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Chief Executive

CABINET AGENDA

Date: Wednesday 24th June 2020

Time: 6.00pm NB Time

Venue: NB Remote Microsoft Teams

This meeting will be webcast live on the internet.

Membership:

Councillor Smith	Chairman - Leader of the Council
Councillor Stanley	Special Projects – Deputy Leader of the Council
Councillor Mrs Egan	Place - Housing
Councillor Hart	Place – Infrastructure
Councillor Isaacs	People – Community
Councillor Johnson	People – Health & Wellbeing
Councillor MacLean	Growth – Strategic Planning
Councillor Sheldon	Environment
Councillor Mrs Thornton	Economic Development Delivery
Councillor Varker	Resources

Cabinet Enquiries:

Ann Horgan ext. 2413
ahorgan@castlepoint.gov.uk

Reference:

1/2020/2021

Publication Date:

Thursday 18th June 2020

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 18th March 2020.
- 4. Forward Plan**
To review the Forward Plan.
- 5. COVID - 19 Public Health Emergency and Recovery**
(Report of the Cabinet Member for Special Projects)
- 6. Regulation of Investigatory Powers Act 2000 (RIPA) Policy**
(Report of the Cabinet Member for People – Community)
- 7. Housing Allocations Policy Review 2020**
(Report of the Cabinet Member for Place – Housing)
- 8. Matters to be referred from /to Policy & Scrutiny Committees**
There are no matters.
- 9. Matters to be referred from /to the Standing Committees**
There are no matters.

PART II
(Business to be taken in private)
(Item to be considered with the press and public excluded from the meeting)

There were no items at time of publication of this agenda.



CABINET



18TH MARCH 2020

PRESENT:

Councillor Smith	Chairman – Leader of the Council
Councillor Stanley	Finance, Policy and Resources
Councillor Mrs Egan	Housing and Council Homes
Councillor Hart	Streets, Waste, Floods and Water Management
Councillor Mumford	Regeneration and Business Liaison
Councillor Varker	Environment & Leisure

APOLOGIES:

Councillors: Isaacs, Johnson and Sheldon

85. MEMBERS' INTERESTS:

No declarations were made.

86. MINUTES:

The Minutes of the Cabinet meeting held on 19.2.2020 were approved and signed by the Chairman as a correct record.

87. FORWARD PLAN:

To comply with regulations under the Localism Act 2011, the Leader presented a revised Forward Plan to the meeting which outlined key decisions likely to be taken within the next quarter of 2020. The Plan was reviewed each month.

Resolved – To note and approve the Forward Plan.

88. PROCUREMENT OF A NEW HOUSING MANAGEMENT SYSTEM

Cabinet considered a report providing an update on plans to replace the old existing housing management system with a new offsite hosted system. Cabinet was also requested to give authority to proceed with the procurement of a new housing management system. The report described the robust arrangements to procure the new system and the outcome.

Resolved:

To approve the award of a new housing management system, to Civica CX based on the assessment detailed in section 5 of this report.

89. REMOVAL OF TELEPHONE BOXES

Cabinet considered a report on the submitted responses to the recent Stage 1 consultation in respect of the removal of 12 telephone boxes (PCB) from the Borough and was asked to approve the Council's response.

Cabinet noted that a comprehensive analysis had been undertaken and with the exception of the kiosk at the Monico Public House it was recommended that no objection is raised to the removal of the telephone boxes

Resolved:

That with the exception of the PCB provided adjacent to the Monico Public House, Eastern Esplanade, Canvey Island, no objection be raised to the removal of the identified PCB.

An objection is raised to the removal of the PCB provided adjacent to the Monico Public House, Eastern Esplanade, Canvey Island, for the following reasons:

1. The site is located in close proximity to the sea defences and adjacent publicly accessible coastal area (which is not directly supported by lifeguards or similar safety measures) and is considered necessary to ensure the opportunity to summon assistance in the event of an emergency.
2. The site is at the heart of the Canvey Island Seafront Entertainment Area which supports a robust seafront and night time economy which would benefit from the presence of a PCB.
3. In reaching these recommendations the Council has justified its decisions, encouraged competition and looked after the interests of all citizens.

90. PRIVATE SECTOR HOUSING SERVICE PLAN 2020-25

Cabinet considered a report seeking approval for the Private Sector Housing Service Plan 2020-25. A summary of the plan was set out in the report.

Resolved:

To approve the Private Sector Housing Service Plan 2020-25.

91. CORPORATE PLAN - ANNUAL OBJECTIVES 2020/21

Cabinet received a report seeking approval for the proposed Annual Objectives 2020/21 and for Cabinet to recommend these objectives to Council

Resolved:

To approve the proposed Annual Objectives 2020/21

92. COUNCIL TAX – LOCAL COUNCIL TAX DISCOUNT SCHEME FOR CARE LEAVERS

Cabinet received a report setting out a proposal for Castle Point Borough Council to introduce a local Council Tax discount scheme for Care Leavers until the age of 21 years.

Resolved:

To note the content of the report and approve the introduction of a Care Leavers Discount Scheme from 1 April 2020 permitting care leavers under the age of 21 years to receive a Council Tax Discount as set out in the Scheme document at Appendix A to the report.

93. CORPORATE PERFORMANCE SCORECARD QUARTER 3 2019/20

Cabinet considered the report setting out the cumulative performance figures for the Corporate Performance Scorecard for Quarter 3 (from 1st October 2019 to 31st December 2019).

Resolved:

That Cabinet notes the report and continues to monitor performance.

94. MATTERS TO BE REFERRED FROM / TO POLICY & SCRUTINY COMMITTEES

There were no matters.

95. MATTERS TO BE REFERRED FROM / TO THE STANDING COMMITTEES

There were no matters.

96. LEADER'S STATEMENT TO CABINET - PUBLIC HEALTH EMERGENCY CORONAVIRUS (COVID -19)

Before closing the meeting the Leader of the Council made a formal statement setting out new working arrangements including the suspension of formal council meetings to support the health led response to the current public health emergency and the danger to life from the coronavirus. A full copy of the formal statement is attached to these Minutes.

Chairman



Leader's Statement to Cabinet – Public Health Emergency CORONAVIRUS (COVID -19) 18th March 2020

The Council has been required to introduce new working arrangements to support the health led response to the current public health emergency and the danger to life from the coronavirus.

The Council will continue to ensure that essential services are delivered to residents living in the Borough and will do whatever is necessary to assist the Government in the measures which have been announced to respond to coronavirus. We are part of the Local Resilience Forum and we, together with all partner organisations including the Police and other agencies, are co-operating with each-other to provide ongoing services to the community, whilst taking special care of the most vulnerable people in society and taking whatever action is necessary to support local businesses.

This has meant some temporary changes in the methods in which the Council works and takes decisions. These steps include:

- Flexible and home working arrangements being agreed for staff which will mean the council's staff is able to continue working and to be isolated from the spread of the virus.
- All Mayoral and other civic / ceremonial events are postponed to a later date.
- The Full Council meeting on 25th March and other summonsed meetings of the council will be deferred and rescheduled as appropriate.
- The Council to follow the standard practice for any urgent business items from now on and until the public health emergency has passed or until further direction from the Government.
- The Council is engaging with the voluntary groups in the Borough to facilitate the assistance which can be provided to vulnerable people who are living in Castle Point.

I would like to assure all Members and the community that the Council remains fully open for business and operational during this difficult time albeit that we will be working in a different way. I will be in regular and daily contact with the Chief Executive and will be acting in consultation with him to ensure that all key decisions required to be made by the Council continue to be properly made. Any directives which are received from Central Government which are designed to protect our residents and local businesses will be swiftly implemented by the Council.

Please follow the current advice and guidance which is being provided by the NHS and stay safe and healthy until we can all return to normal life.



Castle Point Borough Council

Forward Plan

APRIL- JUNE 2020

CASTLE POINT BOROUGH COUNCIL

FORWARD PLAN

APRIL - JUNE 2020

This document gives details of the key decisions that are likely to be taken. A key decision is defined as a decision which is likely:-

- (a) Subject of course to compliance with the financial regulations, to result in the local authority incurring expenditure which is, or the savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates subject to a threshold of £100,000; or
- (b) To be significant in terms of its effects on communities living or working in an area comprising two or more Wards in the area of the local authority.

The Forward Plan is a working document which is updated continual

Date	<u>Item</u>	Council Priority	Decision by Council/ Cabinet	Lead Member(s)	Lead Officer(s)
June 2020	<u>Housing Allocations Policy – For approval</u>	Housing and Regeneration	Cabinet	Housing and Council Homes	Head of Housing and Communities
June 2020	<u>Regulation of Investigatory Powers Act 2020(RIPA) Policy</u>	Health and Community Safety	Cabinet	People - Community	Solicitor to the Council
July 2020	<u>Report of the Peer Challenge Working Group</u>	A Commercially and Democratically Accountable Council	Cabinet	Growth – Strategic Planning	Chief Executive
July 2020	<u>Financial Update – Budget Reset - for approval</u>	A Commercially and Democratically Accountable Council	Cabinet	Resources	Strategic Director (Resources)
July 2020	<u>Food and Health & Safety Service Plan - for approval</u>	People - Health and Wellbeing	Cabinet	Health & Wellbeing	Head of Environment
July 2020	<u>Quarter 4 Corporate Score Card</u>	All	Cabinet	Resources	Strategy Policy & Performance Manager
July 2020	<u>ASELA – Update</u>	Housing and Regeneration A Commercially and Democratically	Cabinet	Leader Growth – Strategic Planning	Chief Executive

		Accountable Council			
July 2020	<u>ICT Contract – Report on Tenders</u>	A Commercially and Democratically Accountable Council	Cabinet	Resources	Strategic Director (Resources)
August/ September	<u>Environmental Initiatives</u>	Environment	Cabinet	Environment	Head of Environment

CABINET

24th June 2020

Subject: COVID - 19 Public Health Emergency and Recovery

**Cabinet Member: Cllr J Stanley - Special Projects – Deputy Leader of the Council
Cllr P Varker - Resources**

1. Purpose of Report

To provide an overview of work currently being undertaken in relation to the Council's Covid-19 recovery.

