services



# VFM arrangements – Improving Economy, Efficiency and Effectiveness

## Overall commentary on the Improving Economy, Efficiency and Effectiveness reporting criteria

### The Council's arrangements for assessing performance and evaluating service delivery

In April 2025, Finance and Corporate Affairs Committee formally adopted a new Council Plan covering the period up to 2030. The Council Plan sets out the Council's vision for the future of Hartlepool in 2030. The Council Plan is designed to be a brief, easy-read document published on the Council website describing objectives and how progress will be monitored but it is supported by action plans that incorporate remedial action against recommendations made by inspectors, auditors and scrutiny reviews. We confirmed through review the Council Plan is monitored bi-annually by the Finance and Corporate Affairs Committee.

We confirmed the Audit and Governance Committee met regularly in the year and has a detailed scrutiny role. Review of minutes confirms this has been implemented in the year.

### Regulatory Report

The latest Ofsted inspection of the Council's Children's Services rated the Council as 'Outstanding' as reported in March 2024. This was a positive inspection result particularly when compared to local and national comparatives. Council run children's homes are judged as 'good' in most recent inspections. A large majority of Councils primary and secondary schools are rated as 'good' or better by Ofsted. Our review of Ofsted reporting identified no evidence to indicate a significant weakness in arrangements.

As reported in the Council's Annual Governance Statement over 95% of services commissioned by the Council for adults with care and support needs are rated as 'good' by the Care Quality Commission (CQC) with no services rated as 'inadequate'. Adult Social Care services delivered by the Council were rated 'Good' by the CQC following an inspection in November 2024. Our review of CQC reporting has identified no evidence of a significant weakness in Council arrangements.

### Partnership working

We confirmed the Council has arrangements for monitoring and reviewing the operation of its key partnerships. A framework of reporting by exception to Executive Leadership Team and Internal Audit provides audit coverage of partnership arrangements. Working with partners is a recurring theme across all priorities in the Council Plan. The Council works closely with Tees Valley Combined Authority, which has ambitious plans to transform the Marina / Jackson's Landing area, expand the Museum and regenerate the shopping centre.

The Council has a broad range of partnerships, including:

- Hartlepool Community Safety Partnership – formal arrangement between Council Community Safety team, police, fire and Thirteen Housing to address anti-social behaviour and improve community safety.

- Partnership working with Integrated Care Board (ICB), including Better Care Fund to support the introduction of a fully integrated health and social care system.
- Energy Recovery Facility project - joint project across five Tees Valley councils, Durham and Newcastle to procure new facility to process households waste.

Our review of performance monitoring reports suggest partnerships are working as expected. Scrutiny reviews as well as the feedback from partners to the Corporate Peer Challenge review team also indicate no matters.

In 2022/23 the council secured £17m Levelling Up Funding to improve skills and learning as a long-term solution to deprivation and child poverty. This follows previous successful bidding for the Towns Deal and the funds to build a new leisure centre, which is nearing completion. These initiatives involve significant partnerships with central government, the Tees Valley Development Corporation and the private sector. A New Towns Board was established with terms of reference stating the responsibility of the Board and the delivery of the Town Investment Plan.

### The Council's arrangements for commissioning services

The Council has an in-house procurement team that are responsible for implementing the Procurement Procedures in the Constitution.

Within the leadership team the Director of Children's Services is responsible for commissioning and procurement across Children's Social Care, Adult Social Care and Public Health. The good inspection ratings for commissioned social care referred to earlier in this report illustrate effective commissioning arrangements in Hartlepool.

We have identified no evidence to indicate a significant weakness in procurement arrangements that would expose the Council to significant financial loss or failure to deliver efficiency and performance improvements.

### Conclusion

We have not identified any evidence of a significant weakness in the Council's arrangements in relation to the improving economy, efficiency and effectiveness reporting criteria.



# VFM arrangements

Identified significant weaknesses in arrangements and our recommendations



# VFM arrangements - Identified significant weaknesses and our recommendations

## Identified significant weaknesses in arrangements and recommendations for improvement

As a result of our work we have not identified any significant weaknesses in the Council's arrangements to secure economy, efficiency and effectiveness of its use of resources.

## Progress against significant weaknesses and recommendations made in a prior year

As part of our audit work in previous years, we did not identify any significant weaknesses in the Council's arrangements to secure economy, efficiency and effectiveness of its use of resources.

## Other reporting responsibilities

# Other reporting responsibilities

## Wider reporting responsibilities

### Matters we report by exception

The Local Audit and Accountability Act 2014 provides auditors with specific powers where matters come to our attention that, in their judgement, require specific reporting action to be taken. Auditors have the power to:

- issue a report in the public interest;
- make statutory recommendations that must be considered and responded to publicly;
- apply to the court for a declaration that an item of account is contrary to the law; and
- issue an advisory notice.

We have not exercised any of these statutory reporting powers.

The 2014 Act also gives rights to local electors and other parties, such as the right to ask questions of the auditor and the right to make an objection to an item of account. We did not receive any such objections or questions.

## Reporting to the group auditor

### Whole of Government Accounts (WGA)

The National Audit Office (NAO), as group auditor, requires us to complete the WGA Assurance Statement in respect of its consolidation data. We have been unable to conclude our work as we have not yet received confirmation from the NAO that the group audit of the WGA has been completed and that no further work is required to be completed by us. **[to be confirmed]**.

Audit fees and other services



# Audit fees and other services

## Fees for our work as the Council’s auditor

We reported our proposed fees for the delivery of our work under the Code of Audit Practice in our Audit Strategy Memorandum presented to the Audit and Governance Committee in September 2025. Having completed our work for the 2024/25 financial year, we can confirm that our fees are as follows:

Area of work	2024/25 Proposed Fee	2023/24 Actual Fee
Planned fee in respect of our work under the Code of Audit Practice (Scale fee set by PSAA)	£321,597	£295,332
ISA 315 - fee Variation for 2023/24 relating to ISA 315 revised (fee set by PSAA)	-	£15,690*
Additional fees in respect of procedures to confirm disclosure requirements had been met for prior period adjustment (fee to be agreed with PSAA)	-	£4,041*
Additional fees in respect of procedures performed due to updated valuations report (fee to be agreed with PSAA)	-	£4,481*
Additional fees in respect of procedures performed associated with the qualification of the audit opinion owing to the lack of Pension Fund assurance. (fee to be agreed with PSAA)	-	£4,000*
Total	£321,597	£323,544

*\*Subject to PSAA approval*

## Fees for non-PSAA work

There is no 2024/25 non-audit fee work planned at this stage.

Before agreeing to undertake any additional work we consider whether there are any actual, potential or perceived threats to our independence.

# Appendices

Appendix A: Further information on our audit of the Council's financial statements

# Appendix A: Further information on our audit of the Council’s financial statements

## Significant risks and audit findings

As part of our audit of the Council, we identified significant risks to our opinion on the financial statements during our risk assessment. The table below summarises these risks, how we responded and our findings.

Risk	Our audit response and findings
<p><b>Management override of controls</b></p> <p>This is a mandatory significant risk on all audits due to the unpredictable way in which such override could occur.</p> <p>Management at various levels within an organisation are in a unique position to perpetrate fraud because of their ability to manipulate accounting records and prepare fraudulent financial statements by overriding controls that otherwise appear to be operating effectively. Due to the unpredictable way in which such override could occur there is a risk of material misstatement due to fraud on all audits.</p>	<p>We will update on completion of our audit of the financial statements.</p>
<p><b>Net defined benefit asset / liability valuation</b></p> <p>The financial statements contain material pension entries in respect of retirement benefits. The calculation of these pension figures, both assets and liabilities, can be subject to significant volatility and includes estimates based upon a complex interaction of actuarial assumptions. This results in an increased risk of material misstatement.</p> <p>We also note that in the prior period the backstop date introduced by the Amendment Regulations impeded our ability to obtain sufficient appropriate evidence over the following material elements of the Pension balances disclosed within the financial statements:</p> <p>The value of scheme assets as at 31 March 2024 (£628.250m) as disclosed in notes 45;</p> <p>And the return on plan assets for the year ended 31 March 2024 (£32.275m) as disclosed in note 45.</p>	<p>We will update on completion of our audit of the financial statements.</p>
<p><b>Valuation of land, buildings, housing and investment property</b></p> <p>The financial statements contain material entries on the Balance Sheet as well as material disclosure notes in relation to the Council’s holding of land, buildings, council housing and investment properties.</p> <p>Although the Council uses a valuation expert to provide information on valuations, there remains a high degree of estimation uncertainty associated with the revaluation of land, buildings and investment properties due to the significant judgements and number of variables involved in providing revaluations.</p> <p>We have therefore identified the valuation of land, buildings, housing and investment properties to be an area of significant risk.</p>	<p>We will update on completion of our audit of the financial statements.</p>

## Appendix A: Further information on our audit of the Council's financial statements

**Summary of uncorrected misstatements - to be added on completion of our audit of the financial statements 2024/25**

## Appendix A: Further information on our audit of the Council's financial statements

**Internal control observations - to be added on completion of our audit of the financial statements 2024/25**

## Appendix A: Further information on our audit of the Council's financial statements

Follow up on previous year recommendations - to be added on completion of our audit of the financial statements 2024/25

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# AUDIT AND GOVERNANCE COMMITTEE

9 December 2025



**Subject:** TREASURY MANAGEMENT STRATEGY UPDATE  
2025/26

**Report of:** Director of Finance, IT and Digital

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## 1. COUNCIL PLAN PRIORITY

<b>Hartlepool will be a place:</b>
- where people live healthier, safe and independent lives. (People)
- that is connected, sustainable, clean and green. (Place)
- that is welcoming with an inclusive and growing economy providing opportunities for all. (Potential)
- A place with a Council that is ambitious, fit for purpose and reflects the diversity of its community. (Organisation).

## 2. PURPOSE OF REPORT

2.1 The purposes of the report are to:

- i) Provide a review of Treasury Management activity for 2024/25 including the 2024/25 outturn Prudential Indicators; and
- ii) Provide the second quarter update of the 2025/26 Treasury Management activity.

## 3. BACKGROUND

3.1 The Treasury Management Strategy covers:

- the borrowing strategy relating to the Council's core borrowing requirement in relation to its historic capital expenditure (including Prudential Borrowing);
- the borrowing strategy for the use of Prudential Borrowing for capital investment approved as part of the Medium Term Financial Plan; and
- the annual investment strategy relating to the Council's cash flow.



- 3.2 The Treasury Management Strategy needs to ensure that the loan repayment costs of historic capital expenditure does not exceed the available General Fund revenue budget. Similarly, for specific business cases the Treasury Management Strategy needs to ensure loan repayment costs do not exceed the costs built into the business cases.
- 3.3 The Local Government Act 2003 requires the Council to ‘have regard to’ the CIPFA (Chartered Institute of Public Finance and Accountancy) Prudential Code and to set prudential indicators for the next three years to ensure capital investment plans are affordable, prudent and sustainable.
- 3.4 The Act also requires the Council to set out a Treasury Management Strategy for borrowing and to prepare an Annual Investment Strategy, which sets out the policies for managing investments and for giving priority to the security and liquidity of those investments. The Secretary of State has issued Guidance on Local Government Investments which came into force on 1<sup>st</sup> April 2004, with subsequent updates.
- 3.5 The Council is required to nominate a body to be responsible for ensuring effective scrutiny of the Treasury Management Strategy and policies, before making recommendations to full Council. This responsibility has been allocated to the Audit and Governance Committee.
- 3.6 This report covers the following areas:
- Economic Environment and outlook for interest rates;
  - Treasury Management Outturn Position 2024/25; and
  - Treasury Management Strategy 2025/26 second quarter review.

#### **4. ECONOMIC ENVIRONMENT AND OUTLOOK FOR INTEREST RATES**

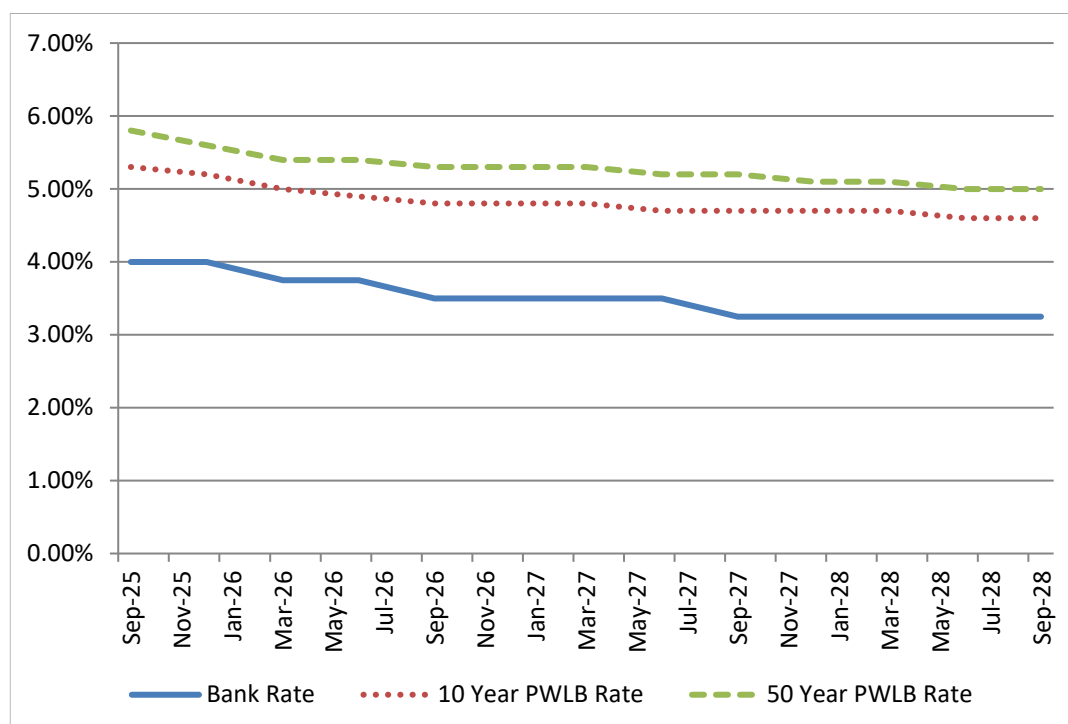
- 4.1 **UK** –The Bank of England’s Monetary Policy Committee (MPC) voted 5-4 to freeze interest rates in its November meeting, keeping the interest rate at 4.0%. The 5-4 voting split amongst committee members shows how finely balanced the decision was, but the direction of travel is still clear. The Committee will proceed with its cautious easing cycle and future rate cuts will be undertaken ‘gradually and carefully’. A rate cut in December is possible, after the outcome of the Autumn Budget on 26<sup>th</sup> November.
- 4.2 The latest Consumer Price Index (CPI) data shows that the UK CPI measure of inflation was 3.8% in September, unchanged from August. The Bank of England anticipates that inflation has peaked, expecting it to fall to around 3% in early 2026 and gradually returning to the 2% target in 2027.
- 4.3 The Office for Budget Responsibility’s revised growth forecast up to 2029 are set out in the following table:

Year	March 2024 Growth Forecast	March 2025 Growth Forecast
2025	1.9%	1.0%
2026	2.0%	1.9%
2027	1.8%	1.8%
2028	1.7%	1.7%
2029		1.8%

- 4.4 **European Union (EU)** – Annual inflation rates in the Eurozone was 2.1% in October 2025, down slightly from the previous month's rate of 2.2%. This rate is close to the European Central Bank's target of 2%. The annual core inflation rate in the Eurozone in October, excluding volatile items such as energy, food, alcohol and tobacco, remained unchanged at 2.4%, although slightly above market expectations of 2.3%. The unemployment rate in the Eurozone remains unchanged at 6.3% in September and broadly in line with market expectations.
- 4.5 **Other Economies** – The US Federal Reserve in its October meeting cut its rates by 0.25%, setting the new target range at 3.75%-4.00%, this follows a similar cut in September and marks the second consecutive reduction in 2025. The People's Bank of China has kept its one-year medium term lending facility unchanged since September 2024 at 2.0%.

### Interest Rate Forecasts

- 4.6 MUFG Corporate Markets (the Council's Treasury Management advisors) continue to update their interest rate forecasts to reflect statements made by the Governor of the Bank of England and changes in the economy.
- 4.7 In November MPC kept the Base Rate at 4.00%, voting 5-4 in favour of no change.
- 4.8 MUFG Corporate Markets suggest that February 2026 looks a reasonable estimate for when the next Bank Rate cut will occur, albeit a reduction earlier is possible. They expect to fall to 3.50% by the end of 2026 and further cuts likely throughout 2027.
- 4.9 Economic and interest rate forecasting remains difficult with so many influences impacting on the economy. UK gilt yields (i.e. Government borrowing) and PWLB rates forecasts made by MUFG Corporate Markets may be liable to further amendment depending on how the political and economic developments transpire over the next year.
- 4.10 MUFG Corporate Markets Interest Rate Forecasts up to September 2028 are shown below:



- 4.11 Since the late 1990s Base Rate (bank rate) averaged 5% until 2009 when the Bank of England reduced it to historically low levels. Over the same period PWLB rates were significantly higher than they are at present.

## 5. TREASURY MANAGEMENT OUTTURN POSITION 2024/25

### Capital Expenditure and Financing 2024/25

- 5.1 The Council's approved capital programme is funded from a combination of capital receipts, capital grants, revenue contributions and prudential borrowing.
- 5.2 Part of the Council's treasury management activities is to address the prudential borrowing need, either through borrowing from external bodies, or utilising temporary cash resources within the Council. The wider treasury activity also includes managing the Council's day to day cash flows, previous borrowing activities and the investment of surplus funds. These activities are structured to manage risk foremost, and then to optimise performance.
- 5.3 Actual capital expenditure forms one of the required prudential indicators. As shown in **Appendix A**, the total amount of capital expenditure was £38.308m, of which £4.720m was funded by Prudential Borrowing.
- 5.4 The Council's underlying need to borrow is called the Capital Financing Requirement (CFR). This figure is the accumulated value of capital expenditure which has yet to be expensed or paid for through revenue or capital resources. Each year the Council is required to apply revenue

resources to reduce this outstanding balance (termed Minimum Revenue Provision).

5.5 Whilst the Council's CFR sets a limit on underlying need to borrow the Council can manage the actual borrowing position by either:

- borrowing externally to the level of the CFR, or
- choosing to use temporary internal cash flow funds instead of borrowing, or
- a combination of the two.

5.6 The Council's CFR for the year was £114.961m as shown in **Appendix A** comprising.

- £75.211m relating to the core CFR,
- £26.851m relating to business cases and
- £12.899m relating to the Housing Revenue Account (HRA).

The actual CFR is lower than the approved estimate of £138.591m owing to rephasing of capital expenditure into 2025/26.

5.7 The total borrowing remains below the CFR and there continues to be an element of netting down investments and borrowing i.e. using cash backed reserves to delay borrowing. The Council needs to carefully manage the timing of new borrowing to fund forecast capital expenditure to secure affordable interest rates.

### **Prudential Indicators and Compliance Issues 2024/25**

5.8 Details of each Prudential Indicator are shown at **Appendix A**. Some of the Prudential Indicators provide either an overview or specific limits on treasury activity. The key Prudential Indicators to report at outturn are described below.

5.9 The Authorised Limit is the "Affordable Borrowing Limit" required by Section 3 of the Local Government Act 2003. The Council does not have the power to borrow above this level. **Appendix A** demonstrates that during 2024/25 the Council has maintained gross borrowing within its Authorised Limit.

5.10 **Gross Borrowing and the CFR** - In order to ensure that borrowing levels are prudent, over the medium term the Council's external borrowing, must only be for capital purposes. Gross borrowing should not exceed the CFR for 2024/25 plus the expected changes to the CFR over 2025/26 and 2026/27. The Council has complied with this Prudential Indicator.

5.11 The table below shows the treasury position for the Council as at the 31<sup>st</sup> March 2025 compared with the previous year:

Treasury position	31st March 2024		31st March 2025	
	Principal	Average Rate	Principal	Average Rate
<b>Fixed Interest Rate Debt</b>				
- PWLB	£26.9m	3.44%	£26.0m	3.45%
- Market Loans (Annuity)	£16.3m	2.31%	£16.1m	2.31%
- Market Loans (Maturities)	£25.0m	3.92%	£25.0m	3.92%
- Non Market Loans (Maturities)	£0.4m	0.00%	£0.5m	0.00%
- Market Loans (LOBOs)	£15.0m	3.71%	£15.0m	3.71%
<b>Total Long Term Debt</b>	<b>£83.6m</b>	<b>3.39%</b>	<b>£82.6m</b>	<b>3.40%</b>
<b>Total Investments</b>	<b>£52.8m</b>	<b>5.54%</b>	<b>£43.7m</b>	<b>4.66%</b>
<b>Net borrowing Position</b>	<b>£30.8m</b>		<b>£38.9m</b>	

- 5.12 At the time the LOBOs were taken out the prevailing PWLB rates were between 4.25% and 4.55%. The LOBOs have therefore allowed the Council to achieve annual interest savings between 1.61% and 1.91% compared to prevailing PWLB loans.
- 5.13 A key performance indicator shown in the above table is the low average rate of external debt of 3.40% for debt held as at 31<sup>st</sup> March 2025. This is a historically low rate for long term debt and the resulting interest savings have already been built into the Medium Term Financial Plan.
- 5.14 The Council's investment policy is governed by the Ministry of Housing, Communities and Local Government (MHCLG), which has been implemented in the annual investment strategy approved by Council.
- 5.15 The Council continues to keep under review the most opportune approach to borrowing. Given the increase in interest rates experienced since 2022, no long term borrowing has been entered into to ensure that the Council was not exposed to increased costs at a time of volatility and relatively high interest rates.
- 5.16 As the capital programme progresses, coupled with anticipated significant use of reserves both to support capital expenditure and the in-year position, the approach to borrowing may need to adapt. Whilst the aim will be to take out shorter term borrowing should rates remain high, we may need to mitigate risk by taking out some longer term borrowing at a higher rate than we would have originally anticipated. This will be kept under close review. The aim will continue to be to minimise the borrowing cost to the revenue budget.
- 5.17 The Council continues to actively manage cash flows on a day to day basis to maximise returns. Investments of a year duration have been made to achieve the best rate available, however, this is unlikely to be sustainable beyond the short term given the potential for significant use of reserves and the progress anticipated on the capital programme.

- 5.18 The principals and hierarchy of security / liquidity / rate of return continue to be closely adhered to.

### **Regulatory Framework, Risk and Performance 2024/25**

- 5.19 The Council's treasury management activities are regulated by a variety of professional codes, statutes and guidance:
- The Local Government Act 2003 (the Act), which provides the powers to borrow and invest as well as providing controls and limits on this activity;
  - The Act permits the Secretary of State to set limits either on the Council or nationally on all local authorities restricting the amount of borrowing which may be undertaken (although no restrictions have been made since this power was introduced);
  - Statutory Instrument (SI) 3146 2003, as amended, develops the controls and powers within the Act, and requires the Council to undertake any borrowing activity with regard to the CIPFA Prudential Code for Capital Finance in Local Authorities;
  - The SI also requires the Council to operate the overall treasury function with regard to the CIPFA Code of Practice for Treasury Management in the Public Services;
  - Under the Act the MHCLG has issued Investment Guidance to structure and regulate the Council's investment activities;
  - Under section 238(2) of the Local Government and Public Involvement in Health Act 2007 the Secretary of State has taken powers to issue guidance on accounting practices. Guidance on Minimum Revenue Provision was issued under this section on 8<sup>th</sup> November 2007.
- 5.20 The Council has complied with all of the above relevant statutory and regulatory requirements which limit the levels of risk associated with its Treasury Management activities

## **6. TREASURY MANAGEMENT STRATEGY 2025/26 2<sup>nd</sup> QUARTER REVIEW**

- 6.1 The Treasury Management Strategy for 2025/26 was approved by Council on 20<sup>th</sup> February 2025. The Council's borrowing and investment position as at 30<sup>th</sup> September 2025 is summarised as follows:

	<b>£m</b>	<b>Average Rate</b>
PWLB Loans	25.6	3.46%
Market Loan (Annuity)	15.9	2.31%
Market Loans (Maturities)	25.0	3.92%
Non-Market Loans (Maturities)	0.5	0.00%
Market Loans (LOBOs)	15.0	3.71%
<b>Gross Debt</b>	<b>82.0</b>	<b>3.40%</b>
Investments	38.1	4.27%
<b>Net Debt as at 30 September 2025</b>	<b>43.9</b>	

- 6.2 Net Debt has increased since 30<sup>th</sup> June 2025 (£39.9m) owing to day to day revenue activity and capital programme delivery. The Council continues to actively manage cash flows on a daily basis to maximise investment/interest returns.
- 6.3 No new borrowing has been entered into during 2025/26.
- 6.4 As at the 30<sup>th</sup> September, 2025 the funds managed by the Council's in house team amounted to £38.1m. All investments complied with the Annual Investment Strategy and are shown in the table below.

