



Uttlesford District Council

Chief Executive: Dawn French

Cabinet

Date: Thursday, 12 January 2017
Time: 19:00
Venue: Council Chamber
Address: Council Offices, London Road, Saffron Walden, CB11 4ER

Members: Councillors H Rolfe (Leader and Chairman), S Barker, S Howell, J Redfern and L Wells

Other attendees: Councillors A Dean (Liberal Democrat Group Leader and Chairman of Scrutiny Committee), J Lodge (Residents for Uttlesford Group Leader) and E Oliver (Chairman of Performance and Audit Committee)

Public Speaking

At the start of the meeting there will be an opportunity of up to 15 minutes for members of the public to ask questions and make statements subject to having given notice by 12 noon two working days' before the meeting.

AGENDA PART 1

Open to Public and Press

- 1 Apologies for absence and declarations of interest**
To receive any apologies for absence and declarations of interest.

- 2 Minutes of previous meeting** 5 - 14
To receive the minutes of the meeting held on 1 December 2016

- 3 Questions or statements from non executive members of the council**
 To receive questions or statements from non-executive members on matters included on the agenda
- 4 Matters referred to the Executive (standing item)**
 To consider matters referred to the Executive in accordance with the provisions of the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules
- 5 Reports from Performance and Audit and Scrutiny Committees (standing item)**
 To consider any reports from Performance and Audit and Scrutiny Committee
- 6 Refugee Working Group**
 To receive a report from the Refugee Working Group (standing item)
- 7 Equalities Scheme** 15 - 18
 To consider the adoption of the Equalities Scheme
- 8 Scrutiny Enforcement Review Recommendations** 19 - 22
 To consider the response to the recommendations from the Scrutiny Committee
- 9 Regulation of Investigatory Powers Act** 23 - 42
 To consider the adoption of policy
- 10 PAS Report and draft Action Plan**
 To consider an Action Plan for the Local Plan resulting from a report commissioned from IPE through PAS on the progress of the Local Plan
- 11 Voluntary Sector Grants Award 2017- 18** 43 - 46
 To note the funding allocated under the Voluntary Grant Scheme
- 12 Any other items which the Chairman considers to be urgent**
 To consider any items which the Chairman considers to be urgent.

PART 2
Exclusion of the Public and Press

Consideration of an item containing exempt information within the meaning of para 1 of s.100I and Schedule 12A of the Local Government Act 1972

13 Compulsory Purchase of Land

- Information relating to any individual;

14 Release of Covenant

- Information relating to any individual;

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**CABINET MEETING held at COUNCIL OFFICES LONDON ROAD
SAFFRON WALDEN on 1 DECEMBER 2016 at 7.00pm**

Present: Councillor H Rolfe (Leader)
Councillor S Barker (Deputy Leader and Cabinet Member for Environmental Services)
Councillor S Howell (Cabinet Member for Finance and Administration)
Councillor J Redfern (Cabinet Member for Housing and Economic Development)
Councillor L Wells (Cabinet Member for Communities and Partnerships).

Also present: Councillor J Lodge (Residents for Uttlesford Group Leader).

Officers in attendance: R Dobson (Principal Democratic Services Officer), R Harborough (Director of Public Services), A Knight (Assistant Director – Resources), S Pugh (Interim Head of Legal Services) and A Webb (Director of Finance and Corporate Services).

CA64 APOLOGIES FOR ABSENCE AND DECLARATION OF INTERESTS

Apologies for absence were received from Councillor Dean and from the Chief Executive.

Councillor Rolfe said Councillor Redfern was expected later during the meeting, and her report on the Refugee item would be taken when she arrived.

Councillor Barker declared a non-pecuniary interest as a member of Essex County Council in respect of the items regarding the Local Council Tax Support scheme and the Dunmow Neighbourhood Planning Referendum.

CA65 MINUTES

The minutes of the meetings held on 12 October and 26 October 2016 were received and signed by the Chairman as an accurate record.

CA66 MATTERS ARISING

(i) Minute CA51 – Equalities Scheme

Councillor Barker thanked officers for arranging the recent training on equalities.

CA67

REPORTS FROM PERFORMANCE AND AUDIT AND SCRUTINY COMMITTEES

Councillor Oliver as Chairman of the Performance and Audit Committee reported on matters considered at that committee's recent meeting.

The committee had recommended to Full Council the appointment of external auditors via the appointing person arrangements made by Public Sector Audit Appointments.

Councillor Oliver said he was delighted to report the council had again achieved an unqualified opinion on its financial statements, and he commended officers for maintaining this excellent record for another year. A report on procurement activity had been considered, informing the committee of ongoing work by officers to ensure all long-term contracts between the council and its suppliers were suited to the council's needs. Reports on health and safety statistics, and on performance indicators throughout the council, had also been received and were in line with what was expected.

Councillor Rolfe said the unqualified audit opinion was a first class result and congratulated the Assistant Director – Resources and her team.

In the absence of Councillor Dean, Cabinet received Councillor Dean's report as Chairman of the Scrutiny Committee, regarding the committee's recent consideration of aspects of items set out in the Forward Plan, the draft budget, the Local Council Tax Support Scheme 2017/18 and North Essex Parking Partnership. Councillor Rolfe referred members to key points raised and invited Councillor Oliver as a member of Scrutiny Committee to comment. In response to a point regarding governance of the council's special purchase vehicle, Aspire, Councillor Rolfe agreed governance arrangements and capacity within the Council would be put in place and were currently being developed. Regarding a forthcoming devolution report, there would be a written report at the Council meeting on 8 December.

CA68

2016/17 BUDGET MONITORING QUARTER 2

Councillor Howell presented a report on financial performance relating to the General Fund, Housing Revenue Account, Capital Programme and Treasury Management. He explained the report was based on actual expenditure and income from April to September and predicted a forecast for the end of the financial year.

Councillor Howell highlighted the main points of the report. He said the General Fund was forecast a net operating underspend of £194,000 and a bottom line underspend of £640,000. The Housing Revenue Account was forecast a minor overspend on the net operating expenditure of £127,000. The Capital Programme was forecast an underspend of £6,252,000, which included a £6,211,000 of slippage for 2017/18 projects, giving a net underspend of £41,000.

Councillor Howell said the current budget had been updated to reflect the capital programme slippage for 2015/16, as approved by Cabinet as part of the final outturn report in June. The current budget had been increased by £1.291m. The majority of the slippage related to the Waste Depot at Great Dunmow, which was offset by the increased drawdown on the Waste Depot Reserve of £888,000.

Councillor Howell recommended that the report be approved.

Councillor Lodge said this was a comprehensive report. He asked whether the figure of £405,000 for planning policy related to the end of the second quarter, and asked what was the total annual spend, the forecast, and whether a reference to £35,000 was to a vacancy for a team leader. He also asked for clarification of the reimbursement to Waitrose of £30,000.

Councillor Lodge referred to a significant reduction on the PFI, and asked for confirmation of whether this related to the Leisure Centre. Finally, he wished to know whether the council would lose money on the business rates retention.

Councillor Rolfe said in relation to business rates retention, that the council was waiting for an update from Government.

Councillor Lodge asked about total reserves stated in the report to be £11m, whereas he had seen in another report a figure of £17m.

Councillor Rolfe said there was a difference in the reserves the council held with the money that it invested.

The Assistant Director – Resources said, regarding the question about the planning policy budget, the £405,000 was the predicted spend, but depended on consultations and other factors might need to be taken into account. The sum shown was what had been drawn down on the planning reserve.

The Assistant Director – Resources said the figure of £112,000 in the planning policy budget was the figure that had been predicted originally in Quarter 1, but the amount had been amended during June and September. Some of the overspend related to agency staff costs.

Regarding the reimbursement of Waitrose, this related to the compensation payment paid to the council for loss of revenue during the temporary closure of the Waitrose car park for improvement works. Some of the compensation needed to be repaid to Waitrose following its examination of the accounts.