To implement immediate changes to the Council's financial plans to partly offset the financial implications which have arisen because of lockdown and the consequential disruption to services, facilities and projects.

2. Links to Council's priorities and objectives

This report links to all the Council's priorities:

- Environment**
- Housing and Regeneration**
- Health and Community Safety**
- Commercial and Democratically Accountable Council**

3. Recommendations

That Cabinet: -

- 1. Note the work which is in progress as set out in section 5.**
- 2. Approve the budget amendments as set out in section 6: Deferral of projects into 2021/22 (£94k), revenue budget reductions (£231k), financial planning changes (£450k).**

4. Background

- 4.1 The context of this report is set against unprecedented circumstances; Covid-19 represents the biggest challenge to health and wellbeing since the Second World War.**
- 4.2 In response, the Council has been working collaboratively with partners and the community where there has been an unparalleled mobilisation of collective resources and volunteers to face this challenge head on. This**

response has helped to significantly mitigate the impact, has saved lives and supported the most vulnerable in the community.

- 4.3 Whilst lockdown is easing, the threat of Covid-19 has not yet passed and will continue to have a fundamental influence on day-to-day life. The Council is acutely aware of the impact of the virus on resident and business communities, including the tragic human cost of the pandemic, and will continue to be mindful of that impact, supporting those who need help.
- 4.4 However, the Council, like all organisations and businesses, must prepare for recovery and restoration albeit adjusting to a new normal and a new way of operating. The Council must also prepare and take action to mitigate some of the direct impacts of Covid-19 on its own operations and finances. This report covers both aspects.

5. Recovery

- 5.1 The Council has been planning for the phased reinstatement of some parts of the Council's operations as restrictions on people and businesses across the country are gradually eased.
- 5.2 Not all services have been suspended during this period of lockdown and, indeed, many of the services have continued to function albeit with necessary adjustments for safety reasons.
- 5.3 As Government guidance is released and updated, service managers across the Council have been considering the implications of this guidance and exploring the options around re-starting services, re-opening facilities and resuming projects.
- 5.4 The safety of the public and staff is paramount and so careful consideration is being given to how the Council can provide services to customers without introducing any unacceptable level of risk. The lockdown and Government's advice on home working have pushed many parts of the Council to operate in different ways; in many cases, interacting with and providing services to customers from remote locations without any face-to-face contact. The Council does not want to lose the opportunities that these new working practices have provided and so consideration is also being given as to whether a return to "normal" in some cases would indeed be in the best interests of customers and the Council.
- 5.5 Decisions about what and when to re-start must also be made with an understanding of the impact that Covid-19 has had on the Council's finances, both from an increase in costs responding to the pandemic as well as loss of income from areas such as, for example, leisure and car parks. Ensuring the short-term financial impact is mitigated as swiftly as possible is key to long-term financial sustainability. Therefore, some difficult decisions will have to be made, especially where delaying the resumption of services or projects could contribute towards the expected budget gap. Section 6 below provides more detail about these financial challenges.
- 5.6 The impact on the local economy is also something that the Council is paying close attention to; the Council is investigating what it can do to ensure that

those who are affected by any economic impact post-Covid-19 are supported. Initial focus has been on work to help re-open the high streets in the Borough as these economic centres provide both important local employment as well as a variety of shops highly valued by communities in locations close to their homes. Longer-term, the Council is considering how best to support and stimulate the local economy to lessen the effect of what is expected to be a significant economic shock.

- 5.7 Appendix A sets out a summary of how services have been operating over this period and any impacts on some key projects. It also includes a high-level timeline of when services and projects are planning to resume.
- 5.8 Cabinet should note that this is a work in progress; decisions have not been made in all cases and are subject to further assessment and analysis. Timelines, in particular, are a “best guess” at the time of writing this report and are subject to change as guidance evolves and assessments are revised.

6. Financial Impact

- 6.1 The purpose of this section of the report is to provide an overview of the financial impact on the Council’s spending plans because of Covid-19.
- 6.2 As expected, the financial position has been monitored closely with modelling of the potential impact on a service by service basis. This modelling is informed by assumptions around service recovery timelines, customer demand and government plans and announcements regarding the easing of lockdown. Where available actual known costs and revenues have been used (e.g. April and May). Three possible scenarios are being considered and the basis of this report is the “mid” of the three scenarios.
- 6.3 Table 1 provides a high level summary of the impact on the Council’s General Fund and Housing Revenue Account budget.

Table 1 - High Level Summary		General Fund		HRA	
		2019/20 £000's	2020/21 £000's	2019/20 £000's	2020/21 £000's
1	Forecast reduction in income	190	2,217	8	37
2	Forecast reduction in costs	(37)	(279)	(27)	(61)
3	Forecast increase in costs	35	302	7	86
4	Total Impact	188	2,241	(12)	62
5	Coronavirus response grant	(40)	(894)	0	0
6	Net impact to be addressed	148	1,346	(12)	62

- 6.4 For all tables used in this report, figures shown without brackets represent a detrimental impact.
- 6.5 The impact on the Housing Revenue Account is relatively minor and therefore the remainder of this report will focus on the General Fund.

- 6.6 The impact for the 2019/20 (last) financial year will be reported as part of the Council's statement of accounts which are currently being prepared.
- 6.7 More detailed analysis to support table 1 is provided in Appendix B however, given the significance of the value shown at line 1, a breakdown of individual budgets within this line is shown in table 2 below.

Note: To assist interpretation of this table - the Council has a full year budget of just over **£203k** for Halls Bookings (income). Financial modelling indicates a potential loss of income against this budget of **£136k** by the end of the financial year.

Table 2 - Forecast reduction in income - full year impact	£000's	Full year budget £000's
Halls Bookings	136	(203)
Waterside - Fees & Charges	167	(505)
Runnymede - Fees & Charges	120	(345)
Leisure Memberships	332	(1,000)
School Lane Car Park - fees & charges	539	(802)
Other Car Parks - fees & charges	133	(271)
Revenues - Costs Recovered	123	(290)
Planning Applications	120	(292)
Potential reduction in interest earned on investments	96	(300)
Other reductions less than £100,000 (29 items)	450	(3,116)
Forecast reduction in income	2,217	(7,125)

Coronavirus response grant

- 6.8 The Government has allocated emergency funding of **£40k** in 2019/20 and **£894k** in 2020/21 to Castle Point. This funding is un-ringfenced meaning that it may be used to offset any aspect of the predicted budget gap.
- 6.9 The first tranche of funding announced on 19 March (**£1.6bn**) was primarily to meet the increased demand for and enable additional support across adult social care; meet the additional costs of providing children's social care; provide additional support for the homeless and rough sleepers; support those at higher risk of severe illness from COVID-19; and meet pressures across other services. It was allocated split into **£210m** for general support and **£1,390m** for Social Care. The **£210m** was allocated to by 2013/14 Settlement Funding Assessment (SFA) and the **£1,390m** was allocated using the current Relative Needs Formula for Adult Social Care.
- 6.10 On 18 April, the government announced a second tranche of funding for local government of **£1.6bn**. The second tranche of funding, announced just over 4 weeks after the first announcement, is aimed at getting rough sleepers off the streets, supporting clinically vulnerable people and providing assistance for the public health workforce. It is also to reflect financial pressure being felt by councils resulting from lower use of fee-paying services (e.g. car parks and leisure facilities). Funds have therefore been allocated on a per capita basis. In two tier areas the funding is split 65% counties and 35% districts.

Council Tax & Business Rates

- 6.11 It is too early to determine the full impact on council tax and business rates collection although it is anticipated that there will be a reduction in the collection rate for both revenue streams.
- 6.12 The Council collects council tax and business rates on behalf of its preceptors (County Council, Police and Fire). Any negative impact will therefore be shared with these organisations. The impact of any reduction in business rates revenue will predominantly fall to Central government.
- 6.13 These key revenue streams are operated through a collection fund mechanism which effectively sees deficit or surplus balances on collection redistributed to authorities/central government in the year following the tax year in question. This means that the financial impact of reductions in collection this year, will not hit the Council's financial position until next year (2021/22).

Remedial budget changes for 2020/21

- 6.14 The Council is required to set and maintain a balanced budget. The financial impact predicted above will result in a significant deficit in the current financial year and there is potential for a continuation of this impact into 2021/22. It is therefore necessary for Cabinet to agree changes which realign in year spending plans with available resources.
- 6.15 In this regard the Council is no different to any other organisation reacting to the impact of the virus, the consequential lockdown and the impact on their financial position. Any well managed businesses will be reviewing their financial position and will implement changes to realign resources.
- 6.16 Work is currently in progress to deliver a "reset budget" over the summer period however, it is both possible and necessary to take certain key decisions in advance of the full budget reset. These measures will effectively begin to bring the Council's budget into line with resources and will demonstrate sound financial management and budgetary control.
- 6.17 Table 3 proposes changes to spending plans identified at this time which relate to the deferral of projects, recognition of significant cost savings and changes to earmarked reserves. None of these changes have a significant impact on front line services to residents.
- 6.18 If agreed, the budget gap for 2020/21 will be reduced from **£1.346m** as shown in table 1 above to **£571k**. Cabinet should note though that there is a high degree of uncertainty due to the number of assumptions officers have been required to make in the modelling. The budget gap presented in future reports will likely be different to the **£571k** predicted here as assumptions are refined and the recovery from lockdown continues.

