



Please reply to:

Contact: Matthew Williams
Service: Committee Services
Direct Line: 01784 446224
E-mail: m.williams@spelthorne.gov.uk
Date: 19 January 2024

Notice of meeting

Audit Committee

Date: Monday, 29 January 2024

Time: 7.00 pm

Place: Council Chamber, Council Offices, Knowle Green, Staines-upon-Thames TW18 1XB

To the members of the Audit Committee

Councillors:

J. Button (Chair)

K. Howkins (Vice-Chair)

M. Arnold

M. Bing Dong

J.R. Boughtflower

L. E. Nichols

P. Briggs

Substitute Members: Councillors C. Bateson, S. Bhadye, M. Buck, J.A. Turner and J.R. Sexton

Councillors are reminded that the Gifts and Hospitality Declaration book will be available outside the meeting room for you to record any gifts or hospitality offered to you since the last Committee meeting.

Spelthorne Borough Council, Council Offices, Knowle Green

Staines-upon-Thames TW18 1XB

www.spelthorne.gov.uk customer.services@spelthorne.gov.uk Telephone 01784 451499

Agenda

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1. Apologies and Substitutes

To receive any apologies for absence and notification of substitutions.

2. Minutes

5 - 12

To confirm the minutes of the meeting held on 30 November 2023 and the Extraordinary meeting of 7 December 2023.

3. Disclosures of Interest

To receive any disclosures of interest from Councillors in accordance with the Council's Code of Conduct for members.

4. Exclusion of Public and Press (Exempt Business)

To move the exclusion of the Press/Public for the following items, in view of the likely disclosure of exempt information within the meaning of Part 1 of Schedule 12A to the Local Government Act 1972, as amended by the Local Government (Access to Information) Act 1985 and by the Local Government (Access to information) (Variation) Order 2006.

[Paragraph 3 – Information relating to the financial or business affairs of any particular person (including the authority holding that information) and in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information because, disclosure to the public would prejudice the financial position of the authority in any lease, contract or other type of negotiation with the tenant or developer, who could then know the position of the Council.]

5. Future Resourcing of the Internal Audit Service

13 - 126

To consider a report from the Group Head Corporate Governance and make a recommendation to Council on the future resourcing of the Internal Audit Service.

6. Procurement Internal Audit Recommendations Progress Review

127 - 156

To note the report on the Procurement Internal Audit Recommendations Progress Review and agree the further planned and ongoing action.

7. Annual Review of Internal Audit Effectiveness

157 - 184

To note the annual review of Internal Audit effectiveness.

8. Update on the use of the Regulation of Investigatory Powers Act Policy (RIPA Policy) 185 - 214

To note the approved Regulation of Investigatory Powers Act (RIPA) Policy and the use of RIPA powers during the period 1 January 2020 to 31 December 2023.

9. Committee Forward Plan 215 - 218

To consider and approve the work programme for the municipal year

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**Minutes of the Audit Committee
30 November 2023**

Present:

Councillor J. Button (Chair)
Councillor K. Howkins (Vice-Chair)

Councillors:

M. Arnold	M. Bing Dong	P. Briggs
S. Bhadye	L. E. Nichols	

In Attendance: Councillors C. Bateson and M. Beecher

31/23 Apologies and Substitutes

There were no apologies received.

32/23 Minutes

The minutes of the meeting held on 27 July 2023 and the Extraordinary meeting on 02 November 2023 were approved as a correct record.

33/23 Disclosures of Interest

Councillor Nichols declared that he was a member of Knowle Green Estates Limited Board.

34/23 External Audit Update

The Deputy Chief Executive provided an update on the work of the external auditors (BDO) and advised the Committee that BDO were awaiting DLUHC to issue a ministerial directive which would likely set out a deadline for all outstanding audits to be cleared or for qualifications/disclaimers to be issued. As BDO had not commenced work on the audits they had advised they would issue qualification opinions/disclaimers for the relevant years. They would also complete the Value for Money opinions for the outstanding years.

The Committee stated that the Corporate Risk Register did not include any mention of risk related to the unaudited accounts. The Deputy Chief Executive

advised that a statement outlining the risks could be compiled and provided to the Committee.

The Committee queried whether BDO would present their opinions to the Committee once finalised and were assured that BDO would be invited to report to the Members upon completion of the audits.

The Committee queried whether there would be any contractual pressure that could be applied to BDO to encourage them to commence work on the audits and were advised that there was no direct contract between the Council and BDO, the contract is between BDO and the PSAA (Public Sector Audit Appointments).

The Committee **resolved** to note the update.

35/23 Corporate Risk Register (Corporate Risk Management)

The Committee received a report from the Audit Manager on the significant strategic risks to the Council in delivering its priorities and highlighted five new actions across four risk categories.

The Committee discussed the impact of externalities on the various risk categories and queried the risk areas which related to recovery from Covid. The Audit Manager advised that the Risk Register reflected the corporate priorities and that the corporate plan was in the process of being updated, once that work had been completed the risk areas would change to reflect the new corporate priorities.

The Committee requested clarification on the number of Ukrainian families that had approached the Council for housing. The Deputy Chief Executive advised that the specific number would be identified and communicated to the members outside of the meeting.

The Committee expressed concern that the Corporate Risk Register was too long and that some risk owners may not understand the difference between a 'control' and a 'mitigation'. The Audit Manager suggested that the creation of service-level Operational Risk Registers would help to reduce the size of the Strategic Risk Register.

The Committee requested that the concerns over the size of the Risk Register were communicated to the Corporate Policy and Resources Committee.

The Committee **resolved** to consider the significant strategic risks and issues highlighted in the report and present these to the Corporate Policy and Resources Committee, ensuring continued wider reporting of the Corporate Risk register and Risk Action plan across other Committees.

36/23 Interim Internal Audit Report

The Committee received a report from the Audit Manager summarising the work undertaken by the Internal Audit Service from April to October 2023 and highlighted key areas of the report.

The Committee expressed concern over Corporate Procurement and requested that the Head of Procurement attend the Audit Committee in January 2024 to provide an update on actions taken to address audit recommendations.

The Committee queried whether the Council would meet the expected standards for audits at the next external quality assessment. The Audit Manager advised that a reciprocal review was currently being conducted to assess conformance with Public Sector Internal Audit Standards (PSIAS) with a report to be presented to the Committee in January 2024.

The Committee **resolved** to note the Interim Internal Audit Report including Appendix A summarising the work undertaken by the Service during the period April to October 2023.

37/23 Reprioritisation of Internal Audit Plan 2023/24

The Committee received a report from the Audit Manager on the reprioritisation of the Internal Audit Plan for 2023/24 and were advised that Some priority B audit work could not be delivered in 2023/24.

The Committee queried whether the 74 contractor days set out in the report were an increase on what had been originally planned. The Audit Manager advised they were additional days to be bought in to support delivery of the audit programme, funded from the vacant post.

The Committee **resolved** to note the reprioritisation of the Internal Audit Plan for 2023/24.

38/23 Review of the Confidential Reporting Code (Whistleblowing policy)

The Committee received a report from the Monitoring Officer on the review of the Whistleblowing Policy and were advised that the current code was deemed fit for purpose. An internal audit of the policy was carried out and several improvements were made.

The Committee had no questions or comments.

The Committee **resolved** to:

1. Note that the review of the Confidential Reporting Code by the Monitoring Office had taken place, and;
2. Agree to retain the current policy.

39/23 Committee Forward Plan

The Committee considered its Work Programme for the remainder of the 2023 - 2024 Municipal year.

The Committee queried whether a review of the expiry dates of Council policies could be added to the Forward Plan. The Group Head – Corporate Governance advised that a master list of policies, including expiry dates, was being created. The Committee agreed that the Master List of Policies, once completed, would be presented to the Committee for noting.

The Committee queried whether a report on Operational Risk Registers could be presented at the next committee. The Audit Manager advised that it would be a significant piece of work to put service level risk registers in place and that maintaining operational risk registers forms part of the responsibility of Group Heads and Managers as Risk Owners. It was agreed that the Chair of Audit Committee and Audit Manager would discuss the nature of the report further and that a progress report would be presented to the Committee at a future date.

The Committee agreed to add an item on Procurement Follow-up, with an invite to attend to be extended to the Head of Procurement.

The Committee agreed to add an item on CIPFA Financial Management Code Self-Assessment to the March 2024 meeting.

The Committee **resolved** that the Work Programme for the remainder of the 2023 - 2024 Municipal year, be approved with the addition of the agreed items.

Meeting ended at 20:44

**Minutes of the Audit Committee
7 December 2023**

Present:

Councillor J. Button (Chair)
Councillor K. Howkins (Vice-Chair)

Councillors:

M. Bing Dong

L. E. Nichols

Substitutions: Councillors J.R. Boughtflower

Apologies: Councillors S. Bhadye and P. Briggs

In Attendance: Councillors C. Bateson

40/23 Apologies and Substitutes

Apologies for absence were received from Cllr Bhadye and Mr P Briggs.

Cllr Boughtflower was present as substitute for Cllr Bhadye.

41/23 Disclosures of Interest

There were none.

42/23 Future Resourcing of the Internal Audit Service

The Committee considered a report that sought a decision on the future resourcing of the Internal Audit Service.

It was proposed by Councillor Howkins and seconded by Councillor Boughtflower that a decision be deferred to the meeting of the Audit Committee on 29 January 2024.

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Audit Committee



29 January 2024

Title	<i>Procurement Internal Audit Recommendations Progress Review</i>
Purpose of the report	To note
Report Author	<i>Hilary Gillies, Interim Head of Procurement</i>
Ward(s) Affected	All Wards
Exempt	No
Exemption Reason	<i>N/A</i>
Corporate Priority	This item is not in the current list of Corporate Priorities but still requires a Committee decision.
Recommendations	<p>Committee is asked to note and agree:</p> <ol style="list-style-type: none"> 1. The recommendations made in the Internal Audit of Procurement, and agree the actions taken so far to address the recommendations; 2. The further planned and ongoing actions.
Reason for Recommendation	<p><i>The Internal Audit of Procurement carried out in July 2023 made 12 recommendations. The Audit Committee has requested an update of progress to date against actions.</i></p> <p><i>The Internal Auditor found that there is reasonable assurance of Spelthorne Borough Council's procurements.</i></p>

1. Summary of the report

What is the situation	Why we want to do something
<p>The Procurement Audit carried out in July 2023 raised 12 recommendations and returned an Assurance Opinion of Reasonable Assurance.</p> <p>Three of the recommendations are low risk and the remainder are medium.</p>	<p>The internal audit concluded that whilst an appropriate framework is in place and has been strengthened since the prior internal audit, the requirements need to be re-enforced to all Procuring Officers to ensure adherence to Contract Standing Orders. The audit also highlighted that compliance monitoring processes need to be</p>

<p>Some of the Areas considered fall outside of the remit of the Procurement Team.</p> <p>In terms of the Audit Risk Review, six areas were tested. Systems of Internal Control were found to be Effective (1) and Partly Effective (4); one area had no measure.</p> <p>In terms of the Audit Risk Review, seven areas were tested. Systems of Internal Control were found to be Effective (2) and Partly Effective (5).</p>	<p>strengthened and embedded, and contract management processes across various stages of the cycle including the Contracts Register require enhancements.</p> <p>This report details the actions that have been taken in response to the recommendations, and planned actions.</p>
<p>This is what we want to do about it</p>	<p>These are the next steps</p>
<p>The Action Plan shows the proposed actions and those actions completed, and is being presented for consideration, comment and a steer.</p>	<p>Committee is asked to note the actions taken and proposed, and to provide comment and steer as appropriate.</p>

This report seeks to inform the Audit Committee of the responses and actions taken to the Procurement Audit and to the planned actions.

2. Key issues

- 2.1 Procurement represents a significant area of risk for a Local Authority, particularly in terms of opportunities for fraud, bribery and corruption; challenge from market providers should the requirements of the applicable regulations not be followed; reputational damage and lack of public trust.
- 2.2 It is therefore critical that the appropriate levels of control are in place to mitigate these risks.
- 2.3 Many of the controls sit within the remit of the Corporate Procurement function; however the Council's Finance, Legal and operational Services have equal responsibility for their respective elements of the purchase to pay cycle. The Action Plan at Appendix A provides further detail of the progress to date against the actions and recommendations. In summary, the recommendations focus on:
 - **improving compliance with Contract Standing Orders**, (particularly in those procurements not undertaken by the Corporate Procurement team). The actions taken in this regard focus largely on ensuring relevant levels of spend are supported by a valid current contract;
 - **improving access to procedures and training**, which has resulted in a new webpage (with all relevant content accessible in one area), and regular procedure-related training;

- **carrying out spend analysis, as stated in the Procurement Policy, every 6 months.** A spend analysis task group (comprised of Finance, Procurement and Projects teams) has been set up to address anomalies in categorisation, which prevent good analysis; and
- **improve contract management.** Increased intervention by the Corporate Procurement team to review, monitor and manage the top ten contracts by value and / or strategic importance has been set up with a Contract Management schedule.

3. Options analysis and proposal

- 3.1 Do Nothing (not recommended): doing nothing would mean that the required improvements in control and risk mitigation are not implemented.
- 3.2 Committee notes and agrees the actions taken and planned (recommended): the Procurement team will continue to work through the actions with a deadline of end January 2024, and a commitment to ongoing actions identified.
- 3.3 Committee notes the actions taken and planned, and proposes alternative and / or additional actions for the planned actions: the Committee may wish to propose further actions where, in their opinion, these will address the Audit recommendations more appropriately.

4. Financial management comments

- 4.1 With the exception of officer time, there are no costs associated with the delivery of the actions identified to deliver the responses to the recommendations.
- 4.2 Finance is aware of the potential risks (as identified in the Audit Report) to the Council associated with the procurement of third party works, goods and services, and the imperative therefore to ensure that appropriate controls are in place. The recommendations and the responses seem proportionate to the management of the risks.
- 4.3 There is a requirement to achieve value for money in all of our third party expenditure, and Finance notes and accepts the actions proposed to achieve this outcome.

5. Risk management comments

- 5.1 The key issues section of this report already highlights that Procurement represents a significant/high risk area for the authority with examples of potential risk implications/adverse impact.
- 5.2 The action plan attached at Appendix A sets out how the Procurement Manager is taking forward the recent internal audit recommendations raised in managing and alleviating associated risk.

6. Procurement comments

- 6.1 Procurement comments form the basis of this report and are covered within.

7. Legal comments

- 7.1 The actions taken and planned in Appendix A support the Council's compliance with Public Contracts Regulations 2015 and Best Value obligations.
- 8. Other considerations**
- 8.1 No other considerations than those considered are asked to be taken into account.
- 9. Equality and Diversity**
- 9.1 The Council's policies and procedures are designed and intended to allow equal access to any procurement and contract opportunities offered by the Council.
- 10. Sustainability/Climate Change Implications**
- 10.1 The Council's policies and procedures are designed and intended to consider sustainable sourcing and to minimise climate change wherever applicable.
- 11. Timetable for implementation**
- 11.1 Actions in the Appendices to this report identify the target dates for implementation.
- 12. Contact**
- 12.1 Hilary Gillies h.gillies@spelthorne.gov.uk

Background papers: There are none.

Appendices:

Appendix A - Management Responses and Action Plan to Audit Recommendations

Appendix B - Contract Management Schedule


Appendix C - Managing Contracts procedure

Appendix A – Management Responses and Action Plan to Audit Recommendations

Internal Audit Review – Detailed Findings that led to Audit Recommendations

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Ref:1 Policies and procedures – Contract Standing Orders
Risks Lack of clear and accessible policies and procedures may result in a lack of overall staff awareness of procurement requirements. This could lead to inconsistent decisions and practices that do not align with regulations or internal Council requirements.
Findings <p>Procurement within SBC is controlled by the Council’s Contract Standing Orders (CSOs), which set out levels of approval for certain thresholds of spend and outlines clear rules for the procurement of goods, works and services.</p> <p>A recommendation was raised in the previous audit for the CSOs and operating procedures to be reviewed to ensure these were up to date. It was confirmed during this audit review that a full suite of documentation has now been developed since 2021, including a Procurement Strategy, updated Contract Standing Orders, a Procurement Policy and a number of supporting Procurement Procedures.</p> <p>It was confirmed that the revised Contract Standing Orders appropriately set out the key governance arrangements for decision making and oversight for different thresholds of expenditure. This includes Committee approval for the procurement processes for high value contracts.</p> <p>However, the following were noted from a review of the Contract Standing Orders:</p> <ul style="list-style-type: none"> • There is a requirement for Contract Management Audits to be undertaken on an annual basis by the central Procurement team. This does not happen in practice. <i>(further detailed in “Ref 4 – Compliance monitoring and reporting” section below)</i> • The details in the CSOs in relation to collating contracts data and populating the Contracts Register do not correlate with what is happening in practice <i>(further detailed in “Ref 6 - Contracts Register” section below)</i> • There is a general requirement that “<i>the Procuring Officer is responsible for ensuring and recording on the contract file that the relevant authority (Council, the relevant Service Committee delegated or other as appropriate for the type and / or level of spend) has been obtained and there is sufficient budgetary provision in place for the whole life of the procurement before any steps are undertaken</i>”. It was noted that there does not appear to be a consistent way of officers demonstrating this, however it was advised that a new form is being developed which should cover this. <p>With respect to Framework Agreements, Procurement Managers may purchase works, goods or services from an appropriate external Framework Agreement “<i>subject to (i) the agreement of the Chief Finance Officer that the call-off represents good value for money and (ii) the agreement of the Procurement Manager that the proposed Framework Agreement has been procured appropriately, and by following the procedure stated in the Procedural Rules</i>”. It was noted that there is currently no method of capturing this approval.</p>
Recommendation 1: Recording approvals
Standardised processes to be established to capture all relevant approvals in line with Contract Standing Order requirements.