Regarding the PFI, there had been an increase in income for the PFI agreement. At the meeting of the Performance and Audit Committee in July, it had been agreed it was necessary to account for this increase, and that the model should be examined. Accordingly there could in future be a liability in respect of the PFI, so a reserve was provided for this eventuality.

Regarding business rates retention, the Council continued to hold 100% of business rates for all preceptors and for central government as the collecting

agent, but only retained 40%. The forthcoming Finance Bill was expected to give more information on the future of 100% retention.

The Assistant Director – Resources confirmed that the figure relating to slippage should have referred to 2016/17 going into 2017/18, rather than 2017/18 projects.

In response to a question from Councillor Barker, the Director of Public Services confirmed section 106 monies were carefully monitored to ensure they were applied to the purposes intended within the time limits and did not lapse.

RESOLVED to approve the report on 2016/17 budget monitoring for quarter 2.

CA69 **UPDATE ON REFUGEES**

Councillor Redfern updated members on the arrangements for refugees in the district. She said Essex County Council were leading on the arrangements, and Uttlesford would be offering another family accommodation, although the next chartered plane was not until June 2017.

Councillor Rolfe asked that at the next meeting of Cabinet there should be some discussion of the slowness of the project.

Councillor Redfern said as a district, this council did not have the facilities, it had no hospital and was set in a rural location.

Councillor Barker said there were a large number of other vulnerable families now presenting as homeless or on the point of losing their home, because of the policy of MAG. She asked whether Councillor Redfern could report on housing homeless figures.

Councillor Redfern said the Council had applied for Government funding as there were more people needing help with housing. She would suggest a report to the meeting of Cabinet after the next one. She had attended the residents' meeting with MAG and the council was engaging with MAG to see how to manage the situation.

CA70 **2015/16 TREASURY MANAGEMENT OUTTURN**

Councillor Howell presented a report on the 2015/16 treasury management outturn. This annual report was a requirement under the council's constitution, and the objectives of treasury management were to manage risk, maintain liquidity and minimise borrowing and cost. Councillor Howell referred members to the summary, which stated that during 2015/16 no other short term or long term borrowing was needed to meet the council's commitments and no cashflow difficulties were experienced, and confirmed the Council continued to operate a cautious approach when lending money to counterparties. All deposits and investments made were in compliance with

the council's approved treasury management strategy, which had been prepared with the assistance of the council's independent treasury consultants, Arlingclose Ltd.

Councillor Lodge asked for clarification of short term investments, which had increased from £23,500 to £30,000. The Assistant Director – Resources explained these were cash investments.

Councillor Lodge asked whether the council's long-term borrowing, the HRA loan, would be affected by any increase in interest rates. The Assistant Director – Resources said the effects of any increases would be closely monitored.

Councillor Rolfe said the interest rates were factored in to the loan under the 30 year plan.

Councillor Barker said the interest rates shown were what would apply to the loan.

Councillor Redfern said the council had made the decision to take out the loan, and had decided not to repay for the first five years so as to be able to build houses.

RESOLVED to approve the 2015/16 treasury management outturn.

CA71

TREASURY MANAGEMENT MID-YEAR REVIEW 2016/17

Councillor Howell presented a report on a mid-year review of treasury management. Due to proposals for the council's wholly owned subsidiary, Aspire (UDC) Ltd, a loan to the company would be made. In order to do this, the council would borrow the money from PWLB, and according it was necessary to increase the council's operational boundary from £101.5m to £250m.

RESOLVED

1. The 2016/17 Treasury Management Strategy counterparty list for UK Local Authorities, including Fire and Police be revised;
 - a. The investment limit of £5m to be increased to unlimited
 - b. The % of the portfolio investments to be increased from 70% to 100%
 - c. The maximum number of days from 365 days to 730 days
2. The Operational Boundary be increased from £101.5m to £250.0m

LOCAL COUNCIL TAX SUPPORT (LCTS) CONSULTATION 2017/18

Councillor Howell presented a report on changes to the Local Council Tax Support scheme for the following financial year. He said an amendment would be suggested. First he explained the council was required to review the LCTS scheme each year. This council had the lowest percentage contribution amount in Essex, and he was proposing to hold this level at 12.5%, which was very generous. The Scrutiny Committee had considered the report, and had welcomed keeping the contribution at that level. The council used its resources to support the most vulnerable, which he hoped could continue, so there was full protection to protected claimants. There were small amendments suggested to the reduction to parish councils. The Scrutiny Committee had supported the parish and town council subsidy reduction, and in broad terms had been content with the housing benefit reforms.

Extensive consultation had taken place on the proposals, the responses to which were included in the papers. In the light of responses received to the consultation it was now proposed not to align LCTS in relation to removal of the severe disability premium where another person was paid universal credit (carers element), to look after them. The other changes to the LCTS scheme as suggested in the report were therefore recommended to Cabinet.

Councillor Howell summarised the areas of the LCTS scheme which had been the subject of consultation responses, and which had also been examined by Scrutiny Committee. The reduction to the grant to parish and town councils was a measure which Councillor Howell considered was appropriate, as this grant was made from the council's own funds. In his view, the council should use its money where it was most effective, and should not be directed to bodies that could raise funds via their precept. The Government subsidy for transition was no longer available, and the council had provided a subsidy out of its own finances. The proposal to reduce this by 50% this year was being made in time for parish and town councils to prepare. This money represented approximately 3% of the budget of those councils.

Councillor Barker asked a question regarding empty homes discount. Councillor Howell said a reduced discount would be offered for the first six months.

RESOLVED to approve to recommend to Council the Local Council Tax Support scheme as follows:

- (a) The 2017/18 LCTS scheme is set on the same contribution rate as the 2016/17 scheme and therefore the contribution rate is frozen at 12.5% for the third consecutive year.
- (b) Discretionary subsidy for town & parish councils for 2017/18 in accordance with the principles set out below.
 1. UDC should continue to provide discretionary funding to town and parish councils at a reduced level of 50% to assist in mitigating the

effect of LCTS discount taxbase reductions on the Band D Council Tax calculation.

2. The total UDC parish subsidy pot to be distributed using the formula of [2012/13 Parish Band D x 2016/17 Parish LCTS taxbase reduction] – thus avoiding UDC subsidising any precept increases made since 2013/14. The payment to then be adjusted by 50%.

(c) Of the six key reforms to the way benefits are assessed the following four have already been implemented and it is recommended that these are incorporated into the LCTS scheme for 2017/18.

- I. Removal of the family premium for all new working age claimants
- II. Reduction of backdating of a claim from 6 months to 1 month
- III. Removal of the element of the work related work activity component in the calculation of the current scheme for new employment and support allowance applicants
- IV. Period of absence from Great Britain from 13 weeks to 4 weeks whilst still being able to claim benefits

(d) to incorporate the following proposal into the 2017/18 scheme as it becomes applicable: limiting the number of children within the calculation to a maximum of two.

CA73

AUTUMN STATEMENT AND BUDGET CONSULTATION OUTCOMES

Councillor Howell presented a report summarising the Autumn Statement and the two consultations which the council had carried out for residents and for local businesses. The Autumn Statement had contained no mention of local government or the future funding available to local authorities. The two consultations showed both sets of consultees had a similar order of priorities for service delivery. The overall opinion was that council tax should remain the same, but compared to the previous year's survey there was a higher level of support for an increase. The report detailed the highest ranking areas which those responding to the consultation would like the council to focus spending on.

Cabinet NOTED the report.

CA74

GREAT DUNMOW NEIGHBOURHOOD PLAN

Councillor Barker presented a report on the successful examination and referendum relating to the Great Dunmow Neighbourhood Plan, which the Cabinet was now invited to recommend to Council to be formally "made".

Councillor Rolfe congratulated Great Dunmow residents.

RESOLVED to recommend to Council that the Great Dunmow Neighbourhood Plan is formally “made” as part of the statutory development plan for the District.

CA75 CORPORATE PLAN 2017-2021

Councillor Rolfe presented a report on the council’s draft corporate plan for 2017 – 2021. He said the review of the plan had resulted in a slight change of vision, to focus on the wellbeing of the district’s communities and to protect and enhance the unique character of the district.