Borrower	Duration	Value of Loan (£m)	Rate (%)	Start Date	Maturity Date
<b>Fixed term Deposits</b>					
Lloyds	1 year	15.000	4.550	04/10/24	03/10/25
Standard Charter	1 year	10.000	4.170	18/09/25	18/09/26
Debt Management Office	<1 month	0.250	3.960	16/09/25	02/10/25
Debt Management Office	<1 month	0.880	3.960	24/09/25	07/10/25
Debt Management Office	<1 month	0.366	3.960	25/09/25	14/10/25
Debt Management Office	<1 month	1.647	3.960	30/09/25	21/10/25
		<b>28.143</b>	<b>4.349</b>		
<b>Money Market Funds</b>					
Blackrock	On Call	10.000	4.057		Call
		<b>10.000</b>	<b>4.057</b>		
<b>Total Deposits</b>		<b>38.143</b>	<b>4.273</b>		

\*On Call interest rate can vary on a day to day basis. The figure quoted here is as at 30/9/25

- 6.5 There are no changes to the counter party investment limits as agreed as part of the Investment Strategy and set out in the table below.

Category	Fitch	Moody's	Standard & Poor's	Proposed Counterparty Limit	Proposed Time Limit
A	F1+/AA-	P-1/Aa3	A-1+/AA-	£20m	1 Year
B	F1/A-	P-1/A3	A-1/A-	£15m	1 Year
C	Debt Management Office/Treasury Bills/Gilts			£40m	1 Year
D	Part Nationalised Banks			£15m	1 Year
E	Other Local Authorities Individual Limits per Authority: - £8m County, Metropolitan or Unitary Councils - £3m District Councils, Police or Fire Authorities			£40m	1 Year
F	Three Money Market Funds (AAA) with maximum investment of £10m per fund			£20m	Liquid (instant access)

- 6.6 As part of the Treasury Strategy for 2025/26 the Council set a number of prudential indicators. Compliance against these indicators is monitored on a regular basis and there are no breaches to report.

## 7. CIPFA Treasury Management Code of Practice

- 7.1 The Council has adopted the current CIPFA Treasury Management Code of Practice, effective from December 2021.

### Treasury Management Advisors

- 7.2 The Council uses MUFG Corporate Markets as its external treasury management advisors.
- 7.3 The Council recognises that responsibility for treasury management decisions remains with the organisation at all times and will ensure that undue reliance is not placed upon our external service providers.
- 7.4 It also recognises that there is value in employing external providers of treasury management services in order to acquire access to specialist skills and resources. The Council will ensure that the terms of their appointment and the methods by which their value will be assessed are properly agreed and documented, and subjected to regular review.

## 8. RISK CONSIDERATIONS

- 8.1 There is a risk in relation to the level of interest rates the Council is able to secure for long-term borrowing and the proposals detailed in this report are designed to manage these risks.
- 8.2 There are also risk implications in relation to the investment of surplus cash and these are addressed in the strategy recommended in the Counterparty limits.

## 9. OTHER CONSIDERATIONS

<b>Financial Considerations</b>	As set out in report.
<b>Legal Considerations</b>	The report details how the Council will comply with the relevant legal and regulatory requirements in relation to Treasury Management activities.
<b>Child and Family Poverty</b>	None



<b>Equality and Diversity Considerations</b>	None
<b>Staff Considerations</b>	None
<b>Asset Management Considerations</b>	None
<b>Environment, Sustainability and Climate Change Considerations</b>	None
<b>Consultation</b>	Not applicable

## 9. RECOMMENDATIONS

9.1 It is recommended that Members note the following:

- i) The 2024/25 Treasury Management Outturn detailed in section 5 and **Appendix A**; and
- ii) the 2025/26 Treasury Management 2<sup>nd</sup> Quarter Position detailed in section 6.

## 10. REASON FOR RECOMMENDATIONS

10.1 To allow Members to fulfil their responsibility for scrutinising the Treasury Management Strategy

## 11. BACKGROUND PAPERS

Treasury Management Strategy, report to Audit and Governance Committee 28<sup>th</sup> January 2025.

Treasury Management Strategy Quarter 1 update 2025, report to Audit and Governance Committee, 11<sup>th</sup> September 2025

## 12. CONTACT OFFICER

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 01429 523003

## Appendix A

### Prudential Indicators 2024/25 Outturn

#### 1. Ratio of Financing Costs to Net Revenue Stream

This indicator shows the proportion of the total annual revenue budget that is funded by the local tax payer and Central Government, which is spent on servicing debt.

2024/25 Estimate		2024/25 Outturn
6.58%	Ratio of Financing costs to net revenue stream	4.11%

#### 2. Capital Expenditure

This indicator shows the total capital expenditure for the year.

2024/25 Estimate £'000		2024/25 Outturn £'000
67,383	Capital Expenditure	38,308

The actual is lower than estimated owing to the phasing of capital expenditure between years.

#### 3. Capital Expenditure Financed from Borrowing

This shows the borrowing required to finance the capital expenditure programme, split between core expenditure and expenditure in relation to business cases.

2024/25 Estimate £'000		2024/25 Outturn £'000
19,108	Core Capital Expenditure Financed by Borrowing	1,337
3,611	Business Case Capital Expenditure Financed by Borrowing	3,383
100	HRA Capital Expenditure Financed by Borrowing	-
<b>22,819</b>	<b>Total Capital Expenditure Financed by Borrowing</b>	<b>4,720</b>

The actual is lower than estimated owing to the delay in the construction of the A19/ Elwick Road/ North Lane junction and Elwick Road/Hartlepool Western Link Project, utilising grant funding in the construction of Highlight

(delaying Prudential Borrowing) and the delay of HRA Capital Expenditure financed by Borrowing.

#### 4. Capital Financing Requirement

The CFR is used to determine the minimum annual revenue charge for capital expenditure repayments (net of interest). It is calculated from the Council's Balance Sheet and is shown below. Forecasts for future years are directly influenced by the capital expenditure decisions taken and the actual amount of revenue that is set aside to repay debt.

2024/25 Estimate £'000		2024/25 Outturn £'000
96,625	Core Capital Financing Requirement	75,211
31,263	Business Case Capital Financing Requirement	26,851
10,703	HRA Capital Financing Requirement	12,899
<b>138,591</b>	<b>Total Capital Financing Requirement</b>	<b>114,961</b>

The capital financing requirement is lower than estimated owing to the phasing of capital expenditure.

#### 5. Authorised Limit for External Debt

The authorised limit determines the maximum amount the Council may borrow at any one time. The authorised limit covers both long term borrowing for capital purposes and borrowing for short term cash flow requirements. The authorised limit is set above the operational boundary to provide sufficient headroom for operational management and unusual cash movements. In line with the Prudential Code, the level has been set to give the Council flexibility to borrow up to three years in advance of need if more favourable interest rates can be obtained.

2024/25 Limit £'000		2024/25 Peak £'000
158,000	Authorised limit for external debt	83,673

The above Authorised Limit was not exceeded during the year. The level of debt as at 31<sup>st</sup> March 2025, excluding accrued interest was £82.608m. The peak level during the year was £83.673m.

#### 6. Operational Boundary for External Debt

The operational boundary is the most likely prudent, but not worst case scenario, level of borrowing without the additional headroom included within the authorised limit. The level is set so that any sustained breaches serve as

an early warning that the Council is in danger of overspending or failing to achieve income targets and gives sufficient time to take appropriate corrective action.

2024/25 Limit £'000		2024/25 Peak £'000
148,000	Operational boundary for external debt	83,673

The operational limit was not exceeded in the year. The peak level of debt was £94.745m.

## 7. Interest Rate Exposures

This indicator is designed to reflect the risk associated with both fixed and variable rates of interest, but must be flexible enough to allow the Council to make best use of any borrowing opportunities.

2024/25 Limit %	Upper limits on fixed and variable interest rate exposure	2024/25 Peak %
100% 75%	Fixed Rates Variable Rates	82% 24%

The figures represent the peak values during the period.

## 8. Maturity Structure of Borrowing

This indicator is designed to reflect and minimise the situation whereby the Council has a large repayment of debt needing to be replaced at a time of uncertainty over interest rates, but as with the indicator above, it must also be flexible enough to allow the Council to take advantage of any borrowing opportunities.

	Upper Limit	Lower Limit	Actual by Maturity Date	Actual by soonest call date
	£000	£000	£000	£000
Less than one year	131,000	0	1,144	1,144
Between one and five years	141,000	0	5,189	20,189
Between five and ten years	141,000	0	5,835	5,835
Between ten and fifteen years	141,000	0	4,368	4,368
Between fifteen and twenty years	141,000	0	4,401	4,401
Between twenty and twenty-five years	141,000	0	5,059	5,059
Between twenty-five and thirty years	141,000	0	9,727	9,727
Between thirty and thirty-five years	141,000	0	5,757	5,757
Between thirty-five and forty years	141,000	0	977	977
Between forty and forty-five years	141,000	0	151	151
More than forty-five years	141,000	0	40,000	25,000

#### 9. Investments Maturing over One Year

This sets an upper limit for amounts invested for periods longer than 364 days. The limit was not exceeded as a prudent approach to investment has been taken owing to uncertainties in the economy this is in line with the Treasury Management Strategy. Consequently all investments made during the year were limited to less than one year.

# AUDIT AND GOVERNANCE COMMITTEE

9 December 2025



**Subject:** STRENGTHENING THE STANDARDS AND  
CONDUCT FRAMEWORK FOR LOCAL  
AUTHORITIES IN ENGLAND - UPDATE

**Report of:** Director of legal, Governance and Human Resources

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## 1. COUNCIL PLAN PRIORITY

### Hartlepool will be a place:

- with a Council that is ambitious, fit for purpose and reflects the diversity of its community. (Organisation)

## 2. PURPOSE OF REPORT

- 2.1 To update Members on the outcome of the Government's consultation on Strengthening the Standards and Conduct Framework for Local Authorities in England and outline the key proposals that may impact the Council.

## 3. BACKGROUND

- 3.1 The Department for Levelling Up, Housing and Communities (DLUHC) consulted on reforms to the standards regime under the Localism Act 2011. The consultation sought views on introducing a more robust framework to address concerns about councillor conduct and public confidence in local governance. The Government has now published its response, setting out intended legislative changes (**APPENDIX 1**).

## 4. PROPOSALS

### 4.1 Key proposals include:

- Introduction of a mandatory minimum Code of Conduct for all local authorities, covering bullying, harassment, discrimination, social media use, and use of council resources.
- Requirement for formal Standards Committees in all principal authorities.

- New sanctions, including suspension of councillors for up to six months, withholding allowances, and restrictions on access to premises/facilities.
- Creation of a local review mechanism and a national appeals function for serious cases.
- Enhanced support for complainants and councillors during investigations.
- Stronger disqualification criteria for repeated serious breaches.

## 5. OTHER CONSIDERATIONS/IMPLICATIONS

<b>RISK IMPLICATIONS</b>	Failure to prepare for these changes could result in non-compliance, reputational damage, and reduced public confidence in governance arrangements.
<b>FINANCIAL CONSIDERATIONS</b>	Potential resource implications for: <ul style="list-style-type: none"> <li>- Establishing or adapting Standards Committees.</li> <li>- Training for Members and officers.</li> <li>- Costs associated with investigations and appeals.</li> </ul>
<b>SUBSIDY CONTROL</b>	None
<b>LEGAL CONSIDERATIONS</b>	Government intends to legislate to reform the current regime as set out in the Localism Act 2011. The Council will need to adopt the prescribed Code of Conduct and update its Constitution and governance processes accordingly.
<b>SINGLE IMPACT ASSESSMENT</b>	The mandatory Code will include provisions on discrimination and harassment, supporting equality objectives.
<b>STAFF CONSIDERATIONS</b>	Training and guidance will be required for officers supporting Standards Committees and handling complaints.
<b>ASSET MANAGEMENT CONSIDERATIONS</b>	None
<b>ENVIRONMENT, SUSTAINABILITY AND CLIMATE CHANGE CONSIDERATIONS</b>	None
<b>CONSULTATION</b>	Hartlepool BC comments fed in to the Government's consultation on Strengthening the Standards and Conduct Framework for Local Authorities in England via the Audit and Governance Committee and Full Council.

## **6. RECOMMENDATIONS**

- 6.1 That Members note the Government's response and agree to receive a further report once draft legislation and implementation timelines are published.

## **7. REASONS FOR RECOMMENDATIONS**

- 7.1 To ensure Members are informed of forthcoming changes and the Council is prepared to comply with new statutory requirements.

## **8. BACKGROUND PAPERS**

Government response: Strengthening the Standards and Conduct Framework for Local Authorities in England (DLUHC).

## **9. CONTACT OFFICERS**

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Ministry of Housing,  
Communities &  
Local Government

Consultation outcome

# **Strengthening the standards and conduct framework for local authorities in England – consultation results and government response**

Updated 11 November 2025

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# Ministerial foreword

The government is committed to greater devolution, determined to fix the foundations of local government and build a better future for local politics.

Greater devolution relies on local authorities in which elected members embody the highest standards of conduct. The public rightly demand its representatives act in their best interests, and that those who do not meet the high standards of public office expected should be held to account and appropriately sanctioned.

The ‘Strengthening the Standards and Conduct Framework for Local Authorities in England’ consultation sought views on a whole system reform of the standards and conduct framework for local government. The proposed reforms consulted on reflected the government’s ambition to introduce a clearer and consistently applied standards and conduct framework for local government in England.

The reforms aim to ensure misconduct is dealt with swiftly and fairly across the country in every type and tier of local government – from the smallest town or parish council to the largest regional mayoral authority. We want to ensure that local government is empowered, fully accountable and deserving of people’s trust and confidence.

We want local and regional government in England to attract and retain the best possible talent, and for county, town and city halls across the country to promote fair and reasonable democratic discourse, without slipping into cultures which are toxic and intimidating. There will always be room for strongly held beliefs to be represented, tested and debated, with decency and respectful behaviours and conduct.

Of note amongst the consultation responses was testimony received from those who highlighted the personal distress persistent bullying and harassment can cause for elected members and officers alike, particularly as the current regime offers no real prospect of perpetrators being properly held to account.

In response, our reforms will put victims of elected member misconduct at the centre of the system by providing a right to appeal standards decisions and ensure that both complainants and respondents are supported throughout the process of code of conduct investigations. We also want to ensure that those complained about are given fair opportunity to make representations and that due process is in place throughout the course of complaints being considered.

Frustration with the lack of meaningful sanctions and safeguards, even when elected members are under police investigation or carry out repeated breaches, was also clearly apparent amongst respondents. For a standards

regime to be fit for purpose it must provide both appropriate safeguards and sanctions.

I want to thank all the 2,092 respondents to this consultation. The results have clearly indicated there is widespread appetite for system reform and the steers we have received from respondents have shaped our decisions on the policy proposals this document confirms we will now be working to take forward.

In summary, we intend to legislate for a whole system reform of the current regime as set out in Localism Act 2011. The measures will include:

- the introduction of a mandatory code of conduct, which will include a behavioural code, for all local authority types and tiers
- a requirement that all principal authorities convene formal standards committees, to include provisions on the constitution of standards committees to ensure objectivity, accountability and transparency
- the requirement that all principal authorities offer individual support during any investigation into code of conduct allegations to both the complainant and the councillor subject to the allegation
- the introduction at the authority level of a 'right for review' for both complainant and the subject elected member to have the case reassessed on grounds that will be set out in legislation
- powers for authorities to suspend elected members for a maximum of 6 months for serious code of conduct breaches, with the option to withhold allowances during suspension for the most serious breaches and introduce premises and facilities bans either in addition or as standalone sanctions
- in response to the most serious allegations involving police investigation, or where sentencing is pending, the introduction of powers to suspend elected members on an interim basis for an initial period of 3 months which, if extended, will require regular review
- a new disqualification criterion for any elected member subject to the maximum period of suspension more than once within 5 years
- the creation of a new national appeals function, to consider appeals from elected members to decisions to suspend them and/or withhold allowances, and for complainants if they consider their complaint was mishandled. Any appeal submitted will only be permitted after complainant or elected member has invoked their 'right for review' of the local standards committee decision has been invoked and that process is completed

When this government took office, we pledged to reset the relationship with local authorities, and a key part of that commitment is to work creatively and collaboratively with all those with an interest in local government. We will

continue to engage with the sector and stakeholders whilst we develop the detail of operationalising these proposals.

I know that most local elected members are public servants working hard to help shape and deliver excellent local public services. It is for them as much as council employees and the public that we are determined to deal with those who bring local government into disrepute. In recognition of how important these reforms are to building a better future for local politics, we intend to bring forward the necessary legislation as soon as parliamentary time allows.

Alison McGovern MP

Minister for Local Government and Homelessness

## Introduction

The [Strengthening the Standards and Conduct Framework for local authorities in England consultation](https://www.gov.uk/government/consultations/strengthening-the-standards-and-conduct-framework-for-local-authorities-in-england/strengthening-the-standards-and-conduct-framework-for-local-authorities-in-england) (<https://www.gov.uk/government/consultations/strengthening-the-standards-and-conduct-framework-for-local-authorities-in-england/strengthening-the-standards-and-conduct-framework-for-local-authorities-in-england>) sought views from members of the public, current and prospective local authority elected members, local government officers from all types and tiers of authorities, and local authority sector representative organisations.

The proposals and 40 consultation questions were arranged under 2 principal headings as follows:

## Strengthening the Standards and Conduct framework

- mandatory minimum prescribed code of conduct
- Standards Committees
- publication of allegations and investigation outcomes
- requiring completion of investigations if an elected member stands down
- empowering individuals affected by councillor misconduct to come forward

## Introducing the power of suspension with related safeguards

- length of suspension
- withholding allowances and premises and facilities bans
- interim suspension
- disqualification for multiple breaches and gross misconduct
- appeals process
- potential for a national appeals body

The [Localism Act 2011](#)

(<http://www.legislation.gov.uk/ukpga/2011/20/part/1/chapter/7/enacted>) established the current standards and conduct framework for local authorities.

The current regime requires every local authority to adopt a code of conduct, the contents of which must, as a minimum, be consistent with the 7 [‘Nolan’ principles of standards in public life](#) (<https://www.gov.uk/government/publications/the-7-principles-of-public-life>) (selflessness, integrity, objectivity, accountability, openness, honesty and leadership), and set out rules on requiring members to register and disclose pecuniary and non-pecuniary interests. Beyond these requirements, it is for individual councils to set their own local code.

Every principal authority must also have in place arrangements under which it can investigate allegations of breaches of its code of conduct and must consult at least one Independent Person before coming to decisions.

There is no provision in current legislation for a sanction to suspend a councillor found to have breached the code of conduct. Sanctions for member code of conduct breaches are typically:

- barring members from cabinet, committee, or representative roles
- a requirement to issue an apology or undergo code of conduct training
- public criticism

Local authorities are also unable to withhold allowances from elected members who commit serious breaches of their code of conduct, and there is no explicit provision in legislation for authorities to impose premises bans or facilities withdrawals where they consider that it might be beneficial to do so.

The lack of meaningful sanctions, or the power to suspend elected members for serious code of conduct breaches, means local authorities have no effective way of dealing with more serious examples of member misconduct.

This government response document follows the order of the proposals as set out in the consultation document referred to above. Under each proposal there is:

- a headline summary of the responses received
- a summary of the policy considerations
- a statement of government's intended course of action in response

The consultation questions, a breakdown of the responses given to the multiple-choice questions, and a summary of the narrative comments respondents entered in the free text boxes can be found in the Annex.

## Introduction of a mandatory code of conduct

The government consultation proposed legislating to introduce a minimum mandatory code of conduct, likely to be set out in regulations. A mandatory code with the [Seven Principles of Public Life](https://www.gov.uk/government/publications/the-7-principles-of-public-life/the-7-principles-of-public-life--2) (<https://www.gov.uk/government/publications/the-7-principles-of-public-life/the-7-principles-of-public-life--2>) at its core will ensure that every elected member, or co-opted member, in England is clear what standard of conduct and behaviour is demanded of them in all aspects of their public office.

The consistency of a shared common standard to which all will be equally held to account, and that can be reviewed and updated as required, is a necessary foundation to inspire the trust and confidence of every community councils serve.

Respondents were asked:

- if they agreed in principle (and if not provide any comment)
- if they thought local authorities should be able to add to a mandatory code
- if such a mandatory code should include a requirement for members to cooperate with investigations into code breaches

The results were conclusively in favour of government prescribing a mandatory code with 94% of respondents answering 'yes'. Some 61% of

respondents thought that there should be scope for local authorities to add to a mandatory code to reflect local circumstances.

Mindful of avoiding the risk of confusing or diluting the consistency of expected behaviour a mandatory code could provide, government has considered the latter response carefully in framing this policy response. We examined the standards and conduct framework for local government operating in the devolved nations. All 3 devolved nations (Wales, Scotland, and Northern Ireland) prescribe a mandatory code of conduct for local authority members, allowing individual local authorities to develop local guidance and/or protocols provided they align with the nationally prescribed mandatory code.

Examples of the supplementary protocols or provisions to the mandatory code authorities are adopting in the devolved nations typically relate to matters such as handling conflicts of interest, use of social media, and receipt of hospitality. Government considers it is desirable that all such matters could be incorporated into a prescribed mandatory code.

With regards to a mandatory code including the requirement for members to cooperate with investigations, 91% of respondents agreed with this proposal.

In addition, government considers ensuring that the code of conduct complaint system is used appropriately and not for vexatious politically motivated complaints the code should confirm that submitting multiple vexatious complaints is a sanctionable breach of the code.

## **Summary**

In response to the views expressed in the consultation, the government proposes to legislate to prescribe a mandatory code by taking a power in the primary legislation to set out the code in regulations.

This will provide the opportunity for further engagement on the detailed content of the code and provide the flexibility to review and amend in future as required. Local authorities will be able to develop their own guidance and protocols which must align with the mandatory code but will not, in themselves, be part of the code or arrangements for enforcement.

The mandatory code will include a behavioural code, the requirement for elected members and co-opted members to co-operate with code of conduct investigations, and that submitting multiple vexatious complaints would be a code of conduct breach.



# Standards Committees

To strengthen and support the consistent handling of misconduct allegations, government proposed that all principal authorities, and strategic authorities, should be required to convene a standards committee.

Some 91% of respondents agreed that all principal authorities should be required to form a standards committee.

Comments focused mainly on the following recurring themes:

- that without effective strengthened sanctions the requirement to form a standards committee would of itself make little impact on misconduct
- concerns about how to achieve political impartiality amongst the membership of the committee to ensure that decisions on code of conduct investigations are objective

As well as the function of receiving code of conduct investigation reports and determining as appropriate any sanction, government considers that standards committees also have a crucial role in promoting and upholding a culture of high ethical standards for an authority. Numerous respondents commented that there is a need for more to be done in this regard to emphasise a greater individual and collective responsibility for ensuring that the corporate culture of every authority rightly prioritises respectful discourse between elected and co-opted members, officers and the public.

