

COUNCIL MEETING held at 7.30 pm at COUNCIL OFFICES LONDON ROAD SAFFRON WALDEN on 14 OCTOBER 2003

Present:- Councillor M A Hibbs – Chairman.
Councillors E C Abrahams, R Artus, H D Baker, C A Bayley, P Boland, W F Bowker, C A Cant, R P Chambers, D Corke, R J Copping, A Dean, C M Dean, C D Down, S Flack, M L Foley, M A Gayler, E J Godwin, D W Gregory, R T Harris, E W Hicks, B M Hughes, S C Jones, A J Ketteridge, V J T Lelliott, R M Lemon, A Marchant, J E Menell, D J Morson, J P Murphy, V Pedder, A R Row, M J Savage, G Sell, F E Silver, A R Thawley, A M Wattebot and P A Wilcock.

Officers in attendance:- J B Dickson, B D Perkins, M Perry, M T Purkiss, J Rice.

C42 NORMAN MEAD

Following an introduction by the Chairman, the Leader of the Council made a presentation of a framed certificate and photograph to Norman Mead in recognition of his continued efforts and commitment to protect the beautiful Uttlesford countryside and in particular his opposition to proposals for more runways at Stansted Airport. The Leader said that Norman Mead was probably the best known resident of Uttlesford. He had an excellent record of campaigning going back many years including involvement with SSE NWEHPA and the RUCATSE Working Group. His expertise and contribution to the SSE campaign had been invaluable and this campaign had been recognised as the premier campaign against airport expansion in the country. He concluded by saying that Norman Mead deserved the recognition of the Council. Mr Mead then accepted the award and thanked everyone who had given generously of their time, resources and skills to protect and preserve this precious part of England. He said that he accepted the award on behalf of all those who had worked to achieve this.

Norman Mead then received a standing ovation from the whole Council Chamber.

C43 APOLOGIES

Apologies for absence were received from Councillors J F Cheetham, K J Clarke, R F Freeman, J I Loughlin, S V Schneider and E Tealby-Watson.

C44 DECLARATIONS OF INTEREST

Councillor Menell declared an interest as a member of the Uttlesford Primary Care Trust, Councillors Flack and Chambers declared interests as Members of Essex County Council and, in the case of Councillor Chambers, the Chairman of the Essex Police Authority. Councillor Gregory declared a prejudicial interest in relation to the item relating to the pre-licensing standards for drivers of hackney carriages and private hire vehicles.

The following Councillors then declared interests as members of SSE:

Councillors Artus, Bayley, Bowker, Cant, Corke, A Dean, C Dean, Down, Flack, Foley, Gayler, Godwin, Hughes, Lemon, Loughlin, Marchant, Murphy, Pedder, Row and Thawley.

C45 **MINUTES**

The Minutes of the meeting held on 22 July and of the Extraordinary Council Meeting held on 18 September 2003 were received, confirmed and signed by the Chairman as correct records, subject to the deletion of the words "Housing Strategy Working Party" from Minute C31 (vi) and the insertion of the word "Council" and the inclusion of Councillors C M Dean, C D Down and A R Row to the list of councillors giving apologies for the latter meeting.

C46 **BUSINESS ARISING**

(i) Minute C31 (i) – Funding of Community Wardens

In response to a question from Councillor Copping, Councillor Chambers said that the police community support officers had commenced training on 6 October and it was hoped that they would start work within the next few weeks. Councillor Foley said that he was concerned about the increase in crime in Thaxted. He was deeply concerned that police officers were being overstretched and he would like to see Thaxted policed properly. Councillor Sell said that he was worried about the disparity in the length of training received by community wardens and serving police officers. Councillor Chambers said that the police community support officers would assist in two of the main priorities of the police authority, namely high visibility policing and combating antisocial behaviour. He said that he would be willing to talk to Thaxted Parish Council about their concerns. He added that the community wardens would be in regular contact with police officers and would be patrolling on foot. He said he was aware of the need to increase the number of police officers.

Councillor Gayler said that performance targets had been agreed with the police and these would be carefully monitored. In response to a further question from Councillor Godwin, Councillor Chambers said that the hours of duty of the community wardens were flexible and this would enable them to target times when there were particular problems.

