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Chief Executive

CABINET AGENDA

Date: **Wednesday 17th April 2013**

Time: **7.00pm – N.B. TIME**

Venue: **Council Chamber**

This meeting will be webcast live on the internet.

Membership:

Councillor Mrs Challis OBE (Chairman)	Leader of the Council
Councillor Stanley (Vice Chairman)	Deputy Leader of the Council Corporate Policy, Resources and Performance
Councillor Mrs B. Egan	Homes and Customer Engagement
Councillor Mrs Goodwin	Leisure and Community Wellbeing
Councillor Howard	Waste Floods and Water Management
Councillor G. Isaacs	Neighbourhoods and Safer Communities
Councillor Riley	Environment and Street Scene
Councillor Smith	Economic Development & Business Liaison

Cabinet Enquiries:	John Riley, ext. 2417
Reference:	11/2011/2012
Publication Date:	Tuesday 9th April 2013

**AGENDA
PART I
(Business to be taken in public)**

1. Apologies

2. Members' Interests

3. Minutes

To approve the Minutes of the meeting held on 20th March 2013

4. Forward Plan

To review the Forward Plan - *(Report of the Leader of the Council)*

5. Environment - Civic Pride

5(a) Letting of Grounds Maintenance & Street Cleaning Contract

A report will be made on the outcome of the tender exercise.

(Report of the Cabinet Member Environment and Street Scene)

6. Regeneration and Homes

6(a) Housing Progress Report:

The Cabinet will be asked to consider a report.

(Report of the Cabinet Member Homes and Customer Engagement)

6(b) Update on Regeneration Matters

(Report of the Leader of the Council and the Cabinet Member Economic Development and Business Liaison)

6 (c) 1998 Adopted Local Plan – National Planning Policy Framework (NPPF) Conformity Check

(Report of the Leader of the Council and the Cabinet Member Development Control Liaison)

7. Improving the Council

7(a) Regulation of Investigatory Powers Act 2000(RIPA)

The Cabinet will be asked to consider a report.

(Report of the Cabinet Member Corporate Resources & Performance)

7(b) Corporate Performance Score Card Quarter 3 2012/13

The Cabinet will be asked to consider a report.

(Report of the Cabinet Member Corporate Resources & Performance)

7(c) Anti Fraud & Corruption, Whistle Blowing and Anti Money Laundering Policies and Strategies

The Cabinet will be asked to consider a report.

(Report of the Cabinet Member Corporate Resources & Performance)

7(d) Annual Refresh of Key Strategies (Resources)

The Cabinet will be asked to consider a report.

(Report of the Cabinet Member Corporate Resources & Performance)

8. Community Safety

8(a) Update on Community Safety

The Cabinet will be asked to consider a report.

(Report of the Cabinet Member Neighbourhoods and Safer Communities)

9. Matters to be referred from /to Policy Development Groups

10. Matters to be referred from /to the Statutory Committees

PART II

(Business to be taken in private)

(Item to be considered with the press and public excluded from the meeting)

5(a) Letting of Grounds Maintenance & Street Cleaning Contract

Exempt Information Paragraph 3 Local Government (Access to Information)

(Variation) Order 2006



CABINET

20TH MARCH 2013

PRESENT:

Councillor Mrs Challis, OBE	Leader of the Council (Chairman)
Councillor Stanley	Corporate Policy, Resources and Performance
Councillor Mrs Egan	Homes and Customer Engagement
Councillor Mrs Goodwin	Leisure and Community Wellbeing
Councillor Howard	Waste, Floods and Water Management
Councillor Isaacs	Neighbourhood & Safer Communities
Councillor Riley	Environment and Street Scene
Councillor Smith	Economic Development & Business Liaison

APOLOGIES: Councillor Stanley.

ALSO PRESENT: Councillors Blackwell, S. Cole, Mrs. Govier, Hart, Tucker and N. Watson.

98. MEMBERS' INTERESTS

Councillor Howard declared a non-pecuniary interest in any relevant items as a Member of Essex County Council.

Councillor Riley declared a non-pecuniary interest in any relevant items as a Member of Essex County Council.

Councillor Smith declared a non pecuniary interest under Minute 102 Leisure and Culture Activities Update as a trustee of Richmond Hall.

99. MINUTES

The Minutes of the Cabinet meeting held on 20.2.2013 were approved and signed by the Chairman as a correct record.

100. FORWARD PLAN

To comply with regulations under the Local Government Act 2000, the Leader of the Council presented the Forward Plan to the meeting which outlined key decisions likely to be taken within the next quarter 2013. The plan was reviewed each month.

Resolved – To note and approve the Forward Plan.

101. GROUNDS MAINTENANCE & STREET CLEANING

The Cabinet received an oral report from the Cabinet Member for Environment and Street Scene advising of progress in evaluating the tenders on which a further report would be made to the next Cabinet meeting.

Resolved: To note the report.

102. LEISURE AND CULTURE ACTIVITIES UPDATE

The Cabinet considered an update report on leisure and culture activities. The Leader of the Council advised that good progress was being made on the refurbishment of Waterside Farm.

Resolved: To note the report content.

103. HOUSING SERVICE REPORT: CAPITAL AND PLANNED MAINTENANCE PROGRAMME

The Cabinet receive a report outlining the programme of capital and planned maintenance works for the next five years. The Cabinet was pleased with the progress.

Resolved: To note the report content.

104. CORPORATE PEER CHALLENGE

The Cabinet considered a report on the outcome of the Peer Challenge undertaken by the Local Government Association.

Resolved:

To congratulate all concerned on the excellent outcome and request that action be taken to take forward the actions identified below to build on the Council's success to help improve and develop the effectiveness and capacity to deliver the Council's future ambitions and plans:

1. Continue to deliver the message of the financial challenge, investigate the strategic options and demand management.
2. Develop the opportunities for sharing services with Rochford as well as progressing wider strategic partnerships within South East Essex including setting out the pace, timeframes and mapping for these future partnerships.
3. Ensure the corporate plan reflects the higher level of ambition and confidence of Castle Point and focuses on your key priorities.
4. All Members need to work together. More will be achieved by speaking with one voice for the long term benefit of the Borough.

5. Adopt and deliver your Local Plan.
6. Conduct a robust review of your strategic and operational partnerships and the outcomes they deliver considering the future capacity constraints.
7. Castle Point will benefit from improved community and stakeholder engagement with regards to key strategic documents and budget decisions.
8. Ensure that your capacity is in the right place and there is organisational planning and succession development. Ensure sufficient corporate resources are available to effectively manage and deliver change and transformation going forward.

105. LOCALISATION OF SUPPORT FOR COUNCIL TAX (LCTS) UPDATE

The Cabinet received a briefing on progress on implementation of the scheme to localise the support for Council Tax

Resolved: To note the progress made

106. UPDATE ON COMMUNITY SAFETY INITIATIVES

The Cabinet considered an update report on the position concerning neighbourhood and community safety matters.

The Cabinet noted the general reduction in crime levels, action taken in respect burglary, speeding vehicles on Roscommon Way and work underway to help to tackle anti-social behaviour.

Attention was also drawn to publication of the draft Anti - Social Behaviour Bill 2013.

The Cabinet also noted that the Police had reinvigorated the Neighbourhood Action Panels; these meeting took place every two months and were open to all to attend.

Resolved:

To note the current position with neighbourhoods and community safety

107. MATTERS TO BE REFERRED FROM/TO POLICY SCRUTINY COMMITTEES

There were no matters.

108. MATTERS TO BE REFERRED FROM /TO THE STATUTORY COMMITTEES

There were no matters.

CABINET

17th April 2013

Subject: Letting of Grounds Maintenance and Street Cleansing Contract

Cabinet Member: Councillor Riley - Environment and Street Scene

1. Purpose of Report

To advise Cabinet of the tender evaluation process which has been undertaken for the new Grounds Maintenance and Street Cleansing Contract/s and to seek approval to award a new contract.

2. Links to Council's priorities and objectives

The provision of high quality and efficient grounds maintenance and street cleansing services which ensure a clean and attractive local environment links with the Council's objective Environment – Civic Pride.

3. Recommendations

That Cabinet:

- (1) Notes the procurement process that has been undertaken; and**
 - (2) Notes the outcome of evaluation of the bids; and**
 - (3) Subject to compliance with the Standstill Period pursuant to the Public Contracts Regulations 2006 and no legal challenge being received, agrees to award the contract for the Grounds Maintenance and Street Cleansing Contract to Pinnacle PSG for an initial period of five years**
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4. Background

The Council currently has a contract with Pinnacle PSG for the provision of grounds maintenance and street cleansing services. This contract expires on 31 May 2013. There is a separate contract in place with Pinnacle PSG for the removal of graffiti.

A Project Initiation Document setting out the objectives, project plan and risks associated with the procurement was signed off by the Executive Management

Team. Having considered the service delivery options available to the Council it was decided that the service should continue to be outsourced but that the contract should be let in three lots in order to encourage interest/competitiveness in providing the services and to ensure the Council gets the required services at the best possible price. It was also agreed that the contract should be for an initial period of five years with an option to extend for a further period of up to five years.

Lot 1 is for the provision of grounds maintenance services and includes the cutting of highway verges which the Council does on behalf of Essex County Council and the maintenance of all its own land including parks, open spaces, sports facilities, cemeteries and housing land. It also includes grass cutting in closed grave yards which the Council has a duty to maintain.

Lot 2 is for the provision of street cleansing services, which includes the cleansing of all adopted highways and Council owned land including parks and open spaces, car parks and land associated with housing estates and community halls.

Lot 3 is for the provision of grounds maintenance and street cleansing services combined, i.e. Lot 1 plus lot 2.

The service requirements for the new contract are broadly the same as are in the existing contract. However the cleansing of housing land (which is currently done on an ad hoc basis), the maintenance of the Canvey Gateway site, maintenance of schemes approved by the Regeneration Partnership, and the horticultural maintenance of some areas which is currently undertaken through an alternative service provider have been added to the contract. Minor amendments to the grass cutting schedules have been made to ensure that grassed areas are maintained at a specified height throughout the year to cope with changing weather conditions.

The requirement to maintain Canvey Lake, Bumble Park and the Sensory Garden has been removed from the contract as these are now the responsibility of Canvey Island Town Council to maintain.

The contract will be primarily output based to allow the successful contractor flexibility and in order to secure the best price for the Council. In order to ensure that a quality service is delivered the default mechanisms in the new contract have also been significantly strengthened with financial penalties being applied for unsatisfactory performance.

5. Tender Evaluation

The procurement and tender evaluation process has been overseen by the Essex Procurement Hub who provided procurement advice to the evaluation team which consisted of representatives from the client department (Environment) and support from legal services and financial services.

The value of the contract work means that the procurement must comply with the European Union procurement rules and therefore an advertisement was placed in the Official Journal of the European Union (OJEU).

A Pre Qualification Questionnaire (PQQ) was sent out to the 33 companies which expressed an interest in providing the services and a total of 16 questionnaires were returned. Of the 16 returned PQQs, 7 companies expressed an interest in tendering for Lot 1 only, 4 in Lot 3 only and 5 for all three 'lots'. The PQQ was used to assess the suitability of the companies to provide the services required by the Council having regard to the financial, legal and technical criteria set by the Council.

The Commonhold and Leasehold Reform Act 2002 and Service Charges (Consultation Requirements) (England) Regulations 2003 requires the Council to consult with leaseholders if a service charge in respect of services procured through a long term contract is likely to exceed £100. Failure to do so would mean the Council would have to cover the cost of any service provided over and above the £100 threshold. To comply with the above, letters were duly sent out to all leaseholders who live in flats which have communal areas that need to be maintained notifying them of the Council's intentions.

Invitation to Tender documents were sent out in October 2012 to the 13 companies which met the pre qualification criteria and tenders were required to be returned by 19 December 2012.

A total of 10 tenders were received from 5 companies, 4 of which were for Lot 1 (Grounds Maintenance), 2 for Lot 2 (Street Cleansing) and 4 for Lot 3 (Grounds Maintenance and Street Cleansing combined).

The tender evaluation was based on an assessment of the most economically advantageous tender received from the point of view of the Council. The Council adopted a framework of evaluation criteria and weightings for the evaluation of the Invitation to Tender ("ITT") submissions.

The Price Criteria was assessed by awarding marks based on the deviation of each tenderer's prices from the lowest tendered priced tendered for each lot, with the lowest priced tender being awarded full marks, i.e. 600 points.

In respect of the non-price criteria (quality) which equated to a maximum of 400 marks, scores were based on the 27 method statements which were required as part of the tender submission. Each method statement was scored using the scoring criteria in the table below:

Non Price (Quality) Tender Evaluation	
Classification	Score
Exceptional - meets and exceeds all the requirements	5
Good - meets all of the requirements of the Contract	4
Satisfactory - meets most of the requirements of the Contract/some further information required	3
Poor - meets some of the requirements/limited information provided	2
Very poor - meets only a very few of the requirements/very limited information provided	1
Unacceptable – unable to fulfil the requirements / no information provided	0

Each method statement score was then weighted to reflect its relative importance. The importance of having sufficient resources allocated to the contract both in terms of personnel and vehicles/equipment was reflected in the weightings given to these method statements with 200 of the possible 400 marks being awarded for contract capacity.

Tenderers were advised in the Instructions to Tenderers that the Council would reject any tender with an unacceptable score for any of the evaluation criteria.

In addition to the evaluation against the criteria set out above, tenderers were advised that the robustness of their tender submissions would also be assessed in terms of whether the tender price was realistic for the resources identified in the method statements.

Tenderers were also advised that tenders considered to be priced abnormally low would be scrutinised and that the Council reserved the right to reject any tender that it considered to be abnormally low.

During the initial quality evaluation it became apparent that there was a wide variation in the resources being proposed by the tenderers. To assist the evaluation team in assessing the sufficiency of the proposed resources and to safeguard the Council as far as possible from a legal challenge from an unsuccessful tenderer, independent technical and legal advice was sought.

Plan B Management Solutions provided the technical advice and the Public Law Partnership provided the legal advice. In the first instance Plan B Management Solutions were asked to familiarise themselves with the Borough and the service requirements and to submit an indicative tender price. Their submission was based on the TUPE information provided and their extensive knowledge/experience of productivity levels within the industry. They were subsequently requested to use their submission as a benchmark against the other submissions.

Clarification meetings were then subsequently arranged with three of the tenderers to tease out any matters which were still unclear or which gave cause for concern.

Subsequent to these meetings the evaluation team completed the scoring of the bids for each of the lots and concluded that the Lot 3 bid by Pinnacle PSG provided the most economically advantageous compliant tender for the Council.

A confidential report containing a detailed analysis of the evaluation will be circulated separately.

6. Corporate Implications

a. Legal implications

The Council has a duty under section 89 of the Environmental Protection Act 1990 to ensure so far as is practicable, land that it is responsible for and public highways are kept clean and free from litter and refuse. The Code of Practice on Litter and Refuse sets out the service standards and response times for different

land types and uses. The Council will be seeking to discharge its responsibility through the letting of the new street cleansing contract.

The Council has a duty to remove graffiti from premises and equipment which it owns, and this duty will be discharged through the new contract arrangements.

Pursuant to the Public Contracts Regulations 2006 the Council has a statutory obligation to undertake an open, transparent and fair procurement process awarding the contract based on objective evaluation criteria that is clearly set out in advance in the Invitation to Tender and supporting Tender documents

b. Financial Implications

The cost to the Council in providing grounds maintenance and street cleansing services as well as other associated miscellaneous costs such as graffiti removal in the revised 2012/13 budget was approximately £1.78m. The cleansing of housing land was omitted from the previous contract and has been dealt with on an ad hoc basis as and when required.

The Lot 3 tender from Pinnacle PSG is within the 2013/14 budget estimates for these services.

Essex County Council makes an annual contribution of £28,000 towards the cost of verge cutting. This equates to the cost of 1 – 1.5 cuts per year to ensure sight lines are not obscured by overgrown verges. This Council subsidises the cost of verge cutting in order to maintain the height of grass to less than 100mm which it believes is more appropriate for the nature of the borough and more acceptable to local residents. The contribution from ECC has remained unchanged for many years and officers will be seeking to secure an enhanced contribution from them once the contract has been awarded.

The default mechanisms in the new contract will be strengthened with financial penalties being applied for unsatisfactory performance.