62% of respondents agreed that sanction decisions on formal investigations into code of conduct breach allegations should be heard and taken by a standards committee. The government proposes to legislate for this.

In response to the question of whether Independent Persons<sup>[\[footnote 1\]](#)</sup> and co-opted members serving on standards committees should be given voting rights, 68% agreed this is important to ensure objectivity and 63% considered that standards committees should be chaired by an Independent Person. Government considers that co-opted members should have voting rights.

Government considers that there is merit in standards committees being chaired by someone who is independent and not an elected member of the authority, but that it would not be appropriate to be the Independent Person whose role is defined in law as an advisor on standards investigations.

The Localism Act 2011 (Chapter 7, section 28(7)) requires every relevant authority to appoint at least one Independent Person, whose views must be sought and considered by the authority before it decides on an allegation

which has been investigated. There is no intention to change the role of the Independent Person.

Views expressed on ensuring fairness and objectivity and reducing incidences of vexatious complaints coalesced around the following themes:

- constituting committees to ensure political impartiality
- providing the option of appropriately strengthened sanctions to ensure that a standards committee is equipped to effectively address misconduct and that members subject to a complaint take the process seriously
- ensuring that members of standards committees receive appropriate training

Government believes that the consultation responses confirm that confidence in political impartiality of standards committees is important to ensure that every complainant and elected or co-opted member subject to a code of conduct allegation are consistently treated fairly and objectively.

To achieve political impartiality on decisions taken in response to a code of conduct investigation, the government will engage further with sector representatives on what the optimum membership arrangements for standards committees should be prior to finalising the detail of requirements in legislation.

On the question of whether local authorities should be required to publish annually a list of allegations of code of conduct breaches, and any investigation outcomes views varied. 47% considered that the public should have full access to all allegations and investigation outcomes, while 50% thought only cases in which a member is found guilty of wrongdoing should be published.

Government considers that local authorities should only be required to publish a list of code of conduct allegations following full investigation and a standards committee determination on whether to uphold the complaint or not, and as appropriate any sanction applied. This avoids the risk of allegations whilst an investigation is ongoing being in the public domain at a point when it is yet to be resolved.

The final question in the standards committee section of the consultation asked for views about whether investigations should continue to their conclusion if the member stands down before a determination on their case is arrived at, and if the investigation findings should still be published. A total of 84% of respondents agreed with this proposal.

Government considers that it is important to be consistent in holding to account any member who breaches the code of conduct or provide the opportunity for that individual to be publicly exonerated where an

investigation concludes there was no case to answer regardless of if they stand down during an investigation.

## Summary

In response to the views expressed with regards to standards committees the government:

- proposes to legislate to require all relevant principal authorities to formally constitute a standards committee (or, as appropriate, a sub-committee convened for the purposes of considering code of conduct cases); and engage further with sector representatives to consider the specific requirements for the membership of standards committees prior to legislating on the matter
- will require, subject to relevant legal restrictions, any code of conduct investigation to be completed, and investigation findings and decisions arising be published, including when the investigation findings are 'no case to answer' and the member is exonerated, and in the event a member stands down during an investigation.

In addition, government will:

- engage with sector representative bodies and stakeholder to develop 'best practice' guidance on the handling of code of conduct complaint allegations
- retain the statutory responsibility of promoting and maintaining high standards of conduct by elected members and co-opted members on the authority and engage with sector representative organisations to consider developing guidance on what more could be done by individual authority standards committees to deliver on this responsibility

## Empowering individuals affected by councillor misconduct to come forward

Government considers that the standards and conduct framework both supports and underpins the principle of accountability, an important aspect of which is to be open and supportive to challenge, and support those who call out examples of behaviour that falls below the standards expected.

The current standards and conduct framework contains virtually no reference to the role of complainants or victims of misconduct in the

system. We believe this represents an imbalance that needs to be corrected. A consequence of encouraging complainants to come forward will likely increase the volume of complaints, but we consider that giving victims of misconduct the faith that they will be supported in pursuing legitimate complaints will ultimately result in a stronger standards and conduct regime.

The consultation asked local authorities to provide a figure for the average number of code of conduct complaints received against elected members over a 12-month period. 705 respondents answered this question. There was a very wide variation in the number of complaints reportedly received which likely reflects whether the respondent local authority type was a principal authority with multiple parishes in their area. Responses ranged from 0 to 174 average complaints. 48% of respondents noted receiving between 1 and 10 complaints, whilst 14% said they received more than 10 complaints. 37% said they had received no complaints.

352 of the 705 respondents provided a breakdown of the number of complaints made by officers, other elected members, the public, or any other source. 55% of complaints came from the public. 12% were complaints from other elected members, 30% were complaints from officers.

The consultation then asked anyone who currently works or had worked within a local authority if they had been a victim of (or witnessed) misconduct by an elected member but felt unable to come forward to explain why that was the case. Many of the 676 responses to this question describe the circumstances of the misconduct experienced and the considerable personal impact. The recurrent themes that emerged included:

- a sense that a code of conduct complaint would be pointless given the lack of meaningful sanctions in the current system is no real deterrent
- a fear that the misconduct behaviours, frequently cited as bullying, would only likely escalate and be personally directed at them

A high proportion of respondents to this question came from the parish council sector. Parish clerks often work alone as the only paid officer or as a member of a very small officer team. They may live in the same community where parish councillors reside and will likely have a higher degree of interaction with the elected members or co-opted members than officers working in principal and upper tier authorities. All these factors serve to amplify the personal impact on parish council staff.

630 respondents replied to the question asking if they had come forward with a complaint what support was offered, and 1324 responded to what in addition could be offered to support individuals raising a complaint.

In summary, the views expressed were as follows:

- the majority reported receiving little or no support – though a handful did indicate they had received support from the Monitoring Officer, Independent Person or other council staff
- numerous respondents, both complainants and respondent elected members, commented that they felt anxious, isolated and fearful during the process
- they wanted to feel confident that they would be taken seriously and listened to
- that if effective sanctions and consequences for misconduct were introduced there was a need to have greater confidence in the independence of the decision makers on cases
- they wanted the assurance that appropriate confidentiality and anonymity for the complainant would be applied
- that access to one-to-one buddy support as needed at key stages of the process would be helpful

In response to the question of whether elected members had ever been subject to a code of conduct complaint and, if so, did they feel they received appropriate support, 377 comments were received.

In summary the comments reveal the following:

- there is no consistency in the level of personal support offered to the elected or co-opted member in a code of conduct complaint situation – a few reported receiving support from either or both the Monitoring Officer or the Independent Person but most stated that they had received no support
- a significant proportion reported that the complaints were vexatious and politically motivated so had largely not been carried forward for investigation

Government considers that for a standards and conduct framework to operate fairly, support should be available to all those involved in an investigation.

As set out above, government intends to develop best practice guidance on complaint handling which will specifically include communicating with all those involved to ensure support is available at key stages be that with regards to mediation, interacting with the investigation, or following a complaint outcome decision.

## Summary

As referred to in the section below entitled [Appeals and a national appeals function](#), in response government plans to:

- legislate to provide both complainant and the respondent elected or co-opted member with a 'right for review' of standards committee investigation decisions
- set out the grounds in legislation for assessing eligibility to consider a right for review request at the local level

In addition, government will:

- include recommended actions to support those affected through the complaint and investigation process in the best practice guidance we have committed above to develop with sector representative organisations and stakeholders
- investigate with key stakeholders and sector representative organisations the case for creating an independent confidential helpline support offer for complainants

## Introducing the sanction of suspension

The consultation proposed the introduction of the power for authorities to suspend elected members for serious code of conduct breaches for a maximum of 6 months, with the option to withhold allowances and institute premises and facilities bans where deemed appropriate.

Government considers a serious code of conduct breach would be behaviours that pose a significant reputational risk to the council, undermine the public's trust in local democracy, and/or where evidence exists that the behaviours are negatively impacting the health, wellbeing, and safety of fellow elected members and officers.

Most respondents (87%) agreed that local authorities should be given the power to suspend members. 60% agreed that a decision to suspend should be made by the standards committee, whilst 27% thought the decision should be referred to an independent body. 647 comments were received on the question of whether the decision to suspend should lie with the local authority standards committee or be for an independent body.

Broadly, the majority of comments echoed the following themes:

- concerns that if the decision to suspend is vested in a standards committee, the committee needs to be politically neutral and fully transparent
- a view that a right to appeal a suspension decision should be available and that should sit with an independent body

As referred to in the [Standards Committee section above](#), government proposes to ensure the political independence of code of conduct case decisions, and in the [Appeals section below](#) the establishment of a national function creating a route to appeal a local decision once the local 'right to review' process has been completed.

Government considers these measures will create the necessary safeguards to ensure independence of decision-making on any decision to suspend. We will be working at pace in collaboration with key stakeholders and sector representative bodies to finalise the operational details of the national appeals function prior to bringing forward legislation on the matter.

If it were to be deemed that suspension is an appropriate response to a code of conduct breach, 60% of respondents considered councils should be required to put in place an alternative point of contact for constituents, whilst 31% considered it should be for councils to determine such arrangements.

Government considers that it should be for councils to make their own arrangements for managing constituent representation during a period of elected member suspension, as appropriate to the length of suspension and any special responsibility roles (committee membership, cabinet portfolio member et cetera) which may apply.

On the question of the maximum length of suspension, 51% of respondents were of the view that government should set a maximum of 6 months. 15% considered that the maximum period should be different and 21% did not think the government should prescribe the maximum period. Respondents were asked to opine on what the maximum length should be if different from 6 months, there were 371 responses to this part of the question. Whilst there was a range of views, few thought it should be less than 6 months with the most popular alternative length of maximum suspension suggested as 12 months.

The government's view is that code of conduct breaches serious enough to warrant a sanction of suspension would likely occur infrequently and 62% of respondents agreed with this premise.

The consultation also sought views on whether councils should have the option to withhold allowances from suspended elected members and 87% of respondents agreed. Government considers that authorities should have the option of withholding allowances from suspended elected members and that a decision to do so or not should rightly be at the discretion of the standards committee, in line with the best practice guidance the government will be issuing, as referred to above in the [Standards Committee section](#).

With regards to premises and facilities bans, 88% agreed that authorities should have the power to implement these. Government believes that this power should be available as a safeguarding measure where the nature of



the misconduct may pose a risk to the safety and wellbeing of other elected members, staff or members of the public.

## Summary

In response, the government proposes to legislate to:

- provide authorities with a power to suspend elected members for serious code of conduct breaches for a maximum of 6 months, with the option to withhold allowances and institute premises and facilities bans where deemed appropriate
- confirm that a decision to sanction with a period of suspension, and/or institute premises and facilities bans can only be taken by a standards committee, following receipt and consideration of a formal investigation report, and following consideration of the views of the Independent Person
- the legislation will enable standards committees to have the discretion to withhold elected member allowances and ban disruptive members from using council facilities or entering property, either as standalone sanctions or in addition to suspension

## Interim suspension

The consultation proposed a power for interim suspension when elected members, or co-opted members, are subject to complex investigations into serious code of conduct breaches, for example which may be referred to the police to investigate or be pending a court hearing.

There are, from time-to-time, cases that arise when an elected member is subject to allegations which involve police investigations, for example where the misconduct involves allegations of a sexual offence, assault or fraudulent behaviour.

When the media reports on elected members being arrested or awaiting sentencing, such cases are often brought to the attention of Ministers by concerned residents and Members of Parliament. In the context of the standards and conduct framework, of key consideration is if the alleged crime took place in the context of the elected member's public role or in their private life. However, it is recognised that at the point the issue has become a matter of public interest, if the alleged crimes are of a serious nature there may be safeguarding and safety considerations that the authority may need to consider



The consultation proposal stated that elected members on interim suspension would continue to receive allowances until an investigation, or a criminal investigation concludes. Based on the principle of innocent until proven guilty, the decision to impose an interim suspension would not therefore represent a pre-judgement of the validity of an allegation.

In addition, it was proposed that:

- interim suspensions should initially be for a maximum of 3 months, and, after that period, the relevant standards committee should review the case to decide whether it is in the public interest to extend
- as appropriate, the period spent on interim suspension may be deducted from any period of suspension a standards committee subsequently imposes

79% of respondents agreed with the proposals to suspend on an interim basis and 73% agreed that it should be for an initial period of 3 months and then subject to review. Free text boxes were provided for both questions (Q28 and Q29) with 631 and 350 comments received respectively. The headline points raised included:

- concern that complex investigations or allegations that involve police investigations and ultimately a court judgement can take many months to come to trial and could result in the subject member being on interim suspension for a significant period
- that this is a sensible proposal to safeguard the subject member, staff and mitigate reputational risk whilst investigations are ongoing
- that it is appropriate to mirror the common practice in employment settings of interim suspension whilst investigations are conducted
- that it is right that allowances should not be withheld during interim suspension to comply with the 'innocent until proven guilty' principle

Government considers that in the circumstances where interim suspension can be deemed appropriate, as in employment settings, a local authority's decision to use the power to interim suspend should only be taken to reasonably protect any of the following:

- the investigation – if there was a risk of someone damaging evidence or influencing witnesses
- the smooth running of the authority – if there was a genuine risk to the safety of other elected members, officers, property or business
- the person under investigation or complainant

The final consultation question asked if at the point when the initial 3-month period of interim suspension was reached and a standards committee

decided to extend there should be safeguards to ensure interim suspension was not allowed to run on unchecked.

72% agreed that there should be safeguards, but 23% considered that authorities know the details of individual cases and should be trusted to act responsibly.

Those that agreed that there should be safeguards were asked to comment on what they thought might be needed to ensure unlimited interim suspension was not misused. 1908 comments were received in response to this question, the headline summary of points included:

- that the decision to confer an interim suspension should be made by an independent body
- suggesting a defined period for ongoing reviews, for example monthly or 3 monthly should be prescribed if the initial period of interim suspension was extended
- concerns that safeguards (such as a requirement to evidence that investigations were actively ongoing) should be put in place to ensure that interim suspension was not politically weaponised
- that this should only be used for the most egregious cases
- suggestion that a period of interim suspension should not exceed 6 months as per the suspension proposal, as longer than 6 months would risk incurring Section 85 of the Local Government Act 1972 'vacation of office by failure to attend meetings'

## Summary

In response the government plans to legislate to give authorities the power to place an elected member or co-opted member on interim suspension in response only to serious code of conduct allegations subject to external investigation, from the police or other bodies within the criminal justice system, and/or where a court hearing and sentencing is awaited i.e. cases where there are legitimate safeguarding considerations, and the council is not in control of the pace and resolution of the investigation.

It also plans to legislate to confirm that the grounds to justify a standards committee taking a decision to impose interim suspension must only take place if the matter is subject to law enforcement investigation and include:

- **The seriousness of the allegations.** Meaning the allegations against the individual must be of a serious criminal nature and subject to police investigation/pending sentencing

- **Risk of Harm.** Where the nature and seriousness of the allegations is such that if the elected member were to continue in their role during the investigation, it could result in a risk of harm to either the public, the complainant, the subject member, or the authority and its reputation.

The legislation will set the maximum period of interim suspension at an initial 3 months and require ongoing review if the case remains unresolved after that initial period.

Government will engage further with sector representative bodies on the question of whether authorities should be required to publish on their website a notice of decision to place an elected member or co-opted member on interim suspension whilst investigations are ongoing and, as appropriate, a notice exonerating an elected member placed on interim suspension in the event the external investigation results in no charges being brought or when a court decides not to uphold the charge against the subject member.

## Disqualification for multiple breaches and gross misconduct

Currently the law disqualifies anyone from standing or sitting as an elected member if they have been convicted of any offence for which they have received a sentence of imprisonment (suspended or not) for a period of 3 months or more (without the option of a fine) in the 5-year period before the relevant election.

Disqualification also covers sexual offences, even if they do not result in a custodial or suspended sentence but when the individual has been made subject to the [notification requirements under the Sexual Offences Act 2003](https://www.gov.uk/government/publications/sexual-offences-act-2003-notification-requirements-england-and-wales-regulations-2012) (<https://www.gov.uk/government/publications/sexual-offences-act-2003-notification-requirements-england-and-wales-regulations-2012>) (i.e. placed on the sex offenders register).

The consultation sought views on proposals that elected members who are suspended more than once during a 5-year period should be subject to disqualification, and if immediate disqualification should apply to instances of gross misconduct (for example, theft or physical violence impacting the safety of other members and/or officers).

With regards to the proposal to introduce disqualification for anyone subject to the sanction of suspension twice within a 5-year period 60% agreed, 19%

disagreed and 15% agreed but considered disqualification should be for a different length of time and/or with a different timeframe.

Respondents were also asked to provide any comments on the proposal, and there were a range of views. In summary, those most often repeated included:

- concern about the severity of this proposal which would give standards committees the power to override an elected member's democratic mandate
- the suggestion disqualification should only apply when the suspension had been for the maximum proposed period of 6 months, or alternatively 3 months or more
- that in the event of code of conduct investigation decision/outcomes being published it should be for the electorate to decide at the next election if an individual no longer represents them
- queries about why the proposal applies to suspension twice within a 5-year period, when habitually an electoral term in local government is 4 years
- that disqualification should apply for the first instance of serious misconduct and that if someone has seriously transgressed, they are not fit for public office and the period should be longer than 5 years

Government has thought carefully about the responses to this question, including looking at what currently applies in the devolved nations. In Scotland, the [Ethical Standards in Public Life \(Scotland\) Act etc. Act 2000](https://www.legislation.gov.uk/asp/2000/7/section/19) (<https://www.legislation.gov.uk/asp/2000/7/section/19>) provides a framework for the conduct of elected members and details the sanctions available to the Standards Commission for Scotland to impose when a hearing finds a councillor has contravened the code of conduct. These provisions include powers to disqualify an elected member for a period not exceeding 5 years, from being, or from being nominated for election. In Wales the power to disqualify a councillor for up to 5 years for serious code of conduct breaches also exists, and rests with the Adjudication Panel for Wales.

The government's view is that introducing a measure to disqualify an elected member subject to suspension twice for serious misconduct is supported by the safeguards in the full suite of standards reforms it intends to pursue. Those strengthened safeguards being a universally applied mandatory code, best practice procedures for code of conduct complaint handling, the requirement for formal political neutral standards committee, a respondent's right to review a standards committee decision, and provisions to then take a final appeal of the decision to a national appeals function.

Government also considers that, in view of the consultation responses, the disqualification for 2 periods of suspension should only apply if those periods of suspension are both for the maximum period of 6 months. This

will ensure that disqualification would only apply to at least 2 incidents of the most serious misconduct occurring within a 5-year timeframe.

The 5-year timeframe is specified to bridge the period between the 4-year electoral cycle to ensure that where serious misconduct repeatedly occurs by someone who gets re-elected there is a route to address the cumulative effect of the misconduct.

On the question of immediate disqualification for gross misconduct, provided there has been an investigation of the incident and the elected member has had a chance to respond before a decision is made, 82% agreed. Comments received in response to this question tended to be polarised around the 2 following themes:

- that the same rules that apply in an employment setting regarding gross misconduct should also apply to elected members
- that it is an unnecessary measure, and the proposed interim suspension could suffice in such cases awaiting outcome of police investigation following arrest or sentencing

Considering the government's intention to introduce interim suspension for serious code of conduct breaches subject to police investigation and/or awaiting sentencing from the courts, it is not in addition appropriate to introduce disqualification on the grounds of gross misconduct. However, government does consider that in cases of serious misconduct repeatedly occurring councils do need a means of curbing egregious disruptive behaviour.

## **Summary**

In response the government intends to introduce legislation to disqualify an elected member or co-opted member if they receive a sanction of suspension for the maximum period of 6 months twice over a 5-year period.

## **Appeals and a national appeals function**

The consultation proposed that any elected member subject to a decision to suspend them should have the right to appeal, that an appeal should be invoked within 5 working days of notification of a suspension decision and that an appeal hearing should be conducted within 28 working days.

A significant majority of respondents (86%) agreed that elected members should have the right to appeal a decision to suspend them. 53% agreed with the proposals that an appeal should be made within 5 working days and a further 36% considered that a different length of time within which to bring an appeal should apply. Views were invited on the latter point and ranged between 7 working days to 100, with the most popular alternative to the proposed 5 working days being 10 or 14.

Respondents were also asked if complainants should have a right of appeal if a decision was taken not to investigate their complaint and if they should have a right of appeal when an allegation of misconduct is not upheld. The majority answered yes to both questions with 53% agreeing to the first question and 46% agreeing to the second. Those not in agreement were 30% and 35% respectively. For those who responded 'yes' to either of these questions they were then invited to give their view on the most suitable route of appeal for either or both situations. Comments received included:

- a suggestion that complainants should receive a notification of the grounds for refusal to investigate their complaint to help inform a decision to appeal and as appropriate aid them to prepare their appeal
- concerns about the independence of any council appeal hearing – and that an appeal panel should enable 'a fresh set of eyes' or that appeals could be heard by a neighbouring authority
- suggestion that there should be prescribed qualifying 'grounds for appeal'
- concerns about the resource implications of servicing and managing appeals

In response to the question of whether appeals panels should be in-house within authorities or whether there was a need for an external national function to hear appeals to the sanction of suspension, 69% agree with the statement that an external national body would help uphold impartiality, with 25% of the view that appeals should be held by an internal panel. And 56% thought both member and claimant appeals should be in scope.

As referenced above, the government does consider that both complainants and the subject elected member should have the right for review a standards committee decision following investigation. This right of review would be conducted at a local level and only those cases that have been the subject of a review will be eligible for then progressing to the national appeals function. We will work with stakeholders to finalise grounds for exercising the right for review.

In the current standards and conduct regime there is no route to appeal code of conduct standards decisions, though some authorities already operate a 'right to review' within their complaint handling processes.

The devolved nations have broadly similar grounds for appeal including procedural errors, new evidence or a disproportionate or unfair sanction.

Government has listened carefully to the range of views on the establishment of a national appeals function and considers this is necessary. Government is keen to ensure that it operates coherently and supportively with the delivery of the strengthened standards and conduct regime locally.

Eligible appeals will be those cases where either complainant or subject member has already invoked and completed the 'right to review' process with the principal authority standards committee.

## Summary

In response, government plans to legislate on arrangements for appeals to code of conduct decisions following further consideration of the detailed requirements to support the proposed local 'right to review' code of conduct case decisions, and the scope and scale of a national appeals function.

# Annex - consultation responses report

Responses to this survey: 2092

## 1: In what capacity are you responding to this consultation?

There were 2086 responses to this question.

Option	Total
An elected member of a council body	33.2%
A council officer	35.6%
A council body	11.8%
A member of the public	15.2%

Option	Total
A local government sector body	3.9%
Not answered	0.3%

## Please indicate the local authority type:

There were 1687 responses to this question.

Option	Total
Town or Parish Council	56.9%
District or Borough Council	12%
Unitary Authority	8%
County Council	2.2%
Combined Authority / Combined County Authority	0.4%
Fire and Rescue Authority	0%
Police and Crime Panel	0%
Other local authority type	1.1%
Not answered	19.4%

## 2: Do you think the government should prescribe a mandatory minimum code of conduct for local authorities in England?

There were 2053 responses to this question.



Option	Total
Yes	93.9%
No	4.2%
Not answered	1.9%

There were 157 narrative responses to this question.

- whilst some respondents indicated that they felt the current system is adequate and therefore there is no need for a mandatory code, many of the comments focused on what the composition of the code should look like
- some respondents argued that there should be some ability at the local level to build upon the provisions of a national code, whereas others were clear that there should be no local variation
- there was a clear sense that the Nolan principles remain important and that any mandatory code should reflect and reinforce the values to which those principles hold those in public office
- there was a range of views on who should ultimately set the code, reinforcing importance of the government consulting further on its provisions

### **3: If yes, do you agree there should be scope for local authorities to add to a mandatory minimum code of conduct to reflect specific local challenges?**

There were 2010 responses to this question.