(ii) Minute C31 (ii) – Dunmow Office Letting

In answer to a question from Councillor Row, the Acting Chief Executive said that negotiations were taking place with interested parties and a report would be submitted to the Resources Committee on 20 November 2003.

(iii) Minute C32 - Chairman's Communications – Youth Event

Councillor C Dean congratulated all those who had been involved in the Youth Event on Saffron Walden Common and hoped that the event would be repeated.

(iv) Minute C33 - Leader's Communications – Strategic Planning Day

Councillor Wilcock congratulated the Interim Strategic Director on the arrangements for the Strategic Planning Day. The Interim Strategic Director said that there would be further consultation on the outcome of the Strategic Planning Day and some of the issues would be raised with young people through focus groups and other forums. Councillor Morson added that as part of Local Democracy Week an event had been arranged with young people on 15 October to discuss issues that were important to them.

(v) Minute 33 - Leader's Communications – Removal Centre

Councillor Copping referred to press reports that the Home Office had given permission for an application to be submitted for a Police Station at Smith's Farm. However, comments had allegedly been made about leaving space for a removal centre on the site. He considered that such comments were inappropriate and representations should be made to the Home Office. Officers agreed to investigate this matter and make any necessary representations to the Home Office.

C47

CHAIRMAN'S COMMUNICATIONS

The Chairman reported that he had received a letter from the Commanding Officer of 33 Engineer Regiment expressing gratitude for the support which had been shown during the reception held in September for soldiers returning from service in Iraq.

The Chairman announced that Councillor Abrahams had recently passed his 80th birthday and had completed 40 years service as a Councillor with Uttlesford and the former Saffron Walden Rural District Councils.

The Chairman announced that the Duchess of Gloucester would be opening the new Leisure Centres on 30 October and he expressed his thanks to the Lord Lieutenant for making the arrangements.

The Chairman concluded by announcing that John Grayson, the Development Control Manager, would be retiring shortly after 30 years service and he asked Members to sign a card for him.

C48

LEADER'S COMMUNICATIONS

The Leader reported that James Sadler would be joining the Council on 20 October as the Communications and PR Officer.

He said that he was expecting a letter from the Home Office shortly regarding the removal centre. He had recently attended a meeting concerning aviation and climate change which had been organised by BAA and he said that it was pleasing to note that the aviation industry were at last giving serious consideration to the damage it caused to the environment.

The Leader also said that he had written to two councillors concerning allegations of false information in a Council press release. Councillor Chambers said that he was one of the recipients of this letter and he would circulate a copy of this to all Members. He considered that the statement he made was correct and did not take kindly to threats to refer him to the Standards Board. He said that he would not retract the statement which he had made. Councillor Ketteridge said he was the other recipient of the letter and added that he would not be bullied and clarified that he was doing his job as Leader of the opposition group.

With regard to genetically modified crops, Councillor Thawley said that he had received a petition containing 200 names asking this Council to forward the petition to the Government and to investigate a directive of the EU which might enable the Council to have some say in what organisms could be grown in this local area. It was noted that this matter could be considered by the Environment and Transport Committee.

C49

MATTERS ARISING FROM COMMITTEES

(i) Environment and Transport Committee 9 September 2003 – Minute ET16 Decriminalisation of parking enforcement

Councillor Chambers declared a prejudicial interest in this matter as Chairman of the Essex Police Authority and left the meeting during the discussion and voting on this item.

Councillor Flack said that she did not support decriminalisation and said that it would be costly. She added that Scrutiny Committee 2 had asked that the Environment and Transport Committee should look at sharing administration costs with another local authority. The Acting Chief Executive confirmed that joint working arrangements were being explored.

RESOLVED that

- 1 The Council adopt decriminalised parking enforcement subject to a robust business plan that identifies the cost implications for the Council
- 2 Enters into an agency agreement with Essex Council which clearly holds it responsible for any deficit on the on street parking account
- 3 Appoint, subject to Essex County Council's confirmation of funding, a decriminalised parking enforcement officer with effect from January 2004

(ii) Resources Committee 18 September 2003 – Minute RE31 General Fund Policy Priorities and Budgets 2004/05

Councillor Gayler introduced the recommendation of the Resources Committee on this matter and added that a report on the Pension Fund would be submitted to the next meeting of the Resources Committee. He added that zero based budgeting would help in ensuring that money was spent where it was most needed.