Priority	Responsible Officer	Target Date	Management Response	Actions
Low 				
	Hilary Gillies	July 2023	A full range of standardised processes has been developed and is available on the Procurement Sharepoint page: https://spelthornegovuk.sharepoint.com/sites/CorporateProcurement/SitePages/Our-mission-goals.aspx See 'Useful Information'.	<ul style="list-style-type: none"> Maintain and update processes and procedures as necessary and introduce new procedures as required.
	Hilary Gillies	September 2023	In response to the finding that contract management audits are not taking place in accordance with Contract Standing Orders, the Procurement team (which now has an additional resource) has implemented a contract management schedule. Procurement will work with the responsible contract managers to focus on reviewing the performance of high value, complex, strategic contracts.	<ul style="list-style-type: none"> Develop proposed CM audit plan of the top 10 contracts by value and strategic importance. See attached Contract Management Schedule [Appendix B] Proposed first CM audit to take place in September. Plan to be refreshed every 6 months.
	Hilary Gillies		<p>In response to the finding that contract data is not being collated in accordance with CSO's, and following the implementation in June 2023 of the new e-tendering and Contract Management System, there is now a system in place to record all contract information, and manage contract expiry alerts.</p> <p>This, in addition to a defined process for logging contracts developed jointly by Legal Services and Corporate Procurement, will enable improved contract tracking.</p> <p>However, a concern remains that contract information cannot be captured, where Legal Services and Corporate Procurement have not been involved in the tendering and contract development process. As such, both services will issue / have been issuing regular communications to advise of the need for contracts (above certain values). Corporate Procurement meet regularly with internal 'clients', as do Legal Services. The message for the need for contracts is reinforced at those meetings.</p>	<ul style="list-style-type: none"> Finance notify Corporate Procurement daily of orders raised over £5k. Procurement follow up and request a contract where required. <p>COMPLETE & ONGOING</p>

			With regards to procurement from an external framework agreement, and the auditor's comment that there is no means of capturing the approval to procure from the framework, the approval, this is incorrect, as any decisions to procure from such are recorded via the MAT approval and Committee approval processes. However, the procedure 05, regarding procurement from SBC and other frameworks has been amended to reinforce this.	COMPLETE
	Carrie Isaac	October 2023	Policies and procedures are updated annually in October, and this recommendation will be incorporated into to a new Contract Management procedure for capturing approvals for all procurement types in accordance with CSOs.	<ul style="list-style-type: none"> Procedure amended consistent with new process to ensure end to end procurements and contracts are recorded. COMPLETE

Ref:2 Policies and procedures - accessibility

Risks


Lack of clear and accessible policies and procedures may result in a lack of overall staff awareness of procurement requirements. This could lead to inconsistent decisions and practices that do not align with regulations or internal Council requirements.

Findings

It was confirmed that the Procurement policies and procedures are maintained on the Council's intranet pages (Spelnet). However, there is no separate Procurement page on the intranet, and therefore the procedures could only be located through a general search function and browsing through shared document folders. While the documentation is therefore available for officers to view, this is not a straightforward process and requires the user to know exactly what they are looking for. This may lead to a lack of awareness among Procuring Officers of all relevant policies/procedures, leading to non-compliance with Council policy.

Recommendation 2: Access to policies and procedures

A distinct Procurement landing page to be developed on Spelnet to ensure that all relevant procurement policies and guidance is easily accessible.

Priority	Responsible Officer	Target Date	Management Response	Actions
Low 	Emma Browne	July 2023	A new procurement landing page has been developed by the Procurement Officer. https://spelthornegovuk.sharepoint.com/sites/CorporateProcurement/SitePages/Our-mission-goals.aspx	COMPLETE at end July 2023

			Th page provides access to all the Procurement [procedures, the Procurement Policy and the Procurements Strategy; the planned training dates and training materials from previous training sessions.	
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Ref:3 Compliance with Contract Standing Orders			
Risks			
Failure to adhere to procurement regulations and Contract Standing Orders may have a number of implications including poor value for money and external challenge with consequences for safeguarding/protection of the authority's assets.			
Findings			
Compliance was tested for a sample of procurement exercises across different spend thresholds.			
The testing incorporated a sample of 5 contracts selected from the Contracts Register, which were all entered into from April 2022 onwards and had a value in excess of £40,000 (i.e. the level at which a full tender process is required, with the central Procurement team providing support).			
In addition, the testing incorporated a sample of 10 Purchase Orders in excess of £20,000 (i.e. the level at which a formal contract via Legal Services is required), selected from a report of Purchase Orders raised between April 2022 and February 2023.			
The following items were noted:			
<u>Advertising requirements</u>			
<ul style="list-style-type: none"> For contracts valued between £40,000 and the PCR 2015 threshold, the Contract Standing Orders require the contract to be advertised on the e-sourcing portal and on Find a Tender Services (FTS). In two relevant cases, while it was advised that the procurement opportunity was advertised via the SE Shared Services e-Sourcing portal, there was no evidence that these had also been advertised on FTS. In a further two cases in this value range, the procurement exercises had been carried out by third party consultants. From the information provided, there was no evidence that the procurement opportunity had been advertised in accordance with the CSO requirements. (<i>also see below for further details in relation to third party consultants</i>). 			
(see Recommendation 3)			
<u>Contracts</u>			
<ul style="list-style-type: none"> In one case a contract had not yet been fully signed despite a start date of 01.04.22. It was advised that there were elements that the supplier had not yet agreed. In a further case a contract had been signed by the supplier but had not been signed by SBC at the time of the audit, despite a start date of 01.05.23. In a further case it was advised that a request was raised with Legal for the contract to be drafted, but this wasn't actioned and therefore the works were completed without a contract. In addition, it was noted that the relevant Purchase Order was raised after the invoice was received, therefore the works also would not have been subject to the Council's standard Purchase Order terms and conditions. 			
In all three cases, the Council has been exposed to the risk that there is not an enforceable contract in place, with potentially little or no recourse in the event of a contractual dispute. (see Recommendation 4)			

- In a further case the contract was provided, which had been signed by a Principal Lawyer. As the contract value was above £100,000 the contract should have been executed under seal, which would give additional protection by extending the limitations period from 6 years to 12 years. The Council's Constitution refers to *"The affixing of the Common Seal will be attested by the Group Head of Corporate Governance, Chief Finance Officer or Chief Executive or some other person authorised by him/her or the Council."* There was no evidence of this contract being made under seal, or any seal reference number on the contract. It was also not clear whether a Principal Lawyer signing the contract would meet the requirements of the Constitution. It should be noted that these queries remained outstanding at the time of writing the audit report therefore a firm conclusion could not be drawn.

(see Recommendation 5)

Third party consultants

- In five cases the procurement exercises had been carried out by third party consultants. Under the terms of the agreements in place with the consultants, any procurement exercise undertaken by them should conform to the Council's Contract Standing Orders requirements.
- In all five cases it was advised that a minimum of three quotes had been obtained, in line with CSO requirements. However, of the five cases, two were above £40,000 and, as noted above, it was not evident from the information provided that the advertising requirements had been complied with. In one of the cases there was also no evidence of any requests for input from the central Procurement team until after the procurement exercise had been completed by the consultant.
- Overall, it was not clear whether consultants were following all of the Contract Standing Orders requirements, or how this would be demonstrated within individual contract files. A number of queries in this respect remained outstanding at the point of writing the audit report, therefore it was not possible to draw a firm conclusion.

(see Recommendation 6)

Audit trail – evaluation matrix

- In two cases where an evaluation matrix was provided, it was noted that there was no sign off on the evaluation document itself (the Price & Quality combined tab has this requirement) and no details of the Evaluation Panel were recorded on the document. In both cases such details were included in a subsequent Committee report, however for audit trail purposes it would be beneficial for this information to be included on the evaluation matrix. (See Recommendation 7)

Exemptions


- The sample testing included two contracts which had been progressed via a waiver. While appropriately signed waiver forms were provided, it was noted that neither of the waivers were logged on the Exemption Register. (See Recommendation 10 under *"Ref 5 – Exemptions/Waivers"* below)

Contracts Register

In six out of nine relevant cases, no contract information appeared on the Contracts Register. Of the three appearing on the Contracts Register, in one case the end date was incorrect, and the value listed was for one year only, which differed to the approach used for other contracts where the whole life value of the contract is used. (See Recommendation 12 under *"Ref 6 – Contracts Register"* below)


Recommendation 3: Advertising requirements

Advertising requirements to be re-enforced to all Procuring Officers to ensure that all procurement exercises are carried out in accordance with Contract Standing Orders.

Priority	Responsible Officer	Target Date	Management Response	Actions
Medium 	Hilary Gillies	Next update of the Constitution / CSOs / Financial regs.	<p>CSOs state that for contracts valued over £40k: <i>A minimum of three suppliers to be invited to tender, with full tender process.</i></p> <p>As such, we would generally <i>invite</i> a minimum of three tenderers to bid through the e-tendering portal, using a selected tender list. This is technically <i>advertising</i> this opportunity to those selected, although not to the wider market at large, which may invite a disproportionate response, placing a burden on officers to evaluate even inappropriate tenders.</p> <p>Procurement legislation does not require us to advertise on FTS <i>unless we advertise the opportunity</i>, and our CSOs do not require this to be advertised.</p>	<p>A change to the wording of Contract Standing Orders to be drafted for next change to Part 4e of the constitution.</p> <p>COMPLETE but note that an amendment will be made to CSOs to clarify this point.</p>

Recommendation 4: Contracts


Action to be taken to ensure that contracts are signed prior to the start date of the contract. Processes should also be reviewed to establish appropriate mitigating measures to ensure that the Council's interests are adequately protected in the event that it is not possible for the contract to be signed prior to the start date (for example ensuring that suppliers are operating subject to standard or enhanced Purchase Order terms, depending on the nature of the contract).

Priority	Responsible Officer	Target Date	Management Response	Actions
Medium 	Legal Services / Group Heads / Corporate Procurement	October 2023	<p>The Group Head of Corporate Governance has raised this at the Staff Briefing.</p> <p>Corporate Procurement has raised this at Staff Briefing and Managers' Briefing.</p> <p>The message has been included on Spelnet on a regular basis, and is planned again for the first week of January.</p> <p>The message is reinforced in the procurement training run by Corporate Procurement.</p>	<p>Corporate Procurement has carried out a lot of communication on this matter – Staff briefings; Managers Briefings; communications on the intranet.</p> <p>Regularly (quarterly) reminders to go on to intranet as a reminder to officers that work must not start without the signed contract. The first message was submitted on 22/09/2023, and a further message posted on 2/01/2024.</p>

			This has been difficult to reinforce given some resource issues in Legal Services, which would have otherwise delayed operational start dates and impeded performance.	<p>The message has been reiterated in Procurement briefings, training sessions and the Procurement Project Board.</p> <p>Corporate Procurement and Legal Services – the custodian of the Authority’s contracts – regularly consider and discuss to ensure that this is as effective as possible.</p> <p>COMPLETE AND ONGOING MONITORING AND MESSAGING</p>
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Recommendation 5: Contract signing requirements



Contract signing requirements to be re-enforced to all relevant officers to ensure that enhanced limitation period protection is put in place for contracts above £100,000 in line with Contract Standing Orders and Constitution requirements.

Priority	Responsible Officer	Target Date	Management Response	Actions
<p>Medium</p> 	Legal Services	6 October 2023	Legal Services review this requirement and monitor.	<ul style="list-style-type: none"> Discussed with Legal Services (responsible department) in September 2023. Corporate Procurement put reminder on Spelnet to this effect. Legal Services to regularly review. <p>COMPLETE</p>

Recommendation 6: Third party consultants

Contract Standing Order requirements to be re-enforced to Procuring Officers to ensure that all requirements are adhered to by third party consultants, with appropriate supporting evidence to be provided by the consultant and retained on the contract file.

Priority	Responsible Officer	Target Date	Management Response	Actions
<p>Medium</p> 	Hilary Gillies [and Legal Services]	Immediately and ongoing	The majority of procurements undertaken by agents on our behalf are through the property management consultants (JLL and Cushman and Wakefield). However, both parties have a number of representatives working in support of the management of the contract.	<p>Assets Property Team issued with notification to send to CW and JLL reinforcing the message on CSO instructions.</p> <p>COMPLETE</p>

			<p>Corporate Procurement have advised the Property Management Team to convey this requirement to their agents.</p> <p>This message is also included in the training materials on 'Planning a Procurement' (three sessions now delivered) and the Contract Management training (one session delivered).</p>	COMPLETE AND ONGOING
Recommendation 7: Evaluation Matrix				
The Evaluation Matrix document to be signed off in all cases, with details of the Evaluation Panel recorded on the document.				
Priority	Responsible Officer	Target Date	Management Response	Actions
<p>Low</p> 	Hilary Gillies	End August	The Evaluation Matrix has been amended. Where physical signoff is not possible, an email confirmation is attached.	<p>COMPLETE See attached.</p>  <p>Business support Eval matrix SBC.xlsm</p>

Ref:4 Compliance monitoring and reporting
Risks
If appropriate oversight, compliance monitoring and reporting is not in place, this may lead to a lack of scrutiny over procurement exercises and the actions being taken, leading to poor value for money and external challenge with consequences for safeguarding/protection of the authority's assets.
Findings
<p>Recommendations were raised in the previous audit review as there was:</p> <ul style="list-style-type: none"> (i) No central oversight in place to monitor whether the various departments complied with Contract Standing Orders and the defined procurement process. (ii) No central oversight or outline in terms of how contract managers should monitor contracts. (iii) No central monitoring of contract expiry dates and no contract review alerts set. <p>It was evident that steps had been taken to improve the overall central monitoring framework, including:</p> <ul style="list-style-type: none"> -The introduction of a Procurement Plan, flowing from the Service Planning process. -The development of a Procurement Action Plan, with regular update reports to the Audit Committee and the Corporate Policy and Resources Committee.

However, in relation to compliance monitoring, a number of items remained outstanding. As part of the previous management comments the following actions were identified:

- *Implement 6 monthly compliance reviews of spend against the new Contract Standing Orders.*

During the current audit it was advised by the Interim Head of Procurement that the 6 monthly reviews of compliance have not been implemented to date. Some work is needed to be able to code finance data in the manner that will enable the team to analyse and draw meaningful conclusions. Going forward, quarterly reviews have been set up. These could reduce to every six months once the process is in full operation. There has not been sufficient resource in the Procurement team to enable full spend analysis, however it is anticipated that an additional resource will be in place in the Procurement team in July 2023 to enable greater focus on monitoring.

- *Once the contract management system is in place, it will be possible to review the spend data and contract data together to identify the gap, which will, for larger procurements, be a marker of compliance.*

It was confirmed that a new contract management system has been recently implemented, with a target timeframe of 30 September 2023 to implement such reviews.

- *It was proposed that the Procurement Team review any POs over £20,000 (the level which requires Legal to draft a contract) to manage non-compliant spend.*

It was advised by the Interim Head of Procurement that this has not been implemented and now needs further consideration. Procurement will need to liaise with Finance and agree how this can be done in the finance system, however it was suggested that sample testing POs between £20k and £40k may be the most practical way forward.

It was also noted that the Contract Standing Orders include the following monitoring requirements:

“The Procurement Manager shall propose an annual planned schedule of contract management audits (Contract Audit Schedule), to be agreed by the Chief Financial Officer and Group Head of Corporate Governance prior to implementation. The Procurement Team shall undertake such Contract Audits.

“The Contract Audit Schedule shall include a minimum of ten high value, high complexity, and high-risk projects to be audited, as well as auditing a sample of lower value spends for compliance with these Contract Standing Orders (CSOs).”

It was advised by the Interim Head of Procurement that such audits are not currently carried out, however having the additional resource within the team will enable this monitoring aspect to be carried out.

In relation to oversight or outline in terms of how contract managers should monitor contracts, it was previously recommended that:

1. A contract management framework should be developed and documented to set out how contract managers should monitor contracts; what information should be reported, and how the outcome of the monitoring should be recorded.

2. There should be a process to facilitate central oversight of key contracts. Summary of monitoring outcome should be recorded centrally in accordance with the contract monitoring framework mentioned above.

It was confirmed that a Managing Contracts procedure has been developed which refers to specific requirements such as minimum agenda items for contract review meetings (including performance measures).

However, this procedure does not address how the outcome of the monitoring should be recorded, and there is currently no central oversight of this process. Through discussions with the Interim Head of Procurement, the previous recommendation was still considered to be valid and having greater central oversight of this process was considered beneficial in relation to the highest value / risk / strategic contracts. The recommendation has therefore been re-iterated here. (See Recommendation 8)

In relation to central monitoring of contract expiry dates it was previously recommended that:

“An individual or groups should be allocated responsibility for overseeing contract forward planning. Contract review alerts should be set and all contracts that are due to expire should be subject to review. The commissioning cycle should be triggered to determine the best course of action and make a decision as to how best to meet service requirements.”


It was advised by the Interim Head of Procurement that the new contract and e-tendering system will manage this. It was in the process of being implemented at the time of the audit review. The functionality is in place within the system, with the timeframe dependent on completing a full upload of the relevant data. A target timeframe of 31 August 2023 was suggested. (see Recommendation 9)

Recommendation 8: Compliance monitoring (Prior Recommendation)

Compliance monitoring processes to be developed and embedded, including:

- a) 6 monthly analysis of spend and compliance reviews against the Contract Standing Orders.
- b) Review of Purchase Orders over £20,000 to manage non-compliant spend.