Tenderers were required to set out in a method statement how they intend to achieve on-going efficiency savings within the contract. Accordingly the method statement includes a number of areas where the contractor has set targets for achieving savings over the lifetime of the contract. Any savings will be required to be shared 50/50 between the contractor and the Council.

There will be no annual uplift for the first two years of the contract and thereafter the contract will be subject to an annual review, i.e. from June 2015. This review will implement savings identified through improved efficiencies in service provision, as described above, and also any increase in contract costs. Any such increase will be required to be justified by the contractor, will be subject to approval by both parties, and will be capped at the percentage of Council Tax increase set by the Council for the year in question.

Pinnacle currently rents out part of the Farmhouse depot and yard. An annual rental is collected from the company, as well as contributions to costs of the building, such as business rates and utilities. Pinnacle has indicated its intention to continue to use the site. The current rental agreement expires at the same time as the contract, i.e. 31 May 2013, and will need to be renegotiated, however this process is yet to commence.

c. Human resources and equality

An Equality Impact Assessment has been undertaken and there will be no adverse impact on the community as a consequence of the letting of the new contract.

d. Timescale for implementation and risk factors

Subsequent to the decision to award the contract there will need to be further consultation with housing leaseholders advising them of the outcome of the procurement process and the Council's intentions. The new contract will take effect from 1 June 2013 but there will inevitably be a short delay in Pinnacle PSG taking delivery of all the resources (vehicles/plant) that it has committed itself to in its tender submission.

As with any EU procurement there is potential for a legal challenge from an unsuccessful tenderer but the Council has done all that it reasonably can to mitigate against such an eventuality.

Background Papers:

None

Report Author: Trudie Bragg, Head of Environment

CABINET

17th April 2013

Subject: Housing Progress Report

Cabinet Member: Councillor Mrs B Egan – Homes & Customer Engagement

1. Purpose of Report

To provide the quarterly progress report for the Housing Service for the quarter ending 31 March 2013.

2. Links to Council's priorities and objectives

The Housing service is explicitly linked to the Regeneration & Homes priority.

3. Recommendations

That Cabinet notes the progress and achievements for the last quarter period and requests officers to provide future quarterly progress reports.

4. Background

The Housing Service continues to focus on further improvements required to manage and improve the housing stock. The period covered by this report has seen further achievements made by the Service. This report provides information on the progress and achievements to date.

5. Summary of Achievements

5.1 Chapman Court – Refurbishment of Communal Areas

5.1.1 As previously reported to Cabinet in October 2012 the major refurbishment of the communal areas at Chapman Court is continuing to progress. The project has now received planning permission and tenders are being sought to select a contractor to undertake the works. This project is being managed by South Essex Homes.

5.1.2 The works include:

- Repair and maintenance works - replacement of soffits, concrete repairs, lighting and decoration in stairwells, replacement paving to courtyard,

replacement bin store area, repair of gutters and downpipes, drainage and pointing.

- Improvement works - provision of curtain walling and door entry systems to enclose stairwells and improve the energy rating for the building, provision of enhanced communal area lighting and planting/seating to the courtyard.

5.1.3 The legally required consultation with leaseholders prior to seeking tenders for this work has been completed. The next stage in this consultation process will be to advise them of the tenders received and involve them in the selection of the contractor. This is in accordance with the Commonhold and Leasehold Reform Act 2002.

5.1.4 The residents were recently invited to attend a presentation to provide them with information on the progress of the project. This was well attended and the residents are now involved in helping with some of the courtyard and planting designs. Residents will also be involved in the discussions around the possible renaming of the development.

5.1.5 It is anticipated that the contractor will be on site in June 2013 with completion in 6 months.

5.2 Capital Programme

5.2.1 The programme of decent homes works for 2012/13 is now complete. During this period 66 kitchens and 55 bathrooms have been refurbished. This is compared to the 45 planned for both kitchens and bathrooms at the beginning of the year. Electrics have been upgraded in 73 properties with some works being carried over into 2013/14 and 37 new central heating systems have been installed.

5.2.2 The Capital programme for 2012/13 has been managed by South Essex Homes.

5.2.3 The programme of replacement flooring to communal corridors, landings etc in the sheltered housing schemes has been completed at Willalla House, Stansfield Court and Sweetbriar Lodge.

5.2.4 Lawns Court has had the communal paths and ramps renewed to comply with DDA requirements. Residents at Lawns Court have had old water tanks and heating/hot water systems replaced with combi-boilers. On completion of these works the flooring in communal corridors, stairs etc will be replaced.

5.2.5 The Capital programme for 2013/14 has been finalised and tenders are being prepared.

5.3 Tenancy Strategy

5.3.1 The Housing Service has now implemented the Tenancy Strategy and with effect from 1 April 2013 has let properties on Fixed Term Tenancies. This is in relation to general needs properties and there is no change to the tenancies provided for sheltered housing.

5.3.2 This change in the way tenancies are provided will allow the Housing Management Officers to work with tenants so that the housing provided meets

their needs and to support them in considering other housing options for the future.

5.4 Tenant Participation Compact

- 5.4.1 The Tenant and Leaseholder Group, together with Councillor Beverley Egan, monitor the action plan supporting the Tenant Participation Compact as submitted to Cabinet in March 2012. The action plan has been reviewed by this group and all actions have been achieved.
- 5.4.2 The Leaseholder Forum has continued to meet and is contributing to the development of a new leaseholder handbook.
- 5.4.3 The Tenancy Engagement Officer has been working with residents interested in improving their local environment. Some forty tenants are now involved as neighbourhood voices. These tenants take part in estate inspections and provide information about fly-tipping and graffiti.
- 5.4.4 The Tenant and Leaseholder Group have developed an action plan for tenant engagement for 2013/14 and this will be monitored and reported to Cabinet.

5.5 Beresford Close

- 5.5.1 The Papworth Trust have now completed the development of four units for people with learning disabilities. The accommodation is currently in the process of being let via the Council's Housing Register in consultation with Essex County Council.

5.6 Welfare Reforms

- 5.6.1 Contact has been made with the 78 tenants who are affected by the Under-occupancy changes. Home visits have been completed with 55 of these tenants and 14 are now working with us to transfer to a more suitable property. Some tenants wish to remain in their home and have chosen to fund the loss of benefit.
- 5.6.2 Since January 2013 six tenants have transferred to a smaller property allowing families currently waiting for a more appropriate sized property to also be re-housed.

5.7 Performance Information 2012/13

- 5.7.1 During 2012/13 the Housing Service has improved the collection of data to record performance and the following information is currently available:
 - Void turn round time for 2011/12 was 61 days and for 2012/13 was 38 days.
 - New home satisfaction rate for 2012/13 was 100%. This information was not recorded in 2011/12
 - Satisfaction with capital works was 96% at the end December 2012
 - Satisfaction with responsive repairs is 75%

6. Corporate Implications

a. Financial Implications

The works noted above have been undertaken within current Housing Budgets and proposed works are all included in the 2013/14 budgets.

b. Legal implications

As the Landlord for 1,524 properties we have a duty to ensure that homes meet the appropriate standards.

Procurement of all contracts required to implement these works will be undertaken in accordance with the Council's Contract Procedure Rules and managed under the Service Level Agreement with South Essex Homes.

c. Human resources and equality

The actions outlined in this report will be undertaken within available operational resources.

There are no direct equality implications at this stage. However, each individual project is subject to an Equality Impact Assessment as appropriate.

d. Timescale for implementation and risk factors

Monitoring of progress will be undertaken by Cabinet on a quarterly basis.

7. Background Papers:

Cabinet Report April 2012 – Housing Update

Cabinet Report July 2012 – Housing Update.

Cabinet Report October 2012 – Housing Update

Cabinet Report January 2013 – Housing Update

Report Author: Wendy Livings, Head of Housing & Communities

CABINET

17th April 2013

Subject: Update on Regeneration Matters

Cabinet Member: Councillor Mrs Challis OBE Leader of the Council – Strategic Regeneration & Thames Gateway

Councillor Smith – Economic Development & Business Liaison

1. Purpose of Report

This report is to inform the Cabinet of the strategic regeneration initiatives underway during the first quarter of 2013, as well as those activities which support local businesses in Castle Point.

2. Links to Council's priorities and objectives

The initiatives described in this report are directly linked to the Council's Regeneration & Homes priority – more local employment and the creation of business opportunities.

3. Recommendations

That the Cabinet notes the progress underway on these initiatives, and requests that a further update report is made to the Cabinet for the next quarter.

4. Background

4.1 One of the Council's four key priorities is Regeneration & Homes. Objectives within this priority are the creation of more local employment and business opportunities.

4.2 This priority and these objectives form a key component of the work of the Castle Point Regeneration Partnership. This partnership comprises public sector and private sector organisations whose shared vision for Castle Point is "a community where everyone can prosper be safe and live in a high quality environment". A key ambition below this high level vision is the regeneration of the local economy and places, through supporting the regeneration of town centres and key employment areas as well as assisting local businesses to grow and develop skills within the community.

- 4.3 In order to further its vision for Castle Point, the Regeneration Partnership published a Regeneration Framework entitled “Where Ambitions Come Alive” in 2008. This set out the key priorities on which the Partnership focused its work, and which was used to support successful bids for grant from central and regional government for master planning Canvey Island and Hadleigh town centres and for improvements to industrial estates.
- 4.4 The grant awarded to the Partnership has been used to prepare comprehensive master plans for Canvey Island Town Centre and Hadleigh Town Centre, as well as enhance industrial estates at Charfleets on Canvey Island and Manor Trading Estate in Thundersley.
- 4.5 The Cabinet receives a regular update on the activities of the Partnership and the significant regeneration initiatives underway in the Borough. These include initiatives in order to regenerate the Borough’s Town Centres, as well as to support local businesses, and these are more fully described in the attached Appendix. Particular highlights from the last quarter involve;
- *Canvey Skills campus – formal opening March 2013.*
 - *Hadleigh Town Centre – traffic model of town centre prepared and being tested.*
 - *Canvey Town Centre – discussions underway with development partner and land owners.*
 - *West Canvey – promotion of development opportunities at Northwick Road; RSPB with Buglife now managing part of Canvey Wick SSSI.*
 - *Mayor’s Castle Point Business Awards – celebration of local business and apprenticeships at Civic Dinner in March 2013*

5. Corporate Implications

a. Financial Implications

The initiatives described in this report were funded through regional and government agencies to which claims were made for expenditure incurred.

b. Legal Implications

The Council on behalf of the Regeneration Partnership was the accountable body for the purposes of any Government grant. Accordingly it ensured that all contracts and expenditure were in accordance with its procedures.

c. Human Resources & Equality Implications

There are no implications of this kind arising from the recommendations in this report.

d. Timescale for implementation & risk factors

It is recommended that the Cabinet receives regular updates on regeneration initiatives as described in this report together with any apparent risks which need to be managed at that time.

6. Conclusions

The Regeneration Partnership is continuing to pursue the ambitions described originally in the Regeneration Framework.

Furthermore officers continue to work with representatives of local businesses in order to provide any necessary advice as well as discussing potential initiatives that may improve their competitiveness as well as the local environment within which they operate.

Background Papers

None

Report Author: Steve Rogers – Head of Regeneration & Neighbourhoods

**Regeneration Update
Cabinet April 2013**

PROJECT	POSITION STATEMENT
Strategic highways matters	<p>Work on Roscommon Way was completed and the road open to traffic at the end of 2011. Appropriate signage directing goods traffic is now being considered by the Highways Authority.</p> <p>The major upgrade of the Sadler's Farm interchange is broadly complete; final phases of surfacing and environmental accommodation works were completed in March 2013.</p> <p>The A13 Sadler's Farm to Tarpots Corridor works are complete; the traffic signals are now operating in phase with those at Sadler's Farm.</p>
Canvey Island	
Canvey Town Centre Master Plan	<p>The Canvey Island Town Centre Master Plan now forms a key part of local planning policy after being reviewed by the Special Policy Development Group (SPDG) in March 2012, approved by the Cabinet in April 2012, and adopted in July 2012.</p> <p>Discussions are underway between the Partnership, the selected development partner and relevant landowners in the town centre to enable comprehensive development schemes to come forward.</p>

**Regeneration Update
Cabinet April 2013**

PROJECT	POSITION STATEMENT
Canvey Skills Campus	<p>Construction of the Canvey Skills Campus commenced on site in January 2012, and was completed in December 2012. Students began courses at the campus in February 2013, and a formal opening took place on 19th March 2013. It is scheduled to be fully operational for the 2013/4 academic year.</p> <p>Prospects Learning Foundation is the operator of the facility, and has extensive experience of similar facilities in Southend and Basildon. The focus of the curriculum is concerned with vocational qualifications, including construction skills, motor vehicle repair and maintenance, hair and beauty courses and personal health and care. The Centre will have a capacity of 230 users when fully operational and will have created 14 new jobs.</p>
Building Schools for the Future - Canvey	<p>The new Cornelius Vermuyden School and new Castle View School on Canvey are open and in use, providing state-of-the-art educational facilities.</p>
West Canvey	<p>Work continues on the land management of the former oil refinery site at West Canvey, also incorporating an adjacent area of land near to the Site of Special Scientific Interest (SSSI). The Homes & Communities Agency (HCA) has transferred the freehold interest of its part of the SSSI to the Land Trust, together with land for vehicular access and a car park from Northwick Road. The Land Trust has appointed the RSPB to manage the land on its behalf, taking into account advice from Natural England and from Bug Life. Consultation has been undertaken on initial plans to manage the nature conservation interest on the land.</p>

**Regeneration Update
Cabinet April 2013**

PROJECT	POSITION STATEMENT
	<p>A project team has been formed with the HCA, Essex County Council and the Council to bring forward business park proposals on land at Northwick Road which already has the benefit of a long-standing planning permission. Promotion of the site and its development opportunities commenced in January 2013 via trade press briefings and brochures, and continues.</p> <p>A draft business case for a business park has been prepared for the South East Local Enterprise Partnership to assist with funding (see below).</p>
Hadleigh Matters	
Hadleigh Town Centre Master Plan	<p>The Hadleigh Town Centre Master Plan was referred to the Special Policy Development Group (SPDG) by Cabinet for it to consider how it can be taken forward as supplementary planning guidance. The SPDG met on 6 occasions and also conducted a walking tour of the town centre. The SPDG examined transport matters, housing, and the public consultation process and heard directly from traders and local residents regarding their views of the proposal.</p> <p>Further traffic study work was undertaken in the town centre during October 2012, and the data from this survey is now being analysed. The examination of the Master Plan, its transport proposals and the latest traffic study, has now passed to the Policy & Scrutiny Committee. This committee met in march 2013 to review all these issues before it receives advice on the traffic study in May/June 2013.</p>

**Regeneration Update
Cabinet April 2013**

PROJECT	POSITION STATEMENT
	<p>The Hadleigh Old Fire Station continues its successful new use as a community arts facility, and is the focus of other community events and uses.</p> <p>The Crown PH was purchased by the Borough Council in March 2011, given its pivotal location in the town centre regeneration plans. This site will form an integral part of the new development proposals for this part of the town centre.</p>
Hadleigh Farm Olympic Legacy	<p>The successful Olympic Mountain Bike event took place on site in August - in a spectator survey of Olympic venue, Hadleigh was mentioned as one of the easiest venues to access.</p> <p>Proposals for a legacy facility for the site were considered and agreed by the Development Control Committee in July 2012; a section 106 Agreement with the applicant was completed in January 2013. The proposals involve the creation of permanent recreational trail facilities on land at Hadleigh Farm and land in the Hadleigh Country Park, construction of new permanent visitor centre and replacement business units on land at Sayers Farm; supporting permanent new ancillary infrastructure is to include car parking, access, landscaping and utility services.</p> <p>Funding for the project has recently been agreed by the County Council and it is anticipated that work will commence on site in summer 2013.</p>