Councillor Flack expressed concerned at a number of recommendations for additional staff and emphasised the need to look carefully at every penny the Council spent. Councillor Copping referred to the complications of the PFI scheme and said that in order to ensure the Council's investment provided the best value for money, additional monitoring resources would be required. He said that if the Council ignored the need to monitor the leisure contract it would cost more in the longer term.

RESOLVED that

- 1 Committees be asked to adhere to the guidance set out in paragraph 10 of the report to the meeting of the Resources Committee when considering budgets and potential growth items, pending the overall updating of the projected budget for next year
- 2 Committees follow the particular guidance regarding the need for a robust and proactive approach to raising income from fees and charges, as given in paragraph 10(c) of the report
- 3 The budget review items contained in appendix 1 to the report be further investigated
- 4 The Resources Committee considers at its next meeting a report dealing with the three cross-cutting budget review items highlighted in the report (access to services, administrative support and Trust status)
- 5 The Resources Committee note the revised budget projection at General Fund level for 2004/05, given in appendix 2
- 6 The revised budget timetable set out in the report be agreed
- 7 The zero-based budgeting approach proposed for the 2005/06 estimates be endorsed
- 8 Further representations be made to the ODPM concerning the unfavourable RSG settlement

(iii) Health and Housing Committee 4 September 2003 – Minute HH18 Homelessness Strategy

Councillor Bayley introduced the recommendation of the Health and Housing Committee on this item. In response to a question from Councillor Row, she

said that the Housing Strategy Working Group had not yet considered the transfer of housing stock to a Registered Social Landlord. In answer to a further question from Councillor Flack, she said that the Council was awaiting confirmation from the Government that funding for the homelessness officer would be for a three year period.

RESOLVED that

- 1 The Homelessness Strategy, as amended by the Health and Housing Committee, be adopted and submitted to GO EAST and
- 2 The Resources Committee be recommended to establish the post of homelessness officer with immediate effect

(iv) Licensing Committee 10 September 2003 – Minute LC3 Pre Licensing Standards for Drivers of Hackney Carriages and Private Hire Vehicles

Councillor Savage introduced the recommendations of the Licensing Committee.

RESOLVED that

- 1 The revised licensing standards be approved and adopted by the Council, subject to the addition to standard three of the words “or 12 months from the licence being reissued if this period is greater” and also the addition to the licensing standards of the following clause number 7 “not to have been conditionally discharged for any offence in the last five years”
- 2 The Head of Environmental Services be given delegated authority to refuse applications for drivers licences to Hackney Carriages and Private Hire vehicles which do not meet licensing standards, with power at his discretion to refer appropriate cases to the committee

C50

STANSTED/M11 CORRIDOR DEVELOPMENT OPTIONS STUDY

The Acting Chief Executive reported on the consultants report which had been commissioned by Essex, Hertfordshire and Cambridgeshire County Councils, GO EAST, The East of England Development Agency, The East of England Regional Assembly and the Countryside Agency.

The Consultants were seeking views by 31 October 2003 from a number of stakeholders on its draft final report. The Acting Chief Executive said that officers would be preparing a full technical appraisal of the report which would be considered by the Environment and Transport Committee at its meeting on 4 November. Confirmation had been received that the Council’s formal response would be accepted after the meeting. He said that the summary report was technical and not easy to understand which did not help the consultation process. Much of it dealt with the possibility of one or more new runways at Stansted. He said that this was premature and very unhelpful

when consultation on the future of aviation (SERAS) had been completed and a Government announcement was expected at the end of the year on this matter. Furthermore, the new regional guidance was being developed on the basis of the full use of one runway and any further development at Stansted would require a review of the guidance which was being published next February.

Councillor Godwin expressed concern at the content of the report and said that it would lead to the piecemeal destruction of the District. She said that the report should not have dealt with expansion beyond one runway as this was contrary to this Council's policy and that of the East of England Regional Assembly. She said that the report would lead to the loss of large tracts of green belt land and this was totally unacceptable. She concluded by saying that the consultation was inadequate, the time allowed ludicrous and the report was full of inaccuracies.