Implement an annual planned schedule of contract management audits, in line with the Contract Standing Orders requirements.

Priority	Responsible Officer	Target Date	Management Response	Actions
<p>Medium</p> 	Hilary Gillies (Carrie Isaac / Emma Browne)	December 2023	<p>There is a need to improve categorisation of spend data. To date, Corporate Procurement has been undertaking manual categorisation of spend data at 6 monthly intervals, but a more robust method of categorising spend needs to be adopted by Finance and Procurement.</p> <p>To this end, a Spend Data initiative has been launched and the first meeting of the Spend Data working group (Finance, Procurement and Projects teams) will take place on 12 January.</p> <p>In the meantime, the following actions take place:</p> <ul style="list-style-type: none"> • Manual review of spend data; • Review of spend over £5k to ensure that this is local spend; • Review of all spend over £20,000. ‘PO raised’ alerts are sent by Finance to Procurement and Procurement 	<p>Project kick off (to enable more accurate spend analysis) on 12 January.</p> <p>Other actions have been implemented (see second paragraph).</p> <p>UNDERWAY</p> <p>COMPLETE</p>

Ref:5 Exemptions / Waivers**Risks**

Failure to adhere to procurement regulations and Contract Standing Orders may have a number of implications including poor value for money and external challenge with consequences for safeguarding/protection of the authority's assets.

Findings

Since the previous audit review was carried out, a new operating procedure has been put in place in relation to exemptions (*Operating Procedure 11 - Exemption Request and Reporting, latest version November 2022*) and it was confirmed that an Exemption Register is also in place.

In accordance with the documented procedure, if for a valid reason the Contract Standing Order procedures cannot be followed, an Exemption Request must be completed, with approval and sign off gained, in line with the Contract Standing Orders Approval to Award Contract thresholds as follows:

- Up to £5k - No further approval required
- £5k - £40k - Group Head
- Above £40k and up to threshold at which the PCR 2015 applies - Deputy Chief Executive or Service Committee (where the requirement is strategic / critical)

There are also two template forms available for the Exemption Request, one for spend between £5,000 and £40,000 and one for spend between £40,000 and the PCR 2015 threshold. The completed form should be sent to Corporate Procurement for comment before it is sent for appropriate approval. When the form is signed by all relevant parties, the final signed version needs to be sent to Procurement for their records.

The procedure states that, with effect from January 2023, Corporate Procurement will report all Exemptions as part of the Procurement Action update reporting. It was advised by the Interim Head of Procurement that such reporting had recently begun. This is reported at the Procurement Board, and the first report to the CFO and Chief Accountant was issued in May 2023.

The procedure also states that the Exemption Register will be reviewed on a quarterly basis by the Chief Accountant. Again, it was advised that this had recently begun at the time of the audit review.


The sample testing carried out included two contracts which had been progressed via a waiver. While appropriately signed waiver forms were provided, it was noted that neither of the waivers were logged on the Exemption Register.

Overall, there has been a significant improvement since the previous review in relation to the control framework for exemptions, however the sample testing demonstrated a weakness in the application of those controls in terms of collating the exemptions data. Logging and reporting of all waivers provides greater transparency and allows for appropriate scrutiny of the decision making process, as well as the ability to identify trends which may require further action being taken.

Recommendation 10: Exemptions Register

Exemptions procedure to be re-enforced to all relevant officers to ensure that all waivers are appropriately logged and reported, to enable greater transparency and allow for appropriate scrutiny of the decision-making process.

Priority	Responsible Officer	Target Date	Management Response	Actions
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<p>Medium</p> 	<p>Carrie Isaac / Hilary Gillies</p>	<p>Next update of CSOs</p>	<p>Contract standing orders stipulate the requirement, but there is no mention in CSOs of the <i>process</i> for exemption, as this sets out the option to avoid following due process.</p> <p>However, in the next change to CSOs, it is proposed that the Exemption Procedure be expressly referred to.</p>	<p>Update CSOs to reflect the procedure, and develop exemptions register, with MAT oversight.</p> <p>Corporate Procurement to add to Procurement Dashboard and report quarterly</p>
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<p>Ref:6 Contracts Register</p>
<p>Risks</p>
<p>A lack of transparency on spend incurred can result in a lack of public trust or confidence around the use of taxpayer money.</p>
<p>Findings</p>
<p>With respect to procurement and contract information, the Local Government Transparency Code requires that Councils provide details of:</p> <ul style="list-style-type: none"> • invitations to tender to provide goods and/or services with a value exceeding £5000. • contracts, commissioned activity, purchase orders, framework agreements and any other legally enforceable agreement with a value that exceeds £5,000. <p>Tender and contract information should be published at least on a quarterly basis. The data should be published not later than one month after the quarter to which the data and information is applicable.</p> <p>Relevant tender information is published/advertised via the e-tendering portal on the South East Shared Services portal, with a link via the Council's website. With respect to contract information, a recommendation was included in the previous audit review due to the fact that a Contracts Register was not in place at the time. It was advised that work was undertaken in summer 2022 to review the contracts data available and, since then, contract information has been published on a monthly basis. It was confirmed that a Contracts Register is now in place and published on the Council's website, with the latest version dated June 2023.</p> <p>It was noted that the Contracts Register is likely to only capture agreements where there has been a formal contract prepared by the Legal team, for which the internal threshold is £20k. Where agreements above £5k are put in place by other methods (either by Purchase Order or by way of contract without the involvement of the Legal team), there is no clear way for this data to be captured for the purposes of publishing on the Contracts Register.</p> <p>Regarding the process of populating the Contract Register, the Contract Standing Orders state that: <i>The Chief Finance Officer will ensure that a register of all contracts of £5,000 and over, placed by the Council is kept. The register must state the name of the contractor, the name of the Council's Contract Manager, the scope of the work to be done or goods to be supplied, the duration and value of the contract. Any Procuring Officer letting a contract must ensure details are supplied to the Chief Finance Officer for entry in the register.</i></p> <p>In practice the responsibility at the time of the audit review sat with the Procurement team, with input from Legal where necessary. The roles and responsibilities therefore need to be more clearly defined within the policies and procedures to ensure that all relevant officers are aware of the requirements and to ensure that all contract details are provided by Procuring Officers for inclusion on the register. (See Recommendation 11)</p>

In accordance with the Transparency Code, certain mandatory information is to be included in the Contracts Register:

- reference number
- title of agreement
- local authority department responsible
- description of the goods and/or services being provided
- supplier name and details
- sum to be paid over the length of the contract or the estimated annual spending or budget for the contract
- VAT that cannot be recovered
- start, end and review dates
- the tender process used, i.e. whether or not the contract was the result of an invitation to quote or a published invitation to tender
- the company designation, i.e. whether or not the supplier is a small or medium sized enterprise and/or a voluntary or community sector organisation and where it is, provide the relevant registration number.

The following items were noted from a general review of the June 2023 Contracts Register, which had 240 contracts listed in total:


- There is a column for irrecoverable VAT but there are no entries.
- There were a number of gaps in the data where no information had been completed, including for the following fields:
 - A small number of gaps for reference number, department responsible, net value, and start date.
 - 99 contracts without a review date listed.
 - 38 contracts without an end date listed.
 - 194 contracts without a tender process type listed.
- There is a column for charity number but not for company number.
- There were 110 contracts which had passed their listed end date, meaning that they were either no longer 'live' contracts or they require updating if contracts had been extended.

In addition, as part of the sample testing carried out, a specific review was carried out to verify the accuracy and completeness of the information included in the Contracts Register. In six out of nine relevant cases, no contract information appeared on the Contracts Register. Of the three appearing on the Contracts Register, in one case the end date was incorrect, and the value listed was for one year only, which differed to the approach used for other contracts where the whole life value of the contract is used. (See Recommendation 12)

Overall, while it was evident that progress had been made in this area since the last review was carried out, further work is necessary to ensure that satisfactory processes for obtaining and publishing contracts data are embedded in the organisation.

Recommendation 11: Contracts Register process


Roles and responsibilities and associated processes for populating the Contracts Register to be reviewed/updated and re-iterated to Procuring Officers to ensure that all relevant contractual agreements are captured in line with Transparency Code requirements.

Priority	Responsible Officer	Target Date	Management Response	Actions
<p>Medium</p> 	CI (HG)	End 2023	A clear process for tracking the life cycle of a procurement and contract has been jointly developed by Corporate Procurement and Legal Services, to capture all contracts	<p>1. New procurement and contract lifecycle to be launched mid-November, with message at staff briefing. COMPLETE</p>

			<p>not just those over £40k which require procurement oversight. Legal and CP roles and responsibilities are clearly captured.</p> <p>This needs MAT endorsement. A brief will be provided for MAT for end October / early November.</p> <p>A significant amount of work has been undertaken with the provider of the new system to enable automatic download of data in a Transparency data format.</p>	<p>2. Message about needing contract to go on intranet – mid November, and monthly thereafter. COMPLETE</p> <p>3. Message at Managers' Briefing (Dec 2023). COMPLETE</p> <p>4. Record of spend against contracted spend to become a dashboard measure. Jan 2024</p>
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Recommendation 12: Contracts Register data

Current Contracts Register data to be reviewed to ensure that all relevant information is captured in accordance with the Transparency Code, and to ensure that the Contracts Register contains up to date information. Furthermore, robust mechanisms should continue to be developed to ensure that the Contracts Register remains fit for purpose.

Priority	Responsible Officer	Target Date	Management Response	Actions
<p>Medium</p> 	CI (HG)	<ol style="list-style-type: none"> Starting November 2023 November 2023 Quarterly from Jan 2024 	<p>A significant amount of work has been undertaken with the provider of the new system to enable automatic download of data in a Transparency Data format.</p> <p>A monthly review of the Contracts Register has been implemented.</p> <p>Transparency Data is published quarterly.</p>	<ol style="list-style-type: none"> Monthly review of Contracts Register Data; COMPLETE AND ONGOING Dashboard of performance to be set up – Jan 2024 Transparency Data to be published quarterly starting Jan 2024

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APPENDIX B - Contract Management Schedule

Ref.	Contract Description	Provider	Review Date	SBC Contact	Comments	Reviewer
1	Sophos Intercept X	Softcat plc	January 2024	Alistair Corkish	Review planned	HG / EB
2	Management of Harper House and White House temporary accommodation facilities	Metropolitan Thames Valley	October 2023	Mart Imig	Review underway Status update: 21/12/2023. Working with the Contract Manager to address contract performance issues.	HG / CI
3	Cleaning Contract – Municipal Sites	May Harris	September 2023	John Hesbrook	Status update: 21/12/2023. The current contract has been reviewed In support of the development of and transition to the new contract. The new contract (out to tender on 20/12/2023) included a revised scope, taking into consideration hybrid working at some sites within the new scope.	HG / CI
5	Property Management – Commercial Properties	Cushman and Wakefield	January 2024	Jeremy Gidman / Katherine McIlroy		HG / EB
6	Property Management – Retail Properties	Jones Lang Lasalle	December 2023	Sian Bowen	Status update: 21/12/2023. Contract management review underway. Working with the Principal Property Manager to address service issues.	HG / EB
7	Leisure Centre Operator Contract*	SLM	November 2023 until July 2024 See comment	Claire Moore	Status update: 21/12/2023. As part of the contract transition to and mobilisation of the new contract	HG
8	Contract for development project management	Perfect Circle	January 2024	Richard Mortimer	For support of large development projects	HG
9	SPAN contract		February 2024	Stephen Mortimer-Cleevely		CI
10	CCTV monitoring and maintenance	RBC	February 2024	Jackie Taylor		HG / CI

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Spelthorne Borough Council
Procurement Policies & Procedures

06_Managing Contracts

Managing Contracts

Version	v 3.0
Author	Hilary Gillies Corporate Procurement Manager
Date Approved	
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1. Introduction

Contract Management is an end-to-end process of managing the requirements of procured works, goods and services. Activities involved in Contract Management are referred to as either 'upstream' or 'downstream' – i.e. those leading up to the award of the contract and those which are required once the contract is active.

Those activities which lead up to the award of the contract (the upstream activities) are perhaps more critical to ensuring successful contract delivery than those which occur after contract award (downstream activities), although both are very important to the successful delivery of your project objectives.

2. Purpose

This is a high-level procedure intended to provide officers with an introduction and basic understanding of managing their contracts with selected providers.

Officers undertaking more complex procurements or who are responsible for the management of complex, high value or strategic projects will need further support from both the Procurement Team and Legal Services.

This Procedure will provide an outline approach to Contract Management, including a checklist of some of the key activities required to ensure your contract is executed successfully.

3. Why Contract Management is important

Council officers are required to ensure that contracts for works, goods and services are procured compliantly. They need to achieve the best value for money possible for the Council.

Once a contract has commenced, it is critical that an effective management regime is in place to ensure that the intended outcomes are met.

Monitoring performance against the contract Key Performance Indicators and other specified requirements is key to ensuring the contract's success. A successful contract

will perform to cost (and budget), and against the specified quality deliverables and timeframes.

The contract needs to work for both contracting parties for it to be delivered successfully. Getting right the balance of risk held by each party is critical to ensure strong contract performance and the continuity of supply from the supplier, and to building strong working relationships.

A contract may commit the parties to working together for a lengthy period of time and it is therefore important to develop a collaborative open and honest relationship based on trust and mutual understanding.

4. Contract Management Approach

This procedure recommends a step-by-step approach to contract management which will require you to:

- Demonstrate a clear understanding of the need for the contract (e.g. identifies a solution to a problem);
- Gain the appropriate approvals to proceed with a project which will end in a contract with a supplier;
- Consult with stakeholders and put in place the right resources to deliver your project on time, in full and to budget.

The Projects page on Sharepoint contains some useful (and some mandatory) resources to support the project initiation and approval. Go to:

<https://spelthornegovuk.sharepoint.com/sites/SBCProjectManagementsite>

This procedure does not cover those resources in detail, however some of the early steps of this approach are covered within the Toolkit. Note that this procedure does not apply to contracts of employment.

When starting a project that will result in a contract, you will need to take the following **UPSTREAM** actions:

1. If your project exceeds, or is likely to exceed, £40,000 you must request support from the Procurement Team . Any project over £5,000 will require a contract and therefore also needs support from Legal Services .
2. Draft a Business Case which clearly outlines the justification for your project. If a project budget has not yet been approved, a Growth Bid will also be required. You may need support from Finance in this regard.
3. Building on the information provided in your Business Case, draft an Outline Specification of your requirements. This document provides a high level detail of the information that you will provide to the market when procuring your contract.
4. Draft a contract Timetable , ensuring you allow the market sufficient time to respond to your opportunity. Procurement will help with this if the value requires a full procurement which complies with the Public Contracts Regulations (PCR) 2015.

5. **Engage with the Market / Soft Market Testing** If you have not already done this to enable you to write a full Business Case, you may now want to consider sharing your requirements with providers. The information provided as feedback may further develop your Specification to allow much better project outcomes.

6. Develop **Final Specification (please refer to procedure 10_Drafting a Specification of Requirements)**

This document must detail everything that you need the contract to deliver. If a requirement is not included in the Final Specification, bidders will not include it in their proposal, nor will it be included in their proposed Contract Price.

To avoid costly contract variations once your contract is underway, ensure that the Final Specification is as complete as possible.

The Final Specification must be signed off by the Budget Holder and then shared with the Procurement team.

The Final Specification is a key document that will inform all other documents in the Tender Pack. For example:

- Tender Questions will be based on the Specification, designed to fully test the capability of bidders to deliver the specified requirements;
- Key Performance Indicators, used to measure the success and monitor the performance of your contract, will be designed around the Specification;
- the form of contract to be used will be determined by the Specification;
- your requirements for reporting and for meeting to review the performance will be detailed in your Specification: and
- the exit arrangements for when the contract ends will also be included.

Procurement will support the Tender process for projects over £40,000. Please refer to procedure 07_Request for Quote and Tender Process for more information.

Once the contract is awarded, the following **DOWNSTREAM** activities need to be carried out. These are activities more typically understand to be Contract Management activities, but are no more or less important to the successful delivery of the contract than the upstream activities:

1. A **contract commencement (kick-off) meeting** should be held. As a minimum, the authorised personnel named in the contract will attend. Depending on the size, value or complexity of the project, senior representatives from both parties may also wish to, or should, attend the kick-off meeting.

The kick-off meeting will determine the **Terms of Reference** and set the **Agenda** for Contract Review meetings. Building a strong **Supplier Relationship** will be critical to the contract performance.

As a minimum, the Agenda should include:

- a review of **Key Performance Indicators, Service Levels** and any **other performance measures**;
- project **roles and responsibilities**;
- the project **Risk& Issues Register** (where applicable);
- **Actions** both from the previous meeting(s) and to be carried out in the next period;
- **Payments** and **contract spend against budget**.

2. Referring to the contract mobilisation and commencement arrangements detailed in the Tender Pack, you will need to work with the Supplier to **mobilise the new contract**.

If this is a re-tendered contract, and the goods or services have been provided by a different, incumbent provider, this will need a careful handover, planned and executed in accordance with both the previous contract arrangements and the new contract.

3. Contract review meetings must be set up in accordance with the frequency set out in the Specification / Contract. In the case of IT contracts, contract review meetings must specifically consider risk mitigation with regards to cyber security. Suppliers must be required to provide details of any cyber security risks associated with the delivery of the contract, and advise of any changes in the operational arrangements for data storage, processing and management.