Option	Total
Yes – it is important that local authorities have flexibility to add to a prescribed code	61.2%
No – a prescribed code should be uniform across the country	29.3%
Unsure	5.6%
Not answered	3.9%

#### **4: Do you think the government should set out a code of conduct requirement for members to cooperate with investigations into code breaches?**

There were 2049 responses to this question.

<b>Option</b>	<b>Total</b>
<b>Yes</b>	91.2%
<b>No</b>	4%
<b>Unsure</b>	2.7%
<b>Not answered</b>	2.1%

#### **5: Does your local authority currently maintain a standards committee?**

There were 1953 responses to this question.

<b>Option</b>	<b>Total</b>
<b>Yes</b>	60.1%
<b>No</b>	33.3%
<b>Not answered</b>	6.6%

There were 631 narrative responses to this question:

- a number of respondents noted that whilst their authority or principal authority maintains a standards committee, it is in its current form ineffective in dealing with instances of member misconduct where it arises
- an increased focus on independence was noted as being important in improving effectiveness, suggesting support for measures to ensure that a requirement for independent members should be built into any

measures governing the constitution of committees with responsibility for member standards

## **6: Should all principal authorities be required to form a standards committee?**

There were 2029 responses to this question.

<b>Option</b>	<b>Total</b>
<b>Yes</b>	90.8%
<b>No</b>	6.2%
<b>Not answered</b>	3%

There were 388 narrative responses to this question:

- a key theme of the responses to this question was an emphasis on ensuring impartiality and protecting against political bias when adjudicating on potential code of conduct breaches, consistent with the emphasis on fairness and independence that runs through the comments on many other questions
- several respondents felt that mandating standards committees would improve the overall effectiveness of the standards process, although some emphasised a need for flexibility around how standards committees are structured
- a number of respondents made the point that whilst there is a need for a committee responsible for standards, it could form part of another committee's remit rather than necessitating a standards committee

## **7: In most principal authorities, code of conduct complaints are typically submitted in the first instance to the local authority Monitoring Officer to triage, before referring a case for full investigation. Should all alleged code of conduct breaches which are referred for investigation be heard by the relevant principal authority's standards committee?**

There were 2035 responses to this question.

Option	Total
Yes, decisions should only be heard by standards committees	62.2%
No, local authorities should have discretion to allow decisions to be taken by full council	23.4%
Unsure	11.7%
Not answered	2.7%

## **8: Do you agree that the Independent Person and co-opted members should be given voting rights?**

There were 2031 responses to this question.

Option	Total
Yes – this is important for ensuring objectivity	68.3%
No – only elected members of the council in question should have voting rights	20.3%
Unsure	8.5%
Not answered	2.9%

## **9: Should standards committees be chaired by the Independent Person?**

There were 2026 responses to this question.

Option	Total
Yes	62.5%

Option	Total
No	15.6%
Unsure	18.7%
Not answered	3.2%

**10: If you have further views on ensuring fairness and objectivity and reducing incidences of vexatious complaints, please use the free text box below.**

There were 857 narrative responses to this question:

- the need to protect against political bias in order to ensure fairness and objectivity was once again prevalent in the response to this question
- specifically in regard to reducing incidences of vexatious complaints, there was a range of suggestions including a greater focus on mediation, barring vexatious complainants from registering further complaints, and training for Monitoring Officers to identify vexatious complaints
- the point raised most frequently by respondents was that there is a need to ensure that local authorities have a clear and consistent process for identifying and addressing vexatious complaints

**11: Should local authorities be required to publish annually a list of allegations of code of conduct breaches, and any investigation outcomes?**

There were 2017 responses to this question.

Option	Total
Yes - the public should have full access to all allegations and investigation outcomes	46.6%
No - only cases in which a member is found guilty of wrongdoing should be published	49.8%

Option	Total
Not answered	3.6%

There were 663 narrative responses to this question:

- there was a wide range of comments for this question, ranging from the view that all code of conduct breach allegations and outcomes should be published, to none at all
- many people felt there should be some degree of balance – views expressed included publishing breach details only where the complaint is upheld, publishing the allegation whilst maintaining the anonymity of both parties, and publishing a periodic summary of cases rather than the full detail
- some respondents felt that exonerations should be published in cases where complaints are not upheld, and others felt that decisions relating to what is published should be determined on a case-by-case basis

## **12: Should investigations into the conduct of members who stand down before a decision continue to their conclusion, and the findings be published?**

There were 2055 responses to this question.

Option	Total
Yes	80.3%
No	8.2%
Unsure	9.7%
Not answered	1.8%

## **13: If responding as a local authority, what is the average number of complaints against elected members that you receive over a 12-month period?**

### **Number of complaints**

There were 705 responses to this part of the question. Responses ranged from 0 to 174 average complaints, with an average of 6.7 complaints over a 12-month period. 48% of respondents noted receiving between 1 and 10 complaints, whilst 14% said they received more than 10 complaints. 37% said they had received no complaints.

### **13a: For the above, where possible, please provide a breakdown for complaints made by officers, other elected members, the public, or any other source:**

352 respondents were able to accurately breakdown their average complaints over a 12-month period for complaints made by officers, other elected members, the public, or any other source. 55% of complaints came from the public. 12% were complaints from other members, 30% were complaints from officers.

### **14: If you currently work, or have worked, within a local authority, have you ever been the victim of (or witnessed) an instance of misconduct by an elected member and felt that you could not come forward?**

There were 1293 responses to this question.

<b>Option</b>	<b>Total</b>
<b>Yes</b>	29.3%
<b>No</b>	32.5%
<b>Not answered</b>	38.2%

There were 676 narrative responses to this question:

- the comments associated with this question pointed strongly towards a lack of faith in the current standards framework amongst respondents
- many indicated that they had witnessed or been subjected to bullying or harassment, but did not come forward because they feared reprisal, felt that the current sanctions available are not sufficient to make it

worthwhile, were concerned about the influence elected members have over officers, or feared it would harm their standing in the community

- some respondents also highlighted cultural barriers within their council that prevented them coming forward

## **15: If you are an elected member, have you ever been subject to a code of conduct complaint?**

There were 887 responses to this question.

Option	Total
Yes	10.5%
No	31.9%
Not answered	57.6%

## **If so, did you feel you received appropriate support to engage with the investigation?**

There were 377 narrative responses to this question:

- many respondents to this question restated their 'yes' or 'no' response
- of those who did expand upon this, several cited a lack of clarity in the investigative process. A lack of support for independent members without party or group support was also raised

## **16: If you did come forward as a victim or witness, what support did you receive, and from whom? Is there additional support you would have liked to receive?**

There were 630 narrative responses to this question:

- in responding to this question, many respondents took the opportunity to note that they felt they received no support when coming forward
- a significant proportion of respondents noted that they either did receive, or would have liked to receive, support from their local authority, whilst others referenced the importance of independent support during the



process, including in the form of impartial mediators or emotional support services

- others mentioned the importance of the Monitoring Officer in the process and their role in triaging complaints to filter out those which may be vexatious

## **17: In your view, what measures would help to ensure that people who are victims of, or witness, serious councillor misconduct feel comfortable coming forward and raising a complaint?**

There were 1326 narrative responses to this question:

- of particular note amongst the comments attached to this question is the number of respondents who emphasised the importance of giving complainants confidence that there are real consequences for misconduct to make coming forward worthwhile. Associated with this, many respondents noted that clear sanctions need to be in place to ensure appropriate action can be taken
- a number of respondents called for clearer process, and noted that investigations should be completed in a timely manner. Others talked about the importance of there being some element of independence to the process and that complainants should be given appropriate support including anonymity where appropriate

## **18: Do you think local authorities should be given the power to suspend elected members for serious code of conduct breaches?**

There were 2039 responses to this question.

Option	Total
Yes – authorities should be given the power to suspend members	86.4%
No – authorities should not be given the power to suspend members	6.6%

Option	Total
Unsure	4.5%
Not answered	2.5%

## **19: Do you think that it is appropriate for a standards committee to have the power to suspend members, or should this be the role of an independent body?**

There were 2023 responses to this question.

Option	Total
<b>Yes - the decision to suspend for serious code of conduct breaches should be for the standards committee</b>	60%
<b>No - a decision to suspend should be referred to an independent body</b>	27.4%
Unsure	9.3%
Not answered	3.3%

There were 650 narrative responses to this question:

- a significant number of respondents to this question emphasised the importance of impartiality and protections against political bias where the sanction of suspension is concerned, with some respondents suggesting that an independent body would provide this impartiality and protect against misuse
- others felt that a peer-led process for considering the sanction of suspension would be most appropriate, whilst others felt that decisions around suspension should be taken by full council
- whilst the prevailing theme was in relation to impartiality, some respondents did note concerns that vesting this process in an independent body may lead to delays in the process

**20: Where it is deemed that suspension is an appropriate response to a code of conduct breach, should local authorities be required to nominate an alternative point of contact for constituents during their absence?**

There were 2027 responses to this question.

Option	Total
Yes – councils should be required to ensure that constituents have an alternative point of contact during a councillor's suspension	59.4%
No – it should be for individual councils to determine their own arrangements for managing constituents' representation during a period of councillor suspension	31.2%
Unsure	6.3%
Not answered	3.1%

**21: If the government reintroduced the power of suspension do you think there should be a maximum length of suspension?**

There were 2010 responses to this question.

Option	Total
Yes – the government should set a maximum length of suspension of 6 months	51.4%
Yes – however the government should set a different maximum length (please specify)	15.5%
No – I do not think the government should set a maximum length of suspension	21.1%

Option	Total
Unsure	8.1%
Not answered	3.9%

**If you think the government should set a different maximum length, what should this be, in months?**

There were 371 responses to this part of the question. 51% of respondents were of the view that government should set a maximum of 6 months. 15% considered that the maximum period should be different and 21% did not think the government should prescribe the maximum period. Whilst there was a range of views, few thought it should be less than 6 months with the most popular alternative length of maximum suspension suggested as 12 months.

**22: If yes, how frequently do you consider councils would be likely to make use of the maximum length of suspension?**

There were 1841 responses to this question.

Option	Total
Infrequently – likely to be applied only to the most egregious code of conduct breaches	61.7%
Frequently – likely to be applied in most cases, with some exceptions for less serious breaches	11.6%
Almost always – likely to be the default length of suspension for code of conduct breaches	5.2%
Unsure	9.5%
Not answered	12%

**23: Should local authorities have the power to withhold allowances from suspended councillors in**

## **cases where they deem it appropriate?**

There were 2032 responses to this question.

<b>Option</b>	<b>Total</b>
<b>Yes – councils should have the option to withhold allowances from suspended councillors</b>	<b>86.5%</b>
<b>No – suspended councillors should continue to receive allowances</b>	<b>6%</b>
<b>Unsure</b>	<b>4.6%</b>
<b>Not answered</b>	<b>2.9%</b>

## **24: Do you think it should be put beyond doubt that local authorities have the power to ban suspended councillors from council premises and to withdraw the use of council facilities in cases where they deem it appropriate?**

There were 2030 responses to this question.

<b>Option</b>	<b>Total</b>
<b>Yes – premises and facilities bans are an important tool in tackling serious conduct issues</b>	<b>88.3%</b>
<b>No – suspended councillors should still be able to use council premises and facilities</b>	<b>4.8%</b>
<b>Unsure</b>	<b>3.9%</b>
<b>Not answered</b>	<b>3%</b>

## **25: Do you agree that the power to withhold members' allowances and to implement premises and facilities**

## **bans should also be standalone sanctions in their own right?**

There were 2029 responses to this question.

<b>Option</b>	<b>Total</b>
<b>Yes</b>	70%
<b>No</b>	13.4%
<b>Unsure</b>	13.6%
<b>Not Answered</b>	3%

## **26: Do you think the power to suspend councillors on an interim basis pending the outcome of an investigation would be an appropriate measure?**

There were 1990 responses to this question.

<b>Option</b>	<b>Total</b>
<b>Yes, powers to suspend on an interim basis would be necessary</b>	78.8%
<b>No, interim suspension would not be necessary</b>	16.3%
<b>Not answered</b>	4.9%

### **Do you think the power to suspend councillors on an interim basis pending the outcome of an investigation would be an appropriate measure? Comments.**

There were 589 narrative responses to this question:

- a large number of responses to this question focused on the need to ensure that whilst interim suspension receives broad support, it should only be used in exceptional circumstances
- many respondents emphasised that it should be tied to the severity of the case, further reinforcing the view that interim suspension should not be invoked lightly, whilst some spoke of the value of guidance to support

local authorities in understanding when interim suspension is or is not appropriate

- those respondents who do not favour the introduction of interim suspension noted the principle of assuming the accused is innocent until proven guilty

## **27: Do you agree that local authorities should have the power to impose premises and facilities bans on councillors who are suspended on an interim basis?**

There were 2007 responses to this question.

<b>Option</b>	<b>Total</b>
<b>Yes - the option to institute premises and facilities bans whilst serious misconduct cases are investigated is important</b>	<b>74.4%</b>
<b>No - members whose investigations are ongoing should retain access to council premises and facilities</b>	<b>16.8%</b>
<b>Unsure</b>	<b>4.7%</b>
<b>Not answered</b>	<b>4.1%</b>

## **28: Do you think councils should be able to impose an interim suspension for any period of time they deem fit?**

There were 1979 responses to this question.

<b>Option</b>	<b>Total</b>
<b>Yes</b>	<b>43.5%</b>
<b>No</b>	<b>51.1%</b>
<b>Not answered</b>	<b>5.4%</b>

There were 632 narrative responses to this question:

- the most prevalent views expressed by respondents to this question focused on the need for appropriate safeguards
- many respondents noted that interim suspension should include clearly defined time limits, and that there should be a focus on quick resolutions to investigations to avoid protracted periods of interim suspension
- others noted the need for regular review points and reiterated the need for clear guidance. Those who are less keen on the introduction of interim suspension cited concerns that it could be used as a sanction in and of itself

## **29: Do you agree that an interim suspension should initially be for up to a maximum of 3 months, and then subject to review?**

There were 1965 responses to this question.

Option	Total
Yes	72.5%
No	21.4%
Not answered	6.1%

There were 350 narrative responses to this the question:

- respondents to this question again noted the importance of quick resolution to investigations to avoid protracted interim suspension periods, and reiterated that it is a measure which should only be used in exceptional circumstances
- some respondents expressed the view that there should be no extension to a period of interim suspension beyond the initial time allocated, whilst others believe that any interim suspension should never exceed the maximum length of full suspension

## **30: If following a 3-month review of an interim suspension, a standards committee decided to extend,**



## **do you think there should be safeguards to ensure a period of interim extension is not allowed to run on unchecked?**

There were 1980 responses to this question.

<b>Option</b>	<b>Total</b>
<b>Yes – there should be safeguards</b>	<b>71.8%</b>
<b>No – councils will know the details of individual cases and should be trusted to act responsibly</b>	<b>22.8%</b>
<b>Not answered</b>	<b>5.4%</b>

## **30a: If you answered yes to above question, what safeguards do you think might be needed to ensure that unlimited suspension is not misused?**

There were 1099 narrative responses to this question:

- many of the comments under this question reiterated the view that there should be time limits attached to interim suspension, alongside regular review points
- respondents also restated the view that any power of interim suspension should be accompanied by guidance, and that there should be an element of independence built into the process for deciding if interim suspension is appropriate in any given case

## **31: Do you think councillors should be disqualified if subject to suspension more than once?**

There were 1956 responses to this question.

<b>Option</b>	<b>Total</b>
<b>Yes – twice within a 5-year period should result in disqualification for 5 years</b>	<b>59.6%</b>

Option	Total
<b>Yes – but for a different length of time and/or within a different timeframe (please specify)</b>	14.7%
<b>No - the power to suspend members whenever they breach codes of conduct is sufficient</b>	19.2%
<b>Not answered</b>	6.5%

**If you think councillors should be disqualified if subject to suspension more than once over a period different to 5 years, what should this be, in years?**

There were 303 responses to this part of the question. The most common alternative the proposed 5 years was 3 years (24.7%), closely followed by 4 years (23.7%). A smaller number of respondents (17.5%) considered that disqualification should apply for more than one suspension over a period of 1 or 2 years, whilst some proposed 10 years (10.5%). 10.2% of respondents felt disqualification should be for more than one suspension over a period of greater than 10 years.

**If you think the government should set a different disqualification period, what should this be, in years?**

There were 203 responses to this part of the question. The most common alternative to the proposed 5 years' length of disqualification was 4 years (23.1%), followed by 3 years (14.8%). A smaller number of respondents (8.8%) considered that a disqualification period of 1 or 2 years was more appropriate, whilst 18.7% felt that a more punitive disqualification period of 10 years should be imposed. 16.2% of respondents felt disqualification should be for a period of greater than 10 years.

**Do you think councillors should be disqualified if subject to suspension more than once? Comments**

There were 485 narrative responses to this question:

- as with interim suspension, a significant proportion of those who left comments indicated that they believe disqualification should only be used in exceptional circumstances
- whilst there was support for disqualification for multiple breaches of the code of conduct which result in suspension, a number of respondents suggested that disqualification should be reserved for two or more lengthy periods of suspension to avoid situations in which a member is disqualified too readily
- in terms of the period of time for which the disqualification should apply, amongst the minority who do not support disqualification for a 5-year

period, a number of respondents suggested that there should instead be alignment with the member's term of office

- some comments suggest more consideration is needed before broadening the existing disqualification criteria, whilst some respondents expressed the view that only the public should decide who represents them

### **32: Is there a case for immediate disqualification for gross misconduct, for example in instances of theft or physical violence impacting the safety of other members and/or officers, provided there has been an investigation of the incident and the member has had a chance to respond before a decision is made?**

There were 2018 responses to this question.

Option	Total
Yes	82.1%
No	7.9%
Unsure	6.5%
Not answered	3.5%

There were 476 narrative responses to this question:

- many of the responses to this question reiterated the view that disqualification should only be used in exceptional circumstances, and that there should be appropriate safeguards in place to protect against misuse
- respondents who are unsupportive of disqualification raised a range of views, including the suggestion that serious misconduct should be dealt with via the criminal justice system, that it would be imperative for guilt to be proven, and that suspension may be more appropriate
- a number of respondents were supportive of disqualification for gross misconduct on the basis that there should be parity with what would happen in an employment setting

### 33: Should members have the right to appeal a decision to suspend them?

There were 2020 responses to this question.

Option	Total
Yes - it is right that any member issued with a sanction of suspension can appeal the decision	86.1%
No – a council's decision following consideration of an investigation should be final	8.2%
Unsure	2.3%
Not answered	3.4%

### 34: Should suspended members have to make their appeal within a set timeframe?

There were 1922 responses to this question.

Option	Total
Yes – within 5 days of the decision is appropriate to ensure an efficient process	53.2%
Yes – but within a different length of time (please specify)	35.6%
No – there should be no time limit for appealing a decision	3.1%
Not answered	8.1%

#### If you think the government should set a different appeals timeframe, what should this be, in days?

There were 738 responses to this question. Views ranged between 7 working days to 100, with the most popular alternative to the proposed 5 working days being 10 or 14.

**35: Do you consider that a complainant should have a right of appeal when a decision is taken not to investigate their complaint?**

There were 2014 responses to this question.

Option	Total
Yes	52.9%
No	30.1%
Unsure	13.3%
Not answered	3.7%

**36: Do you consider that a complainant should have a right of appeal when an allegation of misconduct is not upheld?**

There were 2016 responses to this question.

Option	Total
Yes	46.2%
No	35.2%
Unsure	14.9%
Not answered	3.7%

**37: If you answered yes to either of the previous two questions, please use the free text box below to share**

## **views on what you think is the most suitable route of appeal for either or both situations.**

There were 755 narrative responses to this question:

- respondents to this question were keen to emphasise the importance of ensuring that there is an independent element to any appeals process, with a number suggesting that the appeals process should sit with an independent body, whether national or regional
- other views included the suggestion that appeals should be limited to specific cases, that the number of appeals that can be made in relation to a given decision, and that there should be no appeal for complaints that are deemed to be vexatious
- conversely, some respondents suggested that appeals should be heard in-house, either by the standards committee or full council, with a small number arguing that judicial review represents the most appropriate appeals route

## **38: Do you think there is a need for an external national body to hear appeals?**

There were 1977 responses to this question.

<b>Option</b>	<b>Total</b>
<b>Yes – an external appeals body would help to uphold impartiality</b>	69.1%
<b>No – appeals cases should be heard by an internal panel</b>	25.4%
<b>Not answered</b>	5.5%

There were 481 narrative responses to this question:

- broadly in keeping with the quantitative responses, a large number of those who left a comment for this question were supportive of a national appeals body
- the reasons for this included the fact that it would bring greater impartiality to the process, as well as fairness and consistency of decision-making
- some respondents suggested that an external appeals process is important but only for significant sanctions such as suspension

- of those respondents who are opposed to the creation of a national body, a common rationale was that it would be overly expensive and bureaucratic
- some respondents suggested that appeals should be peer-led, or overseen by the principal authority

### **39: If you think there is a need for an external national appeals body, do you think it should:**

There were 1548 responses to this question.

Option	Total
Be limited to hearing elected member appeals	16.6%
Be limited to hearing claimant appeals	1.3%
Both of the above should be in scope	56.1%
Not answered	26%

There were 480 narrative responses to this question:

- again, comments were largely consistent with the qualitative responses in advocating for both complainants and those subject to a complaint to be able to avail themselves of the appeals process, largely on the grounds of fairness
- of those who commented, a notable minority felt the appeals process should be limited only to members subject to a complaint or sanction, with no recourse to appeal for complainants

### **40: In your view, would the proposed reforms to the local government standards and conduct framework particularly benefit or disadvantage individuals with protected characteristics, for example those with disabilities or caring responsibilities?**

There were 1978 responses to this question.

Option	Total
It would benefit individuals with protected characteristics	32%
It would disadvantage individuals with protected characteristics	3.2%
Neither	59.4%
Not answered	5.4%

There were 399 narrative responses to this question:

- most of those who commented indicated that they felt the measures would either be beneficial to those with protected characteristics, or neutral.
- some respondents used this comment field to stress the importance of PSED considerations

- 
1. An Independent Person is a person who is not a member, co-opted member, or officer of the authority, and who has not held such a position within the previous 5 years. They are appointed under Section 28 of the Localism Act 2011 to support the authority with code of conduct complaints and standards issues. Essentially, they are a neutral party brought in to help ensure fairness and impartiality in handling matters of standards and conduct within the council.





# AUDIT AND GOVERNANCE COMMITTEE

9 DECEMBER 2025



**Subject:** VETERANS' HEALTH INVESTIGATION

**Report of:** Statutory Scrutiny Manager

## 1. COUNCIL PLAN PRIORITY

Hartlepool will be a place\*:

where people will be safe and protected from harm.

with a Council that is ambitious, fit for purpose and reflects the diversity of its community.

## 2. PURPOSE OF REPORT

- 2.1 To progress the next stage of the Committee's investigation into how veterans are supported by GP's and signposted to health and wellbeing services.

## 3. BACKGROUND INFORMATION

- 3.1 The Audit and Governance Committee at its meeting on the 23rd September 2025 concluded the process for identification of its 2025/26 work programme and agreed:

- That an investigation into how veterans are supported by GP's and signposted to health and wellbeing services would be undertaken.

- 3.2 The Committee, at its meeting on the 4<sup>th</sup> November 2025, discussed the aim, terms of reference and timetable for the investigation, as set out in **appendix A**.

- 3.3 The process for consultation and engagement with GP Practices and veterans in the town was agreed by the Committee (detailed below). The aim of the consultation and engagement exercises was to gather direct feedback about the experiences of GP Practices and the veterans they care for.

**Veterans** - via an online survey (to be concluded by December 2025).

**GP Practices and their staff** - via an online survey (to be undertaken between Nov 2025 – Dec 2025).

#### 4. PRESENTATION OF EVIDENCE

- 4.1 As part of the committee's second evidence gathering session, input / views have been sought from:
- The Armed Forces Lead for the NENC ICB who will be present at the meeting to provide an overview of the work that is ongoing in the North East of the region.
  - The Member of Parliament for Hartlepool.
  - Armed Forces Champion and the Armed Forces Veterans Champion.
- 4.2 An update will be provided to the Committee regarding responses to the survey for veterans that is currently in circulation, **see appendix B**.