Councillor Howell said he supported the draft corporate plan, which was one all could aspire to achieve. It would be important to protect the district’s heritage, but he would very much encourage positive planning that looked after heritage and promoted growth.

RESOLVED to recommend the draft Corporate Plan 2017-2021 for approval.

CA76 KERBSIDE GARDEN WASTE SUBSCRIPTION CHARGES FOR 2017/18

Councillor Barker presented a report on measure to achieve efficiencies in the kerbside garden waste collection scheme; to incentive residents to subscribe to the scheme, and to simplify it.

Councillor Oliver suggested the recommendation in relation to the subscription fee of £40 should include the words “per bin”, to ensure the charge matched the number of bins a resident had.

RESOLVED

1. The kerbside garden waste collection subscription remains at £40 per bin for the year 1 April 2017 to 31 March 2018
2. A £5 discount will be made for customers switching to payment by direct debit mandate. A deadline will be set to benefit from this discount.
3. There will be no reduction in subscription charges other than the direct debit discount for customers joining part way through the year.
4. The free bin for new subscribers will be withdrawn.

CA77 EPPING FOREST DISTRICT DRAFT LOCAL PLAN CONSULTATION

Councillor Barker presented a report on the Epping Forest draft local plan consultation. It was important that the council to respond to the consultation, under the duty to co-operate, as Epping Forest were one of the council’s

Strategic Housing Market Area (SHMA) partner authorities. Suggested commentary was set out in the report, for the approval of Cabinet.

Councillor Barker referred to the key issues to consider, regarding the amount of housing proposed and specific proposals close to the administrative boundary. The report set out details regarding the level of housing which on 2012 household projections the SHMA had concluded was necessary, and the newer data available for 2014. At the recent Planning Inspectorate Advisory visit to Uttlesford in November 2016, the council had been informally advised that the SHMA and respective districts should be working to the 2014 sub national housing population projections as a starting point for determining Objectively Assessed Housing Need (OAN).

Councillor Barker said if one authority was not going to meet the full SHMA numbers then there would be an impact on numbers for the whole area.

Councillor Rolfe said the comments reflected reality, and should be supported. He asked members to support the recommendation. Councillor Redfern abstained.

RESOLVED to note the content of the Epping Forest draft local plan (Regulation 18) and suggested commentary, including clarity that the figure of 14,100 has not been identified yet as the council's Objectively Assessed Housing Need, and forward observations to Epping Forest District.

CA78

EAST HERTFORDSHIRE DISTRICT COUNCIL PRE-SUBMISSION DISTRICT PLAN CONSULTATION

Councillor Barker presented a report on the key proposals in the East Hertfordshire pre-submission district plan and their implications for this district. Representations in response to the consultation needed to be submitted by 15 December 2016, so the suggested responses were set out in the report for approval.

Councillor Barker said the advice of the Planning Inspector was that 2014 household projections should be used. It was necessary to be realistic about up to date information. Ongoing duty to co-operate meetings would consider issues regarding education and highways.

Councillor Lodge said his comments were intended to refer to both this report and to the report on Epping Forest. He questioned the approach, if accepting the target figure for households was 14,100, of indicating this council would accept that figure, in the consultation responses.

Councillor Rolfe said this council was accepting that the Planning Inspector had given very clear advice that the 2014 figures should be used. It would be irresponsible of the council in responding to the consultations not to say we have had a clear steer from the inspector.

Councillor Lodge said he agreed with the approach, but the wording in the recommendation was not clear.

The Director of Public Services said, having had that advice, the council was working to assess the sustainability of the scale of growth arising from the 2014 projections, so it would suggest that all the SHMA authorities take the same approach.

Councillor Lodge said he would like to make it clear that this council was not stating it was accepting the figures.

Councillor Rolfe agreed. He said Uttlesford had not made up its mind, but was doing further work and was taking the Planning Inspector's advice very seriously.

Councillor Redfern said she did not feel entirely comfortable with what was suggested. If all the authorities were in the same group they should be taking the same approach. She questioned why they were not.

The Director of Public Services said East Herts had had the same advice.

Councillor Rolfe said each council would have to assess whether it was in a position to have its plan approved.

Councillor Redfern said she had abstained on the recommendation for the Epping Forest response because that council had a large amount of green belt.

RESOLVED to note the content of the East Herts pre-submission and suggested commentary, including clarity that the figure of 14,100 has not been identified yet as the council's Objectively Assessed Housing Need, and forward observations to East Herts District Council.

The meeting ended at 8.20pm.

Committee: Cabinet

Agenda Item

Date: 12 January 2017

7

Title: Equalities Scheme

Portfolio Holder: Cllr Lesley Wells, Cabinet Member for Communities and Partnerships

Key decision: Yes

Summary

1. Cabinet agreed a draft Equalities Scheme for consultation purposes at its meeting on 15 September 2016. There was a limited response, but the report of consultation is appended to inform consideration of whether to adopt the draft scheme, or amend it in the light of comments

Recommendations

2. The Council adopts the appended Equalities Scheme 2017-2021
3. The Council commits to reaching Achieving status by April 2018

Financial Implications

4. The objectives and actions are intended to inform how the council prioritises its budget, and does not necessarily imply a requirement for additional resources.

Background Papers

5. None

Impact

- 6.

Communication/Consultation	Consultation report appended
Community Safety	
Equalities	See body of the report
Health and Safety	
Human Rights/Legal Implications	The Council has a legal obligation to prepare and to publish equality objectives at four-yearly intervals. (Equality Act 2010 (Specific Duties) Regulations 2011)

Sustainability	
Ward-specific impacts	
Workforce/Workplace	One of the draft revised objectives relates specifically to the council's workforce

Situation

7. The Equality Information and the Equality Duty was updated on 31 January 2014. The Public Sector Equality Duty is made up of a general equality duty which is supported by specific duties. Under the terms of the specific duty, the Council had to:
- Prepare and publish one or more objectives by the 6 April 2012 that will support the council in meeting the requirements of the general Equality Duty
 - Ensure that those objectives are specific and measurable
 - Publish those objectives in such a manner that they are accessible to the public
8. The responses to consultation have been carefully considered and some aspects of the proposed Equalities Scheme have been reworded. Some comments such as “respond to residents’ feedback” will feed into other proposed work such as renewing the customer charter.
9. Member training was provided during the workshop held on 29 November

Risk Analysis

10.

Risk	Likelihood	Impact	Mitigating actions
Failure to adopt an up to date scheme could result in challenge to a decision of the council	2 The more likely risk is from failing to take account of an EQIA in making a decision that did have significant equalities impacts	3 A decision could become void	

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.

Proposed Equalities Scheme 2017 - 2021

1. We will seek to ensure that we have an awareness of diversity in the community and the particular needs and priorities of minority groups, and take into account the equality impacts in preparing, reviewing and implementing policies and programmes and seek to mitigate any adverse impacts

Specific actions

- we will review our local tax support scheme annually;
- we will support tenants to cope with welfare reform by providing advice, information and financial information;
- we will use equalities impact assessments;
- we will address needs and gaps indicated by reviewing service user information; and
- we will provide training to our workforce, including techniques such as toolbox talks so that the message reaches all staff including those in front line roles such housing repairs and waste and recycling

2. We will ensure that equality is central to our thinking as we deliver our corporate plan

Specific actions

- we will prepare a health and wellbeing strategy with elements that particularly focus on vulnerable groups;
- we will support those in sheltered housing to maintain good health by increasing physical activity sessions;
- we will keep our capital programme and its resourcing under review, including delivery of a £3.5m planned maintenance programme of investment in the council's housing stock;
- we will seek to obtain more resources for disabled facilities and home repair assistance grants by developing new approach using a revolving fund.
- we will develop a voluntary sector support strategy
- we will carry out an equal pay review

3. We will seek to ensure when consulting with our community that we will endeavour to improve participation and representation of all its constituent elements, having regard to the legally protected characteristics under the Equality Act

Specific actions –

- we will launch a new council tenant engagement initiative “Get involved”
- we will seek to monitor equalities information when people respond to key consultations

4. We will identify, and where possible address, the root causes of disadvantage and discrimination.

Specific actions –

- we will develop a vulnerable persons strategy based on evidence of need;
- we will ensure that we meet our safeguarding responsibilities.
- we will deal with relevant casework in accordance with our housing, homelessness and housing options and housing allocations policies and strategies.
- we will develop an action plan to address issues of poor quality housing, fuel poverty and slips and falls prevention in private sector rented housing.
- we will complete our programme of licensed caravan site inspections.
- we will have regard to the needs of the gypsy and traveller community as part of the new local plan making process

5. We will foster good relations between different groups and communities.

Specific actions

- we will develop a strategy for developing sustainable tenancies and neighbourhoods;
- we will monitor new anti-social behaviour policies and report progress to the Housing Board
- we will participate in the Syrian refugees voluntary resettlement programme.