The Contract Officer / Manager shall record all actions agreed at the contract management meetings. In the case of high value (over the PCR 2015 threshold) contracts or strategically important contracts, the actions will be forwarded to Corporate Procurement. From time to time, Corporate Procurement shall also attend Contract review meetings, and report performance finding to the Management Team.

4. Contract Performance reporting needs to be established in accordance with the requirements - format, scope and frequency - set out in the Specification / Contract.

Officers are required to track contract performance against the benefits assumed in the business case and as specified in the contract, but it should be the responsibility of the Supplier to manage the agreed reporting schedule, ensuring reports are provided without the need for prompting from the Council's contract officer.

5. Management of the Supplier's performance against the service levels specified in the contract is critical to ensure the **delivery of the full value for money** from the contract.

Officers need to be able to **recognise the early warning signs of supplier poor performance**, which can include:

- requests for upfront payment, or improved payment terms;
- delays to project timelines without prior agreement;
- failure to achieve KPI service levels, or implement adequate improvement measures;
- changes in key personnel;

- Supplier's sub-contractors expressing concern about the Supplier direct to the Council;
- customer complaints about the quality of service etc.

The Procurement team can support Contract Management & Supplier relationship meetings where required.

6. Officers need to allow **sufficient time to re-tender** a new contract well in advance of the end of a current contract.

The larger and more complex the contract the longer the re-tendering process will be. Officers will need to factor in the time required for the internal approvals process and any statutory timeframes required under the Public Contracts Regulations (PCR) 2015 (see procedure 07_Request for Quote and Tender Process) and refer to the Procurement Team for support.

7. The contract will stipulate the **exit arrangements** which the Supplier is required to make. These may include, where relevant:

- Formal notification of contract termination;
- Managing the exit timetable;
- returning assets (e.g. IT hardware; furniture) provided by the Council for the execution of the contract;
- arrangements for staff under TUPE;
- working with the new supplier to transition the contract;
- records management and data security;
- vacating Council premises;
- concluding the financial arrangements – payments and or credits due, etc.

5. Summary

The most successful contract management focuses on upstream activities which carefully consider the purpose of the contract and how it will be delivered.

Effective contract management requires the development of strong supplier relationships, which in turn requires a commitment of time and resources from the contract monitoring officer or contract manager.

Support from both the Procurement Team and Legal Services must be sought for higher value, more complex projects.

6. References to other SBC Policies

Contract Standing Orders
 07_Request for Quote and Tender Process
 10_Drafting a Specification of Requirements

Appendix A – Contract Management Action Checklist

Upstream Activities

ACTION	WHEN TO DO	STATUS	WHO
Legal Services to be advised that a contract will be required (over £5k)	When Business Case approved		Project Officer
Procurement team support is requested and in place (contracts with a value of £40k or over)	When Business Case approved		Project Officer
Set up project team resources, including project sponsor, project lead, and support from procurement, finance, legal, HR, communications support as required	When Business Case approved		Project Officer
Develop a project timetable (with input from the Procurement team) and sourcing strategy	When Procurement engaged		Project Officer with Procurement
Internal approval for sourcing strategy (e.g. from MAT, Committee, Full Council as required)	When draft sourcing strategy has been developed		Project Officer with Procurement
Draft Outline Specification	When project starts		Project Officer
Carry out market engagement or soft market testing	If required, once the Outline Spec is drafted		Project Officer with Procurement
Draft Final Specification	After market engagement		Project Officer
Develop Tender documents	Based on Final Spec		Procurement with Project Officer
Draft Contract (using Final Spec)	Based on Final Spec		Legal Services
Tender process & period			

Downstream Activities

ACTION	WHEN TO DO	STATUS	WHO
After end of Tender process, and following full internal approval of recommendations to award contract			
Contract kick off meeting	Once the Supplier has been advised of the decision to award the contract (and any		Contract officer / manager

	standstill periods have expired)		
Contract mobilisation	Period specified in the contract		Contract officer / manager
Contract commencement date	As specified in the contract		Contract officer / manager
Contract signature	As soon after award as possible		Contract officer / manager with Legal Services
Contract review meetings	Frequency specified in the contract		Contract officer / manager (with support if required)
Performance reporting	Frequency specified in the contract		Supplier (external) / Contract Officer (internal)
Record Actions identified through contract monitoring. For large value (over PCR 2015 threshold) / strategic contracts, outcomes to be notified to MAT.	Following contract meetings		Contract officer / manager with support from Corporate Procurement
Plan new contract (re-) tender	Depending on size, value and complexity, well in advance of the expiry of the current contract		Contract officer / manager with Procurement and Legal Services
Exit Actions	As appropriate for the end of the contract		Contract officer / manager

Audit Committee

29th January 2024



Title	Annual Review of Internal Audit Effectiveness
Purpose of the report	To note
Report Author	Punita Talwar, Internal Audit Manager
Ward(s) Affected	All Wards
Exempt	No
Exemption Reason	N/A
Corporate Priority	Community Affordable housing Recovery Environment Service delivery
Recommendations	<p>Committee is asked to:</p> <p>1. Note the Annual Review of Internal Audit Effectiveness, overall conclusions and actions arising from the External Quality Assessment (EQA).</p>
Reason for Recommendation	Not applicable

1. Summary of the report

What is the situation	Why we want to do something
<ul style="list-style-type: none"> The independent External Quality Assessment (EQA) concluded that Spelthorne’s Internal Audit Service conform to the Public Sector Internal Audit Standards (PSIAS) to a large degree and in some areas excel in meeting the standards. The overall assessment grading was ‘generally conform’ which represents the highest level that 	<ul style="list-style-type: none"> Regardless of the size of Internal Audit functions, conformance with the Chartered Institute of Internal Auditors (CIIA) International Professional Practices Framework (IPPF) is a widely recognised measure of demonstrating and achieving quality, effectiveness and professionalism for Internal Audit Services. In the UK public sector, conformance is evaluated against

<p>can be achieved in the grading category.</p> <ul style="list-style-type: none"> Several areas of good practice have been identified with examples highlighted in the separate EQA report. Of the thirteen assessment categories reported on, there is only one area regarded as ‘partially conforming’ – in all other categories Spelthorne either ‘fully conforms’ or ‘generally conforms’. 	<p>the Public Sector Internal Audit Standards (PSIAS) which encompass the mandatory elements of the IPPF and considers the Local Government Application Note (LGAN) .</p> <ul style="list-style-type: none"> Continuous improvement measures.
<p>This is what we want to do about it</p>	<p>These are the next steps</p>
<ul style="list-style-type: none"> Pursue any identified improvement actions arising from the EQA of November 2023 (where agreed) to strive for even greater conformance with PSIAS and good practice. 	<ul style="list-style-type: none"> A Draft Action Plan has been produced by the Internal Audit Manager to address the recommendations raised during the External Quality Assessment (EQA). This is attached at Appendix 1 to this report and is being discussed with key Senior Managers/reporting lines to seek steer and direction in the context of future service planning . In terms of how/if recommendations are taken forward this will be dependent upon how the service is delivered in the future. At the next annual review of Internal Audit Effectiveness, progress and status of the agreed actions may be reported to the Audit Committee and Management Team, and again this will be dependent on how the service is delivered in the future.

1.1 Public Sector Internal Audit Standards (PSIAS) require internal audit functions to carry out an annual self-assessment to determine conformance against the standards, as well as arrange an independent external quality assessment to be undertaken at least every five years.

1.2 This report seeks to inform the Audit Committee and Management Team of the findings of the external quality assessment undertaken during November to December 2023 and the draft action plan to address recommendations raised. Taking forward recommendations and implementation timeframes are likely to be impacted by future service delivery arrangements being explored by the Group Head of Corporate Governance and Chief Finance Officer, and

therefore this needs to be considered before finalising and prioritising the draft EQA action plan.

2. Key issues

- 2.1 “A professional, independent and objective internal audit service is one of the key elements of good governance, as recognised throughout the UK public sector “(PSIAS).
- 2.2 PSIAS requires an EQA of Internal audit provision to be undertaken at least once every 5 years. Spelthorne’s Internal Audit service has been reviewed by an independent external assessor during November and December 2023 through a reciprocal arrangement with two other Surrey authorities (Elmbridge and Surrey Heath). This approach was applied at the last EQA review of 2018 and was considered by all parties to have worked well, also being proportionate given the relatively small size of the audit teams. The methodology and approach adopted conform with PSIAS requirements in terms of experienced and professionally qualified Internal Audit representatives undertaking such reviews. It involved a rigorous self-assessment process by each Audit Manager against the standards, collation of supporting evidence, and subsequent validation and evaluation by the reviewer. It was recognised that the self-assessment stage represents a comprehensive exercise for the respective Audit leads, and that the independent reviews would also evaluate and conclude on overall levels of conformance against thirteen assessment categories and highlight any improvement actions arising.
- 2.3 **Overall grading assessment** – The review concluded that the overall assessment is that Spelthorne’s Internal Audit Service ‘generally conforms’ to the PSIAS. This represents the highest level that can be achieved in the grading category, as set out below.

A1 Global Grading Definitions

The following rating scale has been used in this report:

Generally Conforms (GC)	The reviewer has concluded that the relevant structures, policies, and procedures of the activity, as well as the processes by which they are applied, comply with the requirements of the individual Standard or element of the Code of Ethics in all material respects. For the sections and major categories, this means that there is general conformance to a majority of the individual Standards or elements of the Code of Ethics, and at least partial conformance to the others, within the section/category. There may be significant opportunities for improvement, but these must not represent situations where the activity has not implemented the Standards or the Code of Ethics, has not applied them effectively, or has not achieved their stated objectives. As indicated above, general conformance does not require complete/perfect conformance, the ideal situation, successful practice, etc.
Partially Conforms (PC)	The reviewer has concluded that the activity is making good-faith efforts to comply with the requirements of the individual Standard or element of the Code of Ethics, section, or major category, but falls short of achieving some major objectives. These will usually represent significant opportunities for improvement in effectively applying the Standards or Code of Ethics and/or achieving their objectives. Some deficiencies may be beyond the control of the activity and may result in recommendations to senior management or the board of the organisation.
Does Not Conform (DNC)	The reviewer has concluded that the activity is not aware of, is not making good-faith efforts to comply with, or is failing to achieve many/all of the objectives of the individual Standard or element of the Code of Ethics, section, or major category. These deficiencies will usually have a significant negative impact on the activity’s effectiveness and its potential to add value to the organisation. They may also represent significant opportunities for improvement, including actions by senior management or the board.

- 2.4 The independent External Quality Assessment (EQA) concluded that Spelthorne’s Internal Audit Service conform to the Public Sector Internal Audit Standards (PSIAS) to a large degree and in some areas excel in meeting the standards. Several areas of good practice have been identified with examples highlighted in the separate EQA report. Of the thirteen assessment areas

reported on, there is only one area regarded as 'partially conforming'. In all other categories Spelthorne either 'fully conforms' or 'generally conforms'. Overall, Spelthorne have received a positive report and further to discussing the findings with the reviewer, Spelthorne's Internal Audit Manager has produced management comments and a draft action plan in response to the recommendations raised. In terms of how/if/when recommendations are taken forward this will be dependent upon how the service is delivered in the future.

- 2.5 The detailed EQA report which includes full insight of the findings and draft action plan are attached at Appendix 1 to this report. Some key matters have been highlighted below:
- (i) Completion of the self-assessment documentation recognised as being of a good standard and well evidenced.
 - (ii) Spelthorne's Internal Audit Service conform to the majority of Public Sector Internal Audit Standards (PSIAS) and in some areas excel in meeting the standards such as a highly effective Audit Charter as a mandate for the Service, as well as embedding a robust and comprehensive risk assessment process to direct and navigate the Service through the organisation.
 - (iii) Several areas of good practice are reported. Some examples include an effective audit planning process including the production of a comprehensive Annual Plan addressing key risks, priorities and resources, regular and effective reporting to Members via an Audit Committee, strong and clear reporting lines with direct links to the S151 officer, senior management and to Members, an effective audit assignment reporting mechanism in place highlighting main risks and areas for improvement, an established Audit Manual with detailed themes on the audit framework, development of a number of measures to assess Quality Assurance.
 - (iv) Eight out of thirteen assessment areas reported as 'fully conforming' against the standards as follows:
 - Definition of Internal Auditing*
 - Code of Ethics*
 - Independence and Objectivity*
 - Nature of Work*
 - Engagement Planning*
 - Performing the engagement*
 - Monitoring Progress*
 - Communicating the acceptance of risk*
 - (v) Four out of thirteen assessment areas reported as 'generally conforming' against the standards as follows:
 - Purpose, authority and responsibility*
 - Proficiency and Due Professional Care*
 - Managing the Internal Audit Activity*

-Communicating results

- (vi) 1 out of thirteen assessment areas reported as 'partially conforming' against the standards as follows:
 - *Quality Assurance and Improvement Process (QAIP)*
- (vii) There are no assessment areas reported as 'not conforming' against the standards.

2.6 Six recommendations for improvement have at this stage been agreed in principle which the independent reviewer has advised could enable the Internal Audit Service to further demonstrate excelling in many aspects of the PSIAS. These are summarised below:

- (a) **QAIP** - Further review, development and reporting of the Quality Assurance and Improvement Process (QAIP) in consultation with the Audit Committee and the management team.
- (b) **Integrated Assurance** - Embedding integrated assurance into internal audit processes, i.e., where reliance can be placed on alternative assurance providers to maximise assurance coverage in a more coordinated way.
- (c) **Audit Strategy** - Producing a high-level audit strategy document that complements the audit plan and demonstrates clear linkage with the Council's corporate priorities and objectives.
- (d) **Reporting arrangements** - When communicating results of audit assignments, verbally presenting findings to management team where deemed necessary as part of assurance provision (beyond current reporting arrangements). Discussing with audit leads potential cost implications of audit recommendations raised.
- (e) **Key stakeholder feedback** - Obtaining periodic informal feedback from specific stakeholders under PSIAS which could also over time feed into QAIP reporting and service delivery.
- (f) **Audit Manual** - Expanding some sections of the Audit procedure manual at the next review.

3. Options analysis and proposal

3.1 The Audit Committee are asked to note the outcomes of the annual effectiveness review of the system of Internal Audit, which has comprised an independent external quality assessment (EQA) of the service's conformance to PSIAS, and any improvement actions arising. The review focussed on the 2022/23 period to align with reporting requirements whilst also considering any relevant activity during the current financial year.

4. Financial management comments

4.1 There are none to specifically report for the purpose of this report.

5. Risk management comments

5.1 Failure to conform with PSIAS core principles would imply that an internal audit function is not as effective as it could be in achieving internal audit's

mission 'to enhance and protect organisational value by providing risk-based and objective assurance, advice and insight' (PSIAS).

5.2 The recent EQA demonstrates that overall Spelthorne's Internal Audit Service 'generally conforms' to the PSIAS. There are a few assessment areas where the degree of conformance could be further enhanced, with most of the improvements deemed by the reviewer as minor. These could be managed and mitigated through addressing the recommended improvement actions as summarised at section 2.6 above.

5.3 The 2024/25 Service Plan for Internal Audit produced in August 2023 already recognised that implementation of recommendations arising from the EQA would represent an area of activity in delivering the service for 2024/25, supporting continuous improvement. In terms of how/if/when recommendations are taken forward this will be dependent upon how the service is delivered in the future.

6. Procurement comments

6.1 There are none.

7. Legal comments

7.1 The Public Sector Internal Audit Standards (PSIAS) are mandatory further to the Accounts and Audit (England) Regulations 2011. The PSIAS require public sector bodies to have an external quality assessment undertaken at least once every five years and for this to be communicated and noted by the Audit Committee. This is also referenced in the opening paragraph of this report at 1.1.

8. Other considerations

8.1 There are none other than those matters already highlighted in this report.

9. Equality and Diversity

9.1 There are no specific implications.

10. Sustainability/Climate Change Implications

10.1 An internal audit review of Climate Change was concluded during 2023/24 and provided assurance on how the authority is addressing climate change risks. This demonstrates how Internal Audit is adhering to principle 4 of PSIAS '*Aligns with the strategies, objectives, and risks of the organisation*', given also that the Environment forms part of the Council's current corporate priorities under the acronym 'CARES'.

11. Timetable for implementation

11.1 Initial proposed timeframes for implementation of the improvement actions arising from the EQA are set out in the draft Action Plan at Appendix 1. Taking this forward will be dependent upon how the service is delivered in the future. Some actions will also be subject to discussion and agreement with key reporting lines as referred to in the report summary at section 1.

12. Contact

12.1 Punita Talwar, Internal Audit Manger

P.Talwar@spelthorne.gov.uk

01784 446454

Background papers:
Public Sector Internal Audit Standards (PSIAS) 2017 and Local Government Application Note

Appendices:
Appendix A – External Quality Assessment (EQA) of conformance to the Public Sector Internal Audit Standards

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**APPENDIX A - EXTERNAL QUALITY ASSESSMENT
OF SPELTHORNE BOROUGH COUNCIL'S
INTERNAL AUDIT**

December 2023

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Issued to: Punita Talwar, Internal Audit Manager, Spelthorne Borough Council

Report completed by: Alex Middleton, Surrey Heath Internal Audit, Surrey Heath BC

1. EXECUTIVE SUMMARY

1.1 Background

Introduction

This report has been prepared following a review of compliance with the Public Sector Internal Audit Standards (PSIAS) 2017 and the International Professional Practices Framework (IPPF) on which the PSIAS have been based. The purpose of this report is to provide an overview of Spelthorne Borough Council's (SBC) arrangements for the operation and management of their Internal Audit function.