Councillor Wilcock expressed concern about the consultants exceeding the original brief by dealing with expansion of the airport beyond one runway. Councillor A Dean agreed and said that the report was muddled and focused very much on the Airport. Councillor Morson said that the consultation had been disgraceful and as the local authority most affected, the Council needed to have a greater say. He urged all Members to write to the local Member of Parliament. Councillor Chambers referred to the referendum which had been held in the District which showed that 89% were against further runways at the Airport. He said that the whole district was at risk from urbanisation.

A number of Members asked that advice be provided on the Council's website and in a press release on how the public could respond to the consultation. The Leader said that a press release had been issued last week but this would be expanded and sent out as soon as possible.

Councillor Sell said that the proposals would change the character of the whole District and the Council must respond robustly. Council Cant said that the pressure seemed to be increasing and she had recently attended a sustainable communities event where the Minister appeared to be suggesting that it was a question of when rather than if development took place. She also referred to a Mori survey concerning the Airport and the problems of responding to proposals for Airport expansion and additional housing at the same time.

Councillor Ketteridge suggested that the recommendation before Members should be amended by the addition of reference to "other local authorities including Essex County Council" and this was accepted by the mover and seconder of the motion. It was then

RESOLVED unanimously that the Council

- 1 Notes with concern the significant urbanisation proposals in the report from Colin Buchanan and Partners
- 2 Considers with alarm that the terms of reference and the study accepts the possibility that Stansted Airport might grow beyond one runway, contrary to the policy of this Council other local

authorities including Essex County Council and the East of England Regional Assembly

- 3 Notes with concern that the report puts emphasis on the surface transport needs of the Airport and seeks to justify their improvement through major population increase, putting both of these before the needs of the existing population
- 4 Regrets the shortness of the consultation period and the limited availability of information producing a flawed process
- 5 Requires these concerns immediately to be referred to the consultants, Essex County Council, EERA and local MP's
- 6 Requests the Environment and Transport Committee to carry out a fuller analysis of the report and to forward the Council's response by the deadline or as soon thereafter as is possible

C51 **REGULATION OF INVESTIGATORY POWERS ACT 2000**

The Head of Legal Services advised Members of the impact of the Regulation of Investigatory Powers Act 2000. The Act set out the basis on which covert surveillance could be authorised. It could be supplemented by codes of practice published by the Home Office and approved by Parliament. As part of the monitoring process, the Office of Surveillance Commissioners arranged visits to local authorities by Deputy Surveillance Commissioners and such a visit had been arranged on 15 August 2003. During the visit the Commissioner made a few helpful suggestions and these had been incorporated into a draft code.

RESOLVED that the draft code of practice as set out as an Appendix to these minutes be adopted as the Council's Corporate Policy on the application of the Regulation of Investigatory Powers Act 2000.

C52 **NOTICES OF MOTION**

(i) Procedures

Members considered the following notice of motion which had been proposed by Councillor R J Copping and duly seconded:-

"That this Council reviews urgently its procedures for the conduct of Council meetings so as to enable members to raise issues arising from business conducted by the Council's committees between Council meetings"

Councillor Copping said that when the Council had introduced the new Council procedure rules it had not been the intention to diminish the role of Councillors. However, he understood that some Members felt that there was now a lack of ability to raise issues which concerned themselves or their constituents. He said that he did not want to return to the practice of

endorsing all Minutes but wanted to provide an opportunity for Members to debate issues which were important to them.

The Chairman said that if the motion was approved it could go to the Constitution Task Group for debate and report back to Council.

RESOLVED that the motion be approved.

(ii) Council Tax

Members considered the following Notice of Motion which had been proposed by Councillors Bayley, Copping, A Dean, Gayler, Jones, Morson, Savage and Thawley:-