Committee: Cabinet

Agenda Item

Date: 12 January 2017

8

**Title: Enforcement review recommendations
from the Scrutiny Committee**

**Portfolio Holder: Cllrs Susan Barker (Environmental
Services) and Simon Howell (Finance and
Administration)**

Key decision: No

Summary

1. This report considers the response to the recommendations from the Scrutiny Committee, which were aimed at achieving outcomes in the following five key areas:
 - Better reporting of caseloads (in terms of numbers of cases and outcomes) to District Councillors and Town/Parish Councils
 - Improved customer service
 - Review of Council's Enforcement Policy with the introduction of policies for each enforcement area, and reviewing polices where they exist.
 - Improved cross agency working, using good experiences from some areas and applying this to service areas with a poor inter agency relationship.
 - Better use of forums and general education to achieve enforcement objectives for activities other than planning

Recommendations

2. Cabinet agrees that:
 - 1) The corporate customer charter be updated
 - 2) An overarching corporate enforcement strategy be developed supported by enforcement policies for
 - Benefits
 - Debt recovery
 - Development Management including Building Control
 - Environmental health
 - Licensing
 - Litter, fly-tipping, flyposting, abandoned and untaxed vehicles
 - Taxis and private hire operators
 - 3) Regular reports with a schedule of cases be generated and distributed together with management information for performance review purposes as soon as the database has been addressed.

Financial Implications

3. The costs can be met within existing revenue budgets

Background Papers

4. None

Impact

- 5.

Communication/Consultation	The recommendations primarily relate to better communication.
Community Safety	
Equalities	
Health and Safety	
Human Rights/Legal Implications	Enforcement powers stem from various statutes and regulations and regimes differ
Sustainability	
Ward-specific impacts	
Workforce/Workplace	

Situation

6. The Scrutiny Committee's recommendations were as follows:
 - a) Introduction of a customer charter with standards for updating complainants on the progress of all enforcement in all service areas.
 - b) Review the Council's Enforcement Strategy and review or introduce enforcement policies for all principal enforcement areas.
 - c) Following the re-engineering of the Council's IDOX Software System, from 1 April 2017 the Corporate Enforcement Team introduce monthly Parish/Town Council and District Council updates on Planning Enforcement Cases (including status and numbers); and introduce a quarterly report to Planning Committee.
 - d) Introduction of Memorandum of Understanding between Essex Highways and Uttlesford District Council on Highway Enforcement Matters

e) Relaunch Forums for Taxi Drivers/Operators and other Non-Planning Enforcement Areas where appropriate before 1 April 2017.

7. The Committee's recommendations appear to be predicated on the concept that enforcement is a discrete service rather than an integral element of all service delivery. Since the review, enforcement officers have been embedded into relevant service areas and have become accountable to service line managers. This has been the established practice in some services such as environmental health to which responsibility for licensing has recently been transferred. This change in enforcement management should enable a more joined up approach with appropriate targeting of resources on the most important issues as service plans are aligned with corporate plan priorities.
8. The Council has a customer charter which sets down general standards for responding to customers of all service areas and indicates in outline any exceptions to those standards. The current charter focuses on time frames for a response when a customer contacts the council. It would benefit from a refresh to cover the principle of keeping customers informed where the process of investigating and resolving an issue is not capable of being achieved within standard time frames. More detailed commitments would be incorporated into standards for each service.
9. Currently there is no overarching corporate enforcement strategy. It is proposed that a strategy be developed based on the statutory principles of good regulation as provided within the Regulatory Reform Act 2006. Linking in with this corporate strategy will be separate policies relating to the varying enforcement functions of the Council, namely:
 - Benefits
 - Debt recovery
 - Development Management including Building Control
 - Environmental health
 - Licensing
 - Litter, fly-tipping, flyposting, abandoned and untaxed vehicles
 - Taxis and private hire operators
10. Fly-tipping, flyposting, abandoned and untaxed vehicles, obstructions on pavements such advertising boards, tables and chairs outside pubs and cafes and other advertisements on the highway can give rise to issues. They generally do not require reference to the highways authority or its contractor Essex Highways, as issues are either dealt with by direct action such as removing advertisements, or by advising parties of Essex County Council's policy. The need to liaise with the highway authority will generally arise when reports, for example, of an obstructed right of way are received, or the matter cannot be resolved through advice and guidance and is significant enough to warrant referral to ECC for enforcement under the highways acts. It is appreciated that ECC's website portal for communications can be frustrating in terms of establishing progress with issues reported, but it is its preferred channel, and a memorandum of understanding is unlikely to be an effective way of raising concerns about communications. In practice, officers and members have alternative mechanisms

to follow matters up effectively with the highway authority. There is an option of securing delegated powers from ECC to licence the placement of items in the highway, for example, but the district council decided in 2014 that it would adopt an advisory approach to A boards and would not require businesses to apply for consent.

11. Under the better regulation agenda, the council needs to engage effectively with local taxi drivers and private hire vehicle operators. Based on previous experience, relaunching a forum for the sector is not the most appropriate and cost effective method of engagement. A more proportionate alternative approach will be adopted. This can also embrace engagement with other business sectors.
12. Generating reports of planning enforcement cases by parish, ward or other data field and e mailing reports to a distribution list is, in principle, straightforward. The system engineering required, however, relates to the organisation of data fields to ensure that reports are accurate. This will take some time to complete. The existing system has a powerful and easy to use enquiry screen accessible to public users via the website to enable them to self serve. Town and parish councils can readily use this facility, but as with automatically generated reports, the data base still needs attention before there can be full confidence in the output. Use of other system modules needs to be developed to cover other aspects of enforcement besides planning. Management reports will be produced for monitoring purposes.

Risk Analysis

13.

Risk	Likelihood	Impact	Mitigating actions
None			

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.

Committee: Cabinet

Agenda Item

Date: 12 January 2017

9

Title: Regulation of Investigatory Powers Act:
Adoption of Policy

Portfolio Holder: Councillor Simon Howell

Key decision: No

Summary

1. The Council does not currently have a documented policy for the use of powers governed by the Regulation of Investigatory Powers Act (usually known as "RIPA").
2. The Home Office Code of Practice on Covert Surveillance and Property Interference states:

"Elected members of a local authority should review the authority's use of the 2000 Act and set the policy at least once a year. They should also consider internal reports on use of 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. This report proposes a policy for adoption. It also explains the nature of RIPA powers and covers the Council's use of them.

Recommendations

4. That the policy in the Appendix to this report is adopted.
5. That the Chief Executive is given power to designate authorised officers for the purposes of RIPA.
6. That the Interim Head of Legal Services is designated the Senior Responsible Officer with oversight of the use of RIPA powers.

Financial Implications

7. None

Background Papers

8. None

Impact

- 9.

Communication/Consultation	
Community Safety	Whilst use of RIPA powers is expected to be rare, their use in investigations when appropriate may contribute to community safety.
Equalities	Equalities issues are addressed in the body of the policy. It is important that RIPA powers are not used in a discriminatory way.
Health and Safety	None.
Human Rights/Legal Implications	The purpose of RIPA is to ensure that the exercise of investigatory powers is compatible with the European Convention on Human Rights. The adoption of the policy should help to ensure respect for human rights and the lawful exercise of investigatory powers.
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	Training will be arranged for employees engaged in investigations.