The Standards apply to all public sector internal audit functions, whether in-house, shared services or outsourced and require a 'Quality Assurance and Improvement Programme' as outlined at Standard 1300:

"External assessments must be conducted at least once every five years by a qualified, independent assessor or assessment team from outside the organisation. External assessments can be in the form of a full external assessment or a self-assessment with independent external validation".

This report details the main findings from the independent external validation exercise undertaken between October and November 2023 by Alex Middleton – Senior Auditor, Surrey Heath Borough Council in respect of the External Quality Assessment (EQA) and the self-assessment carried out by Spelthorne Borough Council.

1.2 Scope

The purpose of this EQA is to provide an independent validation assessment of the extent to which the Internal Audit function at Spelthorne BC complies with the PSIAS and the IPPF.

The methodology for this EQA takes the form of a validated self-assessment. As such this assessment has undertaken the following work in arriving at the overall opinion:

- A review of the self-assessment checklist completed by the Audit Manager for Spelthorne BC;
- a series of tests using a standard checklist;
- a review of guidance and process documents;
- an evaluation of audit working papers including audit reports and completed risk assessments;
- a review of Spelthorne's Audit Charter and Audit Manual;
- examining committee papers;
- periodic Teams meetings between the 3 authorities audit managers – at the start of the exercise to agree a common approach and midway through the review with the Spelthorne Manager
- applying the CIPFA local government application note and checking conformance with the PSIAS and application note.

1.3 Limitations

The following assumptions have been made when carrying out this validation. The working papers reviewed were a sample from the entire work programme for the year, so it is assumed that they are consistent with the work produced for the remainder of the year. It was agreed that the working papers provided would come from the 2022/23 audit year, so the exercise did not review the most recent documents, but it is assumed that they are consistent with the work carried out in 2023/24. An initial Teams virtual meeting was held between the 3 parties to establish ground rules and agree a common approach as well as a catch up call mid-way through the exercise, but there were no on-site visits, unlike 5 years ago when the previous exercise was undertaken. There was no consultation with stakeholders at Spelthorne council, so an independent view was not obtained. Again due to resources, reliance was placed on the self-assessment.

1.4 Areas of Good Practice Identified

- Overall Spelthorne's IA team is conforming to the majority of the Public Sector Internal Audit Standards
- A comprehensive Audit Charter in place which has recently been revised and refreshed (October 2022)
- An established Audit Manual with detailed themes on the audit framework, risk assessments and evaluations, dealing with fraud and corruption, as well as sections on the audit assignment process including planning, testing and reporting. The Manual has also recently undergone revisions dated October 2023.
- Maintenance of a training and development log listing training undertaken by the team
- An effective audit planning process in place – including the production of a comprehensive Annual Plan addressing key risks, priorities and resources
- Regular and effective reporting to Members via an Audit Committee
- A well established and recognised risk assessment process in place – embedded in the planning stages, as well as the audit assignment stages
- An effective audit reporting mechanism in place with full written audit reports, highlighting main risks and areas for improvement, and evidence of approval and sign off by Spelthorne senior officers
- Evidence of management supervision and a quality control process in place
- Strong and clear reporting lines with direct links to the S151 officer, senior management and to Members
- Development of a number of measures to assess Quality Assurance including service performance targets and KPIs for the team and the individual, regular reporting of team performance to Members and delivery of the Annual Plan and following up audit recommendations

1.5 Conclusion and Main Findings

Surrey heath are able to report that the overall opinion of the Internal Audit team operating at Spelthorne "generally conforms" to the public sector Internal audit standards.

A1 Global Grading Definitions

The following rating scale has been used in this report:

Generally Conforms (GC)	The reviewer has concluded that the relevant structures, policies, and procedures of the activity, as well as the processes by which they are applied, comply with the requirements of the individual Standard or element of the Code of Ethics in all material respects. For the sections and major categories, this means that there is general conformance to a majority of the individual Standards or elements of the Code of Ethics, and at least partial conformance to the others, within the section/category. There may be significant opportunities for improvement, but these must not represent situations where the activity has not implemented the Standards or the Code of Ethics, has not applied them effectively, or has not achieved their stated objectives. As indicated above, general conformance does not require complete/perfect conformance, the ideal situation, successful practice, etc.
Partially Conforms (PC)	The reviewer has concluded that the activity is making good-faith efforts to comply with the requirements of the individual Standard or element of the Code of Ethics, section, or major category, but falls short of achieving some major objectives. These will usually represent significant opportunities for improvement in effectively applying the Standards or Code of Ethics and/or achieving their objectives. Some deficiencies may be beyond the control of the activity and may result in recommendations to senior management or the board of the organisation.
Does Not Conform (DNC)	The reviewer has concluded that the activity is not aware of, is not making good-faith efforts to comply with, or is failing to achieve many/all of the objectives of the individual Standard or element of the Code of Ethics, section, or major category. These deficiencies will usually have a significant negative impact on the activity's effectiveness and its potential to add value to the organisation. They may also represent significant opportunities for improvement, including actions by senior management or the board.

A summary of the degree of conformance with each of the 13 auditing Standards is detailed under Appendix A, ranging from 'full conformance' to 'partial conformance'.

For the most part, this review has demonstrated that Spelthorne's audit team are meeting, or in some instances exceeding, the benchmark requirements of the PSIAS. Examples of where the service is exceeding the Standards include the adoption of not simply an Audit Charter document but a highly effective one, as a mandate for the service, and embedding a robust and comprehensive risk assessment process to direct and navigate the service through the organisation.

The PSIAS checklist was completed by the Internal Audit Manager to a high standard, and was found to be very thorough, well presented and was particularly well evidenced by a number of supporting documents- including audit reports, the Audit Charter and Manual, committee reports, as well as other working papers. Clearly a lot of time and effort went into assessing the service and producing this self-assessment checklist demonstrating conformance with the Standards, and the Internal Audit Manager should be commended for this.

The review has also highlighted a small number of areas where improvements could be made, most of which are minor. With the implementation of some, if not all, of these then the service could demonstrate excelling in many areas of the PSIAS, especially given the relatively small size of the team, as well as the organisation as a whole.

- I. **Development of a more robust Quality Assurance Improvement Plan** – whilst there are a number of quality measures in place to both monitor and measure the overall performance of the Internal Audit function, such as having service and individual targets and KPIs, the team could consider building upon the process by introducing some improvements such as reporting progress to senior management/Members, including any formal or informal feedback from stakeholders, and better consultation.
- II. **Making better use of 'integrated assurance' provided by other parties** - Internal Audit could make better use of the assurances that are already in existence within the Council,

including the external auditors, the IIP or equivalent, and ISO. Whilst a project integrated assurance framework is not required, Internal Audit could benefit from better coordination between other service providers

- III. Reporting arrangements** – the reporting arrangements currently in place are sound and allow for effective and prompt feedback of Internal Audit’s key findings and results. Audit recommendations are supported by evidence from working papers. They tend to be well drafted and presented. Consideration could be given to attending management team meetings in person to present those audit reports where full assurance is not given, the reason being is that the key findings are likely to be given more importance. The ‘cost’ implications of audit recommendations could also be more fully considered/documented – especially in the current climate where additional resources are scarce.
- IV. Audit Strategy** – it is acknowledged that Internal Audit has already developed a medium term plan which in turn directs the Audit Annual Plan. The service would benefit from a high level document, focusing more on strategic issues, and possibly better linkage to the organisation’s Corporate Plan and main objectives. Issues could include linking to the business plan as well as any emerging risks identified nationally which are not covered off in other committee reports.

An evaluation of each ‘Standard’ can be seen in Appendix A of the report.

2. DETAILED FINDINGS AND RECOMMENDATIONS

2.1 Audit Strategy

Internal Audit has developed a medium term plan which in turn directs the Audit Annual Plan, but there is a lack of a top level policy that directs the Audit team. An Audit Strategy should be a high level policy statement that directs Audit's direction of travel. According to the IIA an Audit Strategy should start with a shared vision which is a statement of intent to the Council's stakeholders – i.e. senior management and Members. The vision should be supported by clearly defined objectives and actions. The Strategy should be reviewed regularly as part of a cyclical process of planning and monitoring the delivery of the business objectives. Effective strategies should be clear, simple, motivational, and should reflect the actual service of the Council. The audit strategy document should take into account stakeholder needs and requirements and help to manage expectations. The strategy should also include risk management and how decision making is to be achieved.

2.2 Development of a more robust Quality Assurance Improvement Plan

Spelthorne's Audit team has established measures to monitor and report on service delivery and performance. Of note are the KPIs and service targets in place which are agreed annually and used to measure the audit service. Audit also produces a number of committee reports so service delivery is reported to Members. The service also delivers an Annual Plan which is measured against the Standards. Audit recommendations are also followed up and % completed on target are reported.

The service's QAIP could be developed to include:

- Reporting the outcomes of the QAIP to senior management and to Members periodically
- Identifying and actioning business opportunities
- Including stakeholder feedback – this can be informal
- Identifying any improvements
- Consulting with the board of the senior management on what they would like to be included in Audit's QAIP that would benefit the organisation

2.3 Reporting arrangements

A sample of Audit reports were examined as part of this exercise, and they were found to be comprehensive, articulate at presenting the main findings, and audit recommendations were well evidenced by supporting data. Reports are shared with the relevant Group Heads and final reports are circulated to the executive management team. The Audit Manager should consider attending senior management team meetings in person to present those audit reports where full assurance is not given.

The 'cost' implications of audit recommendations could also be more fully considered/documentated – especially in the current climate where additional resources are scarce. Whilst a full cost benefit analysis is not expected for every recommendation, an estimation of the potential cost to implement them could prove to be useful.

2.4 Integrated assurance

There are a large number of third parties and service providers who monitor and review Council activities, in a similar way to Internal Audit, and provide other sources of assurance to the board. Such examples include the external auditors who provide an overall opinion on the Council's accounts, , the IIP or equivalent who review the Council's establishment and human resource activities, the ISO quality management scheme, the HSE who examine the authority's health and safety arrangements, as well as Surrey County Council who monitor and review the authority's safeguarding arrangements.

The Internal Audit team should maximise the use of the integrated assurance in place at the Council so that assurance coverage is maximised in a coherent and coordinated manner by avoiding duplication or gaps across activities.

The team should consider incorporating this into the annual committee reports as well as within the Audit Strategy document.

Whilst there are clearly some defined examples where the auditors utilise the assurance from other sources, they could benefit from making it more coordinated and standardised into their methodology.

The service has admitted that there is little scope at present for mapping integrated assurance across the whole of the organisation, so maybe this exercise could be done in conjunction with the Group Head of Corporate Governance and/or the Chief Finance Officer.

2.5 Staff Resourcing

It is noted in the service's organisational chart that at full capacity the team comprises one FTE and one part time Audit Manager. At the time of this report the team is also carrying one vacancy. Ultimately this could impact on service delivery and being able to effectively meet the Audit Plan. The PSIAS may not be fully met, for example audits not be able to be completed, or rotated between staff. The resourcing issue should be reported the Audit Chair and the impact it could have on meeting the Standards, even for a short while.

2.6 Stakeholder feedback

The self-assessment document makes reference to the audit team seeking the views of managers. However the process could be improved by requesting more feedback from roles such as the Audit Chair, the Chief Executive and/or the S151 officer and the results of any feedback could feed into the audit planning process as well as inform the QAIP. Such feedback doesn't need to be formal, it could for example be based around a conversation/discussion, rather than any dedicated form filling which would take more time..

2.7 Audit Manual

The Audit Manual at Spelthorne covers a large number of areas including scope of audit, reporting lines, audit techniques and working practices, resourcing, due professional care, relationships.

It is also noted that the Manual has recently undergone a refresh dated October 2023.

When the Manual undergoes its next review, the service may want to focus upon the following:

- Document retention
- Data sharing
- Staffing – in particular for consultancy/ad hoc work
- QAIP improvements (highlighted in this report)

- Training and development – mandatory training, industry or institute specific events/courses etc

2.8 Upskilling from Contractors

Spelthorne's Internal Audit team occasionally commissions audit contractors to help deliver technical or specialised pieces of work. For example they have been used for data protection/GDPR audits as well as IT audits. There is an inevitable additional cost associated with this premium activity which needs to be absorbed into the audit budget. This additional resource is identified in the team's organisational chart.

There would be benefit to the organisation if current audit staff could take on some learning points from these contractors, where time and resources allow, above and beyond what is currently achieved. This 'upskilling' allows the current auditors to learn from what the contractors are delivering and would have the benefit of placing less reliance on utilising contractors going forward, which in turn would save money.

I would like to thank Spelthorne BC for their cooperation and provision of records during the review.

Name – Alex Middleton

Job Title – Senior Auditor

Organisation –Surrey Heath Borough Council

3. DRAFT ACTION PLAN = priorities (TBC), responsible officers and target dates

Ref. No.	Finding	Recommendation	Priority	Management Comment	Responsible Officer	Target Date (Draft)
				<p>The findings and recommendations raised have been discussed with the assessor during December 2023. The Internal Audit Manager at Spelthorne BC has provided responses and prepared an initial action plan in December 2023.</p> <p>The priority order for implementing recommendations will be discussed with the Internal Audit Manager's organisational and functional reporting lines. This will also consider the wider context of future service planning including measures being explored to build and support service resilience and capacity. Taking forward recommendations will be dependent upon how the service is delivered in the future.</p>		
3.1	Audit Strategy - Internal Audit has already developed a medium term plan which in turn directs the Audit Annual Plan, but the service would benefit from a high level document, focusing more on strategic issues, and possibly better linkage to the organisation's Corporate Plan, objectives and mission.	A high level Audit Strategy should be developed to complement the annual Audit Plan and medium term plan.		The recommendation is agreed in principle, and it is proposed that this could comprise a brief strategy statement which demonstrates how the internal audit service links to and supports the Council's Corporate Plan and priorities, as well as how the service is risk focussed. The Service Plan already includes reference to this important linkage, but it is accepted that a higher-level document could add further value in setting out the integrated approach at a strategic level, including an overall shared vision for the service.	Internal Audit Manager	29 th February 2024
3.2	Development of a more robust Quality Assurance	The current Quality Assurance process and		As part of the annual review of internal audit effectiveness (which forms part of the overall QAIP) the Internal Audit	Internal Audit Manager	31 st March 2024

	<p>Improvement Plan – Spelthorne’s Audit team has established measures to monitor and report on service delivery and performance. Of note are the KPIs and service targets in place which are agreed annually and used to measure the audit service. These form a large part of the service’s present QAIP. Improvements could be made to the QAIP. These could include reporting specific outcomes of the QAIP to senior management and Members, identifying and actioning business opportunities, including stakeholder feedback – this can be informal, identifying any improvements, and consulting with the board of the senior management on what they would like to be included in Audit’s QAIP that would benefit the organisation</p>	<p>Plan should be reviewed and improved.</p>		<p>Manager has previously acknowledged and reported to both Management Team and the Audit Committee scope for the QAIP arrangements to be enhanced further. However, given the capacity of the service it was already identified that there is limited opportunity to substantially progress this area in terms of additional reporting, as communicated in the Audit Charter (approved November 2022) and other relevant reports.</p> <p>Going forward the Internal Audit Manager will consult with the management team and Audit Committee to ascertain the degree to which the organisation wishes to take this recommendation forward and coverage areas, with a view to any development of the QAIP reporting being meaningful yet proportionate to a smaller audit service.</p>		
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3.3	<p>Reporting arrangements – at present Spelthorne’s audit reporting arrangements are sound, and audit recommendations are well evidenced by supporting data. Reports are shared with the relevant Group Heads and final reports are circulated to the executive management team.</p> <p>The Audit Manager should attend senior management team meetings in person to present those audit reports where full assurance is not given.</p> <p>The ‘cost’ implications of audit recommendations could also be more fully considered/documented – especially in the current climate where additional resources are scarce.</p>	<p>(a)The distribution of audit reports and the (b)cost implications of audit recommendations should be explored, in terms of whether they are affordable and can be met from the current budget.</p>	<p>(a)Currently the Internal Audit Manager communicates audit findings and recommendations periodically to both management team and the Audit Committee which coincides with planned reporting cycles to the Audit Committee. Any key matters are also highlighted verbally during meetings, and quarterly meetings are also held with the Deputy Chief Executive (Chief Finance Officer) which provides an opportunity to highlight internal control weaknesses and improvement areas.</p> <p>The recommendation is accepted in terms of developing this further, and from discussions it is noted that the proposed action is for the Internal Audit Manager to attend management team meetings (or separate meeting) to present audit reports where an audit assurance opinion that falls below ‘Reasonable assurance’ is provided, and/or where it is deemed that it would be useful to have a targeted session on a particular audit report on the basis that the findings outline a number of risks/issues/internal control weaknesses that need to be specifically brought to the attention of the executive management team in enhancing and protecting organisational value.</p> <p>(b)It is accepted that the cost implications of audit recommendations could be more fully considered in the current challenging financial climate, although this will also be dependent on the nature of the recommendation . For example, some may be related to non-compliance matters which in any case should already form part of defined and established processes. In other areas there could be a cost and time implication and that would be at the discretion of the accountable Service Manager to assess the likely impact in terms of cost/budget and time of implementing proposed risk management actions in strengthening</p>	Internal Audit Manager	<p>(a)31st January 2024</p> <p>(b)29th February 2024</p>
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				internal controls prior to accepting an audit recommendation. The Internal Audit Service consider whether recommendations are deemed practical and proportionate before raising them, and perhaps this could be developed further in discussions with Service Managers/Group Heads during exit meetings and report liaison. There are also areas where audit recommendations aim to promote efficiencies in practices and approaches or reduce the potential for financial losses based on observations and findings arising from the audit.		
3.4	<p>Integrated assurance - whilst there are clearly some defined examples where the auditors utilise the assurance from other sources, they could benefit from making it more coordinated and standardised into their methodology. The team should consider incorporating this into the annual committee reports as well as within the Audit Strategy document.</p> <p>The service has admitted that there is little scope at present for mapping integrated assurance across the whole of the organisation, so maybe this exercise could be done in conjunction with the Group Head of Corporate</p>	Internal Audit should make better use of the integrated assurance in place at the Council so that assurance coverage is maximised in a coherent and coordinated manner by avoiding duplication or gaps across activities.		<p>The recommendation is accepted and going forward references to alternative sources of assurance could be highlighted and applied during key stages of the audit process such as audit planning and scoping, as well as within the audit strategy document. The annual audit report and audit plan report already refer to considering alternative sources of assurance as part of the annual audit planning process/annual audit opinion, and at the next review this can be highlighted to incorporate specific alternative sources of assurance provision upon which a degree of reliance may be placed.</p> <p>A separate full assurance mapping exercise across the organisation is resource intensive and the Internal Audit Manager has previously reported (annual review of audit effectiveness reports to management team and Audit Committee) that such an exercise is an organisational responsibility with internal audit input. This will be discussed further with the Group Head of Corporate Governance and Chief Finance Officer in terms of how they wish to take forward.</p>	Internal Audit Manager	<p>(a) 31st March 2024</p> <p>(b) 29th February 2024 – initial discussions</p>