#### 5. RECOMMENDATION

- 5.1 That the Committee receive the information provided, as part of the second stage of the investigation.
- 5.2 That the Committee note the revised aim of the investigation as per the discussion from the meeting on the 4<sup>th</sup> November 2025 and note the revised timetable.

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#### BACKGROUND PAPERS

The following background paper(s) was/were used in the preparation of this report:-

- Report and minutes of the A&G meeting held on the 23rd September 2025 and 4<sup>th</sup> November 2025.

The above items can be viewed at [Agendas, reports and minutes | Hartlepool Borough Council](#)

**Appendix A**

The **aim** of the investigation would be to ‘explore how veterans are supported by GP’s and signposted to health and wellbeing services’.

The **Terms of Reference** for the investigation would be:-

- i) To gain an overarching understanding of:
  - the requirements of the Armed Forces Covenant in relation to access to services, including health related services.
  - what veteran specific health services are available and how veterans are signposted to these services.
  - the views and experiences of veterans in the accessing of healthcare provision, and signposting to support, via GP’s.
  - why it may be challenging for veterans to access healthcare services.
  - the availability of local veteran health data, including levels of GP registration. How is it collected / managed / used in the development and delivery of health services? How does Hartlepool data compare to neighbouring local authorities.
  - the impact of the extension of the Covenant Duty and what, if any, challenges there could be in terms of the provision of health services for Hartlepool’s serving forces / veteran community (health partners and Local Authority health services).
- ii) To examine the Veteran Friendly GP accreditation scheme (VFAS) as a scheme to support veteran access to health care and its effectiveness for residents of Hartlepool. In particular:
  - what are the overall aims / requirements / benefits of the VFAS scheme and how is its implementation monitored?
  - what is the level of accreditation in Hartlepool, how is it implemented by Hartlepool GP Practices?
  - how effective is the operation of the scheme in Hartlepool from a veteran and GP perspective? How could it be improved?
  - how are GP’s supported to fulfil the requirements of their accreditation and what challenges do they face in delivery of the scheme? What funding packages / support are available.
  - How are veterans supported to access health services by GP practices in Hartlepool.
- iii) Consider examples of best practice in the provision of healthcare for veterans and identify how veterans and GP practices can be supported to improve access to this.

## INVESTIGATION TIMELINE

The proposed **timeline** for the investigation is as follows:-

<b>4<sup>th</sup> November 2025</b>	<ul style="list-style-type: none"> <li>– To receive evidence from the NENC ICB regarding veteran access to health care services.</li> <li>– To understand the barriers and challenges veterans may face when accessing health care services.</li> <li>- To be provided with an overview of the Veteran Friendly GP Accreditation scheme.</li> </ul>
<b>November / December 2025 / January 2026</b>	Engagement: <ul style="list-style-type: none"> <li>- GP Survey</li> <li>- Focused veterans survey</li> </ul>
<b>A&amp;G meeting December 2025</b>	<ul style="list-style-type: none"> <li>- Feed in views and experiences of veterans in accessing healthcare provision.</li> <li>- Seek the views / input of the Armed Forces Veteran Champion and the MP for Hartlepool.</li> <li>- To inform how data is gathered regarding patients that are registered as veterans.</li> <li>- To inform of veteran specific support services.</li> </ul>
<b>Working Group (date tbc)</b>	Working Group with partners to discuss the issue, veterans and their experiences and what could / should be done to respond to it.
<b>A&amp;G meeting 27<sup>th</sup> January 2026</b>	<ul style="list-style-type: none"> <li>- Present engagement findings (GP Survey)</li> </ul> Explore what can be done to support – <ul style="list-style-type: none"> <li>- veterans to access healthcare services (Communication, etc).</li> <li>- GP's in the delivery of the Veteran Friendly Accreditation Scheme (e.g. funding, training etc)</li> </ul>
<b>A&amp;G meeting 17<sup>th</sup> March 2026</b>	<ul style="list-style-type: none"> <li>- Approval of Final report by the Audit and Governance Committee</li> </ul>

## Consultation and engagement update – Veterans' Survey

### Consultation Overview

At its meeting on the 4<sup>th</sup> November 2025, the Committee agreed that a survey, seeking the views of veterans in relation to their experiences of accessing GP services, be recirculated to allow for more responses to be submitted. This survey builds on the work that was previously undertaken by the Armed Forces Champion into this matter. The survey remains open and will close on the 31<sup>st</sup> December 2025.

Members are asked to note that the number of survey responses has been low. Whilst there has been an increase in responses since the relaunch of the survey, to date 31 have been received. Therefore, the statistical significance of the data must be taken into consideration. To note questions were not mandatory and not every participant answered all questions.

The information below is designed to provide Members with a brief overview of the responses received to date, with a full summary to be provided at a future meeting once the survey closes.

On 24 November 2025, a GP Practice survey was distributed to all GP Practices in Hartlepool to gather feedback on their experiences in supporting veterans and their families. The results of this survey will be presented to the committee in January 2026.

### Survey Findings

#### 1. Demographic

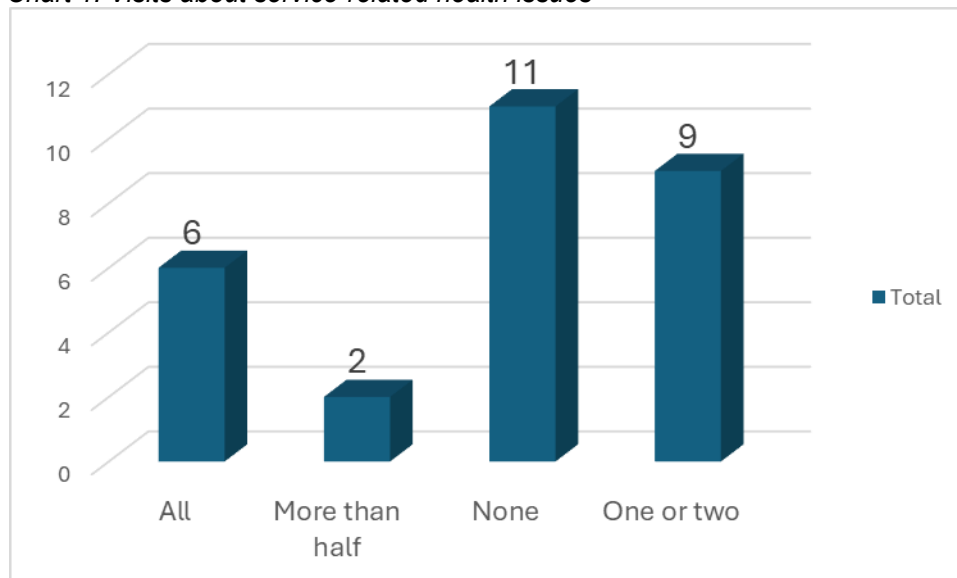
A series of questions were asked to determine the demographics of each participant, it was noted that all participants were veterans, and all were registered with a GP practice in Hartlepool.

#### 2. Service-related health conditions and support

Participants were asked '*in the last 12 months how many visits to your GP were about service-related issues?*'. **Chart 1** shows that, of those that responded, 17 participants had visited their GP in the last 12 months for a service-related health condition.

The survey proceeded to ask '*Have you ever been offered any veteran or armed forces specific help or support by your GP?*' 26 participants said they had not, 4 indicated they were not sure and 1 answered yes.

Chart 1. Visits about service-related health issues



### 3. Veteran awareness

Participants were asked ‘Have you ever been asked by your GP Practice if you are a veteran or a member of the Armed Forces?’ All 31 participants answered that they have never been asked this question.

Referring to the Veteran Friendly GP Accreditation scheme, results (displayed in **table 1**) showed that 8 participants knew that their GP Practice had this accreditation, 17 were not sure and 6 did not know what this meant.

Table.1 Veteran Friendly GP Practices

<i>Do you know if your GP Practice is veteran friendly accredited?</i>	<i>No. of responses</i>
Yes, it is accredited	8
Not sure	17
I don't know what this means	6

When asked if they thought that this accreditation had helped them, 4 indicated that they felt that it had, 13 did not feel it helped and 13 were not sure.

### 4. Veteran feedback on GP Practices and health consultations

Participants were asked to rate their experiences of visiting their GP Practice for consultations on general health and service-related issues in the last 12 months (results detailed in **chart 2** and **chart 3**).

*Continued over page...*

Chart. 2 Consultations about general health

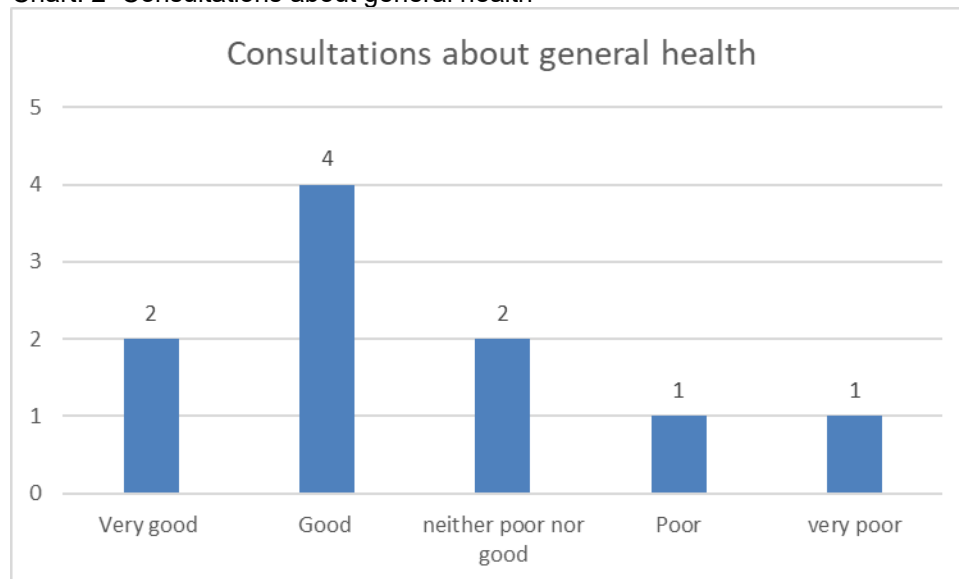
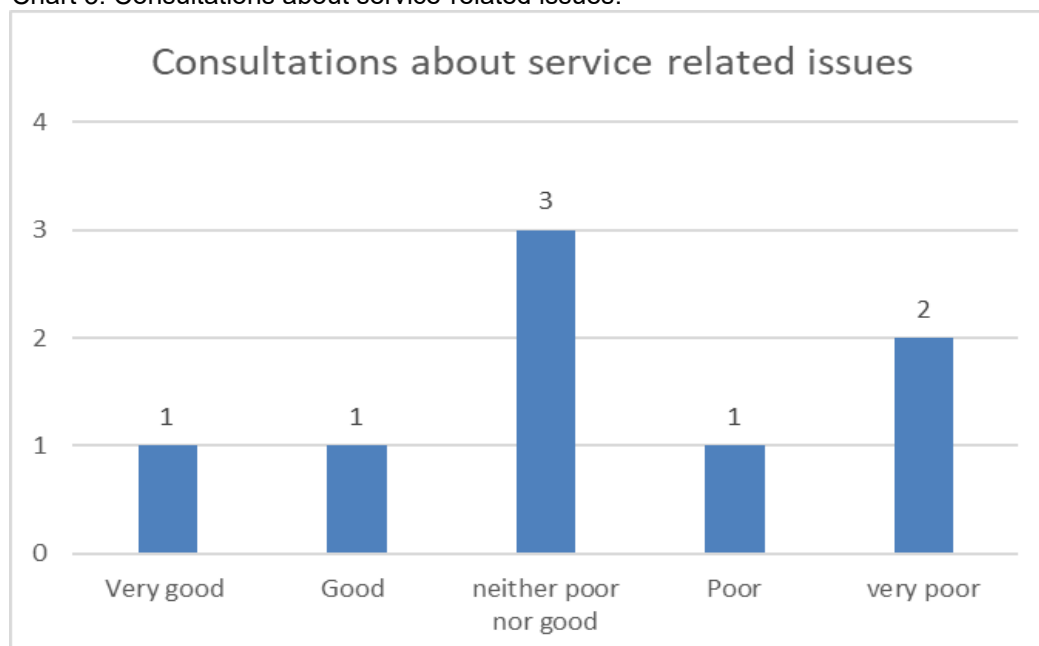


Chart 3. Consultations about service-related issues.



The survey then explored if participants had any further comments on their GP Practice, with 14 responding to this question. 7 indicated they wanted better access to GP services including an easier way to book appointments and shorter waiting times to see a health clinician. 5 people commented they wanted their GP Practice to be more veteran aware.

### 5. Making it easier to access support

A question was posed asking what would make accessing services for your physical and mental health easier, with 21 responses to this question: -

- 3 participants indicated they wanted their practice to be more caring
- 4 wanted the practice to be more veteran aware
- 11 commented they wanted improved access to GP services.

The majority of comments related to difficulties in accessing appointments and lack of veteran awareness.



# AUDIT AND GOVERNANCE COMMITTEE

9 December 2025



**Report of:** Director of Legal, Governance and Human Resources

**Subject:** REGULATION OF INVESTIGATORY POWERS ACT  
2000 (RIPA) ANNUAL REPORT

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## 1. PURPOSE OF REPORT

- 1.1 To provide elected members with an annual report on activities relating to surveillance by Hartlepool Borough Council and policies under the Regulation of Investigatory Powers Act 2000 (RIPA).

## 2. BACKGROUND

- 2.1 The Council has powers under RIPA to lawfully carry out surveillance activities and will, on occasion, but rarely, need to use surveillance in order to carry out its functions effectively. Examples of where authorisations could be sought are serious criminal damage, dangerous waste dumping, trading standards investigations and serious or serial benefit fraud. The surveillance must also be necessary and proportionate.

- 2.2 Any RIPA surveillance which the Council wishes to authorise must be approved by an authorising officer. The Council can only use covert surveillance when:

- it is for the prevention or detection of crime
- the offence under investigation could lead to a prison sentence of 6 months or more

Since the Protection of Freedoms Act 2012, the Council must also get approval from a magistrate before using any form of covert surveillance.

- 2.3. A confidential database of authorised surveillances is maintained, charting relevant details, reviews and cancellations.
- 2.4. The Investigatory Powers Commissioner's Office oversees the Council's exercise of surveillance powers under RIPA.

- 2.5 This report is submitted to members as a result of the requirement to report to Members under paragraph 4.47 of the Home Office Code of Practice for Covert Surveillance and Property Interference Revised (August 2018) which states that:

*Elected members of a local authority should review the authority's use of the 1997 Act and the 2000 Act and set the policy at least once a year. They should also consider internal reports on use of the 1997 Act and the 2000 Act 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.*

### 3. RIPA AUTHORISATIONS

- 3.1 In the period 2024/2025 :-

Communications Data	0
CHIS	0
Directed Surveillance	4
Non-RIPA	0
External	0

- 3.2 The authorisations contributed to the detection of illegal trading standards activities.

### 4. ACTIVITY IN THE CURRENT YEAR

- 4.1 The RIPA policy and procedures continue to be reviewed in the light of any changes in the law and guidance received including recent correspondence from the Investigatory Powers Commissioner's Office. There have been no changes made this year to the policy.
- 4.2. Arrangements are being made for Officer RIPA Training and Awareness which will take place in the early part of 2026.
- 4.3 Information continues to be made available on the RIPA pages of the Council's intranet and internet.

### 5. RECOMMENDATIONS

- 5.1 To note the Annual Report on the use of powers under the Regulation of Investigatory Powers Act 2000 and approve the RIPA policy at **appendix 1**.

### 6. REASONS FOR RECOMMENDATIONS

- 6.1 To comply with the law and guidance on RIPA.

- 6.2 Members of the Audit and Governance Committee are responsible for approving the RIPA Policy on an annual basis as referred to in Section 3 of the Policy.

**7. CONTACT OFFICER**

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01429 523003

**8. BACKGROUND PAPERS**

Home Office Code of Practice  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/742041/201800802\\_CSPI\\_code.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/742041/201800802_CSPI_code.pdf)



**POLICY AND PROCEDURE**

**ON THE USE OF COVERT SURVEILLANCE AND  
ACQUISITION OF COMMUNICATION DATA**

**REGULATION OF INVESTIGATORY POWERS ACT 2000  
AND INVESTIGATIVE POWERS ACT 2016**

Title	Regulation of Investigatory Powers Act 2000
Owner	Director of Legal Governance and HR
Version	5
Issue date	September 2025
Approved by	Director of Legal Governance and HR
Next Revision Due	September 2026

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2. Background
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9. Applying for Judicial Approval
10. Acquisition and Disclosure of Communications Data
11. Authorisation for Acquisition of Communications Data
12. Working with other Agencies
13. Records Management

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| Appendix 1 | Judicial Approval Procedure  |
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| Appendix 3 | Non-RIPA Form  |

## 1. **INTRODUCTION**

1.1 This document sets out the policy and procedures adopted by Hartlepool Borough Council (“the Council”) in relation to the use of Covert Surveillance Regulation of Investigatory Powers Act 2000 (“RIPA”) and Investigative Powers Act 2016 (IPA). Covert Surveillance includes monitoring, observing or listening to persons, their movements, conversations or other activities and communications and it is carried out in a manner calculated to ensure that any persons who are subject to the surveillance are unaware that it is or may be taking place. The documents also included the Council’s policy on the acquisition of communication data which includes service use information (such as the type of communication, the time of the communication or its duration, but not its content) and subscriber information (such as billing information).

1.2 For the purpose of this update, references to the Home Office Codes of Practice relate to:

- [Home Office Covert Human Intelligence Sources Code of Practice \(2018\)](#)
- [Home Office Covert Surveillance and Property Interference Revised Code of Practice \(2018\)](#)
- [Home Office Communications Data Code of Practice \(2018\)](#)

1.3 The following terms are used throughout this Policy:

RIPA	Regulation of Investigatory Powers Act 2000
IPA	Investigative Powers Act 2016
CHIS	Covert Human Intelligence Source
SPoC	Single Point of Contact
SRO	Senior Responsible Officer
IPCO	Investigatory Powers Commissioners Office
NAFN	National Anti-Fraud Network
CSP	Communications Service Provider

1.4 It should be noted that any use of activities under RIPA or IPA will be as a last resort and council policy is not to undertake such activities unless absolutely necessary and proportionate to the matter being investigated.

1.5 Directed surveillance, use of a Covert Human Intelligence Source (CHIS) or acquisition of communications data by or on behalf of the Council must be

carried out in accordance with this Policy. Any such activity must be authorised by one of the Authorising Officers identified in Appendices 1 and 2. All directed surveillance or CHIS authorisations must then be approved by a Magistrate before any covert activity takes place. Staff directly employed by the Council and any external agencies working for the Council are subject to RIPA whilst they are working in a relevant investigatory capacity.

- 1.6 The purpose of the Policy is to ensure the Council is acting lawfully while undertaking its various enforcement functions, ensuring directed surveillance, the use of a CHIS or acquisition of communication data is both necessary and proportionate, and takes into account the rights of individuals under Article 8 of the Human Rights Act,.

## **2. BACKGROUND**

- 2.1 RIPA came into force on 25 September 2000 and was enacted in order to regulate the use of a range of investigative powers by a variety of public authorities. It gives a statutory framework for the authorisation and conduct of certain types of covert surveillance operations. The aim of the legislation is to provide a balance between preserving people's right to privacy and enabling enforcement agencies to gather evidence for effective enforcement action.
- 2.2 It is consistent with the Human Rights Act 1998 and creates a system of safeguards, reflecting the requirements of Article 8 of the European Convention on Human Rights (right to respect for a person's private and family life, home and correspondence). Compliance with RIPA means that any conduct authorised under it is "lawful for all purposes". This important protection derives from Section 27(1) of RIPA, which gives the authorised person an entitlement to engage in the conduct which has been authorised. Compliance with RIPA will assist the Council in any challenges to the way in which evidence has been gathered and will enable the Council to demonstrate that it has acted lawfully.
- 2.3 The single ground for a Council's application for a surveillance authorisation is 'Preventing or detecting crime or disorder'. Since the making of the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2012, the Council can only grant an authorisation for the use of directed surveillance where the offence being investigated attracts a custodial sentence of six months or more or when investigating a criminal offence relating to the underage sale of alcohol or tobacco.
- 2.4 Part 3 of the Investigatory Powers Act 2016 ('IPA) permits certain public bodies to acquire specified types of communications data in limited

circumstances, subject to prior authorisation granted in accordance with the IPA. Part 3 applies principally to the police and central government departments and agencies, including defence, security and intelligence bodies. The power it grants to local authorities is less extensive, limiting the acquisition of data to cases involving the prevention or detection of serious crime.

- 2.5 The communications data which, in defined circumstances, local authorities are permitted to obtain under the Act is known as 'entity data' and 'events data'. In brief, data of this nature can identify who a suspected offender has been in communication with via their telephone or e-mail, as well as where that communication was made or received.
- 2.6 This policy addresses solely issues having relevance to the activities of Hartlepool Borough Council.
- 2.7 Compliance with RIPA makes authorised surveillance "lawful for all purposes" pursuant to Section 27(1) of the Act. Compliance with RIPA will protect the Council from challenges to both the gathering of, and the subsequent use of, covertly obtained information. Non-compliance with RIPA legislation may result in:
- (a) evidence being found inadmissible by the Courts;
  - (b) a complaint of maladministration to the Ombudsman; or
  - (c) A complaint to the Investigatory Powers Tribunal who can order compensation be paid to the individual.
- 2.8 It is therefore essential that the Council's policies and procedures, as set out in this document, are followed.

### **3. ROLES AND RESPONSIBILITIES**

#### **3.1 Senior Responsible Officer (SRO):**

3.1.1 The role of SRO will be undertaken by the Council's Director of Legal Governance and HR

3.1.2 In accordance with good practice the SRO will be responsible for:

- The integrity of the process in place within the Council for the management of CHIS and Directed Surveillance;
- Compliance with Part 2 of the Act and with the Home Office Codes of Practice;
- Oversight of the reporting of errors to the relevant Commissioner



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

- Engagement with the Investigatory Powers Commissioner's Office (IPCO) when they conduct their inspections, where applicable; and
- Where necessary, oversight of the implementation of post-inspection action plans approved by the relevant oversight Commissioner.
- Produce a report to the Council's Audit and Governance Committee on the Council's use of RIPA

### 3.2 Authorising Officers

3.2.1 For RIPA Applications (Directed Surveillance & use of a CHIS) the Authorising Officers is an officer of the Council, who can authorise applications, for onward consideration by a Magistrate. Each Authorising Officer may authorise renewals and cancellations, and undertake reviews, in relation to any investigation carried out, or proposed to be carried out, by Officers. Authorising Officers may not sub-delegate their powers in relation to RIPA to other Officers.

3.2.2 The Officer who authorises a RIPA application should also carry out the review, renewal and cancellation. If the original Authorising Officer is not available to undertake the review, renewal or cancellation, this can be undertaken by any other Authorising Officer.

3.2.3 For the purpose for standard authorisations (where it is not likely that confidential information will be acquired)

- Head of Paid Service
- Executive Director of Development, Neighbourhoods and Regulatory Services
- Senior Responsible Officer (in the absence of the above)

3.2.4 For authorisations where it is likely that confidential information will be acquired or where using a CHIS who is a juvenile (under 18, JCHIS) or a vulnerable individual

- Head of Paid Service
- Senior Responsible Officer (exceptional circumstances)

3.2.5 In relation to communications data the authorising individual is Office for communications Data Authorisations ('OCDA') who act on behalf of the Investigatory Powers Commissioner.