Situation

What does RIPA do?

10. RIPA places controls on the use of certain methods of investigation. In particular, it regulates the use of surveillance and “covert human intelligence sources”. (A covert human intelligence source is someone who uses a relationship with a third party in a secretive manner to obtain or give information – for instance an informer or someone working “under cover”.)
11. The use of powers under RIPA needs to be properly authorised within the Council and also needs approval by a magistrate.
12. RIPA surveillance powers are often characterised in the press as being “anti-terror” powers. This is incorrect. The principal objective of RIPA is to ensure that public bodies carry out investigations in a manner compatible with the European Convention on Human Rights – in particular the rights set out in Article 8: the right to respect for individuals’ private and family life and their home and correspondence.

Supervision by the Office of Surveillance Commissioners

13. The Office of Surveillance Commissioners (OSC) oversees the conduct of covert surveillance and covert human intelligence sources by public authorities. It is a tribunal non-departmental public body, sponsored by the Home Office. The Chief Surveillance Commissioner submits an annual report to the Prime Minister.
14. The OSC publishes guidance for public bodies and carries out inspections, reporting on their findings to the Chief Executive. Inspections are roughly on a three yearly cycle. The next inspection should take place in 2017.
15. The key requirements expected by the OSC are:
 - A policy on the use of RIPA set by elected members;
 - Training and guidance for staff;
 - The designation of a senior responsible officer with oversight of RIPA;
 - Documented evidence of compliance with legal and best practice requirements in the use of RIPA.

Use of RIPA powers by Uttlesford District Council

16. UDC has not used investigative powers regulated by RIPA since at least 2011. Nonetheless, there may be occasions on which their use would be appropriate. It is also important that employees are able to recognise the circumstances in which RIPA authorisation is needed.

Training and officer oversight

17. Training will be arranged for officers involved in investigatory work.
18. An officer working group has been set up to oversee compliance and training needs.
19. The Home Office Code of Practice recommends the designation of a senior responsible officer, responsible for the integrity of the authorisation process, compliance with RIPA legislation, OSC guidance and Home Office codes of practice, engagement with the Commissioners and inspectors when they conduct their inspections, and where necessary, overseeing the implementation of any post-inspection action plans recommended or approved by a Commissioner. Given the supervisory nature of this role, it would sit well with the Monitoring Officer/ Interim Head of Legal Services.
20. Authorising officers should be at Director or Head of Service level. Two authorising officers should be sufficient. The Executive is asked to give power to the Chief Executive to designate authorising officers.

Risk Analysis

21.

Risk	Likelihood	Impact	Mitigating actions
Failure to comply with RIPA legislation and good practice, leading to breaches of human rights legislation.	3	2	The adoption of the policy annexed to this report backed up by training and awareness.
An adverse report by the Office of Surveillance Commissioners.	4	2	As above

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.



Uttlesford
District Council

THE REGULATION OF INVESTIGATORY POWERS ACT 2000

A procedure guide on the use of covert
surveillance and “covert human intelligence
sources”

Statement of Intent: Uttlesford District Council attaches a high value to the privacy of citizens. It will adhere to the letter and to the spirit of the Act and will comply with this Code.

1. Introduction

- 1.1 The Regulation of Investigatory Powers Act 2000 (“RIPA”) is designed to ensure that public bodies respect the privacy of members of the public when carrying out investigations, and that privacy is only interfered with where the law permits and there is a clear public interest justification.

2. What does RIPA do?

- 2.1 RIPA places controls on the use of certain methods of investigation. In particular, it regulates the use of surveillance and “covert human intelligence sources”. This guide covers these aspects of the Act. Further guidance will be issued on other aspects of the Act if necessary.
- 2.2 RIPA’s main implications for the Council are in respect of covert surveillance by Council officers and the use of “covert human intelligence sources”. (A covert human intelligence source is someone who uses a relationship with a third party in a secretive manner to obtain or give information – for instance an informer or someone working “under cover”.)

3. Some definitions

3.1 “Article 8 Rights”

This refers to the rights of individuals under the European Convention on Human Rights:

“Everyone has the right to respect for his private and family life, his home and his correspondence.

“There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

The Council must not infringe these rights unless they are acting in accordance with the law for one of the purposes mentioned in the second paragraph. Even then, any infringement of this right needs to be proportionate. (See paragraph 9.4.)

3.2 “Covert”

Concealed, done secretly

3.3 “Covert surveillance”

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

3.4 “Directed surveillance”

Directed surveillance is defined in RIPA as surveillance which is covert, but not intrusive, and undertaken:

- a) for the purposes of a specific investigation or operation;
- b) in such a manner as is likely to result in the obtaining of private information about a person (whether or not one specifically identified for the purposes of the investigation or operation); and
- c) 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 this Part to be sought for the carrying out of the surveillance (i.e. where the circumstances make it impractical to seek authorisation. An example might be where a police officer on patrol sees a person acting suspiciously and decides to watch them surreptitiously to see whether they are intending to commit a crime.)

Private information in relation to a person includes any information relating to his private or family life.

3.5 “Intrusive surveillance”

Intrusive surveillance is defined in section 26(3) of the 2000 Act as covert surveillance that:

- a. is carried out in relation to anything taking place on any residential premises or in any private vehicle; and
- b. involves the presence of an individual on the premises or in the vehicle or is carried out by means of a surveillance device.

4. RIPA and Surveillance – what is not covered

- 4.1 General observation forms part of the duties of some Council officers. They may, for instance, be on duty at events in the District and will monitor the crowd to maintain public safety and prevent disorder. Environmental Health Officers might covertly observe and then visit a shop as part of their enforcement function. Such observation may involve the use of equipment merely to reinforce normal sensory

perception, such as binoculars, or the use of cameras, where this does not involve systematic surveillance of an individual. It forms a part of the everyday functions of law enforcement or other public bodies. This low-level activity will not usually be regulated under the provisions of RIPA.

- 4.2 Neither do the provisions of the Act cover the use of overt CCTV surveillance systems. Members of the public are aware that such systems are in use, for their own protection, and to prevent crime. The Council has produced guidance on the use of CCTV systems.

5. RIPA and Surveillance – What is covered?

- 5.1 The Act is designed to regulate the use of “covert” surveillance. Covert surveillance means surveillance which is carried out in a manner calculated to ensure that the persons subject to the surveillance are unaware that it is or may be taking place. Strictly speaking, only two types of covert surveillance are regulated by RIPA – “directed” and “intrusive” surveillance. However, where the purpose of a surveillance operation is to obtain private information about a person, the authorisation procedures set out in this guide should be followed and the surveillance treated as being “directed”.

6. What is “directed surveillance”?

6.1 Directed surveillance is defined in RIPA as surveillance which is covert, but not intrusive, and undertaken:

- a) for the purposes of a specific investigation or operation;
- b) in such a manner as is likely to result in the obtaining of private information about a person (whether or not one specifically identified for the purposes of the investigation or operation); and
- c) 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 this Part to be sought for the carrying out of the surveillance. (See the clarification of this in paragraph 3.3.)

Private information in relation to a person includes any information relating to his private or family life.

- 6.2 Directed surveillance is conducted where it involves the observation of a person or persons with the intention of gathering private information to produce a detailed picture of a person’s life, activities and associations. However, it does not include covert surveillance carried out by way of an immediate response to events or circumstances which, by their very nature, could not have been foreseen. For example, a plain clothes police officer would not require an authorisation to conceal himself and observe a suspicious person who he comes across in the course of a patrol.