**Regeneration Update
Cabinet April 2013**

PROJECT	POSITION STATEMENT
Business matters	
Castle Point Business Forum	Planning for the next meeting of the Castle Point Business Forum is underway – this will take place on 30 th May 2013 at the new Canvey Skills Campus.
Thames Gateway Green Business Initiative	<p>The Thames Gateway Green Business Initiative was a three year project, and shortly comes to a conclusion. This has provided a co-ordinated range of support to individual businesses, including expert advice on making business “greener”, such as how to use products and services more efficiently, identifying carbon reduction solutions and providing small capital grants for investment in carbon reduction processes and equipment.</p> <p>The project has been successful in winning a number of awards in improving business awareness of environmental issues.</p>
Industrial Estates Improvements	<p>A programme of works has now been completed at the two main industrial estates. Work at Charfleets Trading Estate involved highway improvements, CCTV provision, entrance features to the estate and landscaping works. On-going maintenance works to the landscaping at the Charfleets northern approach have also been commissioned.</p> <p>Entrance feature works at the Manor Trading Estate have also been completed including</p>

**Regeneration Update
Cabinet April 2013**

PROJECT	POSITION STATEMENT
	CCTV column provision, kerbing and footway works.
Local Enterprise Partnership	<p>The South East Local Enterprise Partnership (SELEP) (covering East Sussex, Essex, Kent, Medway, Southend and Thurrock) has considered and prioritised applications for project funding from the Government's Growing Places Fund.</p> <p>The land at Northwick Road has been shortlisted for consideration as a second phase project, subject to the submission of a full business case.</p> <p>The SELEP has also created thematic groups to advise and promote strategic objectives (Thames Gateway, coastal communities, rural economy and strategic growth locations) and relevant enabling activities (such as transport infrastructure, broadband, skills, financial instruments and research into key industrial sectors).</p> <p>The Partnership has also created a Local Transport Body which will now be responsible for the identification and promotion of the strategic regional transport priorities funded by the SELEP.</p>
Integrated County Strategy	<p>In order to ensure that the priorities for Essex are promoted at the regional level, work has been completed on an Integrated County Strategy for Essex. This document highlights key priorities of a County wide significance for investment.</p> <p>The Strategy sets out as its strategic focus three broad areas; Thames Gateway South</p>

**Regeneration Update
Cabinet April 2013**

PROJECT	POSITION STATEMENT
	<p>Essex, key towns (Southend, Thurrock, Basildon, Harlow, Chelmsford and Colchester) and low carbon energy.</p> <p>Within those areas of focus priority themes (such as town centre improvements) and priority investments (such as supporting the delivery of the Thames Gateway port) have been established.</p> <p>A rolling investment fund has also been created by the County Council to support key projects.</p>
Thames Gateway South Essex Planning & Transport Board	<p>The Thames Gateway South Essex authorities, transport and port operators meet on a quarterly basis, as the Thames Gateway South Essex Planning & Transport Board, to review key “flagship” projects in the sub-region and to ensure appropriate liaison across planning and transport schemes is achieved. This also provides an opportunity to advocate the case for investment in projects in the area, as well as ensure co-ordination and co-operation between highway and planning authorities in South Essex.</p>

CABINET

17th April 2013

Subject: 1998 Adopted Local Plan – National Planning Policy Framework (NPPF) Conformity Check

Cabinet Member: Councillor Mrs Challis, OBE – Leader of the Council

Councillor Smith – Development Control Liaison

1. Purpose

To advise the Cabinet of work undertaken on a National Planning Policy Framework (NPPF) Conformity Check of the 1998 Adopted Local Plan.

2. Links to the Council's Priorities and Objectives

The NPPF Conformity Check of the 1998 Adopted Local Plan will ensure that decision-making by the Development Control Service, including the Development Control Committee, is consistent and in conformity with the NPPF. This will improve the efficiency and effectiveness of decision-making and ensure that unnecessary costs are avoided at planning appeals. This links to the priority of Improving the Council.

3. Recommendations

The Cabinet notes the work undertaken on a NPPF Conformity Check of the 1998 Adopted Local Plan, and requests the Development Control Service, and the Development Control Committee have regard to it when making decisions in relation to planning applications.

4. Background

- 4.1** The NPPF was published on the 27th March 2012. Annex 1 of the NPPF sets out policies in relation to its implementation.
- 4.2** Paragraph 214 of the NPPF states that *'for 12 months from the day of publication, decision-takers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this framework.'* As the Castle Point 1998 Adopted Local Plan was adopted prior to 2004, this paragraph has never applied in Castle Point.

- 4.3 Paragraph 215 of the NPPF states that *'In other cases and following this 12-month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).'*
- 4.4 Since the publication of the NPPF, it has therefore been necessary to have regard to the degree of consistency which policies in the 1998 Adopted Local Plan have with the NPPF when using them to determine planning applications.
- 4.5 To assist their development control functions, Councils across the country have carried out conformity checks of their existing Local Plans to determine the level of consistency there is between them and the NPPF. Attached to this report as Appendix 1 is the Conformity Check for the Castle Point 1998 Adopted Local Plan.

5. Outcomes of the Conformity Check

- 5.1 Whilst the 1998 Adopted Local Plan is somewhat dated, there is a good degree of consistency between its policies and those in the NPPF. Of the 106 saved policies, 104 of these policies are still valid. The check found that 80 of these policies were consistent or generally consistent with the NPPF. A further eight, were partially consistent.
- 5.2 Overall, only 16 policies were inconsistent with the NPPF. This was largely because they were negatively worded (contrary to the presumption in favour of sustainable development), or else they were time limited and therefore no longer applicable in their current form.
- 5.3 Where a policy in the 1998 Adopted Local Plan has been identified as being either partially consistent with the NPPF, or else inconsistent with the NPPF, advice has been contained within the conformity check on the relevant paragraphs of the NPPF to consider.
- 5.4 It should be noted that there are some elements of the NPPF on which the 1998 Adopted Local Plan is silent. Most notably is a current target (post 2001) for housing delivery and policies related to flood risk. Where the local plan is silent on a matter, regard should be had to the policies in the NPPF, in accordance with the presumption in favour of sustainable development at paragraph 14.

6. Next Steps

- 6.1 Whilst the Council continues to prepare its new Local Plan, the Development Control Service and Development Control Committee will continue to rely on the 1998 Adopted Local Plan for decision making purposes. It will therefore be necessary for them to consider the outcomes of the conformity check when making decisions that rely on the policies in the Adopted Local Plan.

7. Corporate Implications

a. Financial Implications

There are no financial implications emerging directly from this report. However, should the Council not consider the conformity check when making decisions that rely on policies in the Adopted Local Plan; there is a risk that the Council will incur costs associated with planning appeals and legal challenges. Furthermore, the costs of the applicants may be incurred by the Council if it is considered that issues of consistency with the NPPF have been deliberately ignored.

b. Legal Implications

Section 38(6) of the Planning Compulsory Purchase Act 2004 requires planning decisions to be made in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is identified at Annex 1 para 212, as a material planning consideration. Failure to take into account a material planning consideration when determining a planning application may place the Council at risk of legal challenge.

c. Equality and Diversity Impacts

This report does not require a decision that will have an impact on equality or diversity.

8. Timescale for Implementation

It is recommended that this conformity check is applied from here on in to decisions in relation to planning applications.

Report Author: Amanda Raffaelli, Senior Planning Policy Officer

Castle Point Adopted Local Plan 1998 – NPPF Consistency Check

Paragraph 215 of the NPPF states that from 27th March 2013, due weight should be given to policies within existing Local Plans according to their degree of consistency with the NPPF. The closer the policies in the Local Plan accord with the policies in the NPPF, the greater the weight that can be attached to them.

The following table compares each of the saved policies in the Castle Point Adopted Local Plan 1998 with the NPPF, and indicates the degree of consistency between the two documents. Where necessary it indicates where additional consideration should be given to policies in the NPPF in order to ensure that decisions reflect the Government's planning objectives and presumption in favour of sustainable development.

Adopted Local Plan Policy	Consistency with NPPF
GB2	Policy GB2 is consistent with para 90 of the NPPF which is clear that the re-use of permanent and substantially constructed buildings in the Green Belt is appropriate provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
GB3	<p>Policy GB3 is inconsistent with para 89 bullet 6 of the NPPF. This exceptionally permits the partial or complete redevelopment of previously developed sites, whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development. Therefore, if it can be demonstrated that the redevelopment or replacement of an existing industrial or agricultural building with a residential proposal would have no greater impact, it should be permitted.</p> <p>Policy GB3 should not be applied and regard should be had to para 89 bullet 6 when considering the redevelopment or replacement of industrial development in the Green Belt.</p>
GB4	<p>With the exception of bullet (i) of policy GB4, policy GB4 is consistent with the NPPF.</p> <p>Bullet (i) of policy GB4 is not consistent with the NPPF because it requires the residential use of the dwelling to be rebuilt not to have been abandoned. Para 89 bullet 6 of the NPPF states that the redevelopment of previously developed sites, whether redundant or in continuing use... is exceptionally permitted. It is not therefore considered appropriate to apply bullet (i) of policy GB4, or tests (a) to (d) listed later in the policy.</p>
GB5	Policy GB5 is consistent with para 89 bullet 3 of the NPPF.

Adopted Local Plan Policy	Consistency with NPPF
GB6	<p>The opening paragraph, bullet (i) and the closing paragraph of policy GB6 is generally consistent with paras 79, 81, 87 and 88 of the NPPF, in so far as the extension of gardens into the Green Belt reduces the openness of the Green Belt and impacts on its character. It also impacts on the opportunity to bring Green Belt land into positive use.</p> <p>Bullet (ii) of policy GB6 is generally consistent with para 112 of the NPPF, although additional consideration to the quality of land should be given consistent with para 112.</p> <p>Bullet (iii) of policy GB6 is not consistent with the NPPF. Consideration should be given to the hierarchical approach to biodiversity set out in para 118.</p>
GB7	<p>Policy GB7 refers to non-saved policies relating to the principle of development in the Green Belt. Therefore, consideration should be given to para 79, 80, 83, 87 and 88 of the NPPF when considering the approach to development in the Green Belt generally.</p> <p>Policy GB7 seeks to identify when agricultural dwellings will be permitted in the Green Belt. Dwellings would normally be inappropriate development, however para 89 of the NPPF exceptionally permits buildings for agriculture and forestry. This policy therefore sets out criteria to identify when a dwelling is a building for agriculture.</p> <p>The approach and criteria related to agricultural dwellings in policy GB7 appears consistent with para 87, 88 and 89 of the NPPF.</p>
EC2	Policy EC2 is consistent with paras 56 to 58 of the NPPF. It is however recommended that additional consideration is given to the aims set out in para 58.
EC3	Policy EC3 is generally consistent with paras 120 to 125 of the NPPF. However, these paragraphs contain a number of qualifications that should be considered when determining an application.
EC4	Policy EC4 is generally consistent with paras 120 to 125 of the NPPF. However, these paragraphs contain a number of qualifications that should be considered when determining an application.
EC5	Policy EC5 is consistent with para 58 bullet point 5 of the NPPF.
EC7	Policy EC7 is generally consistent with para 74 of the NPPF. However, consideration should be given to those exceptions listed in para 74 when consideration applications for development on open spaces.
EC8	Policy EC8 is generally consistent with section 11 of the NPPF, which seeks to protect areas of wildlife importance, create green networks and ensure that health and residential amenity are not adversely affected by pollution risk.

Adopted Local Plan Policy	Consistency with NPPF
EC9	Policy EC9 does not appear to be consistent with para 112 of the NPPF. Applications regarding the development of agricultural land should therefore be considered against para 112 instead of policy EC9.
EC10	Policy EC10 does not appear to be consistent with para 112 of the NPPF. Applications regarding the development of agricultural land should therefore be considered against para 112 instead of policy EC10.
EC13	Policy EC13 is inconsistent with the hierarchical approach set out in para 118 of the NPPF. Applications affecting biodiversity should therefore be considered against paras 118 and 119 of the NPPF.
EC14	Policy EC14 is consistent with para 109 bullet 3 and para 118 bullets 4 and 5 of the NPPF.
EC15	Policy EC15 is generally consistent with para 118 of the NPPF, although consideration should be given to the hierarchical approach in that paragraph when determining the appropriateness of using an Article 4 direction for the purpose of protecting biodiversity from permitted development.
EC16	<p>Policy EC16 is inconsistent with paras 109 and 114 to 116 of the NPPF because it is applicable to all landscapes regardless of their value. Para 109 is clear that the planning system should contribute to and enhance the natural and local environment by, amongst other things protecting and enhancing valued landscapes. It is therefore necessary to limit the applicability of policy EC16 to those areas of the local landscape considered to be valueable.</p> <p>Otherwise, policy EC16 is consistent with the NPPF because it is criteria based policy for the landscape as required by para 113.</p>
EC17	Policy EC17 is consistent with para 109 of the NPPF in so far as it identifies a locally valued landscape. It sets out criteria to be applied when considering applications in this landscape, consistent with para 113 of the NPPF.
EC18	Policy EC18 is consistent with para 109 of the NPPF in so far as it seeks to protect a locally valued landscape.
EC19	<p>Policy EC19 is consistent with para 109 of the NPPF in so far as it identified locally valued landscape areas.</p> <p>It is however inconsistent with the para 113 because it does not provide any criteria for assessing the suitability of proposals in these areas, and due to its negative wording is also inconsistent with the presumption in favour of sustainable development.</p> <p>It is recommended that consideration is given to para 116, and the criteria associated with that paragraph when considering applications for development within the ancient landscape.</p>
EC20	Policy EC20 is consistent with para 109 bullet 1 of the NPPF.
EC21	Policy EC21 is consistent with paras 117 and 118 bullets 4, 5 and 6 of the NPPF.

Adopted Local Plan Policy	Consistency with NPPF
EC22	Policy EC22 is consistent with para 58 of the NPPF in terms of landscaping for development and also broadly consistent with para 118. However, additional consideration should be given to bullet 6 of para 118 of the NPPF where a development proposal effects ancient woodland or veteran trees.
EC23	Policy EC23 is consistent with paras 58 and 118 of the NPPF.
EC25	Policy EC25 is consistent with paras 137 and 138 of the NPPF.
EC26	Policy EC26 is consistent with paras 58, 60, 61 and 137 of the NPPF.
EC27	Policy EC27 will enable the LPA to ensure consistency with paras 131 and 137 of the NPPF, and should therefore be encouraged. However, the refusal of an application on the grounds of policy EC27 would be inconsistent with the presumption in favour of sustainable development.
EC28	Policy EC28 is generally consistent with para 126 of the NPPF. However, when seeking to apply an Article 4 direction consideration should be given to: a) Significance of the historic asset (paras 128, 132, 138) b) Level of harm (paras 133, 134, 135, 138)
EC29	Policy EC29 is consistent with para 138 of the NPPF.
EC30	Policy EC30 is consistent with para 58 of the NPPF.
EC31	Policy EC31 is consistent with para 67 of the NPPF.
EC32	Policy EC32 is generally consistent with paras 132, 133 and 136 of the NPPF. However, para 133 does identify additional criteria to those listed in policy EC32 which should also be considered when determining an application requiring the demolition or loss of a Listed Building.
EC33	Policy EC33 is generally consistent with paras 131 to 134 of the NPPF. However, these paragraphs provide a greater degree of detail about what is, and is not acceptable in relation to alterations to Listed Buildings and therefore it is recommended that these paragraphs are considered alongside policy EC33.
EC34	Policy EC34 is generally consistent with paras 131 to 134 of the NPPF. However, these paragraphs provide a greater degree of detail about what is, and is not acceptable in relation to development affecting the setting of a listed building, and therefore it is recommended that these paragraphs are considered alongside policy EC34.
EC35	Policy EC35 is consistent with para 126 bullet 1 of the NPPF.
EC36	Policy EC36 is inconsistent with para 182 bullet 3 of the NPPF. Due to the reductions in local authority funding, it is unlikely that this policy can be delivered and is not therefore effective.
EC37	Policy EC37 does not allow for the balanced judgement in relation to non-designated assets to occur, as required by para 135 of the NPPF. Therefore, policy EC37 is inconsistent with the NPPF, and consideration should be given to para 135 of the NPPF when assessing applications affecting a locally listed building.