Table 3 - Proposed mitigations	Net cost reduction 2020/21 £000's	Net cost increase 2021/22 £000's	Implications (Financial / Other)
Projects to defer into the next financial year			
Borough wide upgrade of closed circuit television (CCTV).	(45)	45	This will have an impact on the budget gap for 2021/22.
Runnymede Hall Disability Discrimination Act (DDA) improvements.	(40)	40	If / when the financial position becomes more certain, these works will be brought forward. This will have an impact on the budget gap for 2021/22.
Installation of a new pathway at Smallgains open space).	(9)	9	These works need to be completed over the summer holidays and will be scheduled for 2021 summer. This will have an impact on the budget gap for 2021/22.
Revenue budget general reductions			
Currently vacant posts - savings estimated in respect of April to June.	(70)	-	Impact absorbed.
Application of government COVID-19 furlough scheme.	(161)	-	Complex scheme. Further funding likely. Covering Apr to June.
Financial planning changes			
Reduction in the value of "section 31" grant applied into an earmarked reserve, resulting in a positive impact on the General Fund budget in 2020/21. Compensation is received from central government to offset the impact of government introduced discounts and exemptions in respect of business rates. The Council's policy is to set aside some of this funding into an earmarked reserve for future use to smooth the impact of future year fluctuations in business rates.	(200)	-	It was assumed during the budget process for 2020/21 that the new funding regime to be introduced from 1st April 2021 would see the discontinuation of this particular funding stream. Deferment of the funding review may now mean that section 31 funding is extended for another year. That being the case the impact of the change proposed would likely be offset in 2021/22.
Reduction of funds set aside during 2020/21 in respect of the three year advanced pension payment to the Essex Pension Fund.	(250)	83	Financial to be spread across years 2021/22 to 2023/24. Payment due in 2023/24.
Impact on budget in respective year	(775)	177	

7. Corporate Implications

a. Financial Implications

As set out in the main body of the report.

The budget for 2021/22 is currently not balanced and will be further impacted by the proposals within this report. Funds set aside in earmarked reserves to offset future liabilities are also reduced. However, all proposals are practical and sensible in the overall context of the recovery process.

The Council must set and maintain a balanced budget and control its spending within available resources. Whilst general reserves are available for use in emergency scenarios, such as that presented by covid-19, it is prudent to seek to reduce the overall financial impact as far as possible without wholly relying on reserves.

The Council's general reserves are relatively healthy and have been accumulated over several years because of sound financial management and informed decision making.

Prior to the event of Covid-19 the advice of the Council's s151 Officer was that the Council should maintain general reserves at a higher level given the uncertainty of future funding. This uncertainty is increased further because of the wider economic impact of the virus, including the likelihood that central government will need to "square the books" following the unprecedented levels of government financial support which has been necessary to support the economy at this time.

It is not therefore unimaginable that local government will be required to endure several more years of austerity and the Council should be mindful of and prepare for this possibility.

Also see section on risks below.

The Council will continue to lobby for all additional costs and loss of income to be compensated by the Government, but it would not be prudent to rely on this option or build it into the Council's budget assumptions at this time.

It is probable that the outturn for 2019/20 will show an overspent position in that financial year (against budget) which will need to be offset by General Reserves.

b. Legal Implications

Under the Local Government Finance Act 1988, councils have a legal duty to balance their budgets. If the Chief Finance Officer (CFO) (Strategic Director (Resources)) believes spending is likely to exceed resource levels they have a statutory duty to issue a s114 notice which then requires all non-essential spending to be frozen while a plan is made to bring the budget back into balance.

Guidance on when councils should issue section 114 notices has been temporarily modified in a bid to ward off “highly disruptive” spending freezes during the Covid-19 crisis.

The Chartered Institute of Public Finance & Accountancy announced recently that while the statutory requirements on chief finance officers to set a balanced budget had not changed, it was amending its guidance so that a s114 notice “should not normally be necessary” while informal discussions with government over funding are taking place.

To this end, a CFO facing the prospect of issuing a s114 declaring that the council cannot balance its books should make informal contact with the Ministry of Housing, Communities & Local Government at the “earliest possible stage” and at the same time make the council’s cabinet and auditor aware of the situation. Unlike declaring a s114, which by law must be done publicly, this can all be done confidentially, with any report to cabinet considered in private.

The Strategic Director (Resources) believes that given the content of this report, it will not be necessary to issue a s114 notice in respect of this authority.

With regards to the re-instatement and resumption of Council services, full consideration will be given to the Council’s statutory responsibilities and ensure that these continue to be met, despite the difficult circumstances.

c. Human Resources & Equality Implications

The Council has complied with relevant government guidance throughout the Covid-19 crisis and responded well to the implementation of lockdown. The workforce was quickly deployed to a home working scenario, enabled by improvements in IT which have been implemented over the last 18 months to 2 years.

The Council has applied to the Coronavirus Job Retention Scheme (JRS) to meet part of the cost of furloughed employees. The JRS currently covers the seven months from March to the end of September 2020.

Any decisions to delay or stop provision of a service will be made giving full consideration to any equality implications and will be accompanied by an Equality Impact Assessment.

d. Timescale for implementation & risk factors

A second wave or future episode of the virus will have a similar impact on the organisation.

The Council is dependent on revenue from fees and charges to supplement its financial plans and the greater the Council’s commercial activity the more exposed it becomes to risk of this nature.

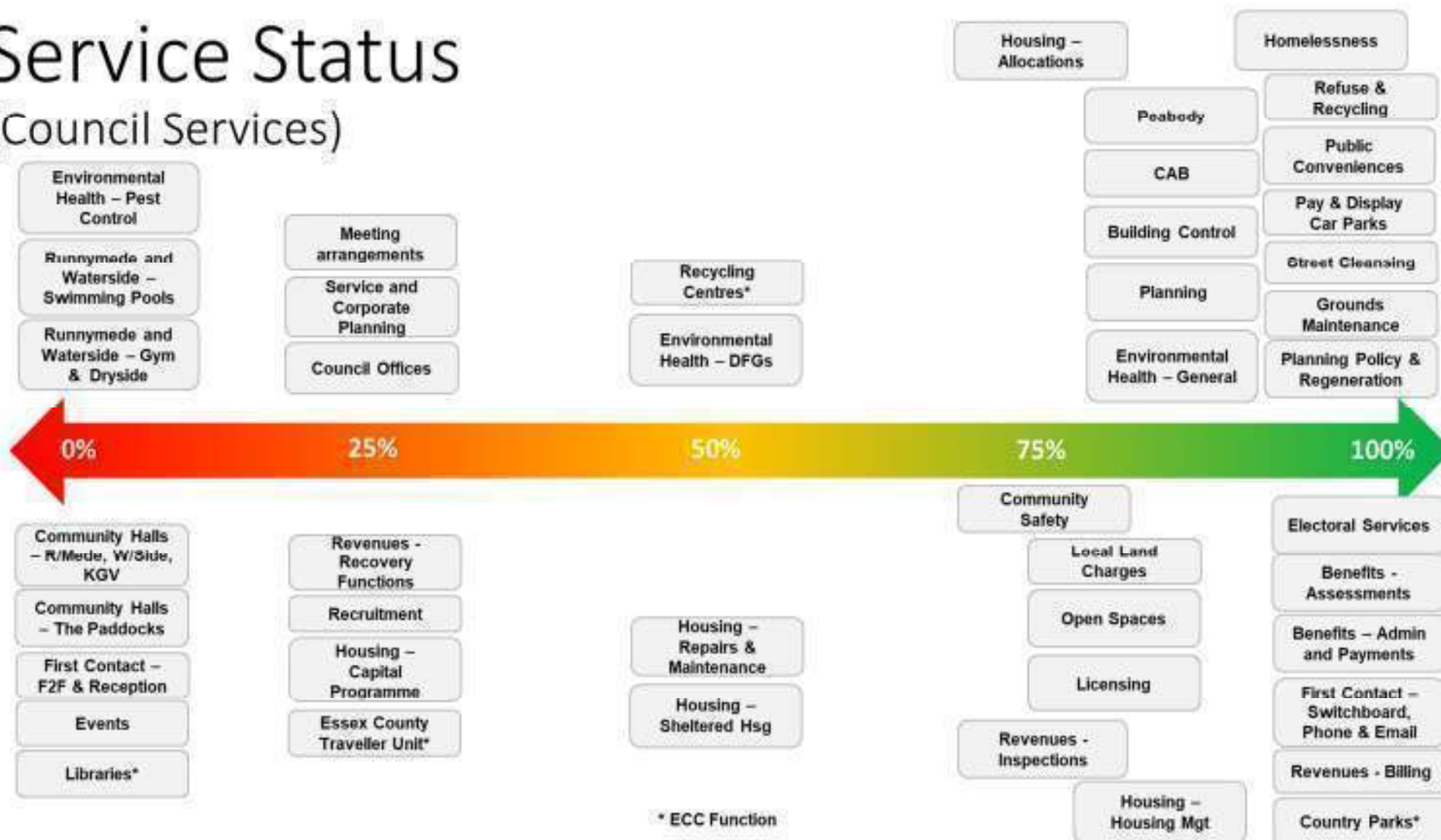
Indicative timeframes for the re-opening of services are as set out in Appendix A

Background Papers: **References to government website containing various guidance.**

Report Authors: **Chris Mills - Strategic Director (Resources)**
Ben Brook - Strategy, Policy & Performance Manager