“The Council

- notes with great concern the major and unfair impact that successive council tax increases have on many citizens and recognises that this is substantially due to the Government’s management of grants to local authorities, as well as flaws in the system;
- regrets that the present system of local taxation takes no account of ability to pay;
- recognises that council tax therefore places a disproportionately high burden on residents with low incomes, such as pensioners, of whom the poorest 20% of pensioners pay nearly 6 times more than the richest 20% of non-pensioners, as a proportion of their income;
- notes that since the Labour government came into office in 1997, the average Band D council tax bill nationally has risen by £455, a rise of 70% and that the rise in Essex has been 80% over this period;
- notes that the cost of administering council tax in 2002/03 was £569 million and that it costs almost 4 times as much to collect £1 in council tax as it costs to collect £1 in income tax;
- recognises that the huge increase in the level of direct and ring-fenced grants combined with rising costs and additional duties imposed by Government on local councils has left authorities with the stark choice of huge cuts in services or massive increases in council tax, or a combination of both;
- regrets that the present system of local government finance is so confusing and lacking in transparency that accountability for the tax levied is blurred, with very few citizens able to penetrate the Government’s use of smoke and mirrors to paint every settlement as generous, regardless of the facts

Council calls on the Deputy Prime Minister:

- to propose future funding settlements which provide mainstream grant for local authorities sufficient to ensure the provision of high quality, locally accountable public services;
- to replace the council tax with a local tax based on income, reinstating the principle of progressive taxation, that the more one earns, the more one pays”

Councillors Ketteridge and Chambers challenged the legality of dealing with this matter under Council Procedure Rules 12.1 and 12.2. However, the Head of Legal Services advised that Council Procedure Rule 12.1 did not apply as it was not intended to rescind a previous decision and 12.2 was not applicable as the motion at the last meeting had not been “rejected” but the appropriate wording had been withdrawn from the motion before it was put to the vote. The Chairman said that he agreed with the advice of the Head of Legal Services and ruled that the matter could be debated.

Councillor A Dean then introduced the Notice of Motion and, in particular, referred to the increase of 80% in council tax bills in Essex since 1997. He said that Central Government had forced Councils to do more work but had not provided additional funding. He said that council tax placed a disproportionately high burden on residents with low income and should be replaced by a system which took account of people’s ability to pay. He said that a local Income Tax would be far less costly and easier to collect and there would be no need for a council tax benefits system. He said that last year a total of £569 million had been spent on collecting council tax nationally. He said that local income tax would create a fairer and safer community.

Councillor Flack expressed some concern that the Axe the Tax Campaign had been launched on the day before the Council meeting. Councillor Silver said that he had spoken to pensioners about the council tax burden and suggested that there should be a freeze of one year on any increases in the council tax for pensioners.

Council Ketteridge said that the motion under discussion would undermine the work of the Local Government Association which was looking at alternatives to the Council Tax. He added that it would place a heavier bureaucratic burden on all employers both large and small. He concluded that he would be content to look at other ways of addressing the issue and considered that the motion at the last Council meeting was the correct way forward.

Councillor Gayler said that the amount of money the Council required would be the same regardless of the collection method. The only difference would be that local income tax would be far less costly to collect and it would change the balance of who paid what. In particular those on lower incomes would pay less. Councillor Morson said that the previous Community Charge system was based on the principle that people who paid into the system had a greater community involvement. He said that this was a good principle in general and that the local income tax would be fairer as it was also based on the ability to pay.

Councillor Lemon suggested that the Notice of Motion was narrow minded and said that all options should be looked at. Councillor Artus reiterated his comments made at a previous meeting that the unfairness of the council tax system should not be confused with the under funding of local government. Councillor Godwin suggested that local income tax would hit middle income groups with large working families and urged that all options should be looked at thoroughly.

In summing up, the Leader said that no clear alternative had been put forward to local income tax and he refuted claims that it would place an additional burden on employers. On being put to the vote, the motion was approved with 26 votes for and 7 against.

The meeting ended at 10 pm.

**Uttlesford District Council Corporate Policy - The Regulation of Investigatory Powers Act
2000**

1 Purpose

- 1.1 This is the corporate policy of Uttlesford District Council for the implementation of the Regulation of Investigatory Powers Act 2000 (RIPA) when conducting investigations requiring directed surveillance as defined by the Act or investigations requiring the use of a covert human intelligence source.
- 1.2 THE EVIDENCE GATHERED FROM SURVEILLANCE OPERATIONS IS ADMISSIBLE IN BOTH CIVIL AND CRIMINAL COURTS. THEREFORE, ANY BREACH OF RIPA COULD MEAN THE EVIDENCE IS INADMISSIBLE IN COURT. ANY SURVEILLANCE NOT PROPERLY AUTHORISED COULD ALSO LEAD TO A CHALLENGE AND/OR CLAIM FOR COMPENSATION UNDER ARTICLE 8 OF THE HUMAN RIGHTS ACT.