Adopted Local Plan Policy	Consistency with NPPF
EC38	Policy EC38 is consistent with section 12 of the NPPF.
EC39	Policy EC39 is consistent with para 70 of the NPPF, at least as far as ground floor uses is concerned. Para 70 promotes an integrated approach to the location of housing, economic uses and community facilities and services which is not well reflected in the wording of policy EC39, and should be considered when assessing applications for mixed use developments within the seafront entertainment area.
H2	Policy H2 is consistent with the NPPF in so far as it supports the attainment of paras 47, 48, 49, 50 and 51.
H3	Policy H3 is consistent with paras 47 and 51 of the NPPF.
H4	Policy H4 is inconsistent with the NPPF because the Local Plan period has expired and a review has not been completed. The fate of these sites cannot therefore be determined by the Local Plan. Para 47 requires the Council to identify a five year housing land supply of specific deliverable sites. Where this cannot be demonstrated para 49 states that housing applications should be considered in the context of the presumption in favour of sustainable development set out at para 14 of the NPPF (including footnotes 9 and 10).
H5	<p>Most of this site now has planning consent for the development of housing. However, a small area towards the east of the site does not benefit from consent and therefore there is the potential that this policy will still be required.</p> <p>Policy H5 is inconsistent with the NPPF because the Local Plan period has expired and a review has not been completed. The fate of these sites cannot therefore be determined by the Local Plan. Para 47 requires the Council to identify a five year housing land supply of specific deliverable sites. Where this cannot be demonstrated para 49 states that housing applications should be considered in the context of the presumption in favour of sustainable development set out at para 14 of the NPPF (including footnotes 9 and 10).</p>
H6	Policy H6 is inconsistent with the NPPF because the Local Plan period has expired and a review has not been completed. The fate of these sites cannot therefore be determined by the Local Plan. Para 47 requires the Council to identify a five year housing land supply of specific deliverable sites. Where this cannot be demonstrated para 49 states that housing applications should be considered in the context of the presumption in favour of sustainable development set out at para 14 of the NPPF (including footnotes 9 and 10).
H7	Policy H7 is consistent with paras 50 and 173 of the NPPF. However, regard should be had to the most up to date local evidence to support the implementation of this policy.

Adopted Local Plan Policy	Consistency with NPPF
H9	Policy H9 is broadly consistent with para 58 bullet point 3, although it is recommended that consideration is given to the element of this paragraph referring to the support of local facilities and transport networks also.
H10	Policy H10 is vague and inconsistent with the requirement of para 50 of the NPPF. Regard should be had to para 50 and the most up to date local evidence to determine the mix of development to be delivered within residential development proposals.
H11	Policy H11 is generally consistent with para 50 of the NPPF, however to improve consistency regard should be had to the most up to date local evidence to determine the proportion of homes to which the policy should apply.
H12	Policy H12 is consistent with the NPPF because it supports the delivery of the core planning principles set out in para 17 including bullet points 1, 3, 6, 8 and 11
H13	Policy H13 is generally consistent with paras 29 to 41, 58, 109 and 120 of the NPPF. However, additional consideration should be had to paras 47, 49 and 50 in terms of the need for this type of accommodation and the ability of the Council to demonstrate a five year housing land supply. Additionally, further consideration should be given to the design elements of the proposal, consistent with para 58 of the NPPF.
H14	Policy H14 is consistent with the presumption in favour of sustainable development and para 23 bullet point 9 of the NPPF.
H16	Policy H16 is generally consistent with para 58 of the NPPF.
H17	Policy H17 is consistent with the NPPF because the residential design guidance to which it links has been prepared in accordance with section 7 of the NPPF.
ED1	Vision in Local Plan out of date. However, evidence in Employment and Retail Needs Assessment supports the ongoing allocation of land to meet additional employment needs. Policies ED1, ED2 are consistent with the NPPF in terms of delivering economic growth.
ED2	
ED3	Policy ED3 is consistent with the NPPF because evidence in the Employment and Retail Needs Assessment indicates existing employment areas are well occupied with very low vacancy rates (1% only). Although regard should be had to para 21 bullet 3 in terms of flexibility.
ED5	Policy ED5 is consistent with the NPPF because it supports the delivery of the core planning principles set out in para 17 including bullet points 1, 3, 6, 8 and 11

Adopted Local Plan Policy	Consistency with NPPF
ED6	Policy ED6 sets out a requirement for employment developments to make provision for car parking in accordance with the Council's adopted vehicle parking standards. This is consistent with para 39 of the NPPF which requires local planning authorities to set such standards reflecting local circumstance.
ED7	Policy ED7 is consistent with para 21 of the NPPF.
ED9	Policy ED9 is negatively worded and therefore inconsistent with the presumption in favour of sustainable development. Regard should therefore be had to paras 21, 109, 120, 121 and 172 of the NPPF.
S1	Policy S1 is consistent with para 23 of the NPPF, although regard should be had to paras 24, 26 and 27 when determining if out of centre retail proposals may exceptionally be permitted.
S2	Policy S2 is consistent with para 23 of the NPPF, although regard should be had to paras 24, 26 and 27 of when determining the impact of proposals on the vitality and viability of existing town centres.
S3	Policy S3 is consistent with para 23 of the NPPF.
S4	Policy S4 is consistent with para 23 of the NPPF.
S5	Policy S5 sets out a requirement for retail developments to make provision for car parking in accordance with the Council's adopted vehicle parking standards. This is consistent with para 39 of the NPPF which requires local planning authorities to set such standards reflecting local circumstance.
S7	Policy S7 is consistent with para 23 of the NPPF, in particular the final bullet point.
S9	Policy S9 is consistent with para 70 of the NPPF in terms of the provision and safeguarding of local services the community needs including local shops.
S10	Policy S10 is consistent with the core planning principles set out in para 17 of the NPPF and also para 23, although regard should be had to paras 24, 26 and 27 also when determining applications for supermarkets and retail warehouse development.
S12	Policy S12 is consistent with para 67 of the NPPF.
S13	Policy S13 is particularly negatively worded and is therefore inconsistent with the presumption in favour of sustainable development. Regard should therefore be had to policy S12 of the Local Plan and para 67 of the NPPF.
S14	Policy S14 is consistent with para 67 of the NPPF.
S15	Policy S15 is consistent with para 67 of the NPPF.
T1	Policy T1 is inconsistent with the NPPF because it places the Council in a subservient position in relation to transport planning. Para 31 is clear that the planning authority and the transport providers should work together to develop strategies for the provision of viable infrastructure necessary to support sustainable development. Regard should therefore be had to para 31 of the NPPF rather than policy T1.

Adopted Local Plan Policy	Consistency with NPPF
T2	Policy T2 is broadly consistent with para 32 of the NPPF, although additional consideration should be had to bullet points 1 and 3 of this paragraph when considering development proposals.
T5	Policy T5 has been delivered and is no longer applicable
T6	Policy T6 has been achieved and is no longer applicable
T7	The matter addressed by policy T7 is not addressed in the NPPF. Consideration to para 35 of the NPPF should be had alongside the application of this policy.
T8	Policy T8 sets out a requirement for developments to make provision for car parking in accordance with the Council's adopted vehicle parking standards. This is consistent with para 39 of the NPPF which requires local planning authorities to set such standards reflecting local circumstance.
T10	Policy T10 is consistent with the transport policies set out in paras 29 to 41 of the NPPF. However, additional consideration should be given to paras 32, 34 and 35 when considering development proposals to ensure that appropriate consideration has been given to ensuring opportunities for sustainable transport modes have been taken up.
T11	Policy T11 is consistent with the transport policies set out in paras 29 to 41 of the NPPF.
T12	Policy T12 is consistent with the transport policies set out in paras 29 to 41 of the NPPF. However, additional consideration should be given to paras 32, 34 and 35 when considering development proposals to ensure that appropriate consideration has been given to ensuring opportunities for sustainable transport modes have been taken up.
T15	Policy T15 is generally consistent with paras 21, 32, 109 and 120 of the NPPF. However, additional consideration should be given to paras 172, and bullet points 1 and 3 of para 32 when determining any applications related to water borne freight or port facilities.
RE2	Policy RE2 is generally consistent with sections 8, 11 and 12 of the NPPF. It is also consistent with para 81.
RE4	Policy RE4 is consistent with para 70 of the NPPF. However, regard should be had to paras 173 and 203 to 206 when applying this policy to ensure that the development proposed is not made unnecessarily unviable as a consequence.
RE5	Policy RE5 is consistent with para 73 of the NPPF, because the most up to date open space appraisal demonstrates that open space provision in Castle Point should be retained and enhanced.
RE6	Policy RE6 is consistent with para 74 of the NPPF. However, if an application was submitted for the redevelopment of an allotment site, it would be necessary to consider the exceptional circumstances listed in para 74.

Adopted Local Plan Policy	Consistency with NPPF
RE7	Policy RE7 is consistent with para 73 of the NPPF, because the most up to date open space appraisal demonstrates that allotment gardens in Castle Point, including those at Romsey Road, are well used.
RE8	Policy RE8 is generally consistent with para 81 of the NPPF. However, it should be read in conjunction with section 11 of the NPPF, particularly the biodiversity elements, due to the proximity of this allocation to the Benfleet and Southend Marshes SPA and Ramsar site.
RE9	Policy RE9 is generally consistent with para 81 and section 11 of the NPPF.
RE10	Policy RE10 is generally consistent with sections 8 and 11 of the NPPF.
RE12	Policy RE12 is consistent with para 75 of the NPPF.
RE14	Policy RE14 is consistent with the Core Planning Principles set out at para 17 of the NPPF. However, regard should be had to paras 173 and 203 to 206 when applying this policy to ensure that the development proposed is not made unnecessarily unviable as a consequence.
CF1	Policy CF1 is consistent with the Core Planning Principles set out at para 17 of the NPPF. However, regard should be had to paras 173 and 203 to 206 when applying this policy to ensure that the development proposed is not made unnecessarily unviable as a consequence.
CF2	Policy CF2 is a positively worded policy that is consistent with para 70 and 72 of the NPPF. It sets out criteria which broadly reflect policies EC3, T2 and T8 of the Local Plan (which are generally in consistency with the NPPF – see separate assessments for details) address the matters of residential amenity, intensification of access use and parking. The criteria set out in CF2 are therefore generally in conformity with the NPPF, subject to those matters raised in relation to these separate policies.
CF4	Policy CF5 is consistent with para 70 of the NPPF. However, it is important that consideration is given to paras 173 and 203 to 206 when applying this policy to ensure that the development proposed is not made unnecessarily unviable as a consequence.
CF6	Policy CF6 is consistent with para 70 of the NPPF.
CF7	Policy CF7 is consistent with para 70 of the NPPF.

Adopted Local Plan Policy	Consistency with NPPF
CF8	<p>Policy CF8 is a criteria based policy that will permit the provision of healthcare facilities if a list of detailed criteria can be fulfilled. This policy approach appears inconsistent with para 70 which seeks local planning authorities to plan positively for community facilities, and not put barriers to provision in place. It is recommended that consideration is given to paras 69 and 70 of the NPPF when considering applications related to non residential healthcare facilities.</p> <p>It should be noted that policies EC3, T2 and T8 of the Local Plan (which are generally in consistency with the NPPF – see separate assessments for details) address the matters of residential amenity, intensification of access use and parking. The criteria set out in CF8 are therefore covered in more general policy.</p>
CF9	Policy CF9 is consistent with para 69 of the NPPF.
CF12	Policy CF12 is consistent with sections 11 and 12 of the NPPF, in so far as it limits the impacts of powerlines and cables on the landscape and areas of heritage importance. However, it is important that consideration is given to paras 173 and 203 to 206 when applying this policy to ensure that the development proposed is not made unnecessarily unviable as a consequence.
CF13	Policy CF13 is consistent with para 17 of the NPPF which sets out the Core Planning Principles. In particular, this requires the active management of patterns of growth to make the best use of transport infrastructure and ensuring sufficient community and cultural facilities are delivered to meet local needs.
CF14	<p>Policy CF14 is inconsistent with the NPPF because it requires increased surface water run-off to be accommodated through improvements to water-course capacity. This is a particular means of surface water management which may not always be appropriate, and may increase the risk of flooding elsewhere (getting to the watercourse, or along the watercourse).</p> <p>Therefore in preference to policy CF14, consideration should be had to paras 100 to 104 of the NPPF for all sources of flooding including surface water flood risk. Evidence related to the risk of surface water flooding in Castle Point can be found in the South Essex Surface Water Management Plan.</p>

Adopted Local Plan Policy	Consistency with NPPF
CF15	<p>Policy CF15 is inconsistent with the NPPF because it is loosely worded and does not set out how the Council will work with its partners in the water industry to deliver the provision of water supply infrastructure. It is inconsistent with para 156 of the NPPF, and is not based on evidence as required by para 162.</p> <p>Regard should be had to para 156 of the NPPF when considering water supply infrastructure. Additionally, regard should be had to the South Essex Water Cycle Study which sets out the proportionate evidence related to water supply required by para 162.</p>
CF16	<p>Policy CF16 is generally consistent with para 43-46 of the NPPF. However, the element of the policy which states that masts and antennae will be refused within the conservation area, special landscape area, ancient landscapes and landscape improvement area is inconsistent with para 44 of the NPPF which states that local planning authorities should not impose a ban on new telecommunications equipment in certain areas... This element of policy CF16 should not therefore be applied.</p>
CF17	<p>Policy CF17 is consistent with para 70 of the NPPF.</p>

CABINET

17th April 2013

Subject: Regulation of Investigatory Powers Act 2000 (“RIPA”) Policy and Procedures

Cabinet Member: Councillor Stanley – Corporate Policy, Resources and Performance

1. Purpose of Report

To seek Cabinet approval for the proposed amendments as required by Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 (“Order”) to the Council RIPA Policy attached to this report.

2. Links to the Council’s priorities and objectives

**The RIPA policy is linked to:
The Crime and Disorder Strategy,
Local Strategic Partnership and reducing crime; and
Data Sharing Policy.**

3. Recommendation

That Cabinet approve the RIPA policy as amended.

This report seeks to highlight the changes in legislation which now impose a requirement on local authorities to obtain judicial approval prior to using covert techniques.

4. Background

RIPA came into effect 25 September 2000.

RIPA seeks to regulate the way in which public bodies carry out surveillance, investigation and the interception of electronic communications.

RIPA applies to all of the following:

- intercepting communications, such as the content of telephone calls, emails or letters
- acquiring communications data – the ‘who, when and where’ of communications, such as a telephone billing or subscriber details
- conducting covert surveillance, either in private premises or vehicles (intrusive surveillance) or in public places (directed surveillance)
- the use of covert human intelligence sources, such as informants or undercover officers
- access to electronic data protected by encryption or passwords

Local Authorities’ abilities to use the investigation methods are restricted in nature and may only be used for the prevention and detection of crime or the prevention of disorder. Local Authorities are not able to use **intrusive surveillance**.

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

Widespread, and often misinformed, reporting led to public criticism of the use of surveillance by some Local Authority enforcement officers and investigators. Concerns were also raised about the trivial nature of some of the ‘crimes’ being investigated. This led to a review and revision of the legislation in 2009, which came into force on 6th April 2010 under the Order. The Order consolidates four previous orders relating to directed surveillance and the use or conduct of covert human intelligence sources by public authorities under Part II of RIPA and to reflect the outcome of a public consultation which took place between April and July 2009.

The scenarios below illustrate if and when authorisation be required.

- Scenario 1 - Two people holding a conversation on the street or in a bus may have a reasonable expectation of privacy over the contents of that conversation, even though they are associating in public. The contents of such a conversation should therefore still be considered as private information. A directed surveillance authorisation would therefore be appropriate for a public authority to record or listen to the conversation as part of a specific investigation or operation.
- Scenario 2 – If a local authority officer wanted to drive past a cafe for the purposes of obtaining a photograph of the exterior. Reconnaissance of this nature is not likely to require a directed surveillance authorisation as no private information about any person is likely to be obtained or recorded.

However, if the authority wished to conduct a similar exercise, for example to establish a pattern of occupancy of the premises by any person, the

accumulation of information is likely to result in the obtaining of private information about that person and a directed surveillance authorisation should be considered.

- Scenario 3 – A surveillance officer intends to record a specific person providing their name and telephone number to a shop assistant, in order to confirm their identity, as part of a criminal investigation. Although the person has disclosed these details in a public place, there is nevertheless a reasonable expectation that the details are not being recorded separately for another purpose. A directed surveillance authorisation should therefore be sought.
- Scenario 4 – Investigating reports of fly-tipping on a particular road, an officer could interview local people to ascertain whether they had seen anything and could look through the rubbish for clues as to the identity of the perpetrator as these investigations do not constitute covert surveillance. However, asking the local residents to keep logs and record vehicle registration numbers or setting up CCTV specifically for the purposes of investigating this matter would amount to covert surveillance, likely to result in the obtaining of private information; hence a directed surveillance authorisation should again be sought.