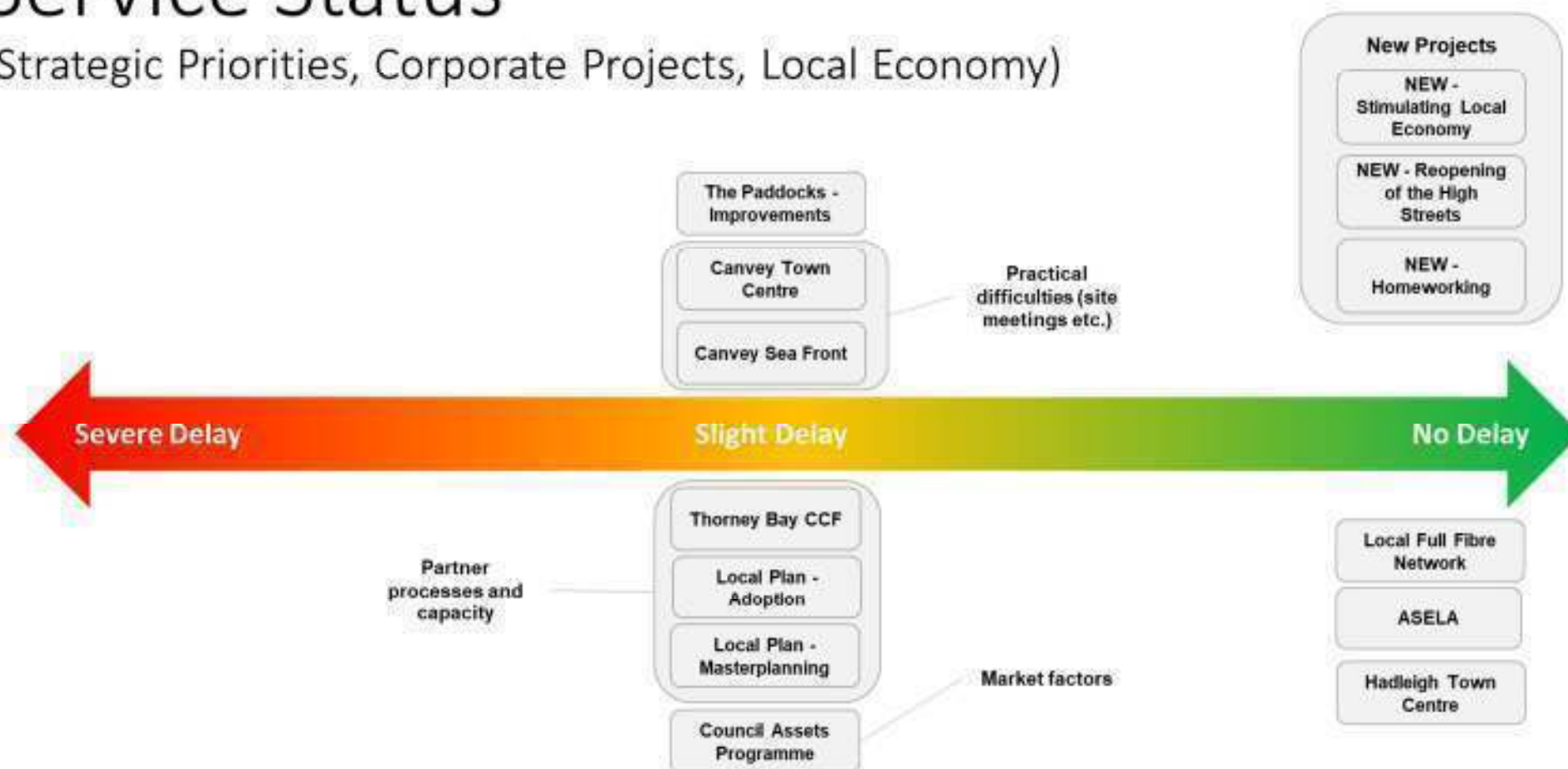
Service Status

(Council Services)



Service Status

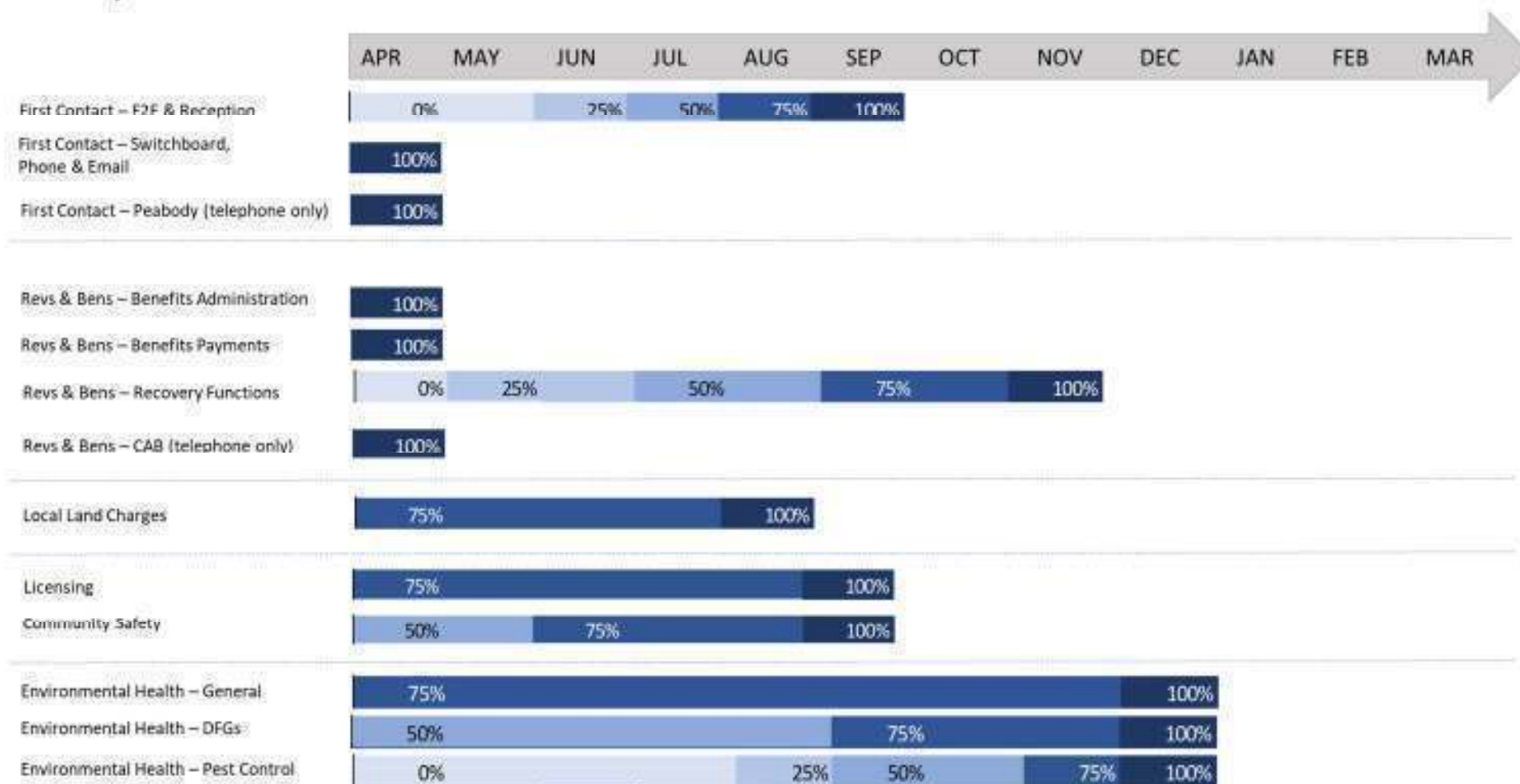
(Strategic Priorities, Corporate Projects, Local Economy)



Indicative Timeline

(Council Services)

2020/21



Indicative Timeline (Council Services)

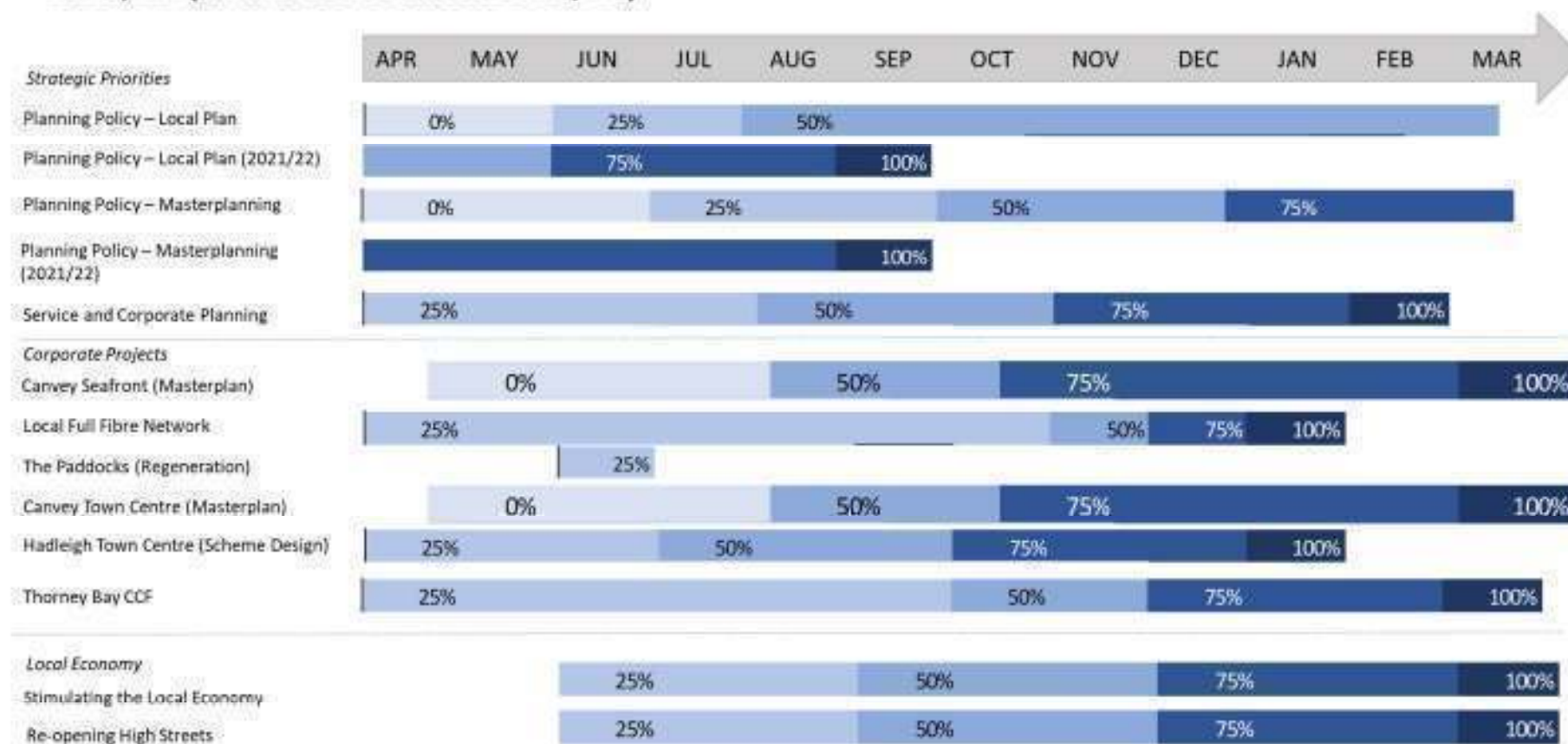
2020/21



Indicative Timeline

(Strategic Priorities; Corporate Projects; Local Economy)

2020/21 (and in some cases 2021/22)



Note: Percentages shown here indicate proportion of the project complete

Additional financial analysis to support table 1.