### 3.3 RIPA Co-ordinator:

3.3.1 The Legal Officer (Information & Litigation) appointed RIPA Co-ordinator.

3.3.2 The RIPA Co-ordinator shall:-

- have overall responsibility for the management and oversight of requests and authorisations under RIPA;
- issue a unique reference number to each authorisation requested under RIPA (this must be before the application has been authorised);
- retain a copy of the application and authorisation together with any supplementary documentation and notification of the approval given by the Authorising Officer, maintain a central RIPA records file matrix entering the required information as soon as the forms/documents are received in accordance with the relevant Home Office Code of Practice;
- review and monitor all forms and documents received to ensure compliance with the relevant law and guidance and this policy and procedures document and informing the Authorising Officer of any concerns;
- chase failures to submit documents and/or carry out reviews/ cancellations;
- be responsible for organising a corporate RIPA and IPA training programme;
- ensure corporate awareness of RIPA and IPA; its value as a protection to the Council is maintained;

#### 3.4 Elected Members:

3.4.1 Members of the Council's Audit and Governance Committee will approve the RIPA policy on an annual basis.

3.4.2 Members of the Council's Audit and Governance Committee will receive the following information on a quarterly basis:

Information to be provided	Frequency
The number of RIPA authorisations requested and granted	Quarterly report Annual Report
The number of joint operations where RIPA authorisation has been sought and granted by another authority	Quarterly Report Annual report

Review of the effectiveness of this policy and any recommendation for changes to be made	Annual Report – with any significant Amendments referred to Council for approval.
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- 3.4.3 Elected Members will have no involvement in making decisions as to whether authorisations are approved.

#### **4. LOCAL AUTHORITY USE OF RIPA AND THE IPA**

- 4.1 RIPA sets out a regulatory framework for the use of covert investigatory techniques by public authorities. RIPA does not provide any powers to carry out covert activities. If such activities are conducted by Council Officers, then RIPA regulates them in a manner that is compatible with the European Convention on Human Rights (ECHR), particularly Article 8, the right to respect for private and family life.
- 4.2 RIPA limits local authorities to using three covert techniques, as set out below:
- a) Directed surveillance is essentially covert surveillance in places other than residential premises or private vehicles
  - b) A Covert Human Intelligence Source (CHIS) includes undercover Officers, public informants and people who make test purchases (for enforcement purposes)
- 4.3 Under RIPA a local authority can only authorise the acquisition of the less intrusive types of communications data: service use and subscriber information. Under no circumstances can local authorities be authorised to obtain traffic data under RIPA.
- 4.4 Directed surveillance may only be authorised under RIPA for the purpose of preventing or detecting criminal offences that are either punishable, whether on summary conviction or indictment, by a maximum term of at least 6 months' imprisonment or are related to the underage sale of alcohol and tobacco.
- 4.5 Local authorities cannot authorise directed surveillance for the purpose of preventing disorder unless this involves a criminal offence(s) punishable (whether on summary conviction or indictment) by a maximum term of at least 6 months' imprisonment. Requests for authorisation must still demonstrate how the activity is both proportionate and necessary.
- 4.6 A local authority may not authorise the use of directed surveillance under RIPA to investigate disorder that does not involve criminal offences or to investigate low-level offences which may include, for example, littering, dog control and flyposting.

- 4.7 Examples of cases where the offence being investigated attracts a maximum custodial sentence of six months or more include more serious criminal damage and dangerous waste dumping
- 4.8 Directed surveillance will always be a last resort in an investigation, and use of a CHIS by the Council is unlikely. These activities will only be undertaken where there is no other reasonable and less intrusive means of obtaining the information.
- 4.9 In cases of joint working with other agencies, for example the Department for Work and Pensions or the Police, only one authorisation from one organisation is required. This should be made by the lead authority for the particular investigation. Council Officers should satisfy themselves that authorisation has been obtained and be clear exactly what activity has been authorised. All cases of overt or covert surveillance undertaken in joint working with other authorities or organisations will be reported to the Audit and Governance Committee in accordance with paragraph 3.6.2 above
- 4.10 The IPA allows the Council to gain authorisation for access to communication data, including 'entity data' and 'events data' and includes the 'who', 'when', 'where', and 'how' of a communication but not the content i.e. what was said or written. This Authorisation must be granted by the Investigative Powers Commissioner.
- 4.11 A Single Point of Contact (SPoC) is required to undertake the practical facilitation with the communications service provider (CSP) in order to obtain the data requested. The SPoC must have received training specifically to facilitate lawful acquisition of communications data and effective co-operation between the local authority and CSP.
- 4.12 The National Anti-Fraud Network (NAFN) provides a SPoC service to local authorities. Compliance with the provisions of RIPA, the Home Office Codes of Practice and this policy and procedures should protect the Council, its Officers and agencies working on its behalf against legal challenge. Section 27 of RIPA states that "conduct...shall be lawful for all purposes if an authorisation...confers an entitlement to engage in that conduct on the person whose conduct it is and his conduct is in accordance with the authorisation". If correct procedures are not followed, the Council could be rendered liable to claims and the use of the information obtained may be disallowed in any subsequent legal proceedings.

## **5. TYPES OF SURVEILLANCE**

- 5.1 Officers should be aware of the scope and extent of activities covered by the provisions of RIPA and the IPA. In many cases investigations carried out by

Council Officers will not be subject to RIPA or the IPA, as they involve overt rather than covert surveillance (see below). An explanation of terms used is set out below:

## 5.2 'Surveillance' includes

- monitoring, observing, listening to persons, watching or following their movements, listening to their conversations and other such activities or communications;
- recording anything mentioned above in the course of authorised surveillance;
- Surveillance by, or with the assistance of, appropriate surveillance

device(s). Surveillance can be overt or covert.

### 5.2.1 Covert Surveillance

- Covert surveillance is surveillance carried out in a manner calculated to ensure that the person subject to the surveillance is unaware that it is, or may be taking place.
- RIPA requires the authorisation of two types of covert surveillance (directed surveillance and intrusive surveillance) plus the use of covert human intelligence sources (CHIS) or acquisition of communications data.

## 5.3 Directed Surveillance

### 5.3.1 Surveillance is directed surveillance if the following are all true:

- it is covert, but not intrusive surveillance ;
- it is conducted for the purposes of a specific investigation or operation;
- it 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);
- it 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 under Part II of the 2000 Act to be sought.

### 5.3.2 Such forms of surveillance involve observing an individual or group of people whether through unaided observation or listening or through the use of technical devices and when information regarding their private or family lives is likely to be obtained.

*Example: Two people holding a conversation on the street or in a bus may have a reasonable expectation of privacy over the contents of that*

*conversation, even though they are associating in public. The contents of such a conversation should therefore still be considered as private information. A directed surveillance authorisation would therefore be appropriate for a public authority to record or listen to the conversation as part of a specific investigation or operation.*

5.3.3 Special provisions apply where information enjoying legal privilege or certain types of confidentiality may be obtained. In such circumstances, which are not expected to be relevant to the Council's activities, the approval of the **Council's Head of Paid Service** is required, or in his/her absence by the Council's Director of Legal Governance and HR.

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

5.4.1 Under the RIPA, a person is a CHIS if:

- they establish or maintain a personal or other relationship with a person for the covert purpose of facilitating the doing of anything falling within paragraph 26(8)(b) or (c);
- they covertly use such a relationship to obtain information or to provide access to any information to another person; or
- they covertly disclose information obtained by the use of such a relationship or as a consequence of the existence of such a relationship

5.4.2 A person may be a CHIS if they induce, ask or assist another person to engage in the conduct described above.

5.4.3 Carrying out test purchases will not require the purchaser to establish a relationship with the supplier for the purpose of obtaining information and, therefore, the purchaser will not normally be a CHIS, for example, authorisation would not normally be required for test purchases carried out in the ordinary course of business (e.g. walking into a shop and purchasing a product over the counter) although an Officer covertly watching a particular transaction may require an authorisation for directed surveillance.

5.4.4 By contrast, developing a relationship with a person in the shop, for example to obtain information about the seller's supplier of an illegal or unsafe product, will require authorisation as a CHIS. Similarly, using mobile hidden recording devices or CCTV cameras to record what is happening in the shop will require authorisation as directed surveillance. A combined authorisation can be given for CHIS and also directed surveillance.

*Example 1: Intelligence suggests that a local shopkeeper is openly selling*

*alcohol to underage customers, without any questions being asked. A juvenile is engaged and trained by a public authority and then deployed in order to make a purchase of alcohol. In these circumstances any relationship, if established at all, is likely to be so limited in regards to the requirements of the 2000 Act that a public authority may conclude that a CHIS authorisation is unnecessary.*

*However, if the test purchaser is wearing recording equipment but is not authorised as a CHIS, consideration should be given to granting a directed surveillance authorisation*

*Example 2: In similar circumstances, intelligence suggests that a shopkeeper will sell alcohol to juveniles from a room at the back of the shop, providing they have first got to know and trust them. As a consequence the public authority decides to deploy its operative on a number of occasions, to befriend the shopkeeper and gain their trust, in order to purchase alcohol. In these circumstances a relationship has been established and maintained for a covert purpose and therefore a CHIS authorisation should be obtained.*

## 5.5 Acquisition and Disclosure of Communications data

5.5.1 Within this policy, the term ‘communications data’ means ‘entity data’ and ‘events data’ and includes the ‘who’, ‘when’, ‘where’, and ‘how’ of a communication but not the content i.e. what was said or written.

5.5.2 A Council cannot make an application that requires the processing or disclosure of internet connection records for any purpose.

5.5.3 Communications data is generated, held or obtained in the provision, delivery and maintenance of communications services i.e. postal services or telecommunications services. All communications data held by a telecommunications operator or obtainable from a telecommunication system falls into two categories of entity data and events data.

5.5.4 **Entity data** means any data which—

5.5.5 (a) is about—

- (i) an entity (a person or thing such as a phone, tablet or computer),
- (ii) an association between a telecommunications service and an entity, or
- (iii) an association between any part of a telecommunication system and an entity,

(b) consists of, or includes, data which identifies or describes the entity (whether or not by reference to the entity's location), and

(c) is not events data.

5.5.6 Entity data covers information about a person or thing, and about links between a telecommunications system and a person or thing that identifies or describes the person or thing. This means that individual communication devices such as phones, tablets and computers are entities. The links between a person and their phone are therefore entity data but the fact of or information about communications between devices on a network at a specific time and for a specified duration would be events data.

5.5.7 Examples of entity data include:

- Subscriber checks such as “who is the subscriber of phone number 01234 567 890?”, “who is the account holder of e-mail account example@example.co.uk?” or “who is entitled to post to web space [www.example.co.uk](http://www.example.co.uk)?”
- subscribers’ or account holders’ account information, including names and addresses for installation, and billing including payment method(s), details of payments;
- information about the connection, disconnection and reconnection of services to which the subscriber or account holder is allocated or has subscribed (or may have subscribed) including conference calling, call messaging, call waiting and call barring telecommunications services;
- information about apparatus or devices used by, or made available to, the subscriber or account holder, including the manufacturer, model, serial numbers and apparatus codes; and information about selection of preferential numbers or discount calls.

5.5.8 **Events Data** is more intrusive and means any data which identifies or describes an event (whether or not by reference to its location) on, in or by means of a telecommunication system where the event consists of one or more entities engaging in a specific activity at a specific time.

5.5.9 Events data includes the way in which, and by what method, a person or thing communicates with another person or thing. It excludes anything within a communication including text, audio and video that reveals the meaning, other than inferred meaning, of the communication

5.5.10 Events data can also include the time and duration of a communication, the telephone number or email address of the originator and recipient, and the location of the device from which the communication was made. It covers electronic communications including internet access, internet



telephony, instant messaging and the use of applications.

5.5.11 Examples of events data include, but are not limited to:

- information tracing the origin or destination of a communication that is, or has been, in transmission (including incoming call records);
- information identifying the location of apparatus when a communication is, has been or may be made or received (such as the location of a mobile phone);
- information identifying the sender or recipient (including copy recipients) of a communication from data comprised in or attached to the communication;
- routing information identifying apparatus through which a communication is or has been transmitted (for example, file transfer logs and e-mail headers – to the extent that content of a communication, such as the subject line of an e-mail, is not disclosed)
- itemised telephone call records (numbers called);
- itemised internet connection records;
- itemised timing and duration of service usage (calls and/or connections);
- information about amounts of data downloaded and/or uploaded;
- information about the use made of services which the user is allocated or has subscribed to (or may have subscribed to) including conference calling, call messaging, call waiting and call barring telecommunications services.

#### Obtaining Communications Data

5.5.12 Part 3 of IPA contains provisions relating to authorisations for obtaining communications data.

5.5.13 This part of IPA is now in force but the acquisition of communications data was previously covered by RIPA. Under RIPA, local authorities were required to obtain judicial approval in order to acquire communications data. However, the position has now changed and from June 2019, all communications data applications must instead be authorised by the Office for Communications Data Authorisations (“the OCDA”).

5.5.14 The Home Office issued ‘Communications Data’ Code of Practice in November 2018 and chapter 8 covers local authority procedures. A local authority must make a request to obtain communications data via a single point of contact (“SPoC”) at the National Anti-Fraud Network (“NAFN”). In addition to being considered by a NAFN SPoC, an officer within the local authority of the rank of service manager or above should be aware the application is being made before it is submitted to an authorising officer in the OCDA.

5.5.15 A serious crime threshold applies to the obtaining of some communications

data. The council can only submit an application to obtain events data for the investigation of a criminal offence capable of attracting a sentence of 12 months or more. However, where the council is looking to obtain entity data this can be done for any criminal investigation where it is necessary and proportionate to do so.

## 5.6 Overt Surveillance

- 5.6.1 Overt Surveillance will include most of the surveillance carried out by the Council, there will be nothing secretive, clandestine or hidden about it. For example, signposted CCTV cameras normally amount to overt surveillance. In many cases, Officers will be going about Council business openly (e.g. a parking attendant patrolling a Council car park).
- 5.6.2 However, care must be taken to ensure that Officers are not intentionally acting as members of the public in order to disguise their true intent as this may then be considered as covert and require RIPA authorisation.
- 5.6.3 Similarly, surveillance will be overt if the subject has been told it will happen. This will be the case where a noisemaker is warned that recordings will be made if the noise continues; or where an entertainment licence is issued subject to conditions, and the licensee is told that Officers may visit without notice or without identifying themselves to the owner/proprietor to check that the conditions are being met. Such warnings should be given to the person concerned in writing.
- 5.6.4 Overt surveillance does not require any authorisation under RIPA. Neither does low-level surveillance consisting of general observations in the course of law enforcement (for example, an officer visiting a site to check whether a criminal offence had been committed). Repeated visits may amount to systematic surveillance however, and require authorisation: if in doubt, advice should be sought from the RIPA Monitoring Officer or the Senior Responsible Officer
- 5.6.5 Home Office guidance also suggests that the use of equipment such as binoculars or cameras, to reinforce normal sensory perception by Enforcement Officers as part of general observation does not need to be regulated by RIPA, as long as the systematic surveillance of an individual is not involved. However, if binoculars or cameras are used in relation to anything taking place on any residential premises or in any private vehicle the surveillance can be intrusive even if the use is only fleeting. Any such surveillance will be intrusive “if it consistently provides information of the same quality as might be expected to be obtained from a device actually present on the premises or in the vehicle”. The quality of the image obtained

rather than the duration of the observation is what is determinative. It should be remembered that the Council is not permitted to undertake intrusive surveillance.

5.6.6 Similarly, although signposted, CCTV cameras do not normally require authorisation, this will be required if the camera(s) are to be directed for a specific purpose which involves prolonged surveillance on a particular person.

5.6.7 Use of body worn cameras should be overt. Badges should be worn by Officers stating body cameras are in use and it should be announced that recording is taking place. In addition, cameras should only be switched on when recording is necessary – for example, when issuing parking tickets.

5.6.8 Surveillance that is unforeseen and undertaken as an immediate response to events or circumstances such that it is not reasonably practicable to seek authorisation normally falls outside the definition of directed surveillance and therefore authorisation is not required. However, if a specific investigation or operation is subsequently to follow, authorisation must be obtained in the usual way before it can commence. In no circumstances will any covert surveillance operation be given backdated authorisation after it has commenced.

## 5.7 Social Networking Sites (SNS)

5.7.1 The revised Code of Practice Covert Surveillance and Property Interference Revised Code of Practice states that:

*The growth of the internet, and the extent of the information that is now available online, presents new opportunities for public authorities to view or gather information which may assist them in preventing or detecting crime or carrying out other statutory functions, as well as in understanding and no further steps are taken to conceal the activity. Conversely, 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 a directed surveillance authorisation will not normally be available.*

*The internet may be used for intelligence gathering and/or as a surveillance tool. 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, an authorisation for directed surveillance should be considered, as set out elsewhere in this code. Where a person acting on behalf of a public authority is intending to engage with others online without disclosing his or her identity, a CHIS authorisation may be needed (paragraphs 4.10 to 4.16 of the Covert Human Intelligence Sources code of practice provide detail on where a CHIS authorisation may be available for online activity).*

*In deciding whether online surveillance should be regarded as covert, consideration should be given to the likelihood of the subject(s) knowing that the surveillance is or may be taking place. Use of the internet itself may be considered as adopting a surveillance technique calculated to ensure that the subject is unaware of it, even if no further steps are taken to conceal the activity. Conversely, 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 a directed surveillance authorisation will not normally be available.*

*set out in paragraph 3.14 below, depending on the nature of the online platform, there may be a reduced expectation of privacy where information relating to a person or group of people is made openly available within the public domain, however in some circumstances privacy implications still apply. This is because the intention when making such information available was not for it to be used for a covert purpose such as investigative activity. This is regardless of whether a user of a website or social media platform has sought to protect such information by restricting its access by activating privacy settings.*

*Where information about an individual is placed on a publicly accessible database, for example the telephone directory or Companies House, which is commonly used and known to be accessible to all, they are unlikely to have any reasonable expectation of privacy over the monitoring by public authorities of that information. Individuals who post information on social media networks and other websites whose purpose is to communicate messages to a wide audience are also less likely to hold a reasonable expectation of privacy in relation to that information.*

*Whether a public authority interferes with a person's private life includes a consideration of the nature of the public authority's activity in relation to that information. Simple reconnaissance of such sites (i.e. preliminary examination with a view to establishing whether the site or its contents are of interest) is unlikely to interfere with a person's reasonably held expectation of privacy and therefore is not likely to require a directed surveillance authorisation. But where a public authority is systematically collecting and recording information about a particular person or group, a directed surveillance authorisation should be considered. These considerations apply regardless of when the information was shared online.*

*Example 1: A police officer undertakes a simple internet search on a name, address or telephone number to find out whether a subject of interest has an online presence. This is unlikely to need an authorisation. However, if having found an individual's social media profile or identity, it is decided to monitor it or extract information from it for retention in a record because it is relevant to an investigation or operation, authorisation should then be considered.*

*Example 2: A customs officer makes an initial examination of an individual's online profile to establish whether they are of relevance to an investigation. This is unlikely*

*to need an authorisation. However, if during that visit it is intended to extract and record information to establish a profile including information such as identity, pattern of life, habits, intentions or associations, it may be advisable to have in place an authorisation even for that single visit. (As set out in the following paragraph, the purpose of the visit may be relevant as to whether an authorisation should be sought.)*

*Example 3: A public authority undertakes general monitoring of the internet in circumstances where it is not part of a specific, ongoing investigation or operation to identify themes, trends, possible indicators of criminality or other factors that may influence operational strategies or deployments. This activity does not require RIPA authorisation. However, when this activity leads to the discovery of previously unknown subjects of interest, once it is decided to monitor those individuals as part of an ongoing operation or investigation, authorisation should be considered.*

*In order to determine whether a directed surveillance authorisation should be sought for accessing information on a website as part of a covert investigation or operation, it is necessary to look at the intended purpose and scope of the online activity it is proposed to undertake. Factors that should be considered in establishing whether a directed surveillance authorisation is required include:*

- Whether the investigation or research is directed towards an individual or organisation;*
- 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);*
- Whether it is likely to involve visiting internet sites to build up an intelligence picture or profile;*
- Whether the information obtained will be recorded and retained;*
- Whether the information is likely to provide an observer with a pattern of lifestyle;*
- Whether the information is being combined with other sources of information or intelligence, which amounts to information relating to a person's private life;*
- Whether the investigation or research is part of an ongoing piece of work involving repeated viewing of the subject(s);*
- 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.*

*Internet searches carried out by a third party on behalf of a public authority, or with the use of a search tool, may still require a directed surveillance authorisation (see paragraph 4.32).*

*Example: Researchers within a public authority using automated monitoring tools to*

*search for common terminology used online for illegal purposes will not normally require a directed surveillance authorisation. Similarly, general analysis of data by public authorities either directly or through a third party for predictive purposes (e.g. identifying crime hotspots or analysing trends) is not usually directed surveillance. In such cases, the focus on individuals or groups is likely to be sufficiently cursory that it would not meet the definition of surveillance. But officers should be aware of the possibility that the broad thematic research may evolve, and that authorisation may be appropriate at the point where it begins to focus on specific individuals or groups. If specific names or other identifiers of an individual or group are applied to the search or analysis, an authorisation should be considered.*

5.7.2 The Council's Policy in relation to the use of social media for the gathering of evidence to assist in its enforcement activities is set out below as well as in the attached procedure note at Appendix 2:

- Officers must not 'friend' individuals on social networks;
- Officers must not use their own private accounts to view the social networking accounts of other individuals;
- Officers viewing an individual's profile on a social networking site should do so only once in order to obtain evidence to support or refute their investigation. Such viewing can take a backward look at the individual's profile;
- further viewing of open profiles on social networking sites to monitor an individual's status, must only take place once RIPA authorisation has been granted and approved by a Magistrate. However, if the activity being investigated does not fall within the protection of RIPA, for example, if the crime threshold is not met, then a non-RIPA form must be completed and authorised (Appendix 3);
- Officers should be aware that it may not be possible to verify the accuracy of information on social networking sites and, if such information is to be used as evidence, steps must be taken to ensure its validity.

## 5.8 Intrusive Surveillance

5.8.1 Intrusive Surveillance occurs when surveillance:

- is covert;
- relates to residential premises and/or private vehicles; and
- involves the presence of a person in the premises or in the vehicle or is carried out by a surveillance device in the premises/vehicle.

Surveillance equipment mounted outside the premises will not be intrusive, unless the device consistently provides information of the same quality and detail as might be expected if they were in the premises/vehicle.

5.8.3 Intrusive surveillance cannot be carried out or approved by the Council. Only the police or other law enforcement agencies are permitted to use such powers.

5.8.4 The Council recognises that forms of notice requiring the provision of communications data are subject to inspection by IPCO and both applicant and Designated Officer may be required to justify their decisions.

## **6. APPLICATIONS FOR AUTHORISATIONS OF DIRECTED SURVEILLANCE AND CHIS**

6.1 Before commencing any investigatory action which is to involve:

- covert directed surveillance; or
- the use or conduct of a Covert Human Intelligence Source.

6.2 The Officer responsible for the investigation shall submit the relevant form of application for authorisation to the appropriate Authorising Officer. The investigatory action shall not be commenced unless and until the Authorising Officer has granted the application as signified by the Authorising Officer endorsing the application with his/her approval and returning one copy to the applicant.

6.3 Forms are available from the Home Office website at the link below  
<https://www.gov.uk/government/collections/ripa-forms--2>

6.4 The application form shall be submitted not less than 7 days before the intended date of commencement of the investigatory action.

6.5 All information required in the application form shall be provided. In particular the description of the activity proposed shall be sufficient to enable the Authorising Officer to judge whether the authorisation applied for is **necessary and proportionate** (see below).

### **6.6 Review**

6.6.1 Each Authorising Officer shall determine the standard review period for authorisations granted by him/her and should be at least monthly. More frequent review periods may apply to authorisations for different categories of investigatory action where circumstances demand. Not later than 3 working days before the expiration of the review period for an authorisation relating to an ongoing investigation, the Officer responsible for the

investigatory action shall submit a Review of Authorisation form to the Authorising Officer who granted the authorisation. Unless the circumstances warrant the continuation of an authorisation, it should be cancelled.