2 Background

- 2.1 The Regulation of Investigatory Powers Act 2000 came into force in September 2000 following the introduction of Human Rights Legislation. From this date surveillance activity and the use of covert human intelligence sources must be in accordance with the RIPA Part II (surveillance and covert human intelligence sources) and the Home Office Code of Practice.
- 2.2 The purpose of RIPA is to ensure that the relevant investigatory powers are being used in accordance with the other legislation including the Human Rights Act. RIPA provides agencies with specific powers and defines how these should be used.
- 2.3 The Department for Work and Pensions have published guidance on the use of RIPA. This guidance can be found in circulars F20/2001. Codes of Practice for surveillance and use of covert human intelligence sources have also been made under s.71 of the Act and can be accessed at www.homeoffice.gov.uk/ripa/covhis.htm
- 2.4 The overall rules and procedures that are to be followed are in sections 3 - 5. Each Department must produce their own detailed, written procedures. These will form part of this corporate policy.

3 Surveillance

- 3.1 RIPA basically means that any surveillance operation must be properly administered, that proper effective controls must be in place and it is the duty of senior management to authorise surveillance operations. Without this level of Authorisation the Local Authority could be in breach of the Act. This would mean any investigation involving surveillance may be inadmissible in Court.
- 3.2 Surveillance is usually a last resort that an investigator will utilise to prove or disprove an allegation. In order to use covert surveillance the objective (evidence gathering) must be proportionate to the activity being investigated. This involves balancing 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 activity will not be proportionate if it is excessive in the circumstances of the case or if the information which is sought could reasonably be obtained by other less intrusive means. Covert surveillance will only be undertaken where there is no reasonable and effective alternative means of achieving the desired objective. No activity

shall be undertaken within the definition of intrusive surveillance. Surveillance is defined in Appendix 1.

- 3.3 All surveillance covered by the Act must be authorised. A senior member of staff, not involved in the investigation must take responsibility for authorising all surveillance operations.
- 3.4 All requests for surveillance must be completed on Council designated forms for this purpose. This includes authorisations, cancellations, and re-authorisations. All documents must be treated as strictly confidential and sections must make appropriate arrangements for their retention, security and destruction in accordance with the Data Protection Act 1998.
- 3.5 All surveillance operations must be monitored and reviewed at appropriate stages.
- 3.6 Surveillance will only be undertaken by trained or experienced employees or by employees under the direct supervision of trained or experienced employees.
- 3.7 The use and extent of covert surveillance shall not be excessive. It must be in proportion to the significance of the matter being investigated. There shall be **NO** intrusive surveillance. The Council does not have the legal powers necessary to enable such surveillance to be carried out.
- 3.8 Reasonable steps must be taken to minimise or avoid the acquisition of information that is not directly necessary for the purposes of the investigation being carried out.

4 Covert Human Intelligence Sources

- 4.1 Similarly RIPA means that the use of covert human intelligence sources must be properly administered, that proper effective controls must be in place and it is the duty of senior management to authorise the used of covert human intelligence sources. Without this level of Authorisation the Local Authority could be in breach of the Act. This would mean any evidence gained from a covert human intelligence source may be inadmissible in Court.
- 4.2 The use of a covert human intelligence source is also a last resort that an investigator will utilise to prove or disprove an allegation. In order to use a covert human intelligence source the objective (evidence gathering) must be proportionate to the activity being investigated. Covert human intelligence sources will only be used where there is no reasonable and effective alternative means of achieving the desired objective. A covert human intelligence source is defined in Appendix 1
- 4.3 The evidence gathered from covert human intelligence sources is admissible in both Civil and Criminal courts. Therefore, any breach of RIPA could mean the evidence is inadmissible in court. Any unauthorised use of a covert human intelligence source could also lead to a challenge and/or claim for compensation under Article 8 of the Human Rights Act.
- 4.4 All use of covert human intelligence sources covered by the Act must be authorised. A senior member of staff, not involved in the investigation must take responsibility for authorising the use of covert human intelligence sources.
- 4.5 All requests for the use of a covert human intelligence source must be completed on Council designated forms for this purpose. This includes authorisations, cancellations, and re-authorisations. All documents must be treated as strictly confidential and sections must make appropriate arrangements for their retention, security and destruction in accordance with the Data Protection Act 1998.