Table 2 - Forecast reduction in income - full year impact	£000's	Full year budget £000's
Halls Bookings	136	(203)
Waterside - Fees & Charges	167	(505)
Runnymede - Fees & Charges	120	(345)
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Planning Applications	120	(292)
Potential reduction in interest earned on investments	96	(300)
Other reductions less than £100,000 (29 items)	450	(3,116)
Forecast reduction in income	2,217	(7,125)
	2,217	(7,125)
Table 3 - Forecast increase in costs - full year impact	£000's	Full year budget
Homelessness B&B	145	626
Forecast additional staffing	41	9,360
Other increases less than £100,000 (6 items)	116	546
	302	10,533
	302	10,533
Table 4 - Forecast reduction in costs - full year impact	£000's	Full year budget
Reductions less than £100,000 (41 items)	(279)	1,528
Net Total	2,241	4,936
Table 5 - Total Impact	£000's	
Table 2 - Forecast reduction in income - full year impact	2,217	
Table 3 - Forecast increase in costs - full year impact	302	
Table 4 - Forecast reduction in costs - full year impact	(279)	
	2,241	
Less Grant from Government	(894)	
Less identified mitigations	(774)	
Funding shortfall	572	

CABINET

24th June 2020

**Subject: Regulation of Investigatory Powers Act 2000 (RIPA)
Policy**
Cabinet Member: Councillor Isaacs – People - Community

1. Purpose of Report

- To provide an update to the Cabinet and Council on the current RIPA policy and legislation.
- To approve the Regulation of Investigatory Powers Act 2000 (RIPA) Policy attached.

2. Links to Council's Priorities and Objectives

This report is linked to the Council's Priorities Aim of

- Transforming our Community;
- Public Health and Wellbeing.

3. Recommendation

- That the Cabinet notes the content of this Report.
 - That the Cabinet approves the Regulation of Investigatory Powers Act 2000 (RIPA) Policy annexed as an indication of the Council's commitment to complying in its practices with current legislation.
-

4. Background

The Regulation of Investigatory Powers Act (the Act) was introduced by Parliament in 2000. The Act sets out the reasons for which the use of directed surveillance and covert human intelligence source may be authorised.

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.

When undertaking an investigation, the Council would more than likely use overt technology such as CCTV or open source methods rather than covert methods (without the individual's knowledge) of gathering information.

As a result, the Council has not found it necessary to make any RIPA applications to the Magistrates' Court in the past year. However, should overt means of gathering of information for investigations prove to be insufficient the Council has the necessary policy and procedures in place whether the surveillance is to be unregulated or regulated by the Act.

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 of the legislation and ultimately the introduction of the Protection of Freedoms Act 2012 and the RIPA (Directed Surveillance and CHIS) (Amendment) Order 2012.

In addition to defining the circumstances when these investigation methods may be used, the Act also directs how applications will be made and how, and by whom, they may be approved, reviewed, renewed, cancelled and retained.

When carrying out covert surveillance the Act must be considered in tandem with associated legislation including the Human Rights Act 1998 (HRA), and the Data Protection Act 1998.

The purpose of Part II of the Act is to protect the privacy rights of anyone in Castle Point Borough Council's area, but only to the extent that those rights are protected by the HRA. A public authority, such as Castle Point Borough Council, has the ability to infringe those rights provided that it does so in accordance with the rules, which are contained within Part II of the Act. Should the public authority not follow the rules, the authority loses the impunity otherwise available to it. This impunity may be a defence to a claim for damages or a complaint to supervisory bodies, or as an answer to a challenge to the admissibility of evidence in a trial.

5. Proposals

Local Authorities may conduct covert surveillance in order to perform its duties and core functions. The Council also has a responsibility to its community to investigate and protect the community from potentially criminal and disorderly conduct which may not be possible to detect or stop through overt surveillance.

The attached Policy sets out the approach that the Council is taking towards Regulation of Investigatory Powers Act 2000 (RIPA) in relation to its policies, practices and services.

It is a requirement under paragraph 4.47 of the Home Office Covert Surveillance and Property Interference Code of Practice 2018 that the RIPA policy is approved by Council and endorsed. It is also a requirement to report to Council annually whether there have been any such applications made under the Act.

6. Corporate Implications

(a) Financial Implications

Managed within existing service budgets

(b) Legal Implications

As set out above the Council will comply with the Legislation when carrying out surveillance within its remit under the Policy and Legislation. Following a telephone-based inspection of our RIPA Policy and Procedures, The Rt. Hon. Brian Leveson, The Investigatory Powers Commissioner in his letter of 24 April 2020 determined that the Council is demonstrating a level of compliance that removes, for the present, the requirement for a physical inspection and is satisfied with the arrangements the Council has in place in relation to RIPA.

The Council's updated RIPA policy requires approval by Councillors in order to comply with paragraph 4.47 of the Home Office Covert Surveillance and Property Interference Code of Practice 2018. It is also a requirement to report to Council annually whether there have been any such applications made under the attached policy. No applications have been made in the last 12 months.

(c) Human Resources and Equality Implications

Human Resources

Managed within existing resources.

Equality Implications

On each individual RIPA application an equality impact assessment will be undertaken.

(d) IT and Asset Management Implications

None to be addressed by this report.

7. Timescale for implementation and Risk Factors

Publication of the Policy on the Council's website once a decision has been made by Cabinet.

8. Background Papers

Regulation of Investigatory Powers Act 2000 (RIPA) Policy.

Home Office Covert Surveillance and Property Interference Code of Practice 2018

Report Author:

Jason Bishop – Solicitor to the Council.



**Policy and Procedures
for undertaking Directed Covert Surveillance and
the use of Covert Human Intelligence Sources and
Communications Data acquisition for the prevention
and detection of crime or the prevention of disorder.**

**Regulation of Investigatory
Powers Act 2000 (RIPA) Corporate Policy**

Version Control Sheet

<i>Title:</i>	RIPA and non-RIPA Policy for Castle Point Borough Council
<i>Purpose:</i>	To advise staff of the procedures and principles to follow to comply with the RIPA Act 2000 and for non-RIPA activities.
<i>Author:</i>	Jason Bishop
<i>Owner:</i>	Jason Bishop: Solicitor to the Council/ Head of Legal Services
<i>Approved by:</i>	Version 3 approved by Investigatory Powers Commissioner's Office.
<i>Date:</i>	24 April 2020
<i>Version Number:</i>	3.0
<i>Status:</i>	Draft
<i>Review Frequency:</i>	Biennially
<i>Next review date:</i>	2022

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Any enquiries about this policy should be referred to Jason Bishop, Solicitor to the Council/Head of Legal Services on 01268 882462.

A. Introduction

The performance of certain investigatory functions of Local Authorities may require the surveillance of individuals or the use of covert human intelligence sources. Such actions may intrude on the privacy of individuals and can result in private information being obtained and as such, should not be undertaken lightly or without full and proper consideration. Legislation governs how Local Authorities should administer and record surveillance and the use of intelligence sources/ undercover officers and which renders evidence obtained lawful for all purposes. This Policy sets out the Council's rules and procedures.

The purpose of this Policy is to ensure that there is a consistent approach to the undertaking and authorisation of surveillance activity in Castle Point Borough Council's area. Therefore, this Policy is to be used by all Council service areas and officers undertaking investigation work using these techniques of surveillance or the use of Covert Human Intelligence Sources (CHIS's). Where such work is outsourced to other partner authorities, enquiries should be made to ensure that the partner local authority has in place a suitable RIPA policy.

1. A brief overview of RIPA

(For text in **bold**, see glossary of terms – Appendix 1)

The Regulation of Investigatory Powers Act (the Act) was introduced by Parliament in 2000. The Act sets out the reasons for which the use of **directed surveillance** (DS) and **covert human intelligence source** (CHIS) may be authorised.

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**.

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 of the legislation and ultimately the introduction of the Protection of Freedoms Act 2012 and the RIPA (Directed Surveillance and CHIS) (Amendment) Order 2012 (Appendix 2).

In addition to defining the circumstances when these investigation methods may be used, the Act also directs how applications will be made and how, and by whom, they may be approved, reviewed, renewed, cancelled and retained.

The Act must be considered in tandem with associated legislation including the Human Rights Act (HRA) (Appendix 3), and the Data Protection Act (DPA) (Appendix 4).

The purpose of Part II of the Act is to govern the use of directed covert surveillance or covert human intelligence sources. As a public authority, Castle Point Borough Council, has the ability to lawfully infringe the rights of individuals of Castle Point, provided that it does so in accordance with the rules, which are contained within Part II of the Act. Should the Council not follow the rules, the authority loses the impunity otherwise available to it. This impunity may be a defence to a claim for damages or a complaint to supervisory bodies, or as an answer to a challenge to the admissibility of evidence in a trial.

Further, a Local Authority may only engage the Act when performing its 'core functions'. For example, a Local Authority may rely on the Act when conducting a criminal investigation as this would be considered a 'core function', whereas the disciplining of an employee would be considered a 'non-core' or 'ordinary' function.

Some examples of when local authorities may use RIPA and CHIS are as follows:

- Trading standards, including action taken against loan sharks and rogue traders, consumer scams, sale of counterfeit goods, unsafe toys and electrical goods.
- Environmental health, including action against large-scale waste dumping, dangerous workplaces, pest control and the sale of unfit food.
- Benefit fraud, including action to counter fraudulent claims for housing benefits, investigating 'living together' and 'working whilst in receipt of benefit' allegations and council tax evasion.
- Local authorities are also responsible for tackling issues as diverse as anti-social behaviour, unlicensed gambling, threats to children in care, underage employment and taxi regulation.

The examples do not replace the key principles of necessity and proportionality or the advice and guidance available from the relevant oversight Commissioners. **The offences must be in accordance with the Crime Threshold mentioned below.**

2. Directed Surveillance

This policy relates to all staff directly employed by Castle Point Borough Council when conducting relevant investigations for the purposes of preventing and detecting crime or preventing disorder, and to all contractors and external agencies that may be used for this purpose as well as to those members of staff tasked with the authorisation and monitoring of the use of directed surveillance, CHIS and the acquisition of communications data.

The policy will be reviewed biennially or whenever changes are made to relevant legislation and codes of practice.