## 6.7 Renewal

6.7.1 An Investigating Officer who has received an authorisation is responsible for renewing that authorisation if the activity for which authorisation was given is expected to continue beyond the duration of the authorisation. Renewal applications should be made before the initial authorisation expires on the appropriate form.

6.7.2 An application for renewal must be made to the Authorising Officer who granted the initial authorisation.

## 6.8 Cancellation

6.8.1 The investigating officer responsible for undertaking the authorised surveillance must apply to have that authorisation cancelled when the investigation or operation for which authorisation was given has ended, the authorised surveillance activity has been completed, or the information sought is no longer necessary.

## 6.9 Expiration and Review of Authorisations

6.9.1 Unless renewed or cancelled the maximum duration of a:

- Directed Surveillance - 3 months from the date of Magistrate's approval of an authorisation or renewal of authorisation in each case;
- Covert Human Intelligence Source authorisation - 12 months (or 4 months if the CHIS is under 18) from the date of Magistrate's approval

6.9.2 No authorisation can be left to expire, and should always be cancelled using the relevant form.

## 7. **CONSIDERING APPLICATIONS FOR DIRECTED SURVEILLANCE**

Step 1: Is authorisation needed for this activity?

7.1 An Authorising Officer must first consider whether the proposed surveillance



is to cover activity which:

- Amounts to a criminal offence which attracts a term of 6 months imprisonment; or
- Is related to the underage sale of alcohol and tobacco.

7.2 To require authorisation, the activity to which the application relates must be covert and must involve the obtaining of private information on an individual through directed surveillance.

7.3 An Authorising Officer should interpret the definitions broadly when determining whether an activity is covert or if private information will be obtained. When in doubt, the authorisation procedure must always be followed.

7.4 At no time can an Authorising Officer authorise any intrusive surveillance.

Step 2: Is the activity necessary?

7.5 An Authorising Officer can only authorise an activity where s/he believes that the authorisation is necessary in the circumstances of the particular case for the purpose of preventing or detecting crime or of preventing disorder.

7.6 The Authorising Officer must be satisfied that there are no other reasonable means of carrying out the investigation, or obtaining the desired information, without undertaking the activity for which authorisation is sought.

7.7 Authorisation should not be granted if the information sought can be obtained by other means without undertaking an activity which falls under the requirements of RIPA. Authorisation cannot be granted if it is for any purpose other than the prevention or detection of crime or for the prevention of disorder.

Step 3: Is it proportionate?

7.8 If the activity is necessary, the Authorising Officer must also believe that the activity is proportionate to what is sought to be achieved by carrying it out. This involves balancing the intrusiveness of the activity against the need for the activity in operational terms. The activity will not be proportionate if it is excessive in the particular circumstances or if the information sought could reasonably be obtained by less intrusive means. Any activity must be carefully managed to meet the objective in question and must not be arbitrary or unfair.

7.9 An Authorising Officer should first consider the following primary factors in determining whether the activity for which authorisation is sought is proportionate:

Confidential Information

- 7.10 The Authorising Officer must take into account the likelihood of confidential information being acquired. Confidential information consists of matters subject to legal privilege, confidential personal information or confidential journalistic material.
- 7.11 Where confidential information is likely to be acquired, authorisation should only be given in exceptional and compelling circumstances with full regard to the proportionality issues this raises.
- 7.12 In these circumstances, the Authorising Officer must be the Head of Paid Service or Senior Responsible Officer (exceptional circumstances),

Risk of Collateral Intrusion

- 7.13 The Authorising Officer must consider whether there is a risk of collateral intrusion into the private life of any person not the primary subject of the investigation. The applicant should describe the activity sufficiently widely to include not only named individuals but also any others who may be at risk of collateral intrusion to enable this consideration to occur.
- 7.14 Where the risk of such intrusion is sufficiently significant, the Authorising Officer must determine whether a separate authorisation is required in respect of these other persons.
- 7.15 The person carrying out the activity must inform the Authorising Officer if the investigation or operation unexpectedly interferes with the privacy of individuals not covered by the authorisation. The Authorising Officer must then consider whether the authorisation needs to be amended and re-authorised or a new authorisation is required.
- 7.16 The following further considerations must then be considered in determining whether the activity for which authorisation is sought is proportionate:
- The reasons given by the applicant as to why that activity is sufficient and adequate for obtaining the information sought;
  - Whether there are any other reasonable means of obtaining the information sought;
  - Whether the surveillance is an essential part of the investigation;
  - The type and quality of the information the activity will produce and its likely value to the investigation;
  - The amount of intrusion, other than collateral intrusion, the activity will cause and whether there are ways to minimise that intrusion; and
  - The length of time for which the authorisation is sought and whether the activity can be undertaken within a shorter time frame.

- 7.17 The Authorising Officer should only authorise the activity that is the least intrusive in the circumstances. Any unnecessary intrusion, including collateral intrusion, must be minimised as much as practically possible. **The least intrusive method will be considered proportionate by the Courts.**
- 7.18 The Authorising Officer must balance the intrusiveness of the activity on the target and others who might be affected by it against the need for the activity in operational terms. The Authorising Officer should discuss the proposed activity, and any proposed changes, with the applicant and/or the Senior Responsible Officer prior to issuing the authorisation.

## **8. CONSIDERING APPLICATIONS FOR THE USE OF A CHIS**

- 8.1 This part of the Policy lists the factors which Authorising Officers should consider upon receiving an application for an authorisation for the use of a CHIS.

### Step 1: Is Authorisation needed for this activity?

- 8.2 An Authorising Officer must first consider whether an authorisation is actually required. To require authorisation, the activity to which the application relates must be covert and must involve the obtaining of private information on an individual through the use of a CHIS.
- 8.3 An Authorising Officer should interpret the definitions broadly when determining whether an activity is covert or if private information will be obtained. When in doubt, the authorisation procedure must always be followed.
- 8.4 **At no time can an Authorising Officer authorise any intrusive surveillance.**

### Step 2: Is the activity necessary?

- 8.5 An Authorising Officer can only authorise an activity where s/he believes that the authorisation is necessary in the circumstances of the particular case for the purpose of preventing or detecting crime or of preventing disorder.
- 8.6 The Authorising Officer must be satisfied that there are no other reasonable means of carrying out the investigation, or obtaining the desired information, without undertaking the activity for which authorisation is sought.
- 8.7 Authorisation should not be granted if the information sought can be obtained by other means without undertaking an activity which falls under the requirements of RIPA.

### Step 3: Is it proportionate?

- 8.8 If the activity is necessary, the Authorising Officer must also believe that the activity is proportionate to what is sought to be achieved by carrying it out.

This involves balancing the intrusiveness of the activity against the need for the activity in operational terms. The activity will not be proportionate if it is excessive in the particular circumstances or if the information sought could reasonably be obtained by less intrusive means. Any activity must be carefully managed to meet the objective in question and must not be arbitrary or unfair.

- 8.9 An Authorising Officer should first consider the following primary factors in determining whether the activity for which authorisation is sought is proportionate:

Confidential Information

- 8.10 The Authorising Officer must take into account the likelihood of confidential information being acquired. Confidential information consists of matters subject to legal privilege, confidential personal information or confidential journalistic material.

- 8.11 Where confidential information is likely to be acquired, authorisation should only be given in exceptional and compelling circumstances with full regard to the proportionality issues this raises.

- 8.12 In these circumstances, the Authorising Officer must be Head of Paid Service or Senior Responsible Officer (exceptional circumstances).

8.13 Use of vulnerable persons as CHIS

- 8.14 When considering applications for the use of a CHIS, an Authorising Officer must determine whether the CHIS is a vulnerable individual or a juvenile in accordance with the following:

- The Authorising Officer must take into account the provisions of section 29 of RIPA and the Regulation of Investigatory Powers (Source Records) Regulations (2000 SI No. 2725) made under it before authorising the conduct or use of a CHIS.
- Section 29(5) requires the Authorising Officer to be satisfied that arrangements are in place for the careful management of the source and that records are maintained relating to the source which contain the particulars specified in the Source Records Regulations.

- 8.15 The Authorising Officer must therefore:

- be satisfied that the conduct and/or use of the CHIS is both necessary and proportionate to what is sought to be achieved. This will be addressed by following the procedure provided in this section;

- be satisfied that appropriate arrangements are in place for the management and oversight of the CHIS. This must address health and safety issues through a risk assessment;
  - consider the likely degree of intrusion of all those potentially affected;
  - consider any adverse impact on community confidence that may result from the use or conduct or the information obtained; and
  - ensure records contain specified particulars relating to the source and that the records are kept confidential.
- 8.16 In these circumstances, the Authorising Officer must be the Head of Paid Service or Senior Responsible Officer (exceptional circumstances).
- 8.17 Special safeguards apply to the use or conduct of vulnerable individuals or juveniles. 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 may need protecting from exploitation. A vulnerable individual will only be authorised to act as a source in the most exceptional circumstances.
- 8.18 Use of juvenile covert human intelligence sources (JCHIS) is governed by Regulation of Investigatory Powers (Juveniles) Order 2000 as amended by the Regulation of Investigatory Powers (Juveniles) (Amendment) Order 2018.
- 8.19 A JCHIS is any source aged under 18, however further restriction apply when the JCHIS is under 16.
- 8.20 The Authorising Officer when considering the authorization must consider the statutory duty of the Council, under s11 of the Children Act 2004, to discharge its duties in a way that promotes and safeguards the welfare of children.
- 8.21 No authorisation may be granted for the conduct or use of a JCHIS; if the JCHIS is under the age of 16, and the relationship to which the conduct or use would relate is between the JCHIS and his parent or any person who has parental responsibility for them.
- 8.22 Where the Council intends to use a JCHIS under the age of 16 must ensure there is an appropriate adult at meetings with the JCHIS. An “appropriate adult” means:
- “(a) the parent or guardian of the source; or  
 (b) any other person who has for the time being assumed responsibility for his welfare or is otherwise qualified to represent the interests of the source.”

- 8.23 No Authorisation may be granted or renewed for the use of a JCHIS (Under 18) unless the authorizing officer has undertaken or updated a risk assessment that demonstrates:
- the nature and magnitude of any risk of physical injury to the source arising in the course of, or as a result of, carrying out the conduct described in the authorisation have been identified and evaluated; and
  - (the nature and magnitude of any risk of psychological distress to the source arising in the course of, or as a result of, carrying out the conduct described in the authorisation have been identified and evaluated
- 8.24 An authorization for the use of a JCHIS may only be granted for a period of 4 months and is subject to monthly reviews.
- 8.25 A juvenile is a young person under 18. Juveniles can only be authorised as sources for four months. On no occasion can a child under 16 years of age be authorised to give information against his or her parents or anyone with parental responsibility for that child.
- 8.26 Before deciding on this course of action, legal advice must be sought from the Director of Legal Governance and HR as the SRO.
- 8.27 When the proposed activity involves the use of a vulnerable person or juvenile as a CHIS, only the Head of Paid Service or in exceptional circumstances the Senior Responsible Officer

#### Risk of Collateral Intrusion

- 8.28 The Authorising Officer must consider whether there is a risk of collateral intrusion into the private life of any person not the primary subject of the investigation. The applicant should describe the activity sufficiently widely to include not only named individuals but also any others who may be at risk of collateral intrusion to enable this consideration to occur.
- 8.29 Where the risk of such intrusion is sufficiently significant, the Authorising Officer must determine whether a separate authorisation is required in respect of these other persons.
- 8.30 The person carrying out the activity must inform the Authorising Officer if the investigation or operation unexpectedly interferes with the privacy of individuals not covered by the authorisation. The Authorising Officer must then consider whether the authorisation needs to be amended and re-authorised or a new authorisation is required.
- 8.31 The following further considerations must then be considered in determining whether the activity for which authorisation is sought is proportionate:

- The reasons given by the applicant as to why that activity is sufficient and adequate for obtaining the information sought;
- Whether there are any other reasonable means of obtaining the information sought;
- Whether the surveillance is an essential part of the investigation;
- The type and quality of the information the activity will produce and its likely value to the investigation;
- The amount of intrusion, other than collateral intrusion, the activity will cause and whether there are ways to authorise that intrusion; and
- The length of time for which the authorisation is sought and whether the activity can be undertaken within a shorter time frame.

- 8.32 The Authorising Officer should only authorise the activity that is the least intrusive in the circumstances. Any unnecessary intrusion, including collateral intrusion, must be authorised as much as practically possible. **The least intrusive method will be considered proportionate by the Courts.**
- 8.33 The Authorising Officer must balance the intrusiveness of the activity on the target and others who might be affected by it against the need for the activity in operational terms. The Authorising Officer should discuss the proposed activity, and any proposed changes, with the applicant and/or the Senior Responsible Officer prior to issuing the authorisation.
- 8.34 The Authorising Officer should discuss the proposed activity, and any proposed changes, with the applicant and/or the Senior Responsible Officer prior to issuing the authorisation.

## **9. APPLYING FOR JUDICIAL APPROVAL**

- 9.1 Once an authorisation has been granted, the Senior Responsible Officer will review the authorisation paperwork to ensure that the authorisation fulfils the RIPA requirements and is necessary and proportionate. If satisfied that the surveillance is an appropriate use of the RIPA powers the Senior Responsible Officer (or an appointed representative of the Legal Division) will make an application to the Magistrates' Court to apply to have the authorisation approved/renewed by a Justice of the Peace.
- 9.2 The procedure for obtaining judicial approval is set out in the Home Office Guidance 'Protection of Freedoms Act 2012 – Changes to provisions under the Regulation of Investigatory Powers Act 2000' published in October 2012. A flowchart setting out the procedure for obtaining Judicial Approval is set out at Appendix 1
- 9.3 The application form for Judicial Approval is appended to the guidance and available at the link below  
<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/a>

## **10. ACQUISITION AND DISCLOSURE OF COMMUNICATIONS DATA**

- 10.1 The provisions that govern the acquisition and disclosure of communications data are contained within IPA 2016. The IPA 2016 repealed the provisions relating to the interception and acquisition of communications data contained in RIPA 2000.
- 10.2 The Council is not able to authorise its own applications for the acquisition of communication data, which must be authorised by the OCDA. In order to make an application section 73 of the IPA, required the Council to be party to a collaboration agreement. In practice this means they will be required to become members of NAFN and use NAFN's shared SPoC services.
- 10.3 The Council's acquisition of communications data under Part 3 of the Act will be a justifiable interference with an individual's human rights under Article 8 (the right to respect for privacy and family life) and, in certain circumstances, Article 10 (right to freedom of expression) of the European Convention on Human Rights only if the conduct being authorised or required to take place is:
- Necessary for the purposes of a specific investigation or operation; and
  - Proportionate
- 10.4 When applying for authorisation to acquire communications data, the Council must believe the acquisition is necessary for the purpose of the prevention or detection of serious crime.
- 10.5 For the purpose of the IPA 'Serious crime' means:
- an offence for which an adult is capable of being sentenced to one year or more in prison;
  - any offence involving violence, resulting in a substantial financial gain or involving conduct by a large group of persons in pursuit of a common goal;
  - any offence committed by a body corporate;
  - any offence which involves the sending of a communication or a breach of privacy; or an offence which involves, as an integral part of it, or the sending of a communication or breach of a person's privacy.
- 10.6 The Council must also believe the acquisition to be proportionate to what is sought to be achieved by obtaining the specified communications data – that the conduct is no more than is required in the circumstances.

## **11. AUTHORISATION TO ACCESS COMMUNICATIONS DATA**



- 11.1 The applicant is a Council officer involved in conducting or assisting an investigation or operation who makes an application in writing or electronically for the acquisition of communications data.
- 11.2 An application to acquire communications data 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. explain why the acquisition of that data is considered necessary and proportionate to what is sought to be achieved by acquiring it;
  - 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; consider and, where appropriate, describe any meaningful collateral intrusion – the extent to which the rights of any individual not under investigation may be infringed and why that intrusion is justified in the circumstances;
  - j. consider and, where appropriate, describe any possible unintended
  - k. 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 The Council is required to consult a NAFN SPoC throughout the application process. The accredited SPoCs at NAFN will scrutinise the applications independently. They will provide advice to the local authority ensuring it acts in an informed and lawful manner.
- 11.4 In addition to involving the NAFN SPoC, the Council must ensure that someone – “the verifying officer” – of at least the rank of the Council’s SRO is aware the application is being made before it is submitted to an authorising officer in OCDA.
- 11.5 It is the duty of the senior responsible officer in a public authority to ensure

that the public authority makes available to the SPoC and the authorising individual such information as the senior responsible officer thinks necessary to ensure the integrity of any requirements for the acquisition of entity data to be obtained directly upon the acquisition or disclosure of any events data, and their compliance with Part 3 of the IPA and with this code of practices.

11.6 NAFA SPoC will submit the application

11.7 Where a request is refused by an authorising officer in OCDA, the Council has three options:

- not proceed with the request;
- resubmit the application with a revised justification and/or a revised course of conduct to acquire communications data;
- resubmit the application with the same justification and same course of conduct seeking a review of the decision by OCDA. A public authority may only resubmit an application on the same grounds to OCDA where the senior responsible officer or a person of equivalent grade in the public authority has agreed to this course of action. OCDA will provide guidance on its process for reviewing such decisions.

11.8 Where an application is granted the NAFA SPoC would normally be the person who takes receipt of any communications data acquired from a telecommunications operator or postal operator and would normally be responsible for its dissemination to the applicant within the Council.

11.9 The Council must cease any and all authorised acquisition of communications data as soon as the OCDA authorisation is cancelled or at the expiry of one month following the date of authorisation (whichever is sooner).

## **12. WORKING WITH/THROUGH OTHER AGENCIES**

12.1 Where Council Officers undertake an investigation/operation under RIPA jointly with another public authority, it is the responsibility of the tasking authority to obtain the authorisation. For example, if the Council was asked by the Police to assist in a covert surveillance operation, the Police should obtain the authorisation, which would then cover the Council. In such a case, Council Officers must request written confirmation from the other public authority that an authorisation is in place before taking part in any joint operation.

## **13. RECORDS MANAGEMENT**

13.1 The Council must keep a detailed record of all authorisations, reviews, renewals, cancellations and rejections in the relevant services. A central record of all authorisation forms, whether authorised or rejected, will be maintained and monitored by the RIPA Co-ordinator.

- 13.2 All Authorising Officers must send all applications for authorisation to the RIPA Co-ordinator within 2 working days of issue of signature. Each document will be given a unique reference number, a copy will be placed on the Central Record and the original will be returned to the applicant.
- 13.3 Copies of all other forms used must be sent to the RIPA Co-ordinator bearing the reference number previously given to the application to which it refers.
- 13.4 The RIPA Coordinator shall retain all records in accordance with the Council's Retention schedule for a period of 6 years for the date the authorization

#### Service Records

- 13.5 Each service must keep a written record of all authorisations issued to it, to include the following:
- A copy of the application and authorisation together with any supplementary documentation and notification of the approval given by the Authorising Officer;
  - A record of the period over which the surveillance has taken place;
  - The frequency of reviews prescribed by the Authorising Officer;
  - A record of the result of each review;
  - A copy of any renewal of an authorisation and any supporting documentation submitted when the renewal was requested;
  - The date and time when any instruction was given by the Authorising Officer, including cancellation of such authorisation.

#### Central Record Maintained by the RIPA Co-ordinator

- 13.6 A central record of all authorisation forms, whether authorised or rejected, is kept by the RIPA Co-ordinator. The central record must be readily available for inspection on request by the Investigatory Powers Commissioner's Office.
- 13.7 The central record must be updated whenever an authorisation is granted, renewed or cancelled. Records will be retained for a period of 3 years from the date on which the relevant criminal or civil proceedings file is closed for archive, or for such other period as determined by the internal procedures relating to the retention of the criminal or civil proceedings file.
- 13.8 The central record must contain the following information:
- The type of authorisation;
  - The date on which the authorisation was given;
  - name/rank of the Authorising Officer;
  - The unique reference number (URN) of the investigation/operation. This will be issued by the Legal Division when a new application is entered in the Central Record. The applicant will be informed accordingly and should use the same URN when requesting a renewal or cancellation;
  - The title of the investigation/operation, including a brief description and names of the subjects, if known;
  - If the authorisation was renewed, when it was renewed and who authorised the renewal, including the name and rank/grade of the

Authorising Officer;

- Whether the investigation/operation is likely to result in the obtaining of confidential information; and
- The date and time that the authorisation was cancelled.

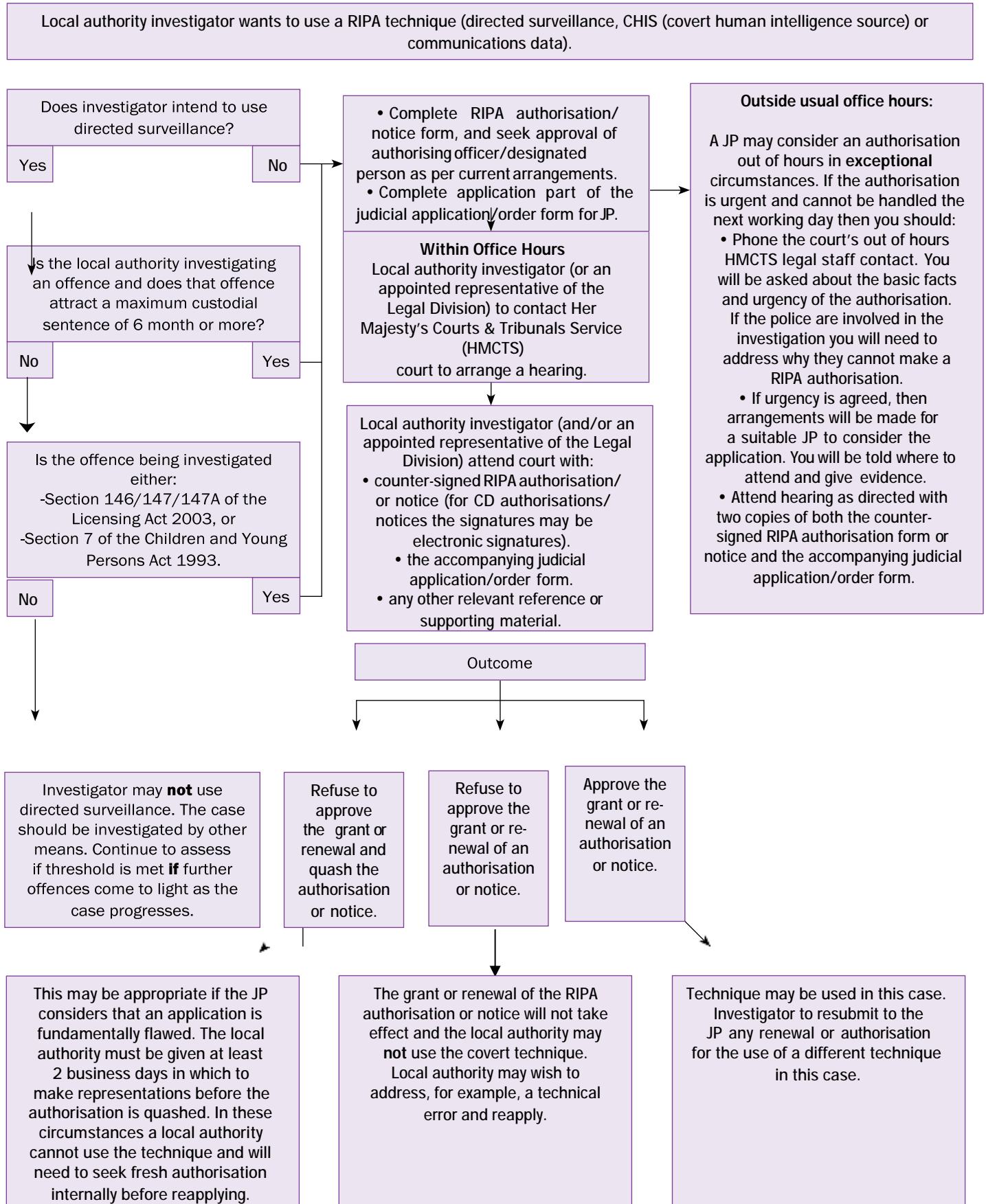
#### Retention and Destruction of Material

- 13.9 Departments must ensure that arrangements are in place for the handling, storage and destruction of material obtained through the use of covert surveillance. Material obtained is likely to include the following;
- Recordings of direct surveillance,
  - Notes of offices undertaking surveillance, and
  - Emails and other communications (including attendance notes of telephone calls reference the above.
- 13.10 Duplication of direct records should be keep the minimum and only undertaken, where necessary for the efficient conduct of the investigation or prosecution.
- 13.11 Other information will inevitably be duplicated as part of an investigation as part of routine case discussions between investigating officers, managers and legal services. This information will likely be stored within the Council's outlook email system, but may also include duplicates contained within personal files individuals involved, both on the Council network and locally on individual devices.
- 13.12 Departments must ensure that other duplicate of information are permanently delated or securely disposed at the conclusion of an investigations. The Department should ensure that there is one complete file for archive at the conclusion of the investigation, this will be sorted electronically on a secure area of the HBC network with access limited to those individuals with need of access.
- 13.13 This may involve liaison with legal services, where advice has been sought but not prosecution of other action undertaken. In this situation department should inform the legal services the investigation is at an end and requesting any information is deleted unless sorted within open file.
- 13.14 Where a file has been opened by legal services a separate copy of the material be stored within that file. As with instructing departments, legal services must ensure there is only one complete file is retained at the conclusion of proceedings and that other duplicates are deleted or surely disposed of once the file is closed for archive(this may be either electronic or in hard copy).
- 13.15 Archived files should be sorted in accordance with the Council's retention schedule a copy of which is available on the council intranet.
- <http://hbcintranet/Pages/Information%20Governance/Information-Governance-Policies.aspx>
- 13.16 Where there is doubt, advice must be sought from the Senior Responsible

Officer or in their absence the RIPA Co-ordinator.