- 6.3 Directed surveillance does not include any type of covert surveillance in residential premises or in private vehicles. Such activity is defined as "intrusive surveillance" and is dealt with in paragraph 7.
- 6.4 In practice, the sort of directed surveillance which the Council might undertake would include the use of concealed cameras as part of an investigation into antisocial behaviour or breach of tenancy conditions. It might include covert surveillance connected with the enforcement of environmental health or planning regulations or in connection with investigating local council tax scheme (LCTS) fraud. You should treat anything involving the use of concealed cameras or anything involving keeping covert observation on premises or people as potentially amounting to directed surveillance. If you are unsure, please take advice either from your manager or supervisor, or from the Head of Legal Services.
- 6.5 Directed surveillance **must** be properly authorised in accordance with the procedure set out in section 9.
- 6.6 You should treat any covert surveillance which is likely to intrude upon anyone's privacy to more than a marginal extent as directed surveillance, even if it does not fall within the strict terms of the definition – for instance where surveillance is not part of a specific investigation or operation.

7. Directed Surveillance and Social Media

- 7.1 The use of the internet may be required to gather information prior to and/or during an operation, which may amount to directed surveillance. Whenever you intend to use the internet as part of an investigation, you must first consider whether the proposed activity is likely to interfere with a person's Article 8 rights, including the effect of any collateral intrusion. (See Section 3 for an explanation of Article 8 rights.)
- 7.2 Any activity likely to interfere with an individual's Article 8 rights should only be used when necessary and proportionate to meet the objectives of a specific case. If your proposed use of social media in connection with an investigation amounts to covert directed surveillance within the scope of RIPA by electronic means, an authorisation in accordance with the procedure set out in section 9 is needed. Where an investigator may need to communicate covertly online, for example contacting individuals using social media websites, a CHIS authorisation is likely to be needed and the Head of Legal Service should be consulted.
- 7.3 Where individuals publish information freely (e.g. Twitter accounts, LinkedIn profiles), there is unlikely to be any interference with Article 8 rights. This is also likely to be the case with other information published openly on the Internet. Care should be taken with other social media, such as Facebook. Even if the user has not used privacy settings to restrict access, this does not necessarily mean that they have made a decision to publish personal information to the world. It is likely to be proportionate, in connection with an investigation (e.g. LCTS fraud) to make a single or occasional visit to an unsecured Facebook profile. Further or systematic visits could amount to surveillance. If you are considering monitoring

social media such as Facebook in connection with an investigation, you should first seek advice on whether RIPA authorisation is needed.

8. What is intrusive surveillance?

An important warning: the Council cannot authorise intrusive surveillance.

8.1 Intrusive surveillance is defined as covert surveillance that:

- a. is carried out in relation to anything taking place on any residential premises or in any private vehicle; and
- b. involves the presence of an individual on the premises or in the vehicle or is carried out by means of a surveillance device.

8.2 In essence, intrusive surveillance amounts to intrusion into people's homes or vehicles either physically or by means of a surveillance device.

8.3 **Intrusive surveillance cannot be undertaken without authorisation and the Council cannot authorise intrusive surveillance.** Bodies such as the Police and HM Revenues and Customs can authorise intrusive surveillance. If you are asked by another agency to co-operate with intrusive surveillance, you should seek advice from the Head of Legal Services immediately. Where other authorities say that they are authorised to undertake intrusive surveillance but need our co-operation, we need to check that their authorisation is in order.

9. What is a covert human intelligence source?

9.1 A covert human intelligence source is someone who establishes or maintains a relationship with a person for the purpose of covertly obtaining or disclosing information. In practice, this is likely to cover the use of an informer or Council officer to strike up a relationship with someone as part of an investigation to obtain information "under cover".

9.2 Someone who volunteers information to the Council, either as a complainant (for instance, about anti-social behaviour or a breach of planning regulations) or out of civic duty, is unlikely to be a covert human intelligence source. If someone is keeping a record, say, of neighbour nuisance, this will not amount by itself to use of a covert human intelligence source. However, if we are relying on, say, a neighbour to ask questions with a view to gathering evidence, then this may amount to use of a covert human intelligence source.

9.3 The use by the Council of covert human intelligence sources is expected to be extremely rare and, for that reason, this guide does not deal with the issues to which they give rise. If you are contemplating use of a covert human intelligence source, please take advice from the Head of Legal Services before putting your plan into action.

10. Authorising Directed Surveillance: The Rules

- 10.1 It is crucial that all directed surveillance is properly authorised. Failure to secure proper authorisation and to comply with this procedure could lead to evidence being excluded by the courts and to complaints against the Council. The Council is subject to audit and inspection by the Office of the Surveillance Commissioner and it is important that we can demonstrate compliance with RIPA and with this code. **Again, please note that the Council cannot authorise intrusive surveillance – see section 8.**
- 10.2 **Who can authorise directed surveillance?** Regulations made under the Act say that the most junior level at which authorisations can only be given is by what it refers to as “assistant chief officers”. For the purposes of this Code, authorisations may only be given by the officers identified in the Appendix to this Guide referred to as “authorising officers”. In cases of urgency, if it is not possible to seek authority from an authorising officer, authority may be given by a deputy to an authorising officer, but ratification of that authority should be sought at higher level as soon as practical, and the reasons for urgency recorded on the authorisation form. Where practical, the authorising officer should not be directly involved in the case giving rise to the request for authorisation. (However, an authorising officer may authorise a request made by staff who report to them if they are not directly involved in the case.) Where it is not practical for authorisation to be given by an officer who is not directly involved, this should be noted with reasons on the authorisation form. In addition to internal authorisation, directed surveillance cannot be carried out without the approval of a Magistrate. (See paragraph 11.2 below.)
- 10.3 **On what grounds can directed surveillance be authorised?** Directed surveillance can only be authorised by local authorities:
- for the purpose of preventing or detecting serious crime where the offence under investigation carries a custodial sentence of six months or more; or
 - for the purpose of preventing or detecting conduct which is an offence under—
 - (i) section 146 of the Licensing Act 2003 (sale of alcohol to children);
 - (ii) section 147 of the Licensing Act 2003 (allowing the sale of alcohol to children);
 - (iii) section 147A of the Licensing Act 2003² (persistently selling alcohol to children);
 - (iv) section 7 of the Children and Young Persons Act 1933³ (sale of tobacco, etc, to persons under eighteen).”.

When the legislation was introduced, the Council could authorise directed surveillance on other grounds (e.g. in the interests of public safety or in the interests of protecting public health, or to prevent or detect disorder) but the serious crime ground is the only one available to local authorities. The Police have wider powers to authorise directed surveillance.

Please note that surveillance has to be **necessary** for the serious crime purpose. If you can just as well carry out an investigation by means which do not involve directed surveillance, then you should use them.

- 10.4 **Is the proposed surveillance proportionate?** Authorisation should not be sought, and authority should not be given unless you are satisfied that the surveillance is proportionate. You should make sure that any interference with privacy is justified by the end being sought. Unless the benefit to be obtained from surveillance is significant, and unless the problem you are seeking to tackle is serious, the use of surveillance is unlikely to be proportionate. We should not “use a sledgehammer to crack a nut”!
- 10.5 **Is the proposed surveillance discriminatory?** The Council is under a legal obligation to avoid either direct or indirect discrimination in carrying out its functions. As surveillance can interfere with rights contained in the European Convention on Human Rights, discrimination can also amount to a breach of the Human Rights Act. You should be sensitive to this issue and ensure that you apply similar standards to seeking or authorising surveillance regardless of ethnic origin, sex or sexual orientation, disability, age etc. You should be alert to any assumptions about people from different backgrounds which may not even be consciously held.
- 10.6 **Might the surveillance involve “collateral intrusion”?** In other words, might the surveillance intrude upon the privacy of people other than those who are the subject of the investigation. You should be sensitive of the privacy rights of third parties and consider very carefully whether the intrusion into their privacy is justified by the benefits of undertaking the surveillance.
- 10.7 **Might the surveillance involve acquiring access to any confidential or religious material?** If so, then the surveillance will require a particularly strong justification and arrangements need to be put in place to ensure that the information obtained is kept secure and only used for proper purposes. Confidential material might include legal or financial records, or medical records. Where there is a possibility that access to confidential or religious material might be obtained, the authorisation of the Chief Executive (or, in her absence in cases where it is not practical to wait for her return, the authorisation of a Director acting as her deputy) should be sought.