5. Proposals

The key proposed revisions to the RIPA Policy are that:

- Local authority authorisations and notices under RIPA will only be given effect once an order has been granted by a justice of the peace in England and Wales.
- In addition, local authority use of directed surveillance under RIPA will be limited to the investigation of crimes which attract a six month or more custodial sentence, with the exception of offences relating to the underage sale of alcohol and tobacco.

6. Corporate Implications

Staff involved in either carrying out or arranging direct or covert surveillance must follow the terms of the revised policy.

(a) Financial Implications

No financial implications.

(b) Legal Implications

From 1 November 2012, sections 37 and 38 of the Protection of Freedoms Act 2012 will commence. This will mean that a local authority who wishes to authorise the use of directed surveillance, acquisition of Communications Data and use of a Covert Human Intelligence Source under RIPA will need to obtain an order approving the grant or renewal of an authorisation or notice from a

Justice of the Peace (a District Judge or lay magistrate) before it can take effect.

(c) Human Resources and Equality Implications

Human Resources

There are no additional resource implications

Equality Implications

This report reflects our proposals in response to a national/legislative change which has been the subject of an Impact Assessment at national level. The content of that Impact Assessment has been taken into account in the proposals and recommendations outlined.

(d) IT and Asset Management Implications

There are none to be addressed in this report.

7. Timescale for implementation and Risk Factors

For immediate implementation.

8. Background Papers

- Guidance to local authorities on the judicial approval process for RIPA and the crime threshold for directed surveillance

Report Author: Amit Bansal; Trainee Solicitor

STRATEGY / POLICY FRONT COVER



Name of Strategy / Policy: Regulation of Investigatory Powers Act 2000 (**RIPA**)-
Policy and Procedures

Date last updated: January 2013

Links to Council Priorities:

Priority	Linked Yes / No?
Environment – Civic Pride	Yes
Regeneration and Homes	No
Improving the Council	Yes
Community Safety	Yes

Links to Other Strategies and Policies

Crime and Disorder Strategy
Local Strategic Partnership and reducing crime
Data Sharing Policy

Equality Impact Assessment

To be conducted each time an application is being considered

Action Plan in this document?

Yes – currently in production

Actions linked to corporate plan objectives?

No

Officer Monitoring

Name of officer responsible for co-ordinating and progressing the action plan:
Amit Bansal

Member Monitoring

Name of member champion or committee responsible for overseeing progress of the Strategy:

Operational Management Group

Has it been subject to a Diversity Impact Assessment? Yes

Has it been subject to an Environmental Sustainability Impact Appraisal

REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA).

CASTLE POINT BOROUGH COUNCIL – CORPORATE POLICY STATEMENT.

The Act.

RIPA came into force on 25th September, 2000.

The main purpose of the Act is to ensure that investigatory powers are used in accordance with the Human Rights Act 1998.

Local Authorities' abilities to use these investigation methods are restricted in nature and may only be used for the prevention and detection of crime or the prevention of disorder. Local Authorities are not able to use **intrusive surveillance**. A concern that these powers were being misused led to a review of the legislation in 2009, leading to revised legislation that came into force on 6th April 2010 under the:

Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010

The Order consolidates four previous Orders relating to directed surveillance and the use or conduct of covert human intelligence sources by public authorities under Part II of the Regulation of Investigatory Powers Act 2000 (RIPA) and to reflect the outcome of a public consultation which took place between April and July 2009. It identifies the 'relevant public authorities' authorised to conduct RIPA and CHIS activities. This list includes local authorities in England and Wales. It also gives examples of such activity, as shown on page 3 of this document.

On 1 November 2012 two significant amendments to RIPA by the Protection of Freedoms Act 2012 changed how local authorities could use RIPA, namely the need for approval of any authorised action under RIPA by a Justice of the Peace and the introduction of a crime threshold for directed surveillance.

It may not be possible to use directed surveillance for some cases which, prior to the recent changes, would have been authorised.

Powers which are Regulated.

- ❑ the interception of communications
- ❑ the acquisition of communications data
- ❑ intrusive surveillance
- ❑ directed surveillance
- ❑ use of covert human intelligence sources
- ❑ access to encrypted data

Part I of the Act.

Part I sets out the requirements for interception, acquisition and disclosure of communication data.

Local authorities are not allowed to intercept, record or otherwise monitor the content of communications data.

Local authorities may acquire communications data relating to communications service in the form of service use information (records of telephone calls or postal items) and subscriber information (name, address or other details from telecommunications or postal providers).

Part II of the Act.

Part II regulates the use of surveillance and provides a statutory basis for the authorisation and use by law enforcement agencies of surveillance methods.

The purpose of RIPA Part II is to exercise control over the use of surveillance methods and safeguard the public from unnecessary invasions of privacy.

Compliance with RIPA Part II will ensure that the Human Rights Act is not breached and should avoid any legal challenge arising from the conduct of an investigation.

Part II applies to the following activities:-

- | | | |
|-----|-----------------------------------|---------------------------------------|
| (a) | intrusive surveillance | - local authorities are not permitted |
| (b) | directed surveillance | - needs to be authorised and approved |
| (c) | covert human intelligence sources | - needs to be authorised and approved |

Surveillance includes the following:-

- ❑ monitoring, observing or listening to persons, their movements, their conversations or their other activities or communications
- ❑ recording anything monitored, observed or listened to in the course of surveillance and
- ❑ surveillance by or with the assistance of a surveillance device

Covert means surveillance carried out in a manner that is calculated to ensure that the persons who are subject to the surveillance are unaware that it is taking place.

Directed Surveillance.

Directed surveillance is covert but not intrusive and it is intended that the person being observed is unaware.

The surveillance is undertaken for a specific purpose or specific investigation and is pre-planned and likely to result in private information being obtained about the subject.

It is not an immediate response to events where the observation is spontaneous and where it would not be reasonably practical to seek authorisation.

Intrusive Surveillance.

Intrusive Surveillance is surveillance that is –

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

It is not intrusive if the surveillance device is not present on the premises or in the vehicle and does not provide information of the same quality and detail as might be expected to be obtained from a device actually present on the premises or in the vehicle.

Intrusive Surveillance cannot be authorised to be carried out by local authorities.

Covert Human Intelligence Sources (CHIS)

Conduct of CHIS involves establishing or maintaining a personal or other relationship with a person for the covert purpose of or is incidental to obtaining or passing on information. The nature of the relationship is covert in order to obtain information which may not otherwise be acquired.

CHIS include use of a covert human intelligence source or any action inducing, asking or assisting a person to act as a covert human intelligence source and the decision to use a covert human intelligence source.

Surveillance Equipment at Castle Point Borough Council

All mobile surveillance equipment is kept in a secure area in the Licensing Department. Access to the secure area is controlled by the Community Safety Officer; who will maintain a spreadsheet log of all equipment taken from and returned to the area.

Obligation to obtain Authorisation.

RIPA provides a statutory mechanism for authorising certain types of surveillance and information gathering. RIPA seeks to safeguard both the public interest and the human rights of individuals by ensuring that any interference with an individual's rights is necessary and proportionate.

Authorisation renders the action lawful (if the relevant tests are satisfied) and ensures that the Human Rights Act 1998 is not breached. This avoids any future challenges and claims of inadmissibility of the evidence gathered, if the evidence is required for any court proceedings.

Authorisation.

Authorisation for surveillance or information gathering may be obtained from an authorising officer or designated person (“**Authorising Officer**”). Thereafter, an order approving such authorisation must be granted by a Justice of the Peace.

The Authorising Officer must not be directly engaged in the investigation and cannot be responsible for authorising their own activities.

The investigating Officer must make a written application to the Authorising Officer on a standard form requesting authorisation to carry out directed surveillance and must justify the request and describe the proposed activity and explain why it is necessary.

Duty of Authorising Officer.

An Authorising Officer shall not grant authorisation for the carrying out of directed surveillance unless he/she believes that:-

- ❑ the action is necessary for the prevention or detection of criminal offence(s)
- ❑ the criminal offence(s) are punishable by summary conviction or indictment with a maximum term of at least six months imprisonment or
- ❑ the criminal offence(s) relate to the underage sale of alcohol or tobacco
- ❑ the action is necessary for the prevention or detection of crime or disorder specified in Section 28(3) of RIPA
- ❑ the authorised surveillance is proportionate to what is sought to be achieved.

The crime threshold outlined in the first three bullet points above only applies to directed surveillance.

The Authorising Officer may authorise use of CHIS if he/she believes that the necessary (Section 29(3) of RIPA) and proportionate tests are satisfied.

The Authorising Officer must believe that the tests of necessity (Section 22(2) of RIPA) and proportionality are satisfied when authorising access to communications data

Features of Authorisation.

Urgent oral authority may be given and is valid for seventy-two hours but must be confirmed in writing and urgency provision completed in the application form.

Any authorisation by an Authorising Officer cannot take effect unless a Justice of the Peace has made an order approving the authorisation.

A written form of authorisation for directed surveillance is valid for three months.

CHIS authorisation is valid for twelve months from the day on which the Justice of the Peace makes an order approving the grant of authorisation. If the covert human intelligence source is under eighteen, authorisation will be for one month.

All authorised applications for acquisition of communications data and the order approving such applications must be submitted to a Home Office accredited Single Point of Contact (“**SPOC**”). Authorisation would be valid for one month.

Authorisation may be renewed before expiry.

Authorisation must be cancelled when no longer required or at the end of its validity.

Authorisation and the order approving authorisation must be retained and a central record of all authorisations must be securely maintained by the Law Department.

CASTLE POINT BOROUGH COUNCIL.

GUIDANCE FOR OFFICERS ON RIPA.

1. INTRODUCTION.

The Regulation of Investigatory Powers Act 2000 ("RIPA") brought into force the regulation of covert surveillance by a number of bodies, including local authorities. It is meant to be a tool to provide the correct balance between an individual's rights to privacy and the proper use of data and surveillance to help this Council carry out evidence gathering.

- 1.1 This document is a Guidance to assist you in complying with the Council's Corporate Policy on RIPA.
- 1.2 The need for RIPA came about to standardise various legislation on lawful interception and surveillance and to take account of the advances in technology, e.g. the Internet.
- 1.3 It is important to note that covert surveillance can apply to the jobs that we do, e.g. nuisance information gathering and also regulating the workplace effectively, i.e. it has an external and internal focus.
- 1.4 RIPA authorises local authorities to carry out directed covert surveillance (see later paragraph 26) covert use of a human intelligence sources (CHIS) (i.e. the use of a person to gather information unknown to the person it is being gathered from) and the acquisition of communications data.
- 1.5 The main advantage of following RIPA is to make lawful any conduct authorised and carried out in accordance with it. (See later paragraph 26).
- 1.6 If RIPA is not followed, the corollary is not true; i.e. it does not make conduct not carried out under it unlawful. However, it provides a useful audit trail and focuses the mind to the Human Rights Act 1998 which may have to be justified in other ways if the RIPA framework is not followed.

2. RELEVANT LEGISLATION.

2.1 The Data Protection Act 1998 ("DPA").

The DPA provides eight principles to be observed to ensure that the requirements of the Act are complied with. They provide that personal data, which includes personal data obtained from covert surveillance techniques must:-

- (i) be fairly and lawfully obtained and processed;
- (ii) be processed for specified purposes and not in any manner incompatible with those purposes;
- (iii) be adequate, relevant and not excessive;
- (iv) be accurate and where necessary kept up to date;
- (v) not be kept for longer than is necessary;
- (vi) be processed in accordance with individuals' rights;
- (vii) be secure;
- (viii) not be transferred to non-European Economic Area Countries without adequate protection.

2.2 The Human Rights Act 1998 ("HRA")

The HRA came into force on 2nd October, 2000 and enables an individual to enforce rights and freedoms guaranteed under the European Convention on Human Rights through the domestic Courts in relation to acts of a public body. The most important articles in the context of RIPA are Article 8 (the right to respect for private and family life, home and correspondence) and Article 6 (the right to a fair trial). Article 6 includes internal procedures for hearings and fairness extends to the way in which evidence is obtained.

Evidence therefore needs to be gathered in such a way as to justify any interference with those rights. This is because there will be no interference with those rights by a public Authority except where interference is in accordance with the law, is necessary in a democratic society, in the interest 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 the protection of the rights and freedoms of others.

3. SECTION 26 – DIRECTED SURVEILLANCE.

RIPA only applies to this area in respect of covert surveillance which -

- ❑ For a specific investigation or a specific operation.
- ❑ In a way likely to result in the obtaining of private information about a person (i.e. information about their private or family life) whether specifically identified for the purposes of the specific investigation or operation or not and
- ❑ Otherwise than by way of an immediate response to events or circumstances which would make it not reasonably practicable to seek an authorisation.

Surveillance, according to Section 48 of RIPA includes:-

- A.** “Monitoring, observing or listening to persons, their movements, their conversations, or their other activities or communications
- B.** Recording anything monitored, observed or listened to in the course of surveillance and
- C.** Surveillance by or with the assistance of a surveillance device.

“Covert” is used to describe anything done in a manner calculated to ensure that the subject matter is unaware it is taking place.

4. SECTION 26(3) – INTRUSIVE SURVEILLANCE.

Local authorities are not currently authorised to carry out intrusive surveillance. Intrusive surveillance is directed surveillance which takes place on any residential premises, or in any private vehicle whilst an individual is present or by using a surveillance device which, although not sited on their private land or in a private vehicle, consistently provides quality data as if it was.

On occasion, employers may wish to carry out covert surveillance on private property.

Great care should be taken to ensure that the intrusion can be justified under Article 8 of the Human Rights Act as the RIPA framework will not apply.

This is a developing area. It is not always easy to recognise what comes within RIPA. Below are some examples of what is and what is not included. If in doubt, seek advice from the Law Department.

5. EXAMPLES OF DIRECTED SURVEILLANCE.

- ❑ The use of a town centre CCTV to track an individual in a planned operation that the individual is unaware of
- ❑ The covert observations of an individual at home to see if their claimed sickness is genuine or if they were “moon lighting”.
- ❑ The covert monitoring of an individual to and from work and home to see if they are working/living as a couple to see if they are committing benefit fraud
- ❑ The covert monitoring of unauthorised use of e-mail, Internet and telephones.

6. EXAMPLES OF WHAT IS NOT DIRECTED SURVEILLANCE.

- ❑ Home Office Guidance suggests “hot spot targeting”. For example, Licensing Officers standing on a street to monitor private hire cars plying for hire illegally.
- ❑ Fly tipping, dog fouling clear up.
- ❑ CCTV overt or incidental surveillance.
- ❑ “Immediate response” covert surveillance.
- ❑ Overt investigations, e.g. a Benefits Officer visiting a person to make enquiries and declaring their status and intention or an Environmental Health Officers declaring their status and intention. For example, monitoring for personnel reasons of which the employee is unaware.

RIPA covers local authorities. Therefore, any Contractor or employee of the Council is covered. It does not include local authorities acting on information that is received by members of the public. For example, neighbours’ filming next door’s nuisance activities across the road, behind their net curtains then giving the tape to Housing without being requested to do so for action or as evidence.

RIPA can also have an internal focus. For example, as part of monitoring internal systems to ensure that at work equipment is used in accordance with Council policies, monitoring or surveillance without an employee's knowledge can be carried out on internal e-mail systems or information stored on a server.

Directed surveillance may also take place in the monitoring of employees as part of investigations in the context of employer/employee relationships. This can include investigations into suspected sickness absence that is not genuine or misconduct in the workplace.

7. SECTION 21(4) – COMMUNICATIONS DATA

Communications data means any of the following

- (A)** any traffic data comprised in or attached to a communication (whether by the sender or otherwise) for the purposes of any postal service or telecommunication system by means of which it is being or may be transmitted
- (B)** any information which includes none of the contents of a communication (apart from any information falling within paragraph **(A)**) and is about the use made by any person
 - (i) of any postal service or telecommunications service; or
 - (ii) in connection with the provision to or use by any person of any telecommunications service, of any part of a telecommunication system;
- (C)** any information not falling within paragraph **(A)** or **(B)** that is held or obtained, in relation to persons to whom he provides the service, by a person providing a postal service or telecommunications service.