- 4.6** The use of a covert human intelligence source must be monitored and reviewed at appropriate stages.
- 4.7** Contact with covert human intelligence sources will only be with trained or experienced employees or by employees under the direct supervision of trained or experienced employees.
- 4.8** The use and extent of covert human intelligence sources shall not be excessive. It must be in proportion to the significance of the matter being investigated.
- 4.9** Reasonable steps must be taken to minimise or avoid the acquisition of information that is not directly necessary for the purposes of the investigation being carried out.

5 Authorisations

- 5.1** In order for Authorisations to be granted specific criteria have to be satisfied, namely, that the person granting the authorisation believes that:
the authorisation is necessary on specific grounds; and
the authorised activity is proportionate to what is sought to be achieved by it.
- 5.2** The specific grounds are further defined as:
- in the interests of national security;
 - for the purpose of preventing or detecting crime or preventing disorder;
 - in the interests of the economic well-being of the United Kingdom;
 - in the interests of public safety;
 - for the purpose of protecting public health; or
 - for the purpose of assessing or collecting any tax, duty, levy or other imposition, contribution or charge payable to a government department.
- 5.3** Before any operation involving the use of directed surveillance or a covert human intelligence source is commenced the Investigation Officer will discuss with the Investigation Manager all intelligence gathered to that point on the case and from this discussion a plan of action will be formulated. Initially in the case of surveillance the planning and preparation stage which will be carried out is working out vantage points and possible entrance and exit routes before the formal request is made. If anything significant occurs during this stage then urgent oral authorisation will be sought.
- 5.4** Authorisations are governed by a time limit. For covert surveillance this is 3 months from the date upon which they are signed. For the use of a covert human intelligence source it is 12 months from the date it is signed. Authorisations may not be post dated. No surveillance may be carried out nor may a covert human intelligence source be used pursuant to an authorisation after it has expired unless it is renewed. Verbal authorisations have a time limit of 72 hours. No covert surveillance may be carried out nor may a covert human intelligence source be used pursuant to a verbal authorisation after it has expired unless it is renewed.
- 5.5** When the surveillance has been completed or the purpose for which the covert human intelligence source was used has been fulfilled or appears unlikely to be capable of being fulfilled the authorisation must be cancelled.
- 5.6** Surveillance and the use of covert human intelligence sources must only continue for as long as necessary. If at any stage in the investigation surveillance or the use of a covert human

intelligence source becomes no longer necessary the authorisation for such surveillance must be cancelled.

5.7 No authorisation shall be given for the use of a covert human intelligence source unless the authorising officer is satisfied that satisfactory arrangements are in place for ensuring:

that there will at all times be a person holding an office or position within the Council with day to day responsibility for dealing with the source and for the source's security and welfare

that there will at all times be another person holding an office or position within the Council who will have general oversight of the use made of the source

that there will at all times be a person holding an office or position within the Council with day to day responsibility for keeping a record of the use made of the source

that the records relating to the source contain the information set out in Appendix 2

that records referring to the identity of the source are not made available to persons except to the extent that there is a need for such persons to have access to them

5.8 Authorisations may only be given by officers holding the rank of Assistant Chief Officer (or above) or an officer responsible for the management (but not conduct) of an investigation. Authorisations for surveillance which may involve the acquisition of confidential information may only be signed by the Chief Executive or a director. "Confidential information" is defined in Appendix 1

6. Monitoring of Authorisations

6.1 A copy of each authorisation will be forward under confidential cover to the Internal Audit Manager for maintenance of a central record of all current and past authorisations and for monitoring purposes. These records must be retained in strict confidence.

6.2 All authorisations are open to being independently vetted and verified by the Office of Surveillance Commissioners.

6.3 Complaints concerning breaches of the code may be made to the Monitoring Officer of the Council.

7 Training

The Council will ensure that all officers who are:

likely to engage in investigations where they may need to engage in directed surveillance or need to use covert human intelligence sources

likely to be required to give authorisations for such investigations

will be involved in maintaining the central record of authorisations and monitoring the grant of authorisations

receive appropriate training in the operation of RIPA to enable them to perform their functions in accordance with the provisions of the Act and the relevant Codes of Practice

“Covert Surveillance” is defined as:

Monitoring, observing, listening to persons, their movements their conversations or their other activities or communications.