## APPENDIX 1

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



Obtain signed order and retain original RIPA authorisation/notice.  
For CD authorisations or notices, local authority investigator to provide additional copy of judicial order to the SPoC.  
If out of hours, a copy of the signed order to be provided to the court the next working day.



## **RIPA PROCEDURE FOR E-CRIME, INCLUDING INVESTIGATION OF SOCIAL NETWORKING SITES**

### **1. Introduction**

Many enquiries relating to goods or services bought online will be simple investigations where a website is acting as a shop providing products. It is unlikely that such investigations will invoke a need for authorisations under RIPA because: -

1. The owners of the website can have no reasonable prospect of privacy;
2. The site is unlikely to contain private information; and
3. It is unlikely that a relationship will be established between the seller and the user of the site if a single purchase is made or if the number of visits to the site is limited to those necessary to secure evidence in relation to the product or practice complained about.

Social Networking sites create different issues as the whole purpose of the sites, is on the face of it, to create the opportunities to set up social networks and thus create relationships. These sites, such as Facebook, Twitter, LinkedIn, Pinterest, Beebo and Snapchat have different levels of privacy, but it is likely that, even at the most open and accessible level, personal information about those maintaining the site or pages or posting information will be available. Whilst it could be argued that those who make such information freely available can have no expectation that it will remain private, it is also likely that they do not expect that it will be read and retained by an investigator. This activity is analogous to private activity occurring in a public place, and, as in the real world, if such activity were observed as a planned activity by an investigator, an authorisation for directed surveillance would be required.

Surveillance is defined in Section 48 of the Regulation of Investigatory Powers Act 2000 (RIPA) as including: -

- (a) monitoring, observing or listening to persons, their movements, their conversations or their other activities or communications;
- (b) recording anything monitored, observed or listened to in the course of surveillance; and
- (c) surveillance by or with the assistance of a surveillance device.

It could be argued that this definition could be interpreted so as to exclude monitoring of social networking sites as the people under surveillance are not present or visible to the investigators. However, if we go back to the Human Rights Act and the Convention Rights, namely Article 8 (Everyone has the right to respect for his private and family life, his home and his correspondence), and Article 10 (Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers), there is likelihood that uncontrolled and unconsidered access to personal social



networking sites will breach these rights. As these rights are qualified rights, in that they can be infringed for certain purposes, it is appropriate that authorisation under RIPA is sought for surveillance of such sites.

The principles in this Policy should also be considered when monitoring business websites, such as eBay, which are used by non-trade people to advertise products. It is likely that a general viewing of eBay would include some collateral intrusion, but this is minimal and is likely to be proportionate in the context of the crime being investigated.

This Policy should be read in conjunction with the wider Hartlepool Borough Council RIPA Policy. The provisions in that Policy will apply along with the specific Policy outlined in this document.

## **2. Initial activity**

The relevant dictionary definition of 'monitor' (namely, 'to maintain regular surveillance over') suggests an act undertaken either on more than one occasion or for more than a short period of time. This explicitly suggests that an initial visit to a website is not surveillance, nor would a repeat visit be if the second visit were not close in time to the first one.

Before an investigator visits a site they should consider what information they are seeking and what information is likely to be found. The focus should be on collecting evidence to prove, or disprove, any wrongdoing. If an investigation involves more than one Officer or is being conducted by the Authority and other partners, one Officer should be identified to undertake one initial visit and they alone should carry it out. Any other Officers, including partners, who will undertake surveillance as part of the investigation should be identified on the application for authorisation.

Once this initial visit to the site is completed, the Officer should consider whether further visits are necessary or if sufficient evidence has been secured for the next steps in the investigation (e.g. an application for a warrant) to take place. If it is decided that further monitoring of the social networking site is to take place, it should be assumed that an authorisation for directed surveillance will be needed. If the investigator does not believe that further visits require an authorisation they should record their reasons and discuss the matter with their manager who will, in turn discuss it with their Unit Manager.

## **3. When authorisation is required**

It is clear that frequent and/or extended visits would be classed as surveillance and an authorisation for directed surveillance under RIPA should be sought if the investigator intends to carry out such monitoring activity. The OSC Guidance, at paragraph 124 states that 'present monitoring could be of past events.' This could occur if investigators look at the timeline on a target's site to, for example, establish a lifestyle pattern or to identify relationships.

Any application for directed surveillance should be submitted promptly, while the evidence obtained is still current. The application should have regard to necessity, proportionality and the likelihood of collateral intrusion as for any other directed surveillance application, recognising that the factors to be taken into account will be different to those that exist off-line.

## **4. Necessity**

Any application for an authorisation under the Act will be for the prevention or detection of crime. The investigator will need to show that there is a need to collect evidence, to identify

what type of evidence is likely to be collected; its value to the investigation and that surveillance of the social networking site is the only way to collect it. Any information on other means of obtaining the evidence should be included, if such means have been identified, along with an explanation of why it is necessary to use directed surveillance and not those other means.

## 5. Proportionality

The investigator will need to show that the scale of the crime being investigated justifies the potential intrusion into the target's private life. For example, it may not be proportionate to conduct surveillance into someone who has infrequently sold items at a level that would be regarded as below a trading threshold. Investigators should have reasonable grounds to suspect that the target is actively committing serious breaches of legislation that are more than technical or minor.

**Note:** since the coming into force of the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012 the authority can only authorise directed surveillance where the offence being investigated is punishable, whether on summary conviction or on indictment, by a maximum term of at least 6 months of imprisonment or is an offence involving sales of alcohol or tobacco to children.

## 6. Collateral Intrusion

It is likely that collateral intrusion into the activities or comments of those persons who are interacting with the target individuals will take place. This intrusion will need to be tightly managed as far as is possible. It is also possible that family members' information will be posted on the site, especially on the targets individual Facebook pages. This will be treated in the same way as other information acquired that is identified as not being relevant to the investigation.

For public protection, the primary target of surveillance is likely to be business and group pages used primarily for selling goods or those who we believe are repeatedly committing serious environmental crimes. These sites are less likely to contain personal information but it cannot be ruled out. As part of the application for authorisation for directed surveillance, investigators should identify the likelihood of collateral intrusion. This will be supported by any evidence acquired during the initial visit to the site.

Any information about individuals, groups or business believed not to be engaged in criminal activity will be extracted from the evidence. This process will involve the investigating officer consulting their manager and a decision being made on each piece of information gathered. Where the information gathered does not relate to any suspected criminal activity, the information will be given a unique reference number and a record kept of the reason for the decision that the information is not relevant to enquiries. This information and the decision records will then be stored securely for inspection and audit purposes only by authorised personnel from the Office of the Surveillance Commissioner.

If the evidence collected shows that the business profiles and group forums are established closed groups, enabling the commission of relevant crimes, it follows that other members of the pages may also be investigated, to eliminate or identify them as a subject of interest. Consideration will be given to the need to obtain further authorisations under the Act, before any surveillance is conducted against other associated users.

Collateral intrusion could also include personal information collected about people other than the target. This information may be included in written, pictorial, video and audio form. Some of this information may be needed to identify others committing offences or assisting the principal in any relevant way, where it had not already been obtained. The evidence may also provide a connection between the website, the activity and any physical premises. If it is likely that this information will be encountered, or if it is needed to identify the target, explicit reference to it must be made in any application for authorisation and reasons for collecting it should be given.

## **7. Practical Matters**

The Trading Standards stand-alone computer should be used, using the fake identity already established, wherever possible, or failing that, the Officer's own password protected NCC issued computer. Evidence of any offences should be secured by using hypercam or webreaper software, if possible, or by screen dump printing if not. Monitoring should not be carried out on an Officer's own computer, nor should monitoring take place outside of working hours, unless the particular circumstances of the investigation require it. Those circumstances will be included in any application for surveillance.

A log shall be kept of all surveillance activity, showing the date of the surveillance, the operation name, the start and finishing times and the sites visited. The application for authorisation should include this information where possible or the application should include the parameters within which the surveillance activity will take place. This will allow us to show that any activity undertaken is authorised.

Investigators should also be aware that the site could contain violent or pornographic images or information, or information of a politically extremist nature. If such images or information are found, the investigator should record details of web address of the site that was visited and how the site was accessed (some sites may be displayed even if the investigator did not intend it). The investigator should discuss the matter with their manager who should consider if there is a need to contact any other enforcement or safeguarding agency.

## **8. Cancellation of Authorisations**

Any authorisation to conduct directed surveillance on an individual's page or site should be cancelled as soon as it is no longer needed. This is likely to occur when sufficient evidence to proceed to the next stage of the investigation has been secured or if monitoring of the page or site has revealed no criminal activity. Authorisations to monitor activity on social media sites are subject to the same review procedures as applications for real life surveillance. The review will determine if the authorisation is still necessary, proportionate and if the likelihood and level of collateral intrusion have changed since the authorisation was initially applied for.

## **9. Other matters**

This Policy does not include 'befriending' or similar activity. This is a reflection of the fact that most sellers and their activities can be identified as part of open source research and items are sold from accessible websites. Befriending may require authorisation for an officer to act as a Covert Human Intelligence Source within the meaning of Part III of the Act. Further policies will be developed if market practices change such that investigators identify the need for such authorisations in relation to social networking sites.

## **10. Further Guidance**

Further guidance is available from the Office of the Surveillance Commissioners Procedures and Guidance published in July 2016 which states at paragraphs 239 and 289: -

### **Covert Internet Investigations - e-trading**

239 CHIS authorisation is only required for the use of an internet trading organisation such as eBay when a covert relationship is likely to be formed. The use of disguised purchaser details in a simple, overt, electronic purchase does not require a CHIS authorisation, because no relationship is usually established at that stage.

### **Covert surveillance of Social Networking Sites (SNS)**

289 The fact that digital investigation is routine or easy to conduct does not reduce the need for authorisation. Care must be taken to understand how the SNS being used works. Authorising officers must not be tempted to assume that one service provider is the same as another or that the services provided by a single provider are the same.

289.1 Whilst it is the responsibility of an individual to set privacy settings to protect unsolicited access to private information, and even though data may be deemed published and no longer under the control of the author, it is unwise to regard it as 'open source' or publicly available; the author has a reasonable expectation of privacy if access controls are applied. In some cases data may be deemed private communication still in transmission (instant messages for example). Where privacy settings are available but not applied the data may be considered open source and an authorisation is not usually required.

289.2 Providing there is no warrant authorising interception in accordance with section 48(4) of the 2000 Act, if it is necessary and proportionate for a public authority to breach covertly access controls, the minimum requirement is an authorisation for directed surveillance. An authorisation for the use and conduct of a CHIS is necessary if a relationship is established or maintained by a member of a public authority or by a person acting on its behalf (i.e. the activity is more than mere reading of the site's content).

289.3 It is not unlawful for a member of a public authority to set up a false identity but it is inadvisable for a member of a public authority to do so for a covert purpose without authorisation for directed surveillance when private information is likely to be obtained. The SRO should be satisfied that there is a process in place to ensure compliance with the legislation. Using photographs of other persons without their permission to support the false identity infringes other laws.

289.4 A member of a public authority should not adopt the identity of a person known, or likely to be known, to the subject of interest or users of the site without authorisation, and without the consent of the person whose identity is used, and without considering the protection of that person. The consent must be explicit (i.e. the person from whom consent is sought must agree (preferably in writing) what is and is not to be done).

## **Selected comments from The Surveillance Commissioner's Report for 2015/2016** (Numbers refer to paragraphs in the report)

### **The “virtual world”**

2.8. There is a discernible shift towards criminal activity in or by the use of what I may describe as the —virtual world this increases the demands on those responsible for covert surveillance. They need an understanding of the technological advances and myriad types of communication and storage devices which are constantly being updated. They also need assistance about how the statutory powers available to them can or should be applied to technological developments of which criminals take advantage, factoring in potential regional, national or international boundaries. The developments, complex as they can be, do not diminish the requirement that any surveillance activity can only be undertaken in accordance with the provisions of the relevant authorisation.

### **Social Networks and the “virtual world”**

5.17. Patterns of criminal planning are changing to embrace technological advances. Criminals and terrorists are less likely to meet in public, in parked up cars, with police officers using binoculars and long sighted cameras to follow their movements. Social media and private electronic communications provide greater anonymity for the criminals, and enable their activities to proceed on a global scale. This issue was addressed by my predecessor in his last two reports, and the Surveillance Commissioners have issued guidance on the need for appropriate authorisations to cover these developments.

5.18. My Inspectors and the Assistant Surveillance Commissioners pay particular attention to the way this developing method of criminal activity is kept under covert surveillance. The topic forms the basis for numerous requests for guidance. Perhaps the most significant feature is that investigating authorities cannot proceed on the basis that because social networking developed after much of the legislation came into force it is immunised from compliance with it. Requirements for appropriate authorisation may arise from the work done by those whose roles do not traditionally fall within RIPA or RIP(S)A. The necessary training and information must be addressed by the Senior Responsible Officer in each authority.

5.19. Two examples illustrate the issues.

Example 1: In one particular public authority, once a task is allocated to an internet desk Officer, that Officer undertakes research using a non-attributable computer which stands alone from the authority's main network. Although it is said that the staff do not use false personas, the activity they undertake is calculated to be covert so as to minimise the risk of compromise to ongoing investigations. Staff typically undertake research on one occasion, although this singular research activity may extend over several hours and involve research of different social media sites linked to the subject. There is a perception by staff within the unit that investigators are reluctant to, or dissuaded from, making more than one request for research to be undertaken on the same subject. The head of the unit believes that investigators are missing opportunities for securing valuable intelligence by restricting their request to singular research; this is a view shared by the inspection team. Very rarely are any requests for research of open source material or social media supported by an authorisation for directed surveillance. In a twelve month period the unit has processed 3,561 requests for internet research, on just two occasions directed surveillance authorisations supported the activity being undertaken.

Example 2: In another public authority, one matter absent from the various policy and guidance documents is the use of the internet for investigative purposes. This technique of investigation and research is expanding exponentially with all manner of new

technology and although some knowledge and awareness was evident during discussion with staff, further guidance and advice would benefit investigators and Authorising Officers alike. The key consideration when viewing publicly available information where no privacy settings have been applied, often referred to as 'open source' material, is the **repeated** or **systematic** collection of private information. Initial research of social media to establish a fact or corroborate an intelligence picture is unlikely to require an authorisation for directed surveillance; whereas repeated visits building up a profile of a person's lifestyle would do so. Each case must be considered on its individual circumstances and early discussion between the investigator and the Authorising Officer is advised to determine whether activity should be conducted with or without the protection of an authorisation.

5.20. Part of their inspections of councils, the Inspectors and Assistant Surveillance Commissioners discuss with appropriate officials, and frequently undertake visits to examine the CCTV facilities which they manage. It is very rare for a council to authorise directed surveillance which includes the use of its CCTV system, but occasionally others, for example the local police force, may wish to do so, as part of covert rather than routine overt surveillance. When this arises, there should be a written protocol in place between the council, as owners or managers of the system, and the body which seeks to use it in a covert manner, so as to ensure that the lines of responsibility are clearly understood, and appropriate arrangements for authorisation are then made.

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# HARTLEPOOL BOROUGH COUNCIL

## NON- RIPA AUTHORISATION FORM

**Non-RIPA Form to address issues of necessity and proportionality before carrying out surveillance of staff or others which falls outside the remit of RIPA**

**Guidance Note:**

1. Only officers who would be authorised under RIPA can sign the form. Applicants and authorised officers must comply, in full, with the Human Rights Act 1998. If in doubt contact Hayley Martin, 01429 523002.
2. Completed forms should be forwarded to Leanne Purdy, RIPA Co-ordinator.
3. All boxes in this form must be completed. Not applicable, n/a or lines must be put through irrelevant boxes.

<b>Subject of Surveillance</b>  (including full address)		Unique Reference Number (URN)/Operation Name:	Year/Service/Number/Name
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**SECTION 1 (to be completed by the applicant)**

Name of Applicant		Service	
Full Address			
Contact Details			
Investigation/ Operation Name (if applicable)			

Details of application:

1. Give name / job title of authorised officer:

2. Describe the purpose of the surveillance.

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

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

- Name:
- Address:
- DOB:
- Other known / relevant information:

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



6. Explain why surveillance is NECESSARY in this particular case:

-

7. Supply details of any potential COLLATERAL INTRUSION and why the intrusion is unavoidable: (Also describe precautions to MINIMISE collateral intrusion)

8. Explain why the surveillance is PROPORTIONATE to what it seeks to achieve. However intrusive might it be or the subject of surveillance or on others? Any why is this intrusion outweighed by the need for surveillance in operational terms or can the evidence be obtained by any other means?

9. Applicant's Details

Name (print)

Tel No:

Job Title

Date

Signature

**Authorising Officers considerations of necessity and proportionality**

**Authorising Officers Signature**

.....

**Date**

.....

# **SAFER HARTLEPOOL PARTNERSHIP MINUTES AND DECISION RECORD**

18 July 2025

The meeting commenced at 1.00 pm in the Civic Centre, Hartlepool.

## **Present:**

### **Responsible Authority Members:**

Councillor Harrison, Elected Member, Hartlepool Borough Council  
Sylvia Pinkney, Assistant Director, Regulatory Services, Hartlepool Borough Council  
Alan O'Donoghue, Hartlepool District Commander, Cleveland Police (C)  
Gordon Bentley, North East and North Cumbria Integrated Care Board (NENC ICB)

Non-Voting Observers, Councillor Jorgeson, Representative of Audit and Governance Committee, Hartlepool Borough Council

Also present: as substitute in accordance with Council Procedure Rule 4.2 was Neil Harrison (Head of Service Safeguarding and Specialist Services) as substitute for Jill Harrison (Executive Director of Adult and Community Based Services)

Also present:

Councillor Sue Little  
Chris Hogben, Independent Chair, Domestic Abuse Related Death Review Panel (closed session only)

Officers:

Phil Gleaves, Operation Lead – Pre Court  
Philip Hepburn, Enforcement and Car Parking Services Manager  
Olivia Highley, Domestic Abuse Co-ordinator  
Jo Stubbs, Principal Democratic Services and Legal Support Officer  
Claire Mcpartlin, Democratic Services Officer

## **1. Apologies for Absence**

Apologies for absence were received from Councillor Karen Oliver (Elected Member), Sean Smith (Cleveland Fire Authority), Jonathan Brash, MP (Chair), Craig Blundred (Director of Public Health), Michelle Hill (Safer Communities), John Macilwraith (Interim Director of Children's Services), Jill Harrison (Executive Director of Adult and Community Based Services),

## 2. Declarations of Interest

None.

## 3. Minutes of the meeting held on 14 March 2025

Confirmed.

## 4. Youth Justice Plan *(Assistant Director, Children and Families and Operation Lead – Pre Court)*

### Purpose of report

To present the Youth Justice Strategic Plan for 2025-2026 to Safer Hartlepool Partnership as part of the consultation process before final approval is sought from Children's Services Committee on 23 September prior to final adoption of the plan by full Council on 2 October.

### Issue(s) for consideration

The Operation Lead – Pre Court reported that the meeting of full Council on 2 October 2024 would be requested to adopt the Youth Justice Strategic Plan for 2025/2026, a copy of which was appended to the report. The recommendations made by Safer Hartlepool Partnership and Children's Services Committee would be considered in the final plan presented to Council. The final adopted plan would then be sent to the National Youth Justice Board.

### Decision

It was acknowledged that good progress had been made in the last year. The plan provided a good and clear understanding of areas which required improvement and set out the key priorities over the next two years.

The plan was noted.

## 5. Restorative Justice Presentation *(Assistant Director, Preventative and Community Based Services)*

### Purpose of report

Provide a proposal and vision for Hartlepool to become a Restorative Borough.

### Issue(s) for consideration

The Hartlepool District Commander for Cleveland Police gave a presentation which detailed the vision that Hartlepool would become the first Restorative Borough in the country.

Restorative Justice was used to repair harm between victims and the community by rebuilding relationships. This was a non-judgemental

platform which provided accountability and engagement. The Restorative Justice Manager of Safer Communities had been seconded for 12 months to support Hartlepool Borough Council Strategic Leads. As part of this work, they would identify Restorative Approaches Champions within partner agencies and develop referral pathways into the community.

The vision for Hartlepool was to have Restorative Approaches embedded within local policy and procedures. A network of invested professionals, partners, agencies and community groups would be established and commit to maintaining a restorative community.

Positive outcomes had been received following the use of Restorative Justice following the Violent Disorder in Summer 2024 and Racial Hate Crime incidents.

Those present were supportive of Restorative Justice which they felt would help reduce burdens on the prison system while preventing perpetrators of low level crimes from reoffending in a way that might impact their life and future. It was suggested that the Voluntary Community Sector could provide invaluable support in engaging communities and businesses within the Borough.

### **Decision**

The presentation was noted.

## **6. Any Other Items which the Chairman Considers are Urgent**

None.

## **7. Local Government (Access to Information) (Variation Order) 2006**

Under Section 100(A)(4) of the Local Government Act 1972, the press and public were excluded from the meeting for the following items of business on the grounds that they involved the likely disclosure of exempt information as defined in the paragraphs referred to below of Part 1 of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006.

**Minute 8 – Domestic Abuse Related Death Review** (*Assistant Director, Regulatory Services*) – This item contains exempt information under Schedule 12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 namely information which is likely to reveal the identity of an individual (para 2).

- 8. Domestic Abuse Related Death Review** *(Assistant Director, Regulatory Services)* This item contains exempt information under Schedule 12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 namely information which is likely to reveal the identity of an individual (para 2)

**Purpose of Report**

To consider the report into a death as part of the Safer Hartlepool Partnerships Statutory Duty to commission Domestic Abuse Related Death Reviews under Section 9 of the Domestic Violence, Crime and Victims Act 2004.

**Issues for Consideration**

Further details can be found in the exempt section of the minutes.

**Decision**

Further details can be found in the exempt section of the minutes.

**9. Date and Time of Next Meeting**

The Chair reported that the next meeting would be held on Friday 3 October

The meeting concluded at 2:40 pm.

CHAIR