The Council cannot authorise any traffic data under any circumstances. The Council is only able to access customer data or service data.

8. SECTION 26(8) – COVERT USE OF HUMAN INTELLIGENCE SOURCE (“CHIS”).

A person is a human intelligence source if:-

- (A) he establishes or maintains a personal or other relationship with a person for the covert purpose of facilitating the doing of anything in (B) or (C).
- (B) covertly using such a relationship to obtain information or to provide access to any information about another person or
- (C) covertly disclosing information obtained by the use of such relationship or as a result of its existence.

A CHIS can include by way of example, undercover Police Officers infiltrating drug users in order to discover their source of supply. Advice should be sought from the Head of Legal Services if use of a CHIS is being considered.

9. CODES OF PRACTICE.

The Home Office has issued revised Codes of Practice which give further guidance on directed surveillance, CHIS and the interception of communication, copies of which are attached. Although they do not have the same force as RIPA, they augment and expand on its implementation.

Such codes of practice are also considered by any Court or Tribunal interpreting RIPA. They should be readily available to Officers working with RIPA, or any member of the public. They are also available on the following website: -

<http://www.homeoffice.gov.uk/counter-terrorism/regulation-investigatory-powers/ripa-codes-of-practice/>

The Office of Surveillance Commissioners has issued guidance (December 2008) on procedures for covert surveillance carried out by public authorities. A copy of this document is available from the Legal section who have not been given a copy.

10. CODES OF PRACTICE ON CHIS

There is no geographical limit on a source :-

- ❑ there is nothing in RIPA to prevent material obtained from the source being used in Court proceedings
- ❑ you should carry out a risk assessment of the safety and welfare of the source before any authority under RIPA is given and review after cancellation and any renewal
- ❑ only the Chief Executive or, in his absence, the Strategic Director of Corporate Services is able to authorise use of CHIS when knowledge of confidential information is likely to be acquired or when a vulnerable individual or juvenile is to be used as a source
- ❑ you should keep accurate records about the source and their tasks
- ❑ you should ensure confidentiality.

11. WHY USE RIPA?

The main advantage of following RIPA is that any conduct authorised under it is “lawful for all purposes”. Compliance with RIPA will assist the Council in any challenges to cases brought by or against the Council in Court and will enable the Council to demonstrate that they have acted lawfully when gathering evidence. It can also assist in other settings, e.g. Disciplinary Hearings, Review Boards, Officer Review Panels, Judicial Review, Local Government Ombudsman, referrals and any queries from the Data Protection Registrar.

Therefore, although it is not compulsory to follow RIPA, the preceding paragraph highlights its obvious advantages.

It is important to note that local authorities can also be indirectly affected by RIPA. A Police Inception Warrant or a Disclosure Notice requirement can be implemented against the Council.

IF THIS OCCURS CONTACT LEGAL SERVICES IMMEDIATELY FOR ADVICE.

12. THE “POLICING” OF RIPA.

RIPA is overseen by Surveillance Commissioners. They are tasked to ensure that RIPA is being applied properly. Inspections can be carried out at regular intervals.

Any person aggrieved by directed surveillance can also apply to the Investigatory Powers Tribunal (“**the Tribunal**”) for redress within a year of the act complained of or any longer period that the Tribunal thinks it just and equitable to allow.

The Tribunal has power in appropriate cases to award compensation, it can quash any authorisation and can order the destruction of information held or obtained.

The Tribunal’s findings may be of use in:

- ❑ a Human Rights case challenge
- ❑ a defence to a case brought by the Council
- ❑ a referral to the Local Government Ombudsman
- ❑ a complaint to the Data Protection Registrar.

13. IMPLEMENTATION.

13.1. The Council’s policy and this Guidance has been developed by Law Department Services in consultation with the representatives from Environmental Health, Housing Services, CCTV, Planning, Licensing, Revenues and Benefits, Audit and Investigation Unit and Personnel.

13.2 The Council’s policy and this Guidance is operational from 10th November 2003 and will apply to all Council staff and Contractors employed by the Council (all relevant Council Contracts will include a term that the Council’s Policy, Guidance and associated procedures are to be observed by any Contractor operating on behalf of the Council).

13.3 Any enquiries about this policy should be referred to Fiona Wilson, Head of Law on 01268 882433 or any Officer of the Law Department.

14. GUIDANCE ON THE COUNCIL'S CORPORATE POLICY STATEMENT

14.1 All forms of covert surveillance will be regulated by the Council's Corporate Policy.

14.2 The Council will conduct its covert surveillance operations, including the interception of telecommunications to investigate alleged abuses of telephone, e-mail or Internet facilities, within the eight principles of the Data Protection Act and restrict those operations to situations falling within the permitted exceptions of the Human Rights Act and RIPA. Consequently, covert surveillance for monitoring or recording communications will only be carried out for the following purposes:-

14.2.1 for the purpose of preventing or detecting crime or of preventing disorder;

14.2.2 in order to establish the existence of facts, or to ascertain compliance by Council employees with procedures applicable to carrying out the Council's business or for training purposes;

14.2.3 to investigate/detect unauthorised use of telecommunications or electronic communications system; or

14.2.4 to ensure the effective operation of such a system.¹

14.3 Surveillance equipment will be installed or a CHIS, used for one of the above legitimate purposes, only when sufficient evidence exists and has been documented to warrant the exercise and surveillance is shown to be both the least harmful means of meeting that purpose and proportionate to what it seeks to achieve.

¹ *Note: As a result of the Telecommunications (Lawful Business practice) (interception of Telecommunications) Regulations 2000 issued under RIPA, purposes (7), (8) and (9) above are permitted exceptions to the need to seek authorisation under RIPA. They comprise permissible grounds for the interception of telecommunications in a business context. As a control on the use of such surveillance, Officers will nevertheless be required to seek authorisation for such activity. See paragraphs 4.1.2, 4.1.3 and Appendix 2.*

Care must be taken to ensure all reasonable alternative methods to resolve a situation, such as naked eye observation, interview or changing methods of working or level of security, must be considered first and recorded in writing and the reason for surveillance being requested fully documented. [Where the subject of covert surveillance is an employee, the Head of Service/Chief Personnel Officer and Internal Audit must be informed to ensure compliance with the Council's other relevant policies].

14.4 All requests to conduct, extend or discontinue a covert surveillance exercise must be made in writing on the relevant form, unless oral authorisation systems are in place, provided in Appendix 2. Forms in Appendix 2 and marked (a), (b), (c), and (d) will apply to the majority of requests relating to RIPA authorisation applications, renewals, cancellations, review and change of circumstances. The set of forms (e), (f), (g) and (h) apply in circumstances where CHIS is to be used. Requests must be submitted to the appropriate level of Officer within each Service (see the authorisation section set out in Appendix 3). All requests must be authorised in writing before any covert surveillance operation can commence. Authorisation will only be granted where covert surveillance or use of CHIS is believed by the appropriate Officer to be necessary and proportionate. The power to grant, extend and discontinue authorisations will be limited to these Officers only in order to ensure greater independence and consistency. Written authorisations for a covert surveillance operation will be valid for three months from the date of the original authorisation or extension but will be subject to review within that period to establish whether the authorisation should continue for the entire three month period.

14.5 You should ensure that when considering carrying out covert surveillance it is carefully planned so that the necessary consultations regarding risk assessment, insurance and health and safety can be carried out and the required provisions put in place before surveillance commences.

In the event of covert surveillance needing to be carried out in an emergency, a written request and authorisation is still required where possible, using the relevant form at Appendix 1(a) to (e). However, in an extreme situation where it is not possible for the requesting Officer to complete that form, provisions relating to oral authorisations within each Service will be used. Section 43(3)(a) makes provision for oral authorisation to be granted for a maximum of seventy-two hours in an emergency situation. If the appropriate Officer within each Service considers the request sufficiently urgent, he or she will grant oral authorisation for seventy-two hours and the requesting Officer or his Deputy will complete the application form to seek the necessary written authorisation, a copy of which will be provided subsequently to the appropriate Officer concerned. In this situation, no surveillance can be commenced until oral authorisation is given by the appropriate Officer or his Deputy. Surveillance that is unforeseen and undertaken as an immediate response to a situation when it is not reasonably practicable to get authorisation falls outside the definition of directed surveillance and, therefore, authorisation is not required. If after, however, a specific investigation or operation is to follow an unforeseen response, authorisation must be obtained in the usual way before it can commence. In no circumstances will any covert surveillance operation be given backdated authorisation after it has commenced. Embarking upon covert surveillance or the use of a CHIS without authorisation or conducting covert surveillance outside the scope of the authorisation will mean that the “protective umbrella” of RIPA is unavailable.

- 14.6 Each Head of Service will ensure that the originals of all authorisation documents are retained and maintain a Register of all requests for authorisations for covert surveillance, together with the reasons for any request being denied.

- 14.7 No covert operation will be embarked upon by a Council Officer without detailed consideration of the insurance and health and safety implications involved and the necessary precautions and insurance being put in place.
- 14.8 During a covert operation, recorded material or information collected will be stored and transported securely. Both any evidence revealed and the need for authorisation should be reviewed regularly to ensure authorisation is only given for as long as is necessary and, once enough evidence has been collected, consideration should be given to either cancelling it or checking initial authorisation grounds are still valid. It should also be noted under the Data Protection Act 1998 that evidence should only be retained for as long as is necessary and access to it will be restricted to the authorising Officers concerned. The authorising Officer will decide whether to allow requests for access by third parties, including Council Officers. Access will generally only be allowed to limited and prescribed parties, including law enforcement agencies, prosecution agencies, legal representatives and the people subject to the surveillance (unless disclosure would prejudice any criminal enquiries or proceedings).
- 14.9 Only high quality video and audio tapes will be used. All video and audio tapes will be identified uniquely and erased prior to re-use.
- 14.10 Once a covert operation results in an individual being under suspicion of having committed a criminal or disciplinary offence that individual must be informed of this as promptly as is reasonably practicable in order to ensure their right to a fair trial or hearing within a reasonable time in accordance with the Human Rights Act. In a situation where it is considered that a matter gives rise to a potential criminal offence, any interview with the suspect must be under caution and conducted by a suitably trained Officer or, if appropriate, the Police must be involved immediately to ensure that evidential procedures and the requirements of current legislation are observed.

14.11 The Council will also continue its current practice of providing information monthly about telephone usage on a Departmental basis. This information gives details of the call volume from every telephone extension and mobile 'phone supplied to Officers and paid for by the Council and, if required, can provide a breakdown of the numbers dialled, the duration of the calls and the dates and times they were made.

14.12 Employees' use of the Council's telephones for private calls is already covered in the Staff Handbook and Code of Conduct for Employees. Any employee who now uses work telephones for private calls will do so in the knowledge that such usage can be monitored, as described in paragraph 4.2 above and consequently implicitly consents to the removal of any expectation of privacy.

14.13 Monitoring on the Internet.

The Council already has a policy on Internet use by its employees. This is the Internet Security Policy that sets out employees' responsibilities and liabilities. A copy of this Policy is currently made available to all employees on the Intranet. With the increasing availability of the Intranet and internal e-mailing facilities, it is important that all employees are made aware of and subject to the Policy.

14.14 The Council's policy of restricting access to certain undesirable Internet sites will continue through web filtering software. During work times, the content of employees' e-mails should be restricted to matters relating to their work and job descriptions. Any employee who now uses the Internet at work for private e-mails will do so in the knowledge that such usage can be monitored and consequently implicitly consents to the removal of any expectation of privacy.

14.15 Further Information

Paragraph 5 below contains a brief set of guidelines to be applied in any situation to determine whether authorisation for the proposed activity should be sought. The narrative guide is followed by a flowchart that applies the same tests in an ease of reference format.

14.16 Any enquiries about the Policy should be referred to Fiona Wilson, Head of Law in the Law Department on 01268 882433 or any member of the Law Team.

15. AUTHORISATIONS.

The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 (Statutory Instrument 521) denotes the appropriate persons to give authorisations for directed surveillance and CHIS are :-

- (a) Director or
- (b) Head of Service or
- (c) Service Manager or equivalent.

The Regulation of Investigatory Powers (Communications Data) Order 2010 (Statutory Instrument 480) specifies the same persons as above for authorisation to access communications data.

Although there is no requirement within RIPA for the authorising Officer to be different from the Officer involved in the case, a certain independence from the initial decision to investigate is within the spirit and ethos of RIPA and the Human Rights Act, i.e. you are not authorising yourself if it is your case and you are the Officer in charge of the investigation.

In the light of this, each Head of Service will, where RIPA authorisations are required, nominate the appropriate level of Officers to be Officers in charge of the investigation.

It is up to each Service to organise internally how RIPA authorisation forms are to be kept, reviewed and managed. However, reviews must take place regularly to ensure that any authorisations no longer required are cancelled.

Good practice dictates that all authorisation forms and orders approving such authorisations should be kept centrally within the Service and a copy on each file relating to them. This is to ensure that proper checks are put in place and for ease of inspection. It should be remembered that authorisations may contain sensitive and confidential material; it is advisable to store such forms securely and with restricted access.

For authorisations, the Authorising Officer shall not give one unless he/she believes that it is necessary for the prevention or detection of crime and disorder and it is proportionate to what is sought to be achieved by carrying it out.

For authorisations of directed surveillance, the Authorising Officer shall not give one unless he/she believes, in addition to the necessity to prevent or detect crime and disorder and proportionality, that it is necessary for the prevention or detection of criminal offence(s) with a minimum custodial sentence of six months or the underage sale of alcohol or tobacco.

It is, therefore, vital that the Authorising Officer has sufficient information to address the above and can properly address his mind to it and can prove that they have done so.

Authorisations last for

- ❑ Seventy-two hours if not renewed, if it is an urgent oral authorisation
- ❑ If it is non-urgent and is in writing, twelve months for CHIS (one month if the covert intelligence source is under 18 years of age) and three months for Directed Surveillance.

Two forms have been devised for CHIS and Directed Surveillance to avoid confusion in their application.

There are notes for guidance in Appendix 1 attached to assist completion.

On occasion, several Council Departments may be involved in the same investigation. One authorisation from the lead Department should cover all activities; it is good practice for a copy of the authorisation form to be kept by each Department or Service involved in the investigation.

The Council may also receive requests from third parties to conduct surveillance using Council property or premises. The safest option is for authorisation to cover the Council to be obtained if Council equipment or Officers are to be engaged in covert surveillance in line with this Policy instead of relying on any authorisation by that third party.

16. NOTES FOR GUIDANCE FOR AUTHORISATION TESTS

Authorisation will be required for a proposed activity if the answer is “Yes” to all of the following questions.

If the answer is “No” to any of the following questions, the proposed activity will not be entitled to protection under RIPA and authorisation will not be granted so should not be the subject of an application request.

- (1) **Is the proposed activity “surveillance”?** The Officer must decide whether the proposed activity will comprise monitoring, observing or listening to persons their movements, their conversations or their other activities or communications, recording anything monitored, observed or listened to in the course of the proposed activity and whether a surveillance device will be used.
- (2) **Is it “covert”?** The Officer must decide whether the proposed activity will be carried out in a manner calculated to ensure that the target(s) will be unaware that it is or may be taking place.
- (3) **Is it “directed”?** The Officer must decide whether the proposed activity is for the purposes of a specific investigation/operation.
- (4) **Is it likely to result in obtaining private information about this person?**
The Officer must decide whether any information about the target's/targets’

private or family life is **likely** to be obtained. This test is different from: “Is there the faintest chance that I will obtain private information”?

- (5) **Is it a “foreseen/planned response”?** The Officer must decide whether the proposed activity is something other than an immediate response in circumstances where it is not reasonably practicable to get authorisation. If the proposed activity has been planned in advance and not just the immediate reaction to events happening in the course of the Officer’s work, it is not unforeseen and requires authorisation if all the answers to questions 1 to 4 have also been “Yes”.

17. NOTES FOR JUDICIAL APPROVAL

17.1 Application

17.1.1 Approval by a Justice of the Peace will be required for any authorisation. The authorisation will not take effect unless an order approving the authorisation has been made.

17.1.2 The application to the court should contain all information that is relied on. The Justice of the Peace must be provided with an original copy of the authorisation and the supporting documents setting out the case. The judicial application / order form (See Appendix 5) must be partially completed.