	Governance and/or the Chief Finance Officer.					
3.5	Staff Resourcing - at full capacity the team comprises one FTE auditor and one part time Audit Manager. At the time of this report the team was also carrying one vacancy. Ultimately this could impact on service delivery.	Whilst it is acknowledged that Internal Audit operates with a small team, any vacancies will have an impact on being able to meet the PSIAS Standards and the Audit Plan. Arrangements should be in place to manage staff resourcing. The resourcing issue should be reported to the Audit Chair and the impact it could have on meeting the Standards, even for a short while.	ACTIO NED	The Internal Audit Manager informed the Chair and Vice-Chair of the Audit Committee in summer 2023 of the resourcing matter. The approach to manage the impact on the 2023/24 Audit Plan in terms of reprioritisation of the work programme has been explained in a separate report, communicated and presented to both management team and the Audit Committee.	Internal Audit Manager	Implemented summer 2023 and reported to the meeting of the Audit Committee on 30 th November 2023
3.6	Stakeholder feedback - The self-assessment document makes reference to the audit team seeking the views of managers. The service could be improved by requesting feedback from the Audit Chair, the Chief Executive and/or the S151 officer. Such feedback doesn't need to be formal.	Internal Audit should obtain stakeholder feedback from the Audit Chair, section 151 officer and the Chief Executive on a periodic basis, if possible, which could be used to better inform audit planning and service delivery.		The rationale for the recommendation is accepted given the PSIAS expectations. This will be discussed as part of the Internal Audit Managers liaison with the three reporting lines referred to in the recommendation. Some feedback from these key stakeholders is already acknowledged.	Internal Audit Manager	29 th February 2024

3.7	<p>Audit Manual - the Manual has recently undergone a refresh dated October 2023.</p> <p>When the Manual undergoes its next review, it would benefit from focus being given to expanding the following sections: document retention, data sharing, staffing – in particular for consultancy/ad hoc work, QAIP improvements, and training and development.</p>	<p>The Audit Manual which sets out the procedures and practices of the Internal Audit function, could be improved by expanding the sections covering: document retention, data sharing, staffing, QAIP improvements, and training.</p>		<p>The recommendation is accepted, although to avoid potential duplication with other corporate documents it is proposed that cross reference to the Information Asset Register and local document retention policy can be highlighted in the Audit Manual under the relevant sections.</p> <p>The separate Audit Charter document also refers to most of the sections referred to in the recommendation, but the recently refreshed operating manual can be reviewed again for completeness. .</p> <p>Consultancy work is not undertaken by the Internal Audit Service at Spelthorne, although advisory work on risk and control matters (planned and reactive) is provided which represents added value to the Council.</p>	Internal Audit Manager	31 st March 2023
3.8	<p>Upskilling from Contractors - Spelthorne's Internal Audit team occasionally commissions audit contractors to help deliver technical or specialised pieces of work. There is an inevitable additional cost associated with this premium activity which needs to be absorbed into the audit budget.</p> <p>There would be benefit to the organisation if current audit staff could take on some learning points from these contractors, where</p>	<p>The authority should develop its internal auditors by making better use of any learning opportunities when taking on temporary audit contractors. This 'upskilling' would place less reliance on contractors going forward which inevitably cost more, and would allow technical skills to be developed and retained in house.</p>		<p>Competitive market rates are sought for audit contractor activity.</p> <p>The Internal Audit Manager has promoted opportunities to learn and understand better specialised areas with a view to keeping abreast with current practices/approaches, common risks and topical issues. This does already benefit the Council in different ways , for example informing broader audit insight and planning. Whilst the rationale for raising this recommendation is acknowledged and the Internal Audit Manager supports a learning culture in promoting continuous professional development, in practice it could be challenging to fully implement for several reasons as set out below:</p> <p>1.Shadowing contractors on more specialised areas requires the buy-in and time commitment of all parties including internal staff and contracted resource.</p>	Internal Audit Manager	The current arrangements and perceived limitations in implementing the recommendation have been set out in the management comment.

	<p>time and resources allow, above and beyond what is currently achieved. This 'upskilling' allows the current auditors to learn from what the contractors are delivering and would have the benefit of placing less reliance on utilising contractors going forward, which in turn would save money.</p>			<p>2. Whilst there could be some opportunities for upskilling, there are still likely to be limitations to internal staff being able to deliver every aspect of the audit at the next review and therefore it would not necessarily negate the need for sourcing external resource possessing specialised/technical knowledge and skills including subject matter expertise. The current approach is common practice in the internal audit profession given the expectation to provide reliable assurance across a wide spectrum of areas. Furthermore, in some areas specific software is in use by contractors to run data analytics and provide extended assurance in drawing audit conclusions.</p> <p>3. Closer working with audit contractors could take time away from other areas of planned service delivery which would need to be managed and presents greater challenge in a smaller service.</p>		
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SUMMARY OF CONFORMANCE WITH THE PSIAS – Appendix A

Reference	Assessment Area	Fully Conforms	Generally Conforms	Partially Conforms	Does Not Conform	Comments
Section 1	Definition of internal Auditing	✓				Meets/exceeds requirements
Section 2	Code of Ethics	✓				Meets/exceeds requirements
Section 3	Attribute Standards					
3.1	Purpose, Authority and Responsibility		✓			Development of an Audit Strategy has been recommended (rec 3.1) Expanding the Audit Manual (rec 3.7)

3.2	Independence and Objectivity	✓				Meets/exceeds requirements
3.3	Proficiency and Due Professional Care		✓			Upskilling from contractors (rec 3.8)
3.4	Quality Assurance and Improvement Programme			✓		Some improvements have been recommended around the QAIP (rec 3.2) Seeking stakeholder feedback (rec 3.6)
Section 4	Performance Standards					
4.1	Managing the Internal Audit Activity		✓			Making better use of integrated assurance (rec 3.4) Staff resourcing issue (rec 3.5)
4.2	Nature of Work	✓				Meets/exceeds requirements

4.3	Engagement Planning	✓				Meets/exceeds requirements
4.4	Performing the Engagement	✓				Meets/exceeds requirements
4.5	Communicating Results		✓			Some improvements have been recommended around the reporting arrangements (rec 3.3)
4.6	Monitoring Progress	✓				Meets/exceeds requirements
4.7	Communicating the Acceptance of Risk	✓				Meets/exceeds requirements

Audit Committee

29 January 2023



Title	Update on the use of the Regulation of Investigatory Powers Act Policy (RIPA policy)
Purpose of the report	To inform the Audit Committee regarding the Council's use of Directed Surveillance and Covert Human Intelligence Sources for the years 2020 to 2023.
Report Author	Farida Hussain, Monitoring Officer
Ward(s) Affected	All Wards
Exempt	No
Exemption Reason	Not applicable
Corporate Priority	The use of surveillance powers supports all the Council's corporate priorities
Recommendations	<p>Committee is asked to:</p> <p>Note the approved RIPA Policy and use of RIPA powers during the period 1 January 2020 to 31 December 2023.</p>
Reason for Recommendation	To ensure transparency in respect of the Council's use of its powers under RIPA.

1. Summary of the report

- 1.1 RIPA regulates surveillance carried out by public authorities in the conduct of their business, specifically the monitoring, recording and interception of communications and the use of directed covert surveillance. The Council is required to have a policy in place to demonstrate how these powers are utilised.
- 1.2 The RIPA Policy was approved by Corporate Policy and Resources Committee on 27 November 2023. The Committee resolved to adopt the RIPA Policy and delegate to the Group Head Corporate Governance to keep the Policy under regular review and update the Audit Committee on any updates to the Policy and use of the power thereunder.
- 1.3 It is good practice for members to have oversight of use of RIPA powers and accordingly this report is being presented to the Audit Committee to provide that oversight.

2. Key issues

- 2.1 The Regulation of Investigatory Powers Act (RIPA) came into force in 2000. The Act allowed:
- Councils to carry out covert surveillance of alleged offenders and to instruct individuals to form relationships with the intention of obtaining information for the prevention and detection of crime.
 - Compliance with RIPA ensures that the surveillance actions taken by the Council are acceptable interference of qualified rights within the Human Rights Act 1998, in particular the right to privacy and the right to a fair trial, when gathering evidence in preparing cases for Court.
- 2.2 The Investigatory Powers Commissioner's Office (IPCO) carries out scheduled audits of the use of RIPA by Local Authorities to monitor quality of applications and compliance with the Codes.
- 2.3 In addition, all authorisations for surveillance activities carried out by the Council under RIPA must be independently reviewed and approved by a Magistrates' Court.
- 2.4 IPCO carried out a review of the Council in relation to surveillance activities in 2020. The Inspector recommended that members should be updated on the use of RIPA powers. Going forward a report will be taken to the Audit Committee on an annual basis to provide the update.
- 2.5 By law, elected members are not permitted to be involved in any individual application/authorisation, however paragraph 3.46 of the Covert Human Intelligence Sources Revised Code 2022 ('the Code') states that: " Elected members of a local authority should review the authority's use of Part II 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."
- 2.6 Annual statistics on use of RIPA powers are reported to IPCO.
- 2.7 The Council's RIPA Policy and related documents can be found on the intranet.

3. Options analysis and proposal

- 3.1 In accordance with the Code, the Committee is required to note the use of the RIPA powers as set out in the table below:-

Year	Activity authorised	Nature of investigation	Total no. of authorisations in that year
2020	1. Directed Surveillance Phase 1 2. Directed Surveillance Phase 2	Fraud – Housing Benefit and Single Occupancy discount Outcome – Prosecution ongoing	2 – relating to same investigation

2021	1. Directed Surveillance	Fraud – Housing Benefit, Council Tax Benefit/Reduction Support Outcome – Investigation ongoing	1
2022	N/A	N/A	0
2023	1. Directed Surveillance 2. Directed Surveillance	Fraud – Housing Benefit, Council Tax Benefit/Reduction Support Outcome – Investigation ongoing Joint investigation with DWP – relating to benefit and housing fraud Outcome – Investigation ongoing	2

4. Financial implications

4.1 Not applicable.

5. Risk considerations

5.1 Whilst the Council's use of RIPA powers is relatively low, the Council must ensure that it complies with the requirements of RIPA and the associated Codes of Practice. Failure to have the appropriate policies and procedures in place may lead to the Council not meeting its statutory obligations, exceeding its powers, and placing it at risk of complaints.

6. Procurement considerations

6.1 Not applicable.

7. Legal considerations

7.1 The legal considerations are covered in the main body of the report.

8. Other considerations

8.1 There are none.

9. Equality and Diversity

9.1 The RIPA Policy is accessible by all.

10. Sustainability/Climate Change Implications

10.1 There are none.

11. Timetable for implementation

The next update on the RIPA Policy to the Audit Committee will be in January 2025.

12. Contact

12.1 Farida Hussain f.hussain@spelthorne.gov.uk.

Background papers: There are none.

Appendices:

Appendix A – Updated RIPA Policy



Regulation of Investigatory Powers Act 2000

Policy and Procedural Guidance on the Use of Covert Surveillance

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1.Introduction

The Council has a number of regulatory and enforcement responsibilities. These functions are primarily for the purpose of protecting the wider community from criminal activity and public disorder.

The regulatory and enforcement activity and the responsibility to ensure the safety of the community require the Council to pursue and enforce statutory activity where appropriate which may require the use of investigatory powers.

Article 8 of the Human Rights Act 1998, states that:

Article 8.1 Everyone has the right to respect for his private and family life, his home, and his correspondence.

Article 8.2 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 rights and freedoms of others.

This right is not absolute, it is a qualified right. This means that in certain circumstances the Council may interfere with the right if the interference is:

- In accordance with the law
- Necessary, and
- Proportionate.

Covert Surveillance and information gathering may constitute an interference with the right to respect for private and family life. To ensure that such activity is in accordance with the law the Council should ensure that surveillance is carried out in accordance with the **Regulation of Investigatory Powers Act 2000 (RIPA)** where appropriate.

A person with the authority to authorise directed Surveillance or Covert Human Intelligence Sources may be the Deputy Chief Executives, Group Head of Service, Service Manager or equivalent.

RIPA was enacted to provide a lawful procedure for public bodies to carry out covert investigations without the risk of a claim being made under the Human Rights Act 1998, against either the body or the Investigating Officer, by the person subject to such an investigation.

RIPA also provides for oversight by the Investigatory Powers Commissioner's Office (IPCO). IPCO conducts inspections, publishes annual reports, and procedures and guidance.

When making an application for covert surveillance, local authorities must be satisfied that surveillance is both necessary and proportionate.

2. Grounds for Necessity

2.1 Necessity

The **Statutory grounds for necessity** are set out within the legislation. There are several statutory grounds, however the Council may only use RIPA authorisation for one statutory ground detailed in Sec 28(3) and Sec 29(30) of the Regulation of Investigatory Powers Act –

(b) – The purpose of preventing or detecting crime or preventing disorder.

If the proposed conduct is necessary, those involved with the process must make reference to the relevant section within the codes of practice, issued by the Home Office which can be accessed at the link below.

Both applicant and authorising officer must articulate in their own words why the proposed activity is necessary in all of the particular circumstances relating to the case concerned.

Since the implementation of the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012, **the circumstances in which local authorities may authorise directed surveillance are now restricted** to the investigation of offences which are punishable by a maximum term of at least six month's imprisonment or are related to the underage sale of alcohol and tobacco or nicotine inhaling products.

2.2 Proportionality

If the proposed conduct is proportionate, those involved with the process must make reference to the relevant section within the codes of practice.

Both applicant and authorising officer must articulate in their own words why the proposed activity is proportionate in all of the particular circumstances relating to the case concerned,

Any consideration of proportionality should contain a consideration of the three elements:

- (a) That the proposed covert surveillance is proportional to the mischief under investigation.
- (b) That it is proportional to the degree of anticipated intrusion on the target and others; and
- (c) It is the only option, other overt means having been considered and discounted.

The Codes of Practice are admissible as evidence in court and **must** be complied with. In the event of a trial or hearing this Policy might also be adduced in the court.

Useful link

<https://www.gov.uk/government/collections/ripa-codes>

3. Terms and Definitions

3.1 Surveillance

Surveillance includes:

Monitoring, observing, listening to persons, watching or following their movements, listening to their conversations and other such activities or communications:

- Recording anything mentioned above in the course of authorised surveillance.
- Surveillance, by or with, the assistance of appropriate surveillance device(s).
- The interception of a communication in the course of its transmission by means of a postal service or telecommunication system if it is one sent by, or intended for, a person who has consented to the interception of the communication.

Surveillance can be overt or covert.

3.2 Overt Surveillance

Most of the surveillance done by the Council will be done overtly – there will be nothing secretive, clandestine or hidden about it. In many cases officers will be behaving in the same way as normal members of the public and/or will be going about Council business openly.

A general observation made by officers in the course of their duties constitutes overt surveillance.

Warning the person about the surveillance (preferably in writing) constitutes overt surveillance. (Consideration should be given to how long the warning should last. This must be a reasonable length of time and each case must be assessed as to what is reasonable having regard to the circumstances.)

Overt surveillance does not require authorisation under RIPA.

3.3 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.

Covert Surveillance does require authorisation under RIPA if other criteria as set out within the codes also apply.

4. Different Types of Covert Surveillance

RIPA regulates two types of Covert Surveillance:

- Directed Surveillance, and
- Intrusive Surveillance;

RIPA also regulates the use of Covert Human Intelligence Sources.

4.1 Directed Surveillance

Directed surveillance is defined as surveillance which is:

- Covert
- Not intrusive
- Undertaken for the purposes of a specific investigation or specific operation;
- Carried out in such a manner as is likely to result in the obtaining of private information about a person (whether or not that person is the target of the investigation or operation); and
- Undertaken in a pre-planned manner, and not as an immediate response to events or circumstances.