11. Authorising Directed Surveillance: The Procedure

11.1 Applying for authorisation.

- 11.1.1 Detailed guidance on the authorisation procedure and on how to complete the statutory forms is available on the Council’s Intranet at [address to be added]. The individual forms are available separately and links to them are set out in Appendix 3. You must only use the forms that are on the Intranet, you should read the accompanying notes carefully and follow them when completing the form.

11.1.2 Before submitting an application for authorisation, you must supply a copy of your request to the Head of Legal Services. You may only submit your application for authorisation if you obtain the approval of the Head of Legal Services.

11.1.3 A written application for authorisation for directed surveillance should describe in detail any conduct to be authorised and the purpose of the investigation or operation. The application should also include:

- the reasons why the authorisation is necessary in the particular case and on the grounds (e.g. for the purpose of preventing or detecting crime) listed in Section 28(3) of the 2000 Act;
- the reasons why the surveillance is considered proportionate to what it seeks to achieve;
- the nature of the surveillance;
- the identities, where known, of those to be the subject of the surveillance;
- an explanation of the information which it is desired to obtain as a result of the surveillance;
- the details of any potential collateral intrusion and why the intrusion is justified;
- the details of any confidential information that is likely to be obtained as a consequence of the surveillance.
- the level of authority required (or recommended where that is different) for the surveillance; and
- a subsequent record of whether authority was given or refused, by whom and the time and date.

11.2 Approval by a Magistrate

11.2.1 The internal authorisation for covert surveillance is not to take effect until a Magistrate has made an order approving it. Approval can only be given if the Magistrate is satisfied that:

(a) There were reasonable grounds for the authorising officer to believe that the directed surveillance was necessary and proportionate and that there remain reasonable grounds for believing so.

(b) The authorising officer was of the correct seniority within the organisation i.e. a Director, Head of Service, Service Manager or equivalent.

(c) The granting of the authorisation was for preventing or detecting crime and that the offence under investigation carries a custodial sentence of six months or more.

10.2.2 You must not commence covert surveillance until you have confirmation that the Magistrate's approval has been given.

11.3 Duration of authorisations

11.3.1 A written authorisation granted by an authorising officer will cease to have effect (unless renewed) at the end of a period of **three months** beginning with the day on which it took effect.

11.3.2 Even though authorisations cease to have effect after three months, you should not simply leave them to run out. When the surveillance ceases to be necessary, you should always follow the cancellation procedure. See section 11.6. Where surveillance has ceased, we must be able to match each authorisation with a cancellation.

11.4 Reviews

11.4.1 Regular reviews of authorisations should be undertaken to assess the need for the surveillance to continue. The maximum period between authorisation and review, and between reviews, should be four weeks. The more significant the infringement of privacy, the more frequent should be the reviews. The results of a review should be recorded on the central record of authorisations (see paragraph 12). Particular attention is drawn to the need to review authorisations frequently where the surveillance provides access to confidential information or involves collateral intrusion.

11.4.2 In each case authorising officers within the Council should determine how often a review should take place. This should be as frequently as is considered necessary and practicable.

11.4.3 A link to the form to record a review of an authorisation may be found in Appendix 2 to this Guide.

11.5 Renewals

11.5.1 If at any time before an authorisation would cease to have effect, the authorising officer considers it necessary for the authorisation to continue for the purpose for which it was given, s/he may renew it in writing for a further period of **three months**. A renewal cannot take effect unless it has been approved by a Magistrate. If you think a renewal might be needed, you should plan to allow sufficient time for an application to a Magistrate to be made before expiry.

11.5.2 A renewal takes effect at the time at which, or day on which the authorisation would have ceased to have effect but for the renewal. An application for renewal should not be made until shortly before the authorisation period is drawing to an end. Any person who would be entitled to grant a new authorisation can renew an authorisation. Authorisations may be renewed more than once, provided they continue to meet the criteria for authorisation.

11.5.3 All applications for the renewal of an authorisation for directed surveillance should be made on the form linked to Appendix 2 to this guide and should record:

- whether this is the first renewal or every occasion on which the authorisation has been renewed previously;
- any significant changes to the information given in the original application for authorisation;
- the reasons why it is necessary to continue with the directed surveillance;
- the content and value to the investigation or operation of the information so far obtained by the surveillance;
- the results of regular reviews of the investigation or operation.

11.5.4 Authorisations may be renewed more than once, if necessary, and the renewal should be kept/recorded as part of the central record of authorisations (see paragraph 12).

11.6 Cancellations

11.6.1 The authorising officer who granted or last renewed the authorisation must cancel it if he is satisfied that the directed surveillance no longer meets the criteria upon which it was authorised. Where the authorising officer is no longer available, this duty will fall on the person who has taken over the role of authorising officer. If in doubt about who may cancel an authorisation, please consult the Head of Legal Services. Cancellations are to be effected by completion of the form linked to in Appendix 2 to this Guide.

11.6.2 **N.B. Please note that there must be a completed cancellation for each authorisation once surveillance has been completed. An authorisation cannot simply be allowed to expire.**

11.7 Ceasing of surveillance activity

11.7.1 As soon as the decision is taken that directed surveillance should be discontinued, the instruction must be given to those involved to stop all surveillance of the subject(s). The date and time when such an instruction was given should be included in the Notification of Cancellation form.

12. Record Keeping and Central Record of Authorisations

12.1 In all cases in which authorisation of directed surveillance is given, the Service Head is responsible for ensuring that the following documentation is kept safely for a period of at least three years from the date of authorisation:

- a copy of the application and a copy of the authorisation together with any supplementary documentation and notification of the approval given by the authorising officer;
- a record of the period over which the surveillance has taken place;
- the frequency of reviews prescribed by the authorising officer;

- a record of the result of each review of the authorisation;
- a copy of any renewal of an authorisation, together with the supporting documentation submitted when the renewal was requested;
- the date and time when any instruction was given by the authorising officer.

12.2 In addition, copies the following must be sent to the Head of Legal Services immediately upon completion:

- all completed forms authorising directed surveillance;
- all completed forms authorising renewal of directed surveillance;
- all completed forms cancelling directed surveillance.

These are kept by the Internal Audit Manager. who will review them at least every twelve months.

13. Authorising Use of Covert Human Intelligence Sources

13.1 Similar principles and procedures apply to authorising the use of covert human intelligence sources, including the need for authorisations to be approved by a Magistrate. If it becomes apparent that their use is more than very exceptional, detailed guidance will be published and circulated. For the present, officers' attention is drawn to the explanation of the nature of a covert human intelligence source in Paragraph 9. If you think you might be using, or might use, a covert human intelligence source, please contact the Head of Legal Services, who will advise on the principles to be applied, the authorisation procedure, record keeping etc. For the avoidance of doubt, the Council will comply, so far as applicable, with the model guidance issued by the Home Office.

14. Authorisations by Third Parties

14.1 You may be approached by another agency, e.g. the Police or HMRC, to co-operate in undertaking activities regulated by RIPA. In cases where the Council is acting on behalf of another agency, the tasking agency should normally obtain and provide evidence of the RIPA authorisation. Although the Council can act on an authorisation obtained by another agency, it is still important for the Council to reach a view on whether it is appropriate to co-operate. Please, where practical, seek the advice of the Head of Legal Services before acting on a third-party authorisation.

14.2 Home Office guidance says that, where possible, public authorities should seek to avoid duplication of authorisations as part of a single investigation or operation. For example, where two agencies are conducting directed surveillance as part of a joint operation, only one authorisation is required. Duplication of authorisations does not affect the lawfulness of the activities to be conducted, but may create an unnecessary administrative burden on authorities. But we should not use Police

authorisation as a means to avoid the safeguards put in place for local authority use of RIPA or as a means of carrying out surveillance for purposes not authorised for local authorities; e.g. intrusive surveillance or surveillance for non-permitted purposes. If it is primarily a Council operation, then the Council should be responsible for authorisation.