17.1.3 The investigating Officer should notify the court as soon as possible of the need for a hearing. If the application is an emergency authorisation, the hearing can be conducted out of hours. The judicial application / order form must be completed in duplicate so that the Justice of the Peace can retain one. The Officer who attends the out of hours hearing should ensure that the court is provided with a signed copy the next working day.

17.2 Hearing

17.2.1 Officers who attend the hearing must have delegated authority to do so on behalf of the Council. Officers seeking judicial approval of the authorisation will be sworn in and be expected to present evidence or provide information to the Justice of the Peace in support of the application. The Justice of the Peace will consider the application in private.

17.2.2 The investigating Officer may be the person most suitably placed to answer questions from the Justice of the Peace on the Council’s RIPA policy and the

details of the case itself. It may be best practice for a SPOC to attend also if the application concerns communication data

17.3 Decision

17.3.1 The Justice of Peace will consider whether there were reasonable grounds for believing that the authorisation or notice was necessary and proportionate at the time of authorisation and whether those grounds continue to be reasonable. The crime threshold will also be considered.

17.3.2 If insufficient information is provided for determining whether the authorisation meets the relevant tests the application will be refused. The decision will be recorded on the order section of the judicial application/order form. The court will retain a copy of the authorisation and the order.

17.3.3 The Justice of the Peace may do one of three things after considering the application

- (a) Approve the application
- (b) Refuse to approve the application
- (c) Quash the application

If the reason for refusal is a technical error in the form, which could be rectified, the application could be resubmitted once corrected.

17.3.4 If the Officer is unhappy with the decision made by the Justice of the Peace, an appeal could only be made to the Magistrates' Advisory Committee on a point of law by judicial review. **IF THIS OCCURS CONTACT LEGAL DEPARTMENT FOR ADVICE.**

18. MISCELLANEOUS

18.1 Storage of authorisation

All authorisations should be passed to Legal Services who will be responsible for maintaining the corporate register of RIPA authorisations.

18.2 Review of RIPA authorisations

To ensure surveillance authorisations are being conducted in accordance with Council policy, a system of internal quality assurance has been put in place. At quarterly periods throughout the year, the Strategic Director for Corporate Services acting in their capacity of authorising officers will in turn conduct an audit of the RIPA records pertaining to the previous 3 months.

The Office of Surveillance Commissioners will make periodic inspections during which the inspector will wish to interview a sample of key personnel; examine RIPA and CHIS applications and authorisations; the central register and policy documents. The inspector will also make an evaluation of processes and procedures.

18.2 Complaints

Any person who wishes to complain about the activities of Castle Point Borough Council in relation to RIPA can obtain details of the complaints procedure from Investigatory Powers Tribunal, P.O. Box 33220, London SW1H 9ZP.

APPENDIX 1

Guidance on completing the forms in Appendix 2.

1. Grounds on which action is necessary

1.1 For the purpose of preventing or detecting crime or of preventing disorder

This justification can be used in the context of prosecutions the Local Authority may carryout or be involved in, e.g. Housing Benefit fraud, the unlawful harassment of tenants and breach of planning, licensing and environmental legislation that can lead to prosecutions. It can also be used in the context of personnel matters, such as improper use of Council equipment (theft, theft of electricity) or claiming you are ill and cannot work when later investigations show that is not a valid reason (obtaining property by deception).

Other necessity reasons under this heading can include nuisance action, e.g. injunction, possession proceedings and Anti-Social Behaviour Orders.

2. Proportionality

Surveillance must be necessary and proportionate. The person granting an authorisation must believe that the activity sought to be authorised is necessary in the circumstances of the particular case and for of preventing or detecting crime or of preventing disorder.

2.1 Necessity

The Authorising Officer must be satisfied that there is a necessity to covert surveillance and the proposed operation. In order to be satisfied there must be an identifiable offence to prevent or detect before an authorisation can be granted. For example in relation to planning and noise nuisance enforcement there is no offence before the service of an enforcement notice. This does not prevent the use of covert surveillance but such unauthorised activity would not be afforded the protection that the legislation provides.

If the activity is necessary, the person granting the authorisation must believe the activity is proportionate to what is sought to be achieved by carrying out the activity.

2.2 Proportionate

Proportionality is a key concept of RIPA. Any authorisation should demonstrate how an Authorising Officer has reached the conclusion that the activity is proportionate to what it seeks to achieve. This should include an explanation of the reasons why the method or technique proposed is not disproportionate. It is insufficient to state that the seriousness of the crime justifies any or every method available. Equally lack of resources as a ground to use technology which can be more intrusive than a human being. This critical judgement can only be reached once all aspects of the authorisation request have been fully considered.

The Office of Surveillance Commissioners states that a potential model answer should make clear that the following four elements have been considered

- a) Balancing the size and scope of the operation against the gravity and extent of the perceived mischief
- b) Explaining how and why the methods to be adopted will cause the least possible intrusion on the target and others
- c) That the activity is an appropriate use of the legislation and the only reasonable way, having considered all others, of obtaining the necessary result
- d) Evidencing what other methods have been considered and why they were not implemented.

The activity will not be proportionate if it is excessive in the circumstances of the case or if the information which is sought could reasonably be obtained by other less intrusive means. Therefore, consider if there is any other way of obtaining the evidence.

3. Identity

Identify as far as possible the persons who are the targets of the intended surveillance.

If the date of birth is not known, you do not have to give it.

If persons are not the object of the specific investigation, then include what is under “other information as appropriate”, e.g. if a house was a targeted investigation for neighbour nuisance/drug complaints and the identities of the people were not known.

4. The action to be authorised, including any premises or vehicles involved

Give sufficient details of what you want to do so the authorising Officer can make a reasoned decision, e.g. “surveillance to be undertaken on No. 3 Acacia Avenue and Joe Bloggs following complaints of noise nuisance that warning letters and visits have failed to remedy”.

The reference to premises or vehicles involved should remind you that local authorities cannot currently get authorisation to carry out intrusive surveillance, i.e. surveillance on a target’s residential premises or in a private vehicle or using a surveillance device which consistently provides you with data of consistent and high quality as if you were there.

5. Give an account of the investigation or operation

Include what you intend to do. Make it wide enough to cover the surveillance type of investigations you carry out, e.g. “surveillance will include the use of matron boxes, data recorders and diary sheets and observations of witnesses

to allegations of noise from No. 3 Acacia Avenue. Ensure that the operation is explained in sufficient detail so that there is a clear picture of exactly what is to be done.

6. Collateral Intrusion

This is a paragraph to minimise affects on those not targeted. Where an operation unexpectedly interferes with the privacy of individuals who were not the subject of surveillance or covered by the authorisation in some other way, the investigating Officer should inform the authorising Officer.

7. Insurance and Health & Safety considerations

Although not compulsory to carry out a risk assessment prior to a directed surveillance authorisation, it is good practice to do so and can ensure compliance with the Health & Safety at Work Act 1974 (employer's duty to provide a safe system of work and employee's duty to have reasonable regard for their own health and safety and that of their colleagues).

Before authorising the use of CHIS, the Authorising Officer should ensure that an appropriate risk assessment is carried out.

8. Anticipated Start

The authorisation for the surveillance work is effective from the time when urgent authorisation is given or when an order approving the authorisation is received from a Justice of the Peace.

9. Authorising Officer's comments

It is important that this section is properly completed. It provides room for the Authorising Officers to record, explain and comment on why they are authorising or refusing the request.

Blank responses or "No" or "OK" are insufficient. As full and as reasoned a response as possible should be given, e.g. "I have reviewed the aims of the operation, what is included and its methods, against the effect on the subject matter in terms of necessity for the reasons given and proportionality.

On the reasons given, it seems reasonable, however, I will build in a review of (time limit) to check the grounds are still justified”.

10. Authorising Officer’s recommendation

RIPA provides that authorisations (other than seventy two hours urgent oral authorisations) are for three months. If the operation is expected to be over quickly, an appropriate review should be held so that the authorisation can be cancelled at the earliest opportunity.

Reviews can be built into existing management structures and reviews.

Also, bear in mind that a review for, say, three months starting on a Wednesday, will end three months later on the Tuesday not the Wednesday.

Do not get caught out by authorising for three months and one day.

11-15 Urgent authorisations

Urgent authorisations can be obtained orally and recorded in writing. It is a matter for each Service to decide if and how oral urgent authorisations are to be available or not within each Service’s operation. Advice and assistance are available, if required, from the Governance & Law Department.

Remember the exception to RIPA directed surveillance is if it is by way of an immediate response where it is not reasonably practicable to obtain authorisation.

AUTHORISATION REQUIREMENT FLOWCHART

Is the activity surveillance?

YES

Is the activity covert?

YES

Is it for the purposes of a specific investigation or operation?

YES

Is it likely to result in obtaining private information about a person?

YES

Is it a foreseen/planned response?

YES

APPLY FOR AUTHORISATION

If the answer to any of the above 5 questions is “NO”, RIPA protection does not attach to the planned activity and RIPA authorisation should not be applied for.

APPENDIX 2.

AUTHORISATION FORMS AND JUDICIAL APPROVAL.

Directed Surveillance.

- (a) Application for the use of directed surveillance
- (b) Renewal of directed surveillance
- (c) Review of the use of directed surveillance
- (d) Cancellation of the use of directed surveillance

Covert Human Intelligence Source.

- (e) Application for the use of covert human intelligence sources
- (f) Renewal of authorisation to use covert human intelligence sources
- (g) Reviewing the use of covert human intelligence sources
- (h) Cancellation of covert human intelligence sources

Communications Data.

- (i) Chapter II application for communications data
- (j) Part I Chapter II request schedule for subscriber information

All forms can be found electronically at the following link:

<http://www.homeoffice.gov.uk/counter-terrorism/regulation-investigatory-powers/ripa-forms/>

Judicial Approval

The application can be found at Annex B of the Home Office guidance to local authorities in England and Wales on the judicial approval process for RIPA and the crime threshold for directed surveillance at the following link:

<http://www.homeoffice.gov.uk/counter-terrorism/regulation-investigatory-powers/ripa-publications/>

Annex A to the guidance provides a very useful flowchart of the procedure

APPENDIX 3.

LIST OF AUTHORISED OFFICERS.

The Chief Executive

Strategic Director (Corporate Services)

Corporate Director (Transformation and Resources)

Head of Law

Head of Licensing and Transportation

Head of Regeneration & Neighbourhoods

Head of Housing & Communities

Head of Resources

Head of Environment

APPENDIX 4.

Home Offices Codes of Practice on Covert Surveillance, use of CHIS and acquiring communications data.

Please check the Home Office website for current Codes at <http://www.homeoffice.gov.uk/counter-terrorism/regulation-investigatory-powers/ripa-codes-of-practice/>

Appendix 5.

Application for judicial approval for authorisation to obtain or disclose communications data, to use a covert human intelligence source or to conduct directed surveillance. Regulation of Investigatory Powers Act 2000 sections 23A, 23B, 32A, 32B.

Local
authority:.....
.....

Local authority
department:.....
.....

Offence under
investigation:.....
.....

Address of premises or identity of
subject:.....
.....
.....
.....

Covert technique requested: (tick one and specify details)

Communications Data	<input type="checkbox"/>
Covert Human Intelligence Source	<input type="checkbox"/>
Directed Surveillance	<input type="checkbox"/>

Summary of details

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Note: this application should be read in conjunction with the attached RIPA authorisation/RIPA application or notice.

Investigating
Officer:.....
.....
Authorising Officer/Designated
Person:.....
...
Officer(s) appearing before
JP:.....
.....
Address of applicant
department:.....
.....
.....
.....
Contact telephone
number:.....
.....
Contact email address
(optional):.....
.....
Local authority
reference:.....
.....
Number of
pages:.....
.....

Order made on an application for judicial approval for authorisation to obtain or disclose communications data, to use a covert human intelligence source or to conduct directed surveillance. Regulation of Investigatory Powers Act 2000 sections 23A, 23B, 32A, 32B.

Magistrates'
court:.....
.....

Having considered the application, I (tick one):

- ☐ am satisfied that there are reasonable grounds for believing that the requirements of the Act were satisfied and remain satisfied, and that the relevant conditions are satisfied and I therefore approve the grant or renewal of the authorisation/notice.
- ☐ refuse to approve the grant or renewal of the authorisation/notice.
- ☐ refuse to approve the grant or renewal and quash the authorisation/notice.

Notes

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Reasons

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Signed:

Date:

Time:

Full name:

Address of magistrates' court:

CABINET

17th April 2013

Subject: Corporate Performance Scorecard Quarter 3 2012/13

Cabinet Member: Councillor Stanley – Corporate Policy, Resources and Performance

1. Purpose of Report

To set out the cumulative performance figures for the Corporate Performance Scorecard for quarter 3, 1st April to 31st December 2012.

2. Links to Council's priorities and objectives

The scorecard is explicitly linked to the Council's priorities.

3. Recommendations

That Cabinet considers any performance issues set out in section 5 of this report and directs officers accordingly.

4. Background

- 4.1** The Corporate Performance Scorecard for 2012/13 is a continuation of the one approved by Cabinet for monitoring in 2011/12, although the indicator monitoring the progress of the playground renewal programme is no longer reported as this programme is now complete.

5. Report

5.1 Summary of performance

- 5.1.1** The performance summary in Appendix 1 sets out the performance achieved by the Council against the measures in the scorecard. Overall progress is good with targets being met in most cases.

Environment

Recycling in the Borough continues to be a success with over 7250 tonnes of waste recycled in the first nine months of the financial year that otherwise would have been sent to landfill.

The food waste collection service which was launched in July 2011 has established itself well across the Borough with an average of 764 tonnes of green waste (garden and food waste) collected and composted each month for the first nine months of the financial year. Over half of the household waste collected is now recycled or composted rather than being sent to landfill.

Regeneration and Homes

The Housing Options team's excellent record on preventing homelessness has been further improved with 98 cases of homelessness prevented to the end of quarter 3, which exceeds the target set.

The number of new dwellings completed in the Borough in the first three quarters of the year was 69, just over a third of the number required to meet projected housing need.

There were no further affordable dwellings delivered in quarter 3 although the 22 delivered in quarter 1 of this year is an improvement on the same period in 2011/12. However, this is still below the number required if the Council is to successfully provide sufficient affordable housing to meet need.

Improving the Council

The Council's First Contact team has again been very successful in the first nine months of the year in limiting the number of calls that they have to transfer to the back office to be dealt with; just 4,500 of the 62,500 calls received had to be transferred.







Community Safety

The Council has continued to work well with the Police and other agencies to reduce crime across the Borough; there were 2615 recorded cases of crime between 1st April and 31st December 2012, a decrease of 572 (18%) on the same period last year. Work has been particularly successful in reducing anti-social behaviour with a decrease in this crime category alone of 454 (24%) when compared with the same period in 2011/12.

Food hygiene standards across the Borough as measured by the Food Hygiene Rating Scheme continues to perform well as 378 of the 413 establishments registered (92%) scored at least 3 points which indicates broad compliance with food hygiene law.

- 5.1.2 Table 1 shows the indicators that have been flagged as either red or amber at the end of the quarter or where expected outcome at the end of the financial year based on performance to date is red or amber.

Table 1 – Performance indicators that are either amber or red

Performance indicator code and description	Q1 status	Q2 status	Q3 status	Q4 status
<i>Environment</i>				
All indicators on target				
<i>Regeneration and Homes</i>				
NI154 Net additional homes provided				
NI155 Number of affordable homes delivered				
<i>Improving the Council</i>				
All indicators on target				
<i>Community Safety</i>				
All indicators on target				

- 5.2.3 Explanations for underperformance together with corrective action being taken are presented in Appendix 1. Where performance is on or above target, commentary has been added to some of the indicators to provide context to this performance.

6. Corporate Implications

a. Financial implications

Good performance on some indicators can lead to reduced costs (e.g. higher recycling leads to a reduction in payments for sending waste to landfill)

b. Legal implications

There are no direct legal implications at this stage.

c. Human resources and equality

There are no direct human resource or equality implications at this stage.

d. Timescale for implementation and risk factors

Monitoring of the Corporate Performance Scorecard is ongoing throughout the year.