It is essential that the Chief Executive, or Head of Paid Service, together with the Directors and the Heads of Service should have an awareness of the basic requirements of RIPA and an understanding of how it might apply to the work of individual Castle Point Borough Council departments. Without this knowledge at senior level, it is unlikely that any authority will be able to develop satisfactory systems to deal with the legislation. Those who need to use, or conduct directed surveillance or CHIS on a regular basis will require more detailed specialised training (IPCO – Investigatory Powers Commissioner’s Office).

The use of directed surveillance or a CHIS must be necessary and proportionate to the alleged crime or disorder. Usually, it will be considered to be a tool of last resort, to be used only when all other less intrusive means have been used or considered.

Necessary

A person granting an authorisation for directed surveillance must consider *why* it is necessary to use covert surveillance in the investigation *and* believe that the activities to be authorised are necessary on one or more statutory grounds. The statutory grounds are, if it is necessary;

- a) in the interests of national security;
- b) for the purpose of preventing or detecting crime or of preventing disorder;
- c) in the interests of the economic well-being of the United Kingdom;
- d) in the interests of public safety;
- e) for the purpose of protecting public health;
- f) for the purpose of assessing or collecting any tax, duty, levy or other imposition, contribution or charge payable to a government department;
- g) for any purpose (not falling within paragraphs (a) to (f)) which is specified for the purposes of this subsection by an order made by the Secretary of State.

As a local Authority we are only able to proceed with a RIPA Application on the basis of point (b) above.

If the activities are deemed necessary, the authoriser must also believe that they are proportionate to what is being sought to be achieved by carrying them out. This involves balancing the seriousness of the intrusion into the privacy of the subject of the operation (or any other person who may be affected) against the need for the activity in investigative and operational terms.

Proportionate

The authorisation will not be proportionate if it is excessive in the overall circumstances of the case. Each action authorised should bring an expected benefit to the investigation or operation and should not be disproportionate or arbitrary. The fact that a suspected offence may be serious will not alone render intrusive actions proportionate. Similarly, an offence may be so minor that any deployment of covert techniques would be disproportionate. No activity

should be considered proportionate if the information which is sought could reasonably be obtained by other less intrusive means.

The following elements of proportionality should therefore be considered:

- balancing the size and scope of the proposed activity against the gravity and extent of the perceived crime or offence;
- explaining how and why the methods to be adopted will cause the least possible intrusion on the subject and others;
- considering whether the activity is an appropriate use of the legislation and a reasonable way, having considered all reasonable alternatives, of obtaining the necessary result;
- evidencing, as far as reasonably practicable, what other methods had been considered and why they were not implemented.

Castle Point Borough Council will conduct its directed surveillance operations in strict compliance with the DPA principles and limit them to the exceptions permitted by the HRA and RIPA, and solely for the purposes of preventing and detecting crime or preventing disorder.

The **Senior Responsible Officer** (SRO) (as named in Appendix 5) will be able to give advice and guidance on this legislation. The SRO will appoint a **RIPA Coordinating Officer** (RCO) (as named in Appendix 5) The RCO will be responsible for the maintenance of a **central register** that will be available for inspection by the (IPCO) – Investigatory Powers Commissioner's Office. The format of the central register is set out in Appendix 6.

The use of hand-held cameras and binoculars can greatly assist a directed surveillance operation in public places. However, if they afford the investigator a view into private premises that would not be possible with the naked eye, the surveillance becomes intrusive and is not permitted. Best practice for compliance with evidential rules relating to photographs and video/CCTV footage is contained in Appendix 8. Directed surveillance may be conducted from private premises. If they are used, the applicant must obtain the owner's permission, in writing, before authorisation is given. If a prosecution then ensues, the applicant's line manager must visit the owner to discuss the implications and obtain written authority for the evidence to be used. (See *R v Johnson (Kenneth)* 1988 1 WLR 1377 CA (Appendix 10).

The general usage of Castle Point Borough Council's CCTV system is not affected by this policy. However, if cameras are specifically targeted for the purpose of directed surveillance, a RIPA authorisation must be obtained.

Wherever knowledge of **confidential information** is likely to be acquired or if a vulnerable person or juvenile is to be used as a CHIS, the authorisation must be made by the Chief

Executive, who is the Head of Paid Service (or in their absence whoever deputises for this role).

Directed surveillance that is carried out in relation to a **legal consultation** on certain premises will be treated as intrusive surveillance, regardless of whether legal privilege applies or not. These premises include prisons, police stations, courts, tribunals and the premises of a professional legal advisor. Local Authorities are not able to use intrusive surveillance. Operations will only be authorised when there is sufficient, documented, evidence that the alleged crime or disorder exists and when directed surveillance is considered to be a necessary and proportionate step to take in order to secure further evidence.

Low level surveillance, such as a 'drive-by' or everyday activity observed by officers in the course of their normal duties in public places, does not need RIPA authority. If surveillance activity is conducted in immediate response to an unforeseen activity, RIPA authorisation is not required. However, if repeated visits are made for a specific purpose, authorisation may be required. In cases of doubt, legal advice should be taken.

When vehicles are being used for directed surveillance purposes, drivers must always comply with relevant traffic legislation.

Collateral Intrusion

The authorising officer should also consider the risk of intrusion into the privacy of persons other than those who are directly the subject of the investigation (collateral intrusion). Measures should be taken to avoid any unnecessary intrusion into the lives of those not directly connected with the investigation or operation. Castle Point Borough Council may not engage in 'intrusive' surveillance i.e. no surveillance of the inside of residential areas of any premises. Regular reviews of authorisations shall be undertaken to assess the need for the surveillance to continue. Particular attention is drawn to the need to review authorisations frequently where the surveillance involves collateral intrusion.

The person applying for authorisation and the authorising officer must consider the necessity for the use of the tactic, the proportionality of the investigation and the collateral intrusion on any individual's private life, against the need for the activity.

Measures should be taken, wherever practicable, to avoid or minimise interference with the private and family life of those who are not the intended subjects of the investigation. Where such collateral intrusion is unavoidable, the activities may still be authorised providing this collateral intrusion is considered proportionate to the intended aims of authorised activity. Any collateral intrusion should be kept to the minimum necessary to achieve the objective(s) of the operation or investigation.

All applications should therefore include an assessment of the risk of collateral intrusion and details of any measures taken to limit this, to enable the authorising officer to fully consider the proportionality of the proposed actions.

Crime Threshold

An additional barrier to authorising directed surveillance is set out in the Regulation of Investigatory Powers (Directed Surveillance and CHIS) (Amendment) Order 2012. This provides a 'Crime Threshold' whereby only crimes which are either punishable by a maximum term of at least 6 months' imprisonment (whether on summary conviction or indictment) or are related to the underage sale of alcohol or tobacco can be investigated through Directed Surveillance.

The crime threshold applies only to the authorisation of directed surveillance by local authorities under RIPA, not to the authorisation of local authority use of CHIS or their acquisition of CD. The threshold came into effect on 1 November 2012.

Castle Point Borough Council cannot authorise directed surveillance under RIPA 2000 for the purpose of preventing disorder unless this involves a criminal offence(s) punishable (whether on summary conviction or indictment) by a maximum term of at least 6 months' imprisonment. Non-RIPA processes are considered in appendix 11.

Castle Point Borough Council may therefore continue to authorise use of directed surveillance in more serious cases so long as the other tests are met – i.e. that it is necessary and proportionate and where prior approval from a Magistrate has been granted. Examples of cases where the offence being investigated attracts a maximum custodial sentence of six months or more could include more serious criminal damage, dangerous waste dumping and serious or serial fraud.

For example, an offence which only allows a maximum sentence of 3 months custody cannot be investigated using RIPA authorisation. However, if the offence allows a maximum sentence of 6 months in custody this can be investigated using RIPA.

Castle Point Borough Council may also continue to authorise the use of directed surveillance for the purpose of preventing or detecting specified criminal offences relating to the underage sale of alcohol and tobacco where the necessity and proportionality test is met and prior approval from a Magistrates' Court has been granted.

A local authority such as Castle Point Borough Council may not authorise the use of directed surveillance under RIPA to investigate disorder that does not involve criminal offences. Non-RIPA processes are considered in appendix 11.

3. Covert Human Intelligence Sources (CHIS)

A person who reports suspicion of an offence is not a CHIS, nor do they become a CHIS if they are asked if they can provide additional information, e.g. details of the suspect's vehicle or the time that they leave for work. It is only if they establish or maintain a personal relationship with another person for the purpose of covertly obtaining or disclosing information that they become a CHIS.

If it is deemed unnecessary to obtain RIPA authorisation in relation to the proposed use of a CHIS for test purchasing, the applicant should complete Castle Point Borough Council's CHIS form and submit to an Authorising Officer for authorisation. Once authorised, any such forms must be kept on the relevant investigation file, in compliance with the Criminal Procedure for Investigations Act 1996 ("CPIA").

The times when a local authority will use a CHIS are limited. The most common usage is for test-purchasing under the supervision of suitably trained officers.

Officers considering the use of a CHIS under the age of 18, and those authorising such activity must be aware of the additional safeguards identified in The Regulation of Investigatory Powers (Juveniles) Order 2000 and its Code of Practice.

A vulnerable individual should only be authorised to act as a CHIS in the most exceptional circumstances. A vulnerable individual is a person who is or may be in need of community care services by reason of mental or other disability, age or illness, and who is or may not be able to take care of himself. The Authorising Officer in such cases must be the Chief Executive, who is the Head of Paid Service, or in their absence whoever deputises for this role.

Any deployment of a CHIS should take into account the safety and welfare of that CHIS. Before authorising the use or conduct of a CHIS, the authorising officer should ensure that an appropriate bespoke risk assessment is carried out to determine the risk to the CHIS of any assignment and the likely consequences should the role of the CHIS become known. This risk assessment must be specific to the case in question. The ongoing security and welfare of the CHIS, after the cancellation of the authorisation, should also be considered at the outset.

A CHIS handler is responsible for bringing to the attention of a CHIS controller any concerns about the personal circumstances of the CHIS, insofar as they might affect the validity of the risk assessment, the conduct of the CHIS, and the safety and welfare of the CHIS.