- 14.3 You must notify the Head of Legal Services of all occasions on which you act under a RIPA authorisation obtained by a third party.

15. Access to Communications Data

- 15.1 There are stringent controls placed on access by the Council to “communications data”. The Council is not entitled to obtain access to the content of communications between third parties but can, in some circumstances, obtain information relating to the use of a communications service. “Communications services” include telecom providers, postal services and internet service providers.
- 15.2 This is a complex area, procedurally and legally. Access to communications data can only be obtained through the Council’s designated “single point of contact” (“SPOC”) for communications data. [tbc] has this role and you should consult him/her at an early stage if you think you may need access to communications data.

16. Covert surveillance outside of RIPA

- 16.1 Not all types of covert surveillance falls within the scope of RIPA which, for local authorities, is limited to criminal investigations and the underage sale of alcohol or tobacco. On occasion, it may be appropriate to carry out covert surveillance in connection with, for instance, an audit or disciplinary investigation. Formal RIPA authorisation will not be needed in these circumstances but the principles embodied in RIPA still apply. In these circumstances, you should complete the non-RIPA application form and submit it to an authorising officer for approval. Detailed guidance on non-RIPA surveillance is available on the Intranet at [to follow] .

17. Further Information

- 17.1 Services may wish to develop their own guidance. This is to be encouraged. However, the principles and procedures contained in service specific guidance must be compatible with this guidance.
- 17.2 There is much helpful information on the Home Office web site about RIPA. See Appendix Two for links.
- 17.3 The Head of Legal Services will be happy to advise further on issues connected with RIPA. Services need to consider what their training needs are in this area and the Head of Legal Services is willing to discuss what help he can offer with this.

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TBC

Links

Links to Home Office Information on RIPA, including codes of practice are at <http://www.homeoffice.gov.uk/counter-terrorism/regulation-investigatory-powers/> Forms are also available via this site but you should only use the forms on the Council's Intranet, which may be found through the links in Appendix Three.

Intranet Guidance

RIPA Covert Surveillance Forms and Guidance

Regulation of Investigatory Powers Act 2000

Guidance on the use of covert surveillance and "covert human intelligence sources"

- The Regulation of Investigatory Powers Act 2000 - Procedure Guide 2013 [DOC, 87kB]

The guidance manual and the information set out in all the forms below have been purchased from an external source and copyright belongs to Ibrahim Hasan (2010) of Act Now Training - www.actnow.org.uk - Surveillance Law Training and Resources. Under no circumstances should copies of the manual or guidance be provided to any other person or organisation outside Uttlesford District Council.

RIPA Guidance Manual

- 1. Introduction [PDF, 0.5MB]
- 2. Guidance for Authorising Officers [PDF, 153kB]
- 3. Completing the RIPA Forms [PDF, 0.8MB]
- 4. Seeking Magistrates' Approval [PDF, 121kB]
- 5. Non RIPA Surveillance [PDF, 0.6MB]

Directed Surveillance (DS) Forms

- 15 DS Review Form.doc [DOC, 61kB]
- 14 DS Application Form.doc [DOC, 115kB]
- 17 DS Cancellation Form.doc [DOC, 47kB]
- 16 DS Renewal Form.doc [DOC, 59kB]

Covert Human Intelligence Source (CHIS) Forms

- Completing the CHIS Forms.doc [DOC, 24kB]
- CHIS Review [DOC, 62kB]
- CHIS Application [DOC, 122kB]
- CHIS Cancellation [DOC, 45kB]
- CHIS Renewal [DOC, 61kB]
- CHIS Non-RIPA Form [DOC, 89kB]

DRAFT

Committee: Cabinet

Agenda Item

Date: 12 January 2017

11

Title: Voluntary Sector Grant Awards 2017/18

Portfolio Holder: Cllr Lesley Wells

Key decision: No

Summary

1. The Voluntary Support Grant Scheme provides funding to larger charities and voluntary organisations working in the district. A review of the award process was undertaken in early 2016 to consider where improvements could be made and a report was taken to Cabinet for approval in July.
2. The inaugural meeting of the Committee of the Cabinet has now been held and funding allocated by the award panel for the next two years has been confirmed.

Recommendations

3. None. This report is for information only.

Financial Implications

4. There are no recommendations in this report which would change the budgeted amount available for grant funding

Background Papers

5. None

Impact

- 6.

Communication/Consultation	All voluntary sector organisations that made applications for 2017/18 funding have been advised of the awards. Further consultation will be required to progress changes to this grant award scheme in the coming years.
Community Safety	None
Equalities	None
Health and Safety	None
Human Rights/Legal	None

Implications	
Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

Situation

7. Due to the council currently not being in a position to commit to high levels of long term funding, it was agreed by Cabinet on 14 July that the period for the next award of Voluntary Support Grants was restricted to two years. It was also agreed by Cabinet at the same meeting that the scheme would be a rolling programme to help organisations plan for the future.
8. A presentation evening was held in November whereby all applicants for 2017/18 and 2018/19 grants presented their cases for funding. The decision to award grants at this point in the year enabled the council to align the grants process with its budget setting processes.
9. The table in Appendix One attached details the awards that have been approved.

Risk Analysis

10.

Risk	Likelihood	Impact	Mitigating actions
Governance arrangements are not sufficiently robust	1	3	Ensure changes to the VSG allocation process are implemented to improve accountability, value for money and transparency at all times
Major grant funding awards do not contribute towards the council's objectives	1	3	Ensure VSG review and allocation process includes consideration for an organisation's ability to support council objectives

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.

VOLUNTARY SECTOR APPROVED GRANT ALLOCATION 2017/18 AND 2018/19					
Organisation	Amount Funded 2016/17	Requested 2017/18	Requested 2018/19	Members Agreed Funding 2017/18	Members Agreed Funding 2018/19
REVENUE BUDGET					
Council for Voluntary Service, Uttlesford	£32,000	£36,000	£38,000	£34,000	£34,000
Uttlesford Community Travel	£38,000	£42,000	£43,000	£42,000	£42,000
Uttlesford Citizen Advice Bureau *	Core generalist & debt advice services	Core generalist & debt advice services			
	£117,487	£144,908	£154,150	£145,000	£145,000
	Money Dr project	Frontline			
	£5,000	£5,000	£5,000	£5,000	£5,000
	Money Advice Project				
	£5,000				
	Debt Advice				
	£25,000				
Volunteer Uttlesford	£14,000	£24,530	£43,145	£16,000	£16,000
Support 4 Sight	£11,000	£20,300	£20,500	£12,000	£12,000
Citizens' Advice East Herts	£11,440	£11,554	£11,670	£11,500	£11,500
Home-Start Uttlesford	£5,000	£5,000	£5,000	£8,250	£8,250
Voluntary Sector Training	£6,000	£6,900	£7,475	£6,000	£6,000
Action for Families	£12,000	£14,493	£14,945	£14,500	£14,500
Hearing Help Essex	0	£2,000	£2,030	£2,000	£2,000
St Clare Hospice	0	£20,000	£20,000	£3,750	£3,750
Uttlesford Buffy Bus Association **	0	£15,000	£15,450	0	0
Dunmow Malting Preservation Trust ***	£4,000	£5,000	£5,000	£4,000	£4,000
Total Spend	£285,927	£352,685	£385,365	£304,000	£304,000
Total Budget – Voluntary Sector Grants	£286,570	£286,570		£286,570	£286,570
+ / - difference	£643	-£66,115		-£17,430	-£17,430
Contingency Budget	£8,700			£57,000	£57,000
CAPITAL BUDGET					
Uttlesford Community Travel ****	£13,000	£15,000	£15,000	£15,000	£15,000
* Uttlesford CAB - 2016/17 allocation includes one-off payment for debt advice					
** No funding offered at this time. Consideration will be given in the future for capital expenditure (replacement of bus).					
*** 2017/18 and 2018/19 funding for Dunmow Maltings Preservation Trust to be set up as standalone grant					
**** Uttlesford Community Travel allocated £15,000 capital budget specifically for vehicle replacement.					
over/under allocation to be supported by Contingency Budget					