Recording anything monitored, observed or listened to in the course of surveillance.

Surveillance by or with the assistance of a surveillance device.

where such activities are carried out in a manner that is calculated to ensure that persons who are the subject of the surveillance are unaware that it is or maybe taking place.

Surveillance is further divided under the RIPA Act into two types “directed” or “intrusive”

“Directed Surveillance” is defined as:

Surveillance which is covert, but not intrusive and is undertaken:

For the purpose of a specific investigation -

In such a manner as is likely to result in the obtaining of private information about the person (whether or not one specifically identified or the purpose of an investigation).

Otherwise than by way of nature 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 surveillance

“Intrusive Surveillance” is defined as:

Covert surveillance that:

Is carried out in relation to anything taking place on any residential premises or in any private vehicle an

Involves the presence of an individual on the premises or in the vehicle or is carried out by means of surveillance.

Surveillance is not intrusive to the extent that it:

Is carried out by means only of a surveillance device designed or adapted principally for the purpose of providing information about the location of a vehicle

Surveillance which is carried out by means of a surveillance device in relation to anything taking place on residential premises or in the vehicle

Is carried out without that device being present on the premises or in the vehicle

UNDER NO CIRCUMSTANCES MAY COUNCIL OFFICERS CARRY OUT INTRUSIVE SURVEILLANCE AS DEFINED ABOVE. THE COUNCIL DOES NOT HAVE THE LEGAL POWERS NECESSARY TO ENABLE SUCH SURVEILLANCE TO BE CARRIED OUT.

The Key issue in “Directed Surveillance” is the targeting of an individual with the intention of gaining private information

“Confidential information” is information subject to professional legal privilege, information held in confidence relating to the physical or mental health, or spiritual counselling concerning an individual (whether living or dead) who can be identified from it or journalistic material including material

acquired or created for the purposes of journalism and held subject to an undertaking to hold it in confidence, as well as communications resulting in information being acquired for the purposes of journalism and held subject to such an undertaking.

A “covert human intelligence source” is defined as:

a person who establishes or maintains a personal or other relationship with another person for the covert purpose of:

using such relationship to obtain information or to provide access to any information to another person or

covertly disclosing information obtained by the use of such a relationship or as a result of the existence of such a relationship

where the relationship is conducted in a manner that is calculated to ensure that one of the parties to the relationship is unaware of its purpose or (in the case of disclosure of information) it is disclosed in a manner that is calculated to ensure that one of the parties to the relationship is unaware of the disclosure in question.

Appendix 2

The following matters are matters particulars of which must be included in the records relating to each covert human intelligence source:

- (a) the identity of the source;
- (b) the identity, where known, used by the source;
- (c) any relevant investigating authority other than the Council
- (d) the means by which the source is referred to within each relevant investigating authority;
- (e) any other significant information connected with the security and welfare of the source;
- (f) any confirmation made by a person granting or renewing an authorisation for the conduct or use of a source that the information in paragraph (d) has been considered and that any identified risks to the security and welfare of the source have where appropriate been properly explained to and understood by the source;
- (g) the date when, and the circumstances in which, the source was recruited;
- (h) the identities of the persons who, in relation to the source, are discharging or have discharged the functions of day to day dealings with the source, the oversight of the use of the source and the person responsible for keeping records of the use of the source;
- (i) the periods during which those persons have discharged those responsibilities;
- (j) the tasks given to the source and the demands made of him in relation to his activities as a source;
- (k) all contacts or communications between the source and a person acting on behalf of any relevant investigating authority;
- (l) the information obtained by each relevant investigating authority by the conduct or use of the source;
- (m) any dissemination by that authority of information obtained in that way; and
- (n) in the case of a source who is not an undercover operative, every payment,

benefit or reward and every offer of a payment, benefit or reward that is made or provided by or on behalf of any relevant investigating authority in respect of the source's activities for the benefit of that or any other relevant investigating authority.