The process for applications and authorisations have similarities to those for directed surveillance but there are also significant differences, namely that the following arrangements must be in place at all times in relation to the use of a CHIS:

- There will be an appropriate officer of Castle Point Borough Council who has day-to-day responsibility for dealing with the CHIS, and for the security and welfare of the CHIS; and
- There will be a second appropriate officer of the use made of the CHIS, and who will have responsibility for maintaining a record of this use. These records must also include information prescribed by the Regulation of Investigatory Powers (Source Records) Regulations 2000. Any records that disclose the identity of the CHIS must not be available to anyone who does not have a need to access these records.

An Authorising Officer's Aide-Memoire has been produced to assist Authorising Officers when considering applications for directed surveillance.

Public authorities should ensure that arrangements are in place for the proper oversight and management of CHIS, including appointing individual officers acting as 'controller' and 'handler' for each CHIS (as defined in sections 29(4A) and (4B) and 29(5)(a) and (b) of the 2000 Act).

The person referred to in section 29(5)(a) of the 2000 Act (the "handler") will have day to day responsibility for:

- dealing with the CHIS on behalf of the authority concerned;
- directing the day to day activities of the CHIS;
- recording the information supplied by the CHIS; and
- monitoring the CHIS's security and welfare.

The person referred to in section 29(5)(b) of the 2000 Act (the "controller") will normally be responsible for the management and supervision of the "handler" and general oversight of the use of the CHIS.

Detailed records must be kept of the authorisation and use made of a CHIS. Section 29(5) of the 2000 Act provides that an authorising officer must not grant an authorisation for the use or conduct of a CHIS unless they believe that there are arrangements in place for ensuring that there is at all times a person with the responsibility for maintaining a record of the use made of the CHIS. The Regulation of Investigatory Powers (Source Records) Regulations 2000; SI No: 2725 details the particulars that must be included in these records. Where a CHIS is authorised under the terms of a Police Act 1996 collaboration agreement, that agreement should explicitly state on which force or agency's central record the authorisation should be recorded. This is likely to be either the force or agency providing the authorising officer, or the designated lead force or agency. The fact that the authorisation was given under these terms should be recorded on the central record.

4. The Authorisation Process

The processes for applications and authorisations for CHIS are similar as for directed surveillance, but note the differences set out in the CHIS section above. Directed Surveillance applications and CHIS applications are made using forms that have been set up in a shared network drive by Castle Point Borough Council. These forms must not be amended, and applications will not be accepted if the approved forms are not completed.

The authorisation process involves the following steps:

Investigation Officer

A risk assessment will be conducted by the Investigation Officer before an application is drafted. This assessment will include the number of officers required for the operation; whether the area involved is suitable for directed surveillance; what equipment might be necessary, health and safety concerns of all those involved and affected by the operation and insurance issues. Particular care must be taken when considering surveillance activity close to schools or in other sensitive areas. If it is necessary to conduct surveillance around school premises, the applicant should inform the head teacher of the nature and duration of the proposed activity, in advance. A Police National Computer Records (PNC) check on those targets should be conducted as part of this assessment by the Counter Fraud & Investigation team or the Safer Communities Officer.

The Investigation Officer prepares an application. When completing the forms, Investigation Officers must fully set out details of the covert activity for which authorisation is sought to enable the Authorising Officer to make an informed judgment. Consideration should be given to consultation with a member of the Legal Department concerning the activity to be undertaken (including scripting and tasking).

The Investigation Officer will obtain a unique reference number (URN) from the central register before submitting an application.

The Investigation Officer will submit the application form to an authorising officer for approval (see Appendix 5).

All applications to conduct directed surveillance (other than under urgency provisions – see below) must be made in writing in the approved format.

Authorising Officer (AO)

The AO considers the application and if it is considered complete the application is signed off and forwarded to the SRO for review and counter approval.

An Authorising Officer's Aide-Memoire has been produced to assist AO's when considering applications for directed surveillance.

If there are any deficiencies in the application further information may be sought from the Investigation Officer, prior to sign off.

Once final approval has been received from the SRO (see below), the AO and the Investigation Officer will retain copies and will create an appropriate diary method to ensure that any additional documents are submitted in good time.

Senior Responsible Officer (SRO)

The SRO then reviews the AO's approval and countersigns it.

If the application requires amendment the SRO will return this to the AO for the necessary revisions to be made prior to sign off. Once the SRO is satisfied that concludes the internal authorisation procedure and he or she will countersign the application.

Application to Justice of the Peace/Magistrates' Court

The countersigned application form will form the basis of the application to the Justice of the Peace/Magistrates' Court (see further below)

Authorised Activity

Authorisation takes effect from the date and time of the approval from the Justice of the Peace/Magistrates' Court.

Notification of the operation will be made to the relevant police force intelligence units where the target of the operation is located in their force area. Contact details for each force intelligence unit are held by the Group Manager Counter Fraud & Investigation - Counter Fraud & Investigation team or the Safer Communities Officer.

Before directed surveillance activity commences, the Investigation Officer will brief all those taking part in the operation. The briefing will include details of the roles to be played by each officer, a summary of the alleged offence(s), the name and/or description of the subject of the directed surveillance (if known), a communications check, a plan for discontinuing the operation and an emergency rendezvous point. A copy of the briefing report (Appendix 7) will be retained by the Investigation Officer.

Where 3 or more officers are involved in an operation, officers conducting directed surveillance will complete a daily log of activity an example shown at Appendix 9. Evidential notes will also be made in the pocket notebook of all officers engaged in the operation

regardless of the number of officers on an operation. These documents will be kept in accordance with the appropriate retention guidelines and Criminal Procedure and Investigations Act 1996 (CPIA).

Where a contractor or external agency is employed to undertake any investigation on behalf of Castle Point Borough Council, the Investigation Officer will ensure that any third party is adequately informed of the extent of the authorisation and how they should exercise their duties under that authorisation.

Conclusion of Activities

As soon as the authorised activity has concluded the Investigation Officer will complete a Cancellation Form.

The original document of the complete application will be retained with the central register.

5. SRO Review and Sign Off

The SRO will review the AO approval prior to it being submitted for Magistrates'/JP authorisation.

If in the SRO's opinion there are inconsistencies, errors or deficiencies, in the application such that the AO's approval requires amendments or augmentation, the SRO will return the application form to the AO with recommendation for alternative wording or further information and the AO will incorporate the same.

The form will then be returned to the SRO for final quality assurance.

Once the SRO has quality assured the form this will form the basis of the application to the Magistrates' Court for authorisation.

There is however only one "authorising officer" and the SRO's role is limited to ensuring the integrity of the process.

6. Judicial Authorisation

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

The judicial approval mechanism is in addition to the existing authorisation process under the relevant parts of RIPA as outlined above and in this section. The current process of assessing necessity and proportionality, completing the RIPA authorisation/application form and seeking approval from an authorising officer/designated person will therefore remain the same.

The appropriate officer from Castle Point Borough Council will provide the DJ/JP with a copy of the original RIPA authorisation or notice and the supporting documents setting out the case. This forms the basis of the application to the DJ/JP and should contain all information that is relied upon.

The original RIPA authorisation or notice should be shown to the DJ/JP but also be retained by Castle Point Borough Council so that it is available for inspection by the Commissioners' officers and in the event of any legal challenge or investigations by the Investigatory Powers Tribunal (IPT). The Court may also wish to keep a copy so an extra copy should be made available to the Court.

Importantly, the appropriate officer will also need to provide the DJ/JP with a partially completed judicial application/order form.

Although the officer is required to provide a brief summary of the circumstances of the case on the judicial application form, this is supplementary to and does not replace the need to supply the original RIPA authorisation as well.

The order section of the form will be completed by the DJ/JP and will be the official record of the DJ/JP's decision. The officer from Castle Point Borough Council will need to obtain judicial approval for all initial RIPA authorisations/applications and renewals and will need to retain a copy of the judicial application/order form after it has been signed by the DJ/JP. There is no requirement for the DJ/JP to consider either cancellations or internal reviews.

The authorisation will take effect from the date and time of the DJ/JP granting approval and Castle Point Borough Council may proceed to use the techniques approved in that case.

It will be important for each officer seeking authorisation to establish contact with Her Majesty's Court and Tribunals Service (HMCTS) administration at the magistrates' court. HMCTS administration will be the first point of contact for the officer when seeking DJ/JP approval. Castle Point Borough Council will need to inform HMCTS administration as soon as possible to request a hearing for this stage of the authorisation.

On the rare occasions where out of hours access to a DJ or JP is required, then it will be for the officer to make local arrangements with the relevant HMCTS legal staff. In these cases, we will need to provide two partially completed judicial application/order forms so that one can be retained by the DJ/JP. They should provide the court with a copy of the signed judicial application/order form the next working day.

In most emergency situations where the police have power to act, then they are able to authorise activity under RIPA without prior DJ/JP approval. No RIPA authority is required in immediate response to events or situations where it is not reasonably practicable to obtain it (for instance when criminal activity is observed during routine duties and officers conceal themselves to observe what is happening).

Where renewals are timetabled to fall outside of court hours, for example during a holiday period, it is the local authority's responsibility to ensure that the renewal is completed ahead of the deadline. Out of hours procedures are for emergencies and should not be used because a renewal has not been processed in time. The hearing is a 'legal proceeding' and therefore our officers need to be formally designated to appear, be sworn in and present evidence or provide information as required by the DJ/JP.

The hearing will be in private and heard by a District Judge or a single JP who will read and consider the RIPA authorisation or notice and the judicial application/order form. He/she may have questions to clarify points or require additional reassurance on particular matters.

The attending officer will need to be able to answer the DJ/JP's questions on the policy and practice of conducting covert operations and the detail of the case itself. Castle Point Borough Council officers may consider it appropriate for the SPoC (single point of contact) to attend for applications for RIPA authorisations. This does not, however, remove or reduce in any way the duty of the authorising officer to determine whether the tests of necessity and proportionality have been met. Similarly, it does not remove or reduce the need for the forms and supporting papers that the authorising officer has considered, and which are provided to the DJ/JP to make the case (see 4. Authorisation Process in particular investigation officer paragraphs 1 and 2).

It is not Castle Point Borough Council policy that legally trained personnel are required to make the case to the DJ/JP, however if a member of the Legal Department wishes to attend with the applicant this is not discouraged.

It is advised that the Authorising Officer be the appropriate officer or at the very least attend the Court to assist the DJ/JP if necessary.