7. Background Papers:

None

Report Author: Ben Brook ext. 2213 bbrook@castlepoint.gov.uk



Appendix 1

Corporate Scorecard 2012/13 (Environment)

Key	
	More than relative 10% below target
	Less than relative 10% below target
	On or above target



Note: All performance values are cumulative (i.e. from 1st April to end of June/September/December/March) unless otherwise stated

PI Code & Short Name	Q1 Value	Q2 Value	Q3 Value	Target	Status	Comments
NI192a % of Household Waste Recycled Service Manager: Ryan Lynch	29%	28%	30%	Q3 Target 28% Annual Target 30%		<p>The recycling rate at the end of quarter 3 2012/13 was 30% of all household waste collected. This figure is the same level of performance reported at the same point in 2011/12.</p> <p>In the first nine months of 2012/13, the Council collected over 7250 tonnes of recycling that otherwise would have been sent to landfill.</p> <p>The 2012/13 annual target for household waste recycling is 30% which on the basis of performance so far this year (and projected performance based on previous years) is likely to be met.</p> <p>The Council has set itself a combined target for recycling and composting (including food waste) of 56%.</p>
NI192b % of Household Waste Composted (including food waste)	32%	32%	28%	Q3 Target 28% Annual Target 26%		<p>The Green Waste (garden and food waste) collection rate at the end of quarter 3 2012/13 was 28%, a further improvement on performance at the same point in 2011/12 when 23% was composted.</p> <p>This improved performance demonstrates that the practice of food waste recycling, which was introduced in July 2011, has become embedded across the Borough.</p>



PI Code & Short Name	Q1 Value	Q2 Value	Q3 Value	Target	Status	Comments
Service Manager: Ryan Lynch						<p>An average of over 764 tonnes of green waste was composted each month from April to December.</p> <p>The annual target for green waste composting is 26% which on the basis of performance so far this year (and projected performance based on previous years) is likely to be met.</p>

Corporate Scorecard 2012/13 (Regeneration and Homes)



Note: All performance values are cumulative (i.e. from 1st April to end of June/September/December/March) unless otherwise stated

PI Code & Short Name	Q1 Value	Q2 Value	Q3 Value	Target	Status	Comments
HO042 Preventing Homelessness - number of households where homelessness prevented Service Manager: Edwina Mosuro	47	78	98	Q3 Target 68 Annual Target 90		<p>The Housing Options team has continued to make excellent progress in the third quarter of 2012/13 preventing a further 20 cases of homelessness. The total number of cases of homelessness prevented this year is now 98 which exceeds the target set.</p> <p>These cases of homelessness were prevented through various actions including:</p> <ul style="list-style-type: none"> • Use of properties in the private sector secured under the Rent and Deposit Guarantee Scheme (RDGS); • Working closely with the Housing Benefits team on a number of cases in securing back dated Housing Benefit and Discretionary Housing Payments to halt repossessions; • Halting of court possession orders/eviction warrants as a result of successful applications submitted on defendants' behalf, using the Council's Homelessness Prevention Fund; and • Sanctuary Scheme works which allow victims of domestic violence to remain safely in their homes.

PI Code & Short Name	Q1 Value	Q2 Value	Q3 Value	Target	Status	Comments
NI154 Net additional homes provided Service Manager: Steve Rogers	34	62	69	Q3 Target 182 Annual Target 243		<p>In the Borough between 1st April 2012 and the 31st December 2012, there was a net gain of 69 dwellings in the Borough; 38% of the required additional homes at this point of the financial year to meet target.</p> <p>The number of completions to date remains low and reflects the continued difficult economic climate. The Council has a target of 243 net additional homes per year* in order to provide sufficient housing in the Borough to meet projected housing need.</p> <p>*Following the revocation of the Regional Spatial Strategy on the 3rd Jan 2013, the Council's target is now 200 homes per annum, as agreed at the Council meeting of December 2012, and this will be reflected in the end of year scorecard report.</p>
NI155 Number of affordable homes delivered Service Manager: Steve Rogers	22	22	22	Q3 Target 64 Annual Target 85		<p>In the first quarter of 2012/13, 22 affordable dwellings were completed in the Borough. This is a slight improvement on 2011/12, where 17 affordable dwellings were achieved, but this figure still only accounts for 34% of the number required in this period if the Council is to successfully provide sufficient affordable housing to meet need.</p> <p>In quarters 2 and 3, no further affordable homes were delivered.</p> <p>For the remainder of the year, there are 6 affordable units on Lubbins Car Park expected to be completed in 2013.</p> <p>A recently signed section 106 agreement for land off Kiln Road will provide 53 affordable homes although the date for delivery of these is yet to be confirmed.</p>

Corporate Scorecard 2012/13(Improving the Council)



Note: All performance values are cumulative (i.e. from 1st April to end of June/September/December/March) unless otherwise stated


PI Code & Short Name	Q1 Value	Q2 Value	Q3 Value	Target	Status	Comments
Percentage of calls taken from customers by First Contact that are dealt with without the need to transfer to the back office Service Manager: Eddie Mosuro	93%	93%	93%	Annual Target 92%	✓	<p>Performance has been consistent across quarters 1 and 2 as 93% of calls taken from customers by First Contact were dealt with at the first point of contact.</p> <p>In the first 6 months of the year 62,479 calls were received across the two First Contact teams with just 4,514 transferred to the back office.</p> <p>Although there has been a slight drop in performance compared with same period in 2011/12, this is not felt to be significant at this stage.</p>

Corporate Scorecard 2012/13(Community Safety)



Note: All performance values are cumulative (i.e. from 1st April to end of June/September/December/March) unless otherwise stated

PI Code & Short Name	Q1 Value	Q2 Value	Q3 Value	Target	Status	Comments
CS011 Number of incidents of overall crime Service Manager: Mel Harris	-	1664	2615	Q3 Target 2948 Annual Target 3828	✓	<p>The Community Safety Partnership (CSP) has set an annual reduction target of 1% across all types of crime against last year's performance of 3867 reported cases.</p> <p>The number of incidents of crime recorded up to the end of quarter 3 has decreased by 572 (18%) when compared with the same period in 2011/12. Areas of particularly good performance include reductions in vehicle crime, criminal damage and anti-social behaviour.</p> <p>This performance indicator is, at this stage of the year, comfortably on target.</p>
CS012 Number of incidents of Antisocial Behaviour Service Manager: Mel Harris	-	1140	1474	Q3 Target 1902 Annual Target 2414	✓	<p>The target set by the Community Safety Partnership (CSP) for reducing the number of incidents of Anti-Social Behaviour (ASB) recorded in the Borough has also been set at 1% of the 2438 cases recorded in 2011/12.</p> <p>The number of recorded cases of anti-social behaviour at the end of quarter 3 has decreased by 454 (24%) when compared with the same period in 2011/12.</p> <p>This performance indicator is, at this stage of the year, comfortably on target.</p>

PI Code & Short Name	Q1 Value	Q2 Value	Q3 Value	Target	Status	Comments
% of inspected food premises that are awarded a score of at least 3 on the Food Hygiene Rating Scheme Service Manager: Debi Waite	-	92%	92%	Annual Target 90%		<p>Of the 413 premises registered on the scheme, 378 have been awarded a score of at least 3 which indicates broad compliance with food hygiene law.</p> <p>The remaining premises which do not meet this standard are categorized in terms of risk and would normally be subject to active intervention to ensure compliance with regulatory standards.</p>

CABINET

17TH APRIL 2013

Subject: Anti Fraud & Corruption, Whistleblowing and Anti Money Laundering Policies and Strategies

Cabinet Member: Councillor Stanley – Corporate Policy, Resources and Performance

1. Purpose of Report

To present updated Anti Fraud & Corruption, Whistleblowing and Anti Money Laundering Policies and Strategies to Cabinet for consideration and approval.

2. Links to Council's Priorities and Objectives

The implementation of the various fraud related strategies and action plans helps deliver all the Council priorities and objectives.

3. Recommendations

Cabinet approves the Anti Fraud and Corruption Policy and Strategy, the Whistleblowing Policy, the Anti Money Laundering Policy and Strategy

4. Background

The Anti Fraud and Corruption Policy and Strategy, the Whistleblowing Policy and the Anti Money Laundering Policy and Strategy have been challenged to ensure they remain fit for purpose.

5. Proposals

On this basis, the Anti Fraud and Corruption Policy and Strategy has been updated to reflect the approach commended by the National Fraud Authority's National Fraud Strategy for Local Government, Fighting Fraud Locally.

Minor amendment have been made to the other two documents since they were last reported to Cabinet, otherwise they remain fit for purpose.

Copies of the policies have been placed on deposit in the Members' Group Rooms for inspection.

Cabinet is asked to consider and approve the Anti Fraud and Corruption Policy and Strategy, the Whistleblowing Policy, the Anti Money Laundering Policy and Strategy .

6. Corporate Implications

(a) Financial Implications

Any financial implications arising from identifying and managing risk will be considered through the normal financial management processes.

Proactively managing risk can result in reduced costs to the Council by reducing exposure to potential loss and insurance claims.

Proactive fraud and corruption audit work acts as deterrent against financial impropriety and it might identify financial loss.

(b) Legal Implications

The Accounts and Audit (England) Regulations 2011 require that:

The relevant body shall be responsible for ensuring that the financial management of the body is adequate and effective and that the body has a sound system of internal control which facilitates the effective exercise of that body's functions and which includes the arrangements for the management of risk.

Therefore failure to do so would be a breach of a statutory duty

(c) Human Resources and Equality Implications

Human Resources

There are no additional resource implications

Equality Implications

This report reflects our proposals in response to a national/legislative change which has been the subject of an Impact Assessment at national level. The content of that Impact Assessment has been taken into account in the proposals and recommendations outlined.

(d) IT and Asset Management Implications

There are none to be addressed in this report.

7. Timescale for implementation and Risk Factors

Timescales where relevant are set out in the body of the report.

Failure to implement a robust assurance framework which includes fit for purpose risk management arrangements increases the risk that Council objectives will not be delivered.

Failure to operate a strong anti fraud and corruption culture puts the Council at risk of increased financial loss from fraudulent or other criminal activity.

Although risk cannot be eliminated from its activities, implementing these strategies will enable the Council to manage this more effectively

8. Background Papers

- Equality Impact Assessment
- Chartered Institute of Public Finance and Accountancy (CIPFA) / Society of Local Authority Chief Executives and Senior Managers (SOLACE) publication: Delivering Good Governance in Local Government - Framework.
- National Fraud Authority, Fighting Fraud Locally, The Local Government Fraud Strategy
- Association of Local Authority Risk Managers (ALARM) Publication: Managing the Risk of Fraud
- CIPFA Publication: Managing the Risk of Fraud
- Audit Commission Publication: Protecting the Public Purse: Local Government Fighting Fraud
- National Fraud Authority, A Guide to Tackling Housing Tenancy Fraud
- National Fraud Authority, Slipping Through the Net: Staff Vetting Guide for Local Authorities

Report Author: Linda Everard, Head of Internal Audit

CABINET

17th April 2013

Subject: Annual Refresh of Key Strategies (Resources)

Cabinet Member: Councillor Stanley – Corporate Policy, Resources and Performance

1. Purpose of Report

To present the following key strategies to Cabinet for approval:

- Human Resources (HR) Strategy and Workforce Plan
- Asset Management Plan (AMP)

2. Links to Council Priorities

Improving the Council.

3. Recommendation

That the strategies referred to in this report are approved and adopted.

4. Background

- 4.1 It is current practice to regularly review and update key strategies and policies and present them to Members where significant changes have been made.
- 4.2 The Human Resources Strategy and Asset Management Plan were last presented to Cabinet in March 2010 and this covering report explains the changes made since that time.
- 4.3 Copies of the revised documents have been placed in the Members Rooms rather than reproduce them in full as part of this report.

5. HR Strategy and Workforce Plan

- 5.1 The HR strategy reflects the key workforce development themes and includes the workforce development plan as an appendix. This plan contains a number of specific actions intended for implementation during the course of the financial year and which support the HR Strategy.
- 5.2 The actions contained within the plan are in addition to normal operational and management tasks and responsibilities and are predominantly the responsibility of the Head of Resources and the HR Services Team to deliver.

- 5.3 The HR strategy itself remains largely unchanged from previous years. The workforce development plan has been refreshed to reflect the organisation's current requirements.

6. The Asset Management Plan (AMP)

- 6.1 This document originally contained information which was also included within the Council's Policy Framework and Budget Setting Report presented each February to Cabinet. This information has been removed from the AMP so that it only appears in one place.
- 6.2 A subsequent audit of the AMP by Internal Audit identified a number of best practice improvements which would significantly increase the overall value of the document.
- 6.3 The version on deposit in the Members room incorporates these changes. The Council's approach to asset management has not changed from earlier years.

7. Corporate Implications

a. Financial implications

The financial implications of both strategies are already incorporated within the approved medium term financial forecast.

b. Legal implications

There are no legal implications arising directly from this report.

c. Human Resources and Equality implications

None arising directly from this report.

8. Timescale for implementation and risk factors

- 8.1 The strategies and actions are ongoing.

Background Papers:

Budget and Policy Framework for 2013/14 (Cabinet 20th February 2013)
Department Service Action Plans 2013/14

Report Author: Chris Mills – Head of Resources

CABINET

17th April 2013

Subject: Update on Safer Communities Initiatives

**Cabinet Member: Councillor G Isaacs
Neighbourhoods and Safer Communities**

1. Purpose of Report

- 1.1 This report is to update the Cabinet on the position with neighbourhood and community safety matters.**

2. Links to Council's priorities and objectives

- 2.1 The initiatives described in this report are directly linked to the Council's Community Safety priority – reducing levels of crime by working with the police and other parties – and the Improving the Council priority by engaging the community in local decision-making.**

3. Recommendation

- 3.1 That the Cabinet notes the current position with neighbourhoods and community safety set out in the report.**
-

4. Background

- 4.1 The Council is an integral partner in a number of key partnerships across the Borough.**
- 4.2 The Local Strategic Partnership (LSP) for Castle Point and Rochford works as an overarching strategic body ensuring the delivery of the Sustainable Community Strategy. In particular the "Feeling Safer" ambition involves the police, probation officers and other partners.**
- 4.3 The Community Safety Partnership (CSP) is a statutory partnership established by the Crime and Disorder Act 1998. It is a partnership between the police, local authorities, the probation service, health authorities, the voluntary sector, local residents and businesses. The Council is a leading partner in the Castle Point Community Safety Partnership.**

5. Progress and activities

- 5.1 Nick Alston was elected as the first Police and Crime Commissioner (PCC) for Essex on 15th November 2012.

The PCC has a duty to issue the Police and Crime Plan for Essex by 31st March 2013 and this has now been agreed and published. The Police and Crime Plan sets out key areas of focus for Essex Police and partner organizations and has a shared aim which is to reduce crime so that there are fewer victims of crime in the county.

The areas of focus are:

- Ensuring local solutions meet local problems
- Reducing domestic abuse
- Supporting our victims of crime
- Reducing youth offending and all types of re-offending
- Tackling the consequences of alcohol and drug abuse and mental health issues
- Improving road safety
- Improving crime prevention
- Increasing efficiency in policing through collaborative working and innovation

The Police and Crime Plan can be accessed at: <http://www.essex.pcc.police.uk/>

- 5.2 The PCC will be holding two public meetings in each area. The dates for Castle Point are Thursday 27th June 4pm – 6pm on the mainland and Thursday 7th November on Canvey Island. Venues are yet to be confirmed.

- 5.3 The CSP has applied for funding (£13,000.00) from the Police and Crime Commissioner for support in delivering its main priorities for 2013/14:

- Burglary
- Domestic Abuse and other Violent Crime
- Anti-Social Behaviour
- Reducing Reoffending

- 5.4 Latest police figures show that overall crime and anti-social behaviour (ASB) incidents are down compared to the same period last year.

6. Corporate Implications

a. Financial implications

There are no financial implications arising from the recommendations in this report.

b. Legal implications

There are no legal implications arising from the recommendations in this report.

c. Human resources and equality implications

There are no human resource or equality implications arising from the recommendations in this report.

7. Timescale for implementation and risk factors

The projects described in this report are on-going matters.

8. Conclusions

The Council continues to carry out regular engagement on a variety of matters to ensure the safety of communities in Castle Point.

Background Papers:

None

Report Author: Melanie Harris - Head of Partnerships and Safer Places