If the proposed activity fulfils all of the criteria for directed surveillance, RIPA authorisation is required.

4.2 Intrusive surveillance (not permitted by the Council)

Intrusive surveillance is surveillance in any residential premises or in any private vehicle carried out by a person or by means of a surveillance device on the premises or in the vehicle which provides information of the same quality and details as if it was on the premises or in the vehicle.

4.3 Covert Human Intelligence Sources

The term Covert Human Intelligence Sources is used to describe people who are more commonly known as informants or offices working 'undercover'.

Throughout this document these people are referred to as "CHIS".

This does not include members of the public who volunteer information to the Council as part of their normal civic duties or to contact numbers set up to receive information.

4.4 Definition of CHIS

Under RIPA, a person is a CHIS if:

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

A relationship is established or maintained for a covert purpose if and only if it is conducted in a manner that is calculated to ensure that one of the parties to the relationship is unaware of the purpose.

A relationship is used covertly, and information obtained is disclosed covertly, if and only if the relationship is used or the information is disclosed in a manner that is calculated to ensure that one of the parties to the relationship is unaware of the use or disclosure in question.

The Regulation of Investigatory Powers (Covert Human Intelligence Sources: Relevant Sources) Order 2013 (“the 2013 Relevant Sources Order”) further defines a particular type of CHIS as a “Relevant Source”. This is a source holding an office, rank or position with the public authorities listed in the Order and Annex B to the Covert Human Intelligence Sources Code issued by the Home Office. Enhanced authorisation arrangements are in place for this type of CHIS as detailed in this Code. Such sources will be referred to as a “Relevant Source” throughout this Code. RIPA authorisation is required for CHIS activity.

If CHIS are to be used there should be a controller who will have overall control of the operation involving the use of the CHIS.

There are particular procedures relating to the conduct and use of CHIS authorisation, together with risk assessment and other procedures. There are also issues relating to the management of the personal details of a CHIS and the information obtained as a result of such activity. **Whilst the Council will make use of CHIS authorisation if appropriate, it is a tactic that must be discussed with the Legal Department.**

There are also special rules for using juveniles or vulnerable persons as CHIS, and only the Chief Executive can authorise such surveillance (or in his absence his nominated deputy).

If the conduct to be authorised may involve the acquisition of confidential or religious material or require an authorisation for using juveniles or vulnerable persons as CHIS, the Authorising Officer is, by law, the Chief Executive (or in his absence the Deputy Chief Executive who has been nominated to act in his place).

Further advice should be sought from the Council’s Legal Department in such cases.

5. Authorisation Procedures

Directed Surveillance and the use of a CHIS can only be lawfully carried out if properly authorised and conducted in strict accordance with the terms of the authorisation.

All directed surveillance and use of CHIS shall be:

- Applied for in writing
- Authorised by an appointed Authorising Officer and subsequently by a Justice of the Peace
- Conducted in accordance with the authorisation
- Monitored and reviewed when required and in any case in accordance with reviews set by the Authorising Officer
- Renewed if applicable
- Cancelled as soon as the objective has been achieved or the activity is no longer to be conducted, whichever is sooner

5.1 The Standard Forms

Directed Surveillance

- Application for directed surveillance authorisation
- Application to Magistrates' Court
- Review of directed surveillance authorisation
- Application for cancellation of directed surveillance authorisation
- Application for renewal of directed surveillance authorisation

Use of CHIS

- Application for conduct-use of a CHIS authorisation
- Review of use of a CHIS authorisation
- Application for renewal of use of a CHIS authorisation
- Application for cancellation of conduct-use of a CHIS authorisation

The Standard Forms are available from the Legal Services office.

6. Applications for Judicial Approval

Sections 37 and 38 of the Protection of Freedoms Act 2012 came into effect on 1 November 2012. This legislation means that a local authority who wishes to authorise the use of directed surveillance, and use of CHIS under RIPA will need to obtain an order approving the grant or renewal of an authorisation or notice from a Justice of the Peace, JP (a District Judge or lay magistrate) before it can take effect. If the JP is satisfied that the statutory tests have been met and that the use of the technique is necessary and proportionate he/she will issue an order approving the grant or renewal for the use of the technique as described in the application.

6.1 Making the Application

The application must be made by the public authority that has granted the authorisation. Following approval by the authorising officer/designated person the first stage of the process is for the local authority to contact Her Majesty's Courts and Tribunals Service (HMCTS) administration team at the magistrates' court to arrange a hearing.

The local authority will provide the JP with a copy of the original RIPA authorisation or notice and the supporting documents setting out the case. This forms the basis of the application to the JP and **should contain all information that is relied upon**.

Wherever possible the authorising officer will attend court with the Investigating Officer.

6.2 Decision of the JP

The JP will consider whether he or she is satisfied that at the time the authorisation was granted or renewed or the notice was given or renewed, there were reasonable grounds for believing that the authorisation or notice was necessary and proportionate. They will also consider whether there continues to be reasonable grounds. In addition, they must be satisfied that the person who granted the authorisation or gave the notice was an appropriate designated person within the local authority and the authorisation was made in accordance with any applicable legal restrictions, for example that the crime threshold for directed surveillance has been met.

6.3 Outcomes of the Hearing

After the JP has considered the case, there are three conclusions which he/she may reach.

The JP may either:

- **Approve the Grant or renewal of an authorisation or notice** – the grant or renewal of the RIPA authorisation or notice will then take effect and the local authority may proceed to use the technique in that particular case.
- **Refuse to approve the grant or renewal of an authorisation or notice** – the RIPA authorisation or notice will not take effect and the local authority may **not** use the technique in that case. Where an application has been refused the local authority may wish to consider the reasons for that refusal. For example, a technical error in the form may be remedied without the local authority going through the internal authorisation process again. The local authority may then wish to reapply for judicial approval once those steps have been taken.
- **Refuse to approve the grant or renewal and quash the authorisation or notice** – this applies where a Magistrate's Court refuses to approve the grant, giving or renewal of an authorisation or notice and decides to quash the original authorisation or notice. The Court must not exercise its power to

quash that authorisation or notice unless the applicant has had at least two business days from the date of the refusal in which to make representations.

Useful Link

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/118173/local-authority-england-wales.pdf

7. The Senior Responsible Officer's Role

The Council's Senior Responsible Officer is the Group Head of Corporate Governance who is responsible for:

- The integrity of the process in place within the Council for the management of CHIS and Directed Surveillance
- Compliance with Part II of RIPA and the Codes of Practice
- Oversight of the reporting of errors to the relevant oversight Commissioner and the identification of both the cause(s) of errors and the implementation of processes to minimise repetition of errors
- Engagement with the IPCO inspectors when they conduct their inspections
- Oversight of the implementation of any post-inspection action plan approved by IPCO

7.1 Management of Records

The Senior Responsible Officer is responsible for ensuring a central register of authorisation is maintained.

The register and all associated documents relating to authorisations, reviews, cancellations, or renewals and refused applications should be retained in an auditable format, with each particular authorisation allocated a unique reference number for that particular investigation or activity.

The Senior Responsible Officer is responsible for submitting annual statistics to IPCO in relation to authorisations.

The Senior Responsible Officer is also responsible for communicating to IPCO any unauthorised activity that might come to the attention of the authority. This must be done within five working days. The records, documentation, and associated documentation relating to this unauthorised activity must be retained by the Senior Responsible Officer and disclosed to IPCO upon request, and certainly to an inspector from the IPCO at the commencement of the next scheduled inspection.

Management of the records by the Senior Responsible Officer requires that person to carry out sufficient audit and checking in order to provide for a reasonable level of quality control. Any identified issues should be communicated with the authorising officer and any others concerned in order to ensure review drives improvement in compliance.

8. The RIPA Monitoring Officer's Role

The Council's RIPA Monitoring Officer is the Legal Services Manager, responsible for:

- Maintaining the central register of authorisations and collating the original applications/authorisations, reviews, renewals and cancellations
- Oversight of submitted RIPA documentation

9. The Applicant's Role

The application

You will need to consider:

Whether covert surveillance is needed

Consideration must be given as to whether covert surveillance is needed. You are advised to discuss the need to undertake directed surveillance or the use of CHIS with your line manager before seeking authorisation. All other options to obtain the information to be obtained by the authorised activity should be considered and used if appropriate.

Whether Directed Surveillance or the use of CHIS is needed

You must establish what type of 'surveillance' is required having regard to the guidance contained in this document. The type of surveillance you require affects which application forms you need to complete.

Whether Directed Surveillance or use of a CHIS is necessary for statutory reasons (identify the particular offence to be prevented or detected or what disorder is to be prevented)

Authorisation may only be granted if it is necessary for the reason permitted by RIPA. For local authorities, the only statutory reason is for the purposes of preventing and detecting crime or of preventing disorder (and now for certain offences only). You must set out this ground in your application form and provide details of the reasons why it is necessary to use covert surveillance.

Whether Directed Surveillance or use of CHIS is appropriate

You must consider why the activity applied for is proportionate.

The methods must do no more than ensure you meet your objective. The proportionality test will also require you to consider whether there are any other appropriate means of obtaining the information and whether there is a risk of collateral intrusion (see consideration below) and how this can be minimised or managed, or if it is acceptable in the circumstances.

The following aspects of proportionality must be considered and evidenced:

- Balancing the size and scope of the proposed activity against the gravity and extent of the perceived crime or offence
- Explaining how and why the methods to be adopted will cause the least possible intrusion on the target and others
- Considering whether the activity is an appropriate use of the legislation and a reasonable way, having considered all reasonable alternatives, of obtaining the necessary result.
- Evidencing, as far as is reasonably practicable, what other methods have been considered fully and why these were not implemented.

The risk and amount of collateral intrusion

Collateral intrusion is the risk of intrusion into the privacy of persons other than the target. You are required to assess the risk of collateral intrusion. Details of any potential collateral intrusion should be specified. Measures must be taken wherever practicable to avoid or minimise collateral intrusion and a plan should be included in your application specifying how the potential for collateral intrusions will be minimised. You should give as much detail as possible, insufficient information may lead to the rejection of the application.

Conduct a risk assessment in relation to health and safety of personnel and public (not a statutory requirement under RIPA, but an operational requirement)

This requirement is not in relation to compliance with RIPA. However, it is a fundamental requirement when conducting any activity at work. The risk assessment helps the line manager and the authorising officer to consider the health and safety risks to the personnel and public are identified, and if possible measured and controlled, and only the level of risk to be taken will be that which reflects the benefit to the authority.

Consideration: Surveillance from private premises

It is preferable for surveillance to be carried out from a public place, such as a public highway. However, there may be circumstances where private premises may be required for carrying out the surveillance. In which cases, it is essential that you obtain the consent of the owner and/or occupier of the premises prior to authorisation being sought.

You should seek further guidance from the Council's Legal Department since there are other considerations in relation to management of CPIA Disclosure, and use of the product of the surveillance as evidence.

10. Standard Forms for Making an Application

All applications must be made in writing on the standard forms provided.

The relevant forms are:

- An application for directed surveillance authorisation, and/or
- An application for the use of a CHIS
- An application to a Justice of the Peace

The considerations set out above form part of the application form.

10.1 Authorisation Duration

An authorisation for Directed Surveillance will last for three months from the date of authorisation unless renewed. It must be cancelled as soon as it is no longer required.

An authorisation for use of adult CHIS will last for twelve months from the date of authorisation unless renewed.

Review dates for the authorisation will be set by the Authorising Officer. All authorisations must be cancelled as soon as they are no longer required and must not be allowed to expire.

During the course of an investigation, the type and seriousness of offences may change. The option of authorising directed surveillance is dependent on the offence under investigation attracting a sentence of maximum six months imprisonment or more or being related to the underage sale of alcohol and tobacco. Providing the offence under investigation is one which appears on the statute book with at least a maximum six months term of imprisonment or is related to the specific offences listed in the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 as amended, concerning the underage sale of alcohol or tobacco, an application will be made. However, if during the investigation, it becomes clear that the activity being investigated does not amount to a criminal offence or that it would be a less serious offence that does not meet the threshold the use of directed surveillance should cease. If a directed surveillance authorisation is already in force it should be cancelled.

10.2 Conduct of Authorisation

It will be the responsibility of the applicant and persons conducting the authorised activity to ensure that any Directed Surveillance or use of CHIS is only undertaken under an appropriate and valid authorisation.

During the surveillance, you should ensure:

- Surveillance is carried out in accordance with the authorisation
- Collateral intrusion is monitored and minimised as far as possible
- Intrusive surveillance is not carried out
- All information obtained is recorded and managed appropriately and in accordance with the Data Protection Act (subsequently other legislation such as PACE and CPIA are likely to apply to the product of the surveillance).

During the use of CHIS, you should also ensure that the source is aware that:

- Only the tasks authorised are carried out
- Third party collateral intrusion is minimised as far as possible.
- Intrusive surveillance is not carried out
- Agent Provocateur (Entrapment) is not committed
- They must regularly report to you

You should also be mindful of the date when reviews and renewals are required.

You must inform the Authorising Officer if the authorised activity unexpectedly interferes with the privacy of individuals who are not covered by the authorisation or if there is another change in circumstances usually brought around by unforeseen action.

When the original authorisation may not be sufficient, consideration should be given to whether the authorisation needs to be amended and re-authorised (for minor amendments only) or whether it should be cancelled and a new authorisation obtained.

The relevant forms should be used.

Particular care should be taken when using CHIS to ensure that authorisation is sufficient. It is difficult to predict what might occur each time a meeting with CHIS takes place. If unforeseen action takes place, the occurrence should be recorded as soon as possible after the event and the sufficiency of the authorisation must be considered. You must bring to the attention of the Authorising Officer any concerns about the personal circumstances of the CHIS in relation to: the validity of the risk assessment; the conduct of the CHIS; the safety and welfare of the CHIS.

Renewals

If it is required, a renewal must be authorised prior to the expiry of the original authorisation. Applications for renewal should be made on the appropriate form shortly before the original authorisation period is due to expire. Officers must take account of factors which may delay the renewal process (e.g. intervening weekends or the availability of the relevant authorising officer and a Magistrate to consider the application). The Authorising Officer must consider the matter afresh, including taking into account the benefits of the surveillance to date and any collateral intrusion that has occurred. Renewals of an authorisation may be granted more than once, provided the criteria for granting that authorisation are still met. However, if the reason for requiring the authorisation has changed from the purpose for which it was originally granted, then it should be cancelled, and new authorisation sought. The renewal will begin on the day when the original authorisation would otherwise have expired.

Cancellations

All authorisations, including renewals, must be cancelled if the reason why Directed Surveillance or use of CHIS was required no longer exists or is no longer proportionate. This will occur in most instances when the purpose for which

surveillance was required has been achieved and officers must be mindful of the need to cancel any authorisation which has been issued.

To cancel an authorisation, you should complete the Cancellation of Authorisation form and submit it to the Authorising Officer for the Authorising Officer to cancel the authorised activity.

Equipment

Equipment and surveillance logs should be allocated from a central record of equipment, and an audit trail maintained in relation to the equipment and surveillance logs.

Upon cancellation all equipment in use must be removed immediately or else as soon as practicable, since further recordings will amount to unauthorised surveillance.

11. Authorising Officer Responsibilities under RIPA

If the conduct to be authorised may involve the acquisition of confidential or religious material, or require an authorisation for using juveniles or vulnerable persons as CHIS, the Authorising Officer is, by law, the Chief Executive (or in his absence one of the Deputy Chief Executives)

Authorising Officers should not be responsible for authorising investigations or operations in which they are directly involved. If this is the case, the application form for authorisation should be noted to this effect together with an explanation as to why this has taken place.

Authorising Officer Responsibilities – Responsibility for authorising the carrying out of direct surveillance or using a CHIS rests with the Authorising Officer and requires the personal authority of the Authorising Officer.

You must be satisfied that a defensible case can be made for the conduct authorised.

Authorisation is a safeguard against the abuse of power by public authorities. Full consideration of necessity and proportionality will make the action less vulnerable to challenge.

You should refer to both the relevant Codes of Practice when fulfilling your role, and if required seek the guidance of the Legal Department and Senior Responsible Officer on issues that you are uncertain about.

You are required to consider the application for authorisation in relation to the following:

Crime Threshold

Amendments to the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 mean that a local authority can now

only grant an authorisation under RIPA for the use of directed surveillance where the local authority is investigating particular types of criminal offences. These are offences which attract a maximum custodial sentence of six months or more or are offences relating to the underage sale of alcohol or tobacco.

Necessity

Firstly, you must consider whether it is **necessary** to carry out the covert activity. This is an important consideration and must be recorded on the form. The Codes of Practice provide guidance in relation to this consideration.

Secondly, as authorisation may only be granted if it is necessary for the reason permitted by RIPA. You should consider, having regard to the outline of the case provided by the applicant, whether authorisation is necessary for the purposes of **preventing or detecting certain crimes only or of preventing disorder**.

Proportionality

This involves balancing the intrusiveness of the activity on the target and others who may be affected by it against the need for the activity in operational terms. The Codes of Practice provide guidance in relation to this consideration.

Collateral Intrusion

You must take into account the risk of interfering with the privacy of persons other than the target (collateral intrusion). Full details of potential collateral intrusion and the steps to be taken to minimise such intrusion must be included in the form. If there are insufficient details, further information should be sought.

Collateral intrusion forms part of the proportionality test and is therefore very important. The application form should detail expected collateral intrusion, what has been done to minimise or control it, why the expected level is unavoidable but acceptable in the circumstances, what other investigative methods have been pursued or considered, and why this activity is the chosen option.

If equipment is to be used you should enquire with the operative as to its capability and the extent to which it is to be used in order to be able to recognise what might be recorded.

Confidential Material

In cases where through the use of the directed surveillance or the use of a CHIS, it is likely that knowledge of confidential information will be acquired, authorisation may only be granted by the Chief Executive or in his absence his nominated deputy.

Confidential information consists of matters subject to legal privilege, confidential personal information or confidential journalistic material.

Authorisation involving the acquisition of confidential information should only be given in exceptional and compelling circumstances having full regard to the proportionality issues involved.

Further details about the type of information covered under this category are to be found in the relevant Code of Practice. Further advice may be sought from the Council's Legal Department.

Safety and Welfare arrangements of CHIS

When authorising the conduct or use of a CHIS, you must be satisfied:

- That the conduct and/or use of the CHIS is proportionate to what is sought to be achieved;
- That arrangements exist for the management and oversight of the CHIS, particularly the health and safety of the CHIS, including:
 - Identifying the person who will have day to day responsibility for dealing with the CHIS.
 - Security and welfare arrangements of the CHIS both during and after the investigation/operation
 - Monitoring and recording the information supplied by the CHIS
 - Ensuring records disclosing the identity of the CHIS will not be made available to persons except where there is a need for access to them.
 - Records relating to the CHIS meet the lawful requirements (CHIS Records).

Local Community Sensitivities

You should consider whether there are any particular sensitivities in the local community where surveillance will be taking place.

Authorisation

Having taken all these factors into consideration, you may either approve the application or refuse it. You can authorise some of the activity applied for, but cannot add and authorise other activity you feel is appropriate. If there is further activity that should be conducted that is not contained within the application, a further application will be required, and then considered upon its merits.

Authorisation Refused

You must complete the form and give your reasons for refusal. Then follow the procedures below.

Authorisation Approved

The applicant or operative responsible for the conduct authorised must be informed exactly what activity has been authorised.

Before the Authorisation can take effect, the local authority must obtain an order approving the Authorisation or a renewal from a JP (a District Judge or Lay Magistrate). If the JP is satisfied that the statutory tests have been met and that the use of the technique is necessary and proportionate he/she will issue an order approving the grant or renewal as set out in the Authorisation.

Regular reviews should be set and undertaken to assess the continued need for surveillance or use of a CHIS and whether it is still proportionate.

Where the surveillance or use of CHIS provides access to confidential information or involves collateral intrusion, reviews should be more frequent. You will therefore need to consider a relevant appropriate Review Date(s).

Both types of authorisation require you to specify a date when the authorisation should be reviewed (the Review Date) and the frequency of the review thereafter. This must be stated on the form.

Authorisation Duration

An authorisation for Directed Surveillance will last for three months from the date of authorisation unless renewed.

An authorisation of use of CHIS will last for twelve months from the date of authorisation unless renewed. Urgent authorisation for either Directed Surveillance or use of CHIS will last seventy-two hours beginning with the time when the authorisation was confirmed by a JP, unless subsequently endorsed by written authorisation.

Authorisation Review

It is important to set a review date which gives the opportunity to review the level of collateral intrusion and the effectiveness of the methods used. Reviews should be more frequent to reflect any particular concerns you might have.

If surveillance is to be continued, set another review date. If the authorisation is to be cancelled, submit the relevant signed cancellation form.

Renewals

Once the authorisation expires, surveillance must cease unless a renewal has been applied for and approved. You may apply for a renewal of an authorisation before it expires if it is necessary for the authorisation to continue for the purpose for which it was given (but a further JP confirmation will still be required).

You must consider the application for renewal in relation to the original purpose for which authorisation was granted, taking into account any change in circumstances. You should be satisfied that:

- There is a need to renew the authorisation (applying the test of necessity)
- That such a renewal is likely to contribute to the investigation or operation (it is proportionate to the aim)
- That the information could not be reasonably obtained by other less intrusive means
- The risk of collateral intrusion has not altered – you should consider what collateral intrusion has occurred
- The risks associated with the use of CHIS have not increased beyond an acceptable level.

The outcome of a consideration of renewal may lead to:

- Approval
- A new application

- Refusal

If you decide to approve a renewal you will need to provide details of why in your opinion you believe that the renewal is justified, and state the date and time when the renewed authorisation will commence and expire on the application form, prior to applying to a JP for confirmation.

The maximum time that renewal of authorisation can be approved for, is three months at a time for directed surveillance and twelve months for the use of a CHIS. You should also set appropriate Review Dates.

A new application for authorisation

IF the application circumstances resulting in the original authorisation have changed then the outstanding authorisation should be cancelled and new authorisation sought by way of a new application. You will need to note the refusal to renew the application on the renewal form setting out the reasons for your decision. You will also need to follow the procedures for cancellation and advise the applicant to seek new authorisation.

Refusal

If in your opinion surveillance is no longer required, or justified, or proportionate, the renewal should be refused and the authorisation cancelled. You will need to note on the renewal form your reasons for refusal.

Cancellation

All authorisations, including renewals, must be cancelled if the reason why directed surveillance or use of CHIS was required no longer exists or is no longer proportionate.

This will occur in most instances when the purpose for which surveillance was required has been achieved and officers must be mindful of the need to cancel any authorisation which has been issued. A cancellation should be issued at the expiry date if not before.

The responsibility to ensure that authorisations are cancelled rests with the Authorising Officer. If you think cancellation should have been applied for, then you should make enquiries as part of your monitoring of the authorisation. On receipt of the cancellation form you must consider the reasons for cancellation and if acceptable endorse the form.

As soon as the decision is taken that directed surveillance or use of CHIS should be discontinued, the instruction must be given to those involved to stop all surveillance of the subject. The date and time when such an instruction was given should be recorded on the cancellation form.

Where necessary, the safety and welfare of the CHIS should continue to be taken into account after the authorisation has been cancelled.

All equipment should be retrieved and recording ceased.

The product of the authorised activity is your responsibility, not in so much as you personally take possession of it, but you ensure directions and processes are in place to ensure its appropriate management in accordance with Data Protection and other relevant legislation.

Review upon Cancellation

There should be a full review of the usefulness of the authorised activity. This should include what has been achieved and what was not. The review should identify why any objectives were not achieved. This information should be recorded and presented upon inspection by the IPCO Inspector. The information should also be used by all involved in the procedures in order to educate future applications and authorisations.

12. Working with or through other Agencies

When some other agency has been instructed on behalf of the Council to undertake some action under RIPA, the procedures must be applied in the normal way and the agency advised as necessary of the various requirements. They must be made aware explicitly what they are authorised to do.

They are acting as agents of the Council and must follow the same procedures as Council personnel.

It is possible for two public authorities to carry out a joint directed surveillance investigation or use of CHIS. It must be decided which of the authorities is to take the lead role. The Authorising Officer from the lead organisation must make the decisions on the necessary and proportionality of the surveillance or use of CHIS. This Authorising Officer authorises the activity he or she feels appropriate.

If resources such as personnel or equipment belonging to the other agency within the investigation are to be used, the authorisation must be seen and then the use of the resources authorised by the relevant line manager.

13. Record Keeping

13.1 Records maintained in the Department

The Authorising Officer shall maintain the following documentation ideally in one secure and central location. Maintaining copies in different locations is to be avoided and can complicate the application of retention, review and destruction processes. a) a copy of the application and provisional authorisation or notice together with a copy of any order of judicial approval or refusal, as well as any supplementary documentation and notification of the approval given by the Authorising Officer; b) a record of the period over which the surveillance has taken place; c) the frequency of reviews prescribed by the Authorising Officer; d) a record of the result of each review of the authorisation or notice; e) a copy of any renewal of an authorisation or notice, together with judicial approval or refusal and the supporting documentation submitted when the renewal was requested; f) the date and time when any instruction was given by the Authorising Officer. g) the unique reference number for

the authorisation (URN). Each form must have a URN provided by the RIPA Monitoring Officer. The Authorising Officers will issue the relevant URN to applicants. The cross referencing of each URN takes place within the form for audit purposes. Rejected forms will also have URN's.

13.2 Other Record of Covert Human Intelligence Sources Proper records must be kept of the authorisation and use of a source. An Authorising Officer must not grant a provisional authorisation for the use or conduct of a source unless they believe that there are arrangements in place for ensuring that there is at all times a person with the responsibility for maintaining a record of the use made of the source. The records shall contain the following information:

- (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;
 - (i) hold day-to-day responsibility for dealing with the source and for the source's security and welfare
 - ii. have a general oversight of the use made of the source (not to be the person identified in (h)(i))
 - iii. have responsibility for maintaining a record of the use made 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 the conduct or use of the source;

(m) any dissemination 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.

SAFEGUARDS FOR RETENTION, REVIEW AND DESTRUCTION OF MATERIAL OBTAINED THROUGH COVERT POWERS

Material obtained in the course of criminal investigations and which may be relevant to the investigation must be recorded and retained in accordance with the Criminal Procedure and Investigations Act 1996. The Council must have in place arrangements for the handling, storage and destruction of material obtained through the use of covert surveillance and compliance with the appropriate data protection requirements must be ensured. The Council's Information Governance Policy, Strategy and Framework must be adhered to. In addition, before any authorisation is approved, advice on the handling, dissemination, copying, storage, security, retention and destruction of covert surveillance material must be sought from the RIPA Monitoring Officer and the ICT Manager, in order to ensure the Council complies with the additional safeguarding obligations contained in the relevant Home Office Codes of Practice. This Policy document shall be kept under review to ensure it is consistent with the Safeguards chapter of the relevant Home Office Code of Practice, as may be amended. There will be a suitable audit trail for the eventual destruction of product, including the means by which an officer(s) will be designated to check this is being carried out as intended. An additional entry in the Central Record may be used as a suitable means to capture this. The Council's Information Governance Policy and Information Asset Register will on review consider a reference to the Safeguards for RIPA/IPA product with a link to the main Corporate Surveillance Policy section for further advice. The Council will ensure that internal safeguard policies for retaining, reviewing and disposing of any relevant data are accurate and up-to-date.

Authorising Officers will through training have an understanding of any data pathways used for RIPA or IPA data. Authorising Officers will familiarise themselves with retention policies and know who will be personally responsible for retention, review and destruction of data shown on the central record. All data obtained under IPA and RIPA will be clearly labelled and stored on secure shared corporate repositories (e.g. Sharepoint as applicable).

All electronic copies of the signed authorisations, will be retained for three years and then disposed of securely, unless it is believed that the records could be relevant to pending or future criminal proceedings, where they must be retained for a suitable further period, commensurate to any subsequent review. The Council will ensure that all material acquired during covert surveillance is held in secure locations, with clear

handling instructions in place when material exchanges hands, and a clear retention, review, destruction (RRD) schedule will be applied to all copies made.

14. Material obtained from Directed Surveillance and/or use of CHIS operations

Material, or product, such as: written records (including notebook records); video and audio recordings; photographs and negatives; and electronic files, obtained under authorisation of Directed Surveillance or use of a CHIS investigations or operations should be handled, stored and disseminated according to the following guidance and with regard to the Council's Data Protection Policy.

Where material obtained during the course of an investigation may be relevant to pending or future criminal or civil proceedings, it should be retained in accordance with the established disclosure requirements having regard to the Criminal Procedure and Investigations Act 1996 and Civil Procedure Rules.

Where material is obtained which is not related to a criminal or other investigation, or to any person who is the subject of the investigation, and there is no reason to suspect that it will be relevant to any future civil or criminal proceedings, it should be assessed for retention or destruction under the Council's Data Protection Policy.

Material may be used in investigations other than the one for which authorisation was issued.

Where material is obtained which is not related to a criminal or other investigation, or to any person who is the subject of the investigation, and there is no reason to suspect that it will be relevant to any future civil or criminal proceedings, it should be assessed for retention or destruction under the Council's Data Protection Policy.

Material may be used in investigations other than the one for which authorisation was issued.

Confidential Information

This is privileged information from, for example, lawyers, doctors, priests etc. Where such persons are involved, and there is a possibility that you may be obtaining confidential material, then further additional precautions must be taken. If this is the case, seek appropriate advice from the Legal Department.

15. Social Networking Sites and Internet Sites

Social Networking Sites (SNS) which include but are not limited to Facebook, Instagram, Twitter and TikTok can provide information that will aid an investigation. When using these sites to carry out surveillance it is essential to know how they work and officers should not assume that one service provider works in the same way as another.

In all cases it would be unwise to assume that the content came from an open source or was publically available, even where security settings are low, as the

author would have some reasonable expectation of privacy where access controls are applied.

When conducting any surveillance of social media sites use of an officers personal account is prohibited and advice should be sought from the Communications Team with regards to setting up a Council account. It may pose a risk to an officers' personal safety when viewing social media profiles from a personal account, due to the potential for a 'digital footprint' to be left and therefore potentially identifying the officer to the account holder.

Where a site is being covertly accessed for monitoring purposes it may be necessary for an authorisation for directed surveillance to be obtained. As part of an investigation, it is possible to take an initial look at an individual's social media activity, however, should there be a need to return to the site this may constitute surveillance. In such circumstances advice should be obtained from the RIPA Co-ordinating Officer before further surveillance is carried out.

When accessing an individuals' social media site, an officer of the Council must never establish or maintain a relationship with that individual without consulting with the SRO, as an authorisation for a CHIS may need to be obtained. See above for full details of what constitutes a CHIS.

The Central Record will contain a register of any Council profiles utilised and a record of their use, where the Council decides to utilise Social Media for the purpose of investigation. The RIPA Monitoring Officer must be involved prior to any social media being utilised for surveillance, to ensure appropriate records are being kept and stored.

Accessing Communications data

Only authorised officers are able to use the NAFN Single Point of Contact service to access communications data. NAFN provides Council officers with access to a secure online system for processing RIPA telecommunications requests. Authorised applicants and designated persons can submit, approve and track applications through one central secure website. NAFN review all applications for legal compliance prior to approval from Swale's designated person. NAFN is subject to inspection by the officers of the Interception Commission to ensure compliance with RIPA.

16. Complaints

The Regulation of Investigatory Powers Act established the Investigatory Powers Tribunal an independent tribunal made up of senior members of the judiciary and the legal profession and is independent of the Government. The Tribunal has full powers to investigate and decide any cases within its jurisdiction. It also has the power to award compensation.

Details of the relevant complaints procedure can be obtained from the following address:

Investigatory Powers Tribunal
P O Box 33220
London
SW1H 9ZQ

Other actions that could be taken against the Council for failing to meet the requirements of RIPA are civil proceedings under the Human Rights Act 1998 or a complaint to the Ombudsman.

Annex

AUTHORISING OFFICER(S)

The following Officer(s), shall be designated Authorising Officers on behalf of the Council under the Regulation of Investigatory Powers Act 2000.

Senior Planning Lawyer
Strategic Planning Manager
Planning Development Manager
Senior Environmental Health Manager
Chief Executive
Deputy Chief Executive

SENIOR RESPONSIBLE OFFICER – Group Head of Corporate Governance



Spelthorne Borough Council Services Committees Forward Plan and Key Decisions

This Forward Plan sets out the decisions which the Service Committees expect to take over the forthcoming months, and identifies those which are **Key Decisions**.

A **Key Decision** is a decision to be taken by the Service Committee, which is either likely to result in significant expenditure or savings or to have significant effects on those living or working in an area comprising two or more wards in the Borough.

Please direct any enquiries about this Plan to CommitteeServices@spelthorne.gov.uk.

Spelthorne Borough Council

Service Committees Forward Plan and Key Decisions for 19 January 2024 to 30 April 2024

Anticipated earliest (or next) date of decision and decision maker	Matter for consideration	Key or non-Key Decision	Decision to be taken in Public or Private	Lead Officer
Audit Committee 29 01 2024	Regulation of Investigatory Powers Act Policy	Non-Key Decision	Public	Farida Hussain, Group Head- Corporate Governance
Audit Committee 29 01 2024	Annual Review of Internal Audit Effectiveness	Key Decision It is significant in terms of its effect on communities living or working in an area comprising two or more wards	Public	Punita Talwar, Internal Audit Manager
Audit Committee 29 01 2024	Corporate Procurement Audit Follow-Up	Non-Key Decision	Public	Hilary Gillies, Interim Corporate Procurement Manager
Audit Committee 28 03 2024	Accounting Policies	Non-Key Decision	Public	Paul Taylor, Chief Accountant
Audit Committee 28 03 2024	Annual Audit Letter	Non-Key Decision	Public	Paul Taylor, Chief Accountant
Audit Committee 28 03 2024	CIPFA Financial Management Code Self-Assessment	Non-Key Decision	Public	Terry Collier, Deputy Chief Executive
Audit Committee 28 03 2024	Corporate Risk Management	Key Decision It is significant in terms of its effect on communities living or working in an area comprising two or more wards	Public	Punita Talwar, Internal Audit Manager

Date of decision and decision maker	Matter for consideration	Key or non-Key Decision	Decision to be taken in Public or Private	Lead Officer
Audit Committee 28 03 2024	Counter-Fraud, Bribery and Corruption Strategy	Key Decision It is significant in terms of its effect on communities living or working in an area comprising two or more wards	Public	Punita Talwar, Internal Audit Manager
Audit Committee 28 03 2024	External Audit Update	Non-Key Decision	Public	
Audit Committee 28 03 2024	Internal Audit Annual Plan 2024/25	Key Decision It is significant in terms of its effect on communities living or working in an area comprising two or more wards	Public	Punita Talwar, Internal Audit Manager

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