The forms and supporting papers must by themselves make the case. It is not sufficient for the local authority to provide oral evidence where this is not reflected or supported in the papers provided. The DJ/JP may note on the form any additional information he or she has received during the course of the hearing but information fundamental to the case should not be submitted in this manner.

If more information is required to determine whether the authorisation or notice has met the tests, then the DJ/JP will refuse the authorisation. If an application is refused the local authority should consider whether they can reapply, for example, if there was information to

support the application which was available to the local authority, but not included in the papers provided at the hearing.

The DJ/JP will record his/her decision on the order section of the judicial application/order form. HMCTS administration will retain a copy of the local authority RIPA authorisation or notice and the judicial application/order form. This information will be retained securely. Magistrates' Courts are not public authorities for the purposes of the Freedom of Information Act 2000.

7. Authorisation periods

The authorisation will take effect from the date and time of the DJ/JP granting approval and Castle Point Borough Council may proceed to use the techniques approved in that case.

Renewals should not normally be granted more than seven days before the original expiry date. If the circumstances described in the application alter, the applicant must submit a review document before activity continues.

As soon as the operation has obtained the information needed to prove, or disprove, the allegation, the applicant must submit a cancellation document and the authorised activity must cease.

CHIS authorisations will (unless renewed or cancelled) cease to have effect 12 months from the day on which authorisation took effect, except in the case of juvenile CHIS which will cease to have effect after 4 months (SI/2018/715 refers). Urgent authorisations will unless renewed, cease to have effect after 72 hours.

8. Urgency

Approval for directed surveillance in an emergency can only be obtained in written form. Oral approvals are no longer permitted. In cases where emergency approval is required an AO must be visited by the applicant with two completed RIPA application forms. The AO will then assess the proportionality, necessity and legality of the application. If the application is approved, then the applicant must then contact the out-of-hours HMCTS representative to seek approval from a Magistrate (DJ or JP). The applicant must then take two signed RIPA application forms and the judicial approval form to the Magistrates' Court for the hearing to take place.

As with a standard application the test of necessity, proportionality and the crime threshold must be satisfied. A case is not normally to be regarded as urgent unless the delay would, in the judgment of the person giving the authorisation, be likely to endanger life or jeopardise the investigation or operation. Examples of situations where emergency authorisation may be sought would be where there is intelligence to suggest that there is a substantial risk that evidence may be lost, a person suspected of a crime is likely to abscond, further offences are

likely to take place and/or assets are being dissipated in a criminal investigation and money laundering offences may be occurring. An authorisation is not considered urgent if the need for authorisation has been neglected or the urgency is due to the authorising officer or applicant's own doing. All forms must then be made available to the SRO for countersigning (if appropriate) and RCO/SPOC for retention in the central register as soon as is reasonably practicable, preferably the next working day.

9. Communications Data, OCDA and NAFN

Before considering submitting an application for the acquisition of communications data, all officers must first refer the matter to the senior responsible officer (SRO) and RCO/SPOC.

Communications Data ('CD') is the 'who', 'when' and 'where' of a communication, but not the 'what' (i.e. the content of what was said or written). Local Authorities are not permitted to intercept the content of any person's communications.

Part 3 of the Investigatory Powers Act 2016 (IPA) replaced part 1 chapter 2 of RIPA in relation to the acquisition of communications data (CD) and puts local authorities on the same standing as the police and law enforcement agencies. Previously local authorities have been limited to obtaining subscriber details (known now as "entity" data) such as the registered user of a telephone number or email address. Under the IPA, local authorities can now also obtain details of in and out call data, and cell site location. This information identifies who a criminal suspect is in communication with and whereabouts the suspect was when they made or received a call, or the location from which they were using an Internet service. This additional data is defined as "events" data.

A new threshold for which CD "events" data can be sought has been introduced under the IPA as "applicable crime". Defined in section 86(2A) of the Act this means: an offence for which an adult is capable of being sentenced to one year or more in prison; any offence involving violence, resulting in substantial financial gain or involving conduct by a large group of persons in pursuit of a common goal; any offence committed by a body corporate; any offence which involves the sending of a communication or a breach of privacy; or an offence which involves, as an integral part of it, or the sending of a communication or breach of a person's privacy. Further guidance can be found in paragraphs 3.3 to 3.13 of CD Code of Practice:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/757850/Communications_Data_Code_of_Practice.pdf

Finally, the IPA has also removed the necessity for local authorities to seek the endorsement of a Justice of the Peace when seeking to acquire CD. All such applications must now be processed through NAFN and will be considered for approval by the independent Office of Communication Data Authorisation (OCDA). The transfer of applications between local authorities, NAFN and OCDA is all conducted electronically and will therefore reduce what

can be a protracted process of securing an appearance before a Magistrate or District Judge (see local authority procedures set out in paragraphs 8.1 to 8.7 of the CD Code of Practice).

10. Internet / Social Media / Telephones

Internet

Castle Point Borough 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.

Castle Point Borough Council's policy of restricting access to certain undesirable Internet sites will continue through web filtering software. During work times, the content of employees' emails 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.

Telephones

Castle Point Borough 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 Castle Point Borough 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.

Employees' use of Castle Point Borough 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 this policy and consequently implicitly consents to the removal of any expectation of privacy.

Social Media

Information gathered in relation to investigations regarding members of the public shall be gathered through publicly available information only. Unless the person involved has given their consent in writing to allow the investigating officer to invade their privacy further.

However, continued visits to a person's public page could amount to covert surveillance.

An example of this is would be viewing a member of the public's publicly available Facebook pages only and not accessing further information through links with their friends.

Any member of a public authority, or person acting on their behalf, who conducts activity on the internet in such a way that they may interact with others, whether by publicly open websites such as an online news and social networking service, or more private exchanges such as e-messaging sites, in circumstances where the other parties could not reasonably be expected to know their true identity, should consider whether the activity requires a CHIS authorisation. A directed surveillance authorisation should also be considered, unless the acquisition of that information is or will be covered by the terms of an applicable CHIS authorisation.

Where someone, such as an employee or member of the public, is tasked by a public authority to use an internet profile to establish or maintain a relationship with a subject of interest for a covert purpose, or otherwise undertakes such activity on behalf of the public authority, in order to obtain or provide access to information, a CHIS authorisation is likely to be required. For example:

- An investigator using the internet to engage with a subject of interest at the start of an operation, in order to ascertain information or facilitate a meeting in person.
- Directing a member of the public (such as a CHIS) to use their own or another internet profile to establish or maintain a relationship with a subject of interest for a covert purpose.
- Joining chat rooms with a view to interacting with a criminal group in order to obtain information about their criminal activities.

A CHIS authorisation will not always be appropriate or necessary for online investigation or research. Some websites require a user to register providing personal identifiers (such as name and phone number) before access to the site will be permitted. Where a member of a public authority sets up a false identity for this purpose, this does not in itself amount to establishing a relationship, and a CHIS authorisation would not immediately be required, though consideration should be given to the need for a directed surveillance authorisation if the conduct is likely to result in the acquisition of private information, and the other relevant criteria are met.

Example 1: An HMRC officer intends to make a one-off online test purchase of an item on an auction site, to investigate intelligence that the true value of the goods is not being declared for tax purposes. The officer concludes the purchase and does not correspond privately with the seller or leave feedback on the site. No covert relationship is formed and a CHIS authorisation need not be sought.

Example 2: HMRC task a member of the public to purchase goods from a number of websites to obtain information about the identity of the seller, country of origin of the

goods and banking arrangements. The individual is required to engage with the seller as necessary to complete the purchases. The deployment should be covered by a CHIS authorisation because of the intention to establish a relationship for covert purposes.

Where a website or social media account requires a minimal level of interaction, such as sending or receiving a friend request before access is permitted, this may not in itself amount to establishing a relationship. Equally, the use of electronic gestures such as “like” or “follow” to react to information posted by others online would not in itself constitute forming a relationship. However, it should be borne in mind that entering a website or responding on these terms may lead to further interaction with other users and a CHIS authorisation should be obtained if it is intended for an officer of a public authority or a CHIS to engage in such interaction to obtain, provide access to or disclose information.

Example 1: An officer maintains a false persona, unconnected to law enforcement, on social media sites in order to facilitate future operational research or investigation. As part of the legend building activity he “follows” a variety of people and entities and “likes” occasional posts without engaging further. No relationship is formed and no CHIS authorisation is needed.

Example 2: The officer sends a request to join a closed group known to be administered by a subject of interest, connected to a specific investigation. A directed surveillance authorisation would be needed to cover the proposed covert monitoring of the site. Once accepted into the group it becomes apparent that further interaction is necessary. This should be authorised by means of a CHIS authorisation.

When engaging in conduct as a CHIS, a member of a public authority should not adopt the identity of a person known, or likely to be known, to the subject of interest or users of the site without considering the need for authorisation. Full consideration should be given to the potential risks posed by that activity.

Where use of the internet is part of the tasking of a CHIS, the risk assessment carried out in accordance with section 6.13 of the CHIS 2018 Code of Practice and should include consideration of the risks arising from that online activity including factors such as the length of time spent online and the material to which the CHIS may be exposed. This should also take account of any disparity between the technical skills of the CHIS and those of the handler or authorising officer, and the extent to which this may impact on the effectiveness of oversight.

Where it is intended that more than one officer will share the same online persona, each officer should be clearly identifiable within the overarching authorisation for that operation, providing clear information about the conduct required of each officer and including risk assessments in relation to each officer involved.

The growth of the internet, and the extent of the information that is now available online, presents new opportunities for public authorities to view or gather information which may assist them in preventing or detecting crime or carrying out other statutory functions, as well as in understanding and engaging with the public they serve. It is important that public authorities are able to make full and lawful use of this information for their statutory purposes. Much of it can be accessed without the need for RIPA authorisation; use of the internet prior to an investigation should not normally engage privacy considerations. But if the study of an individual's online presence becomes persistent, or where material obtained from any check is to be extracted and recorded and may engage privacy considerations, RIPA authorisations may need to be considered. The following guidance is intended to assist public authorities in identifying when such authorisations may be appropriate.

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

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

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

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

audience are also less likely to hold a reasonable expectation of privacy in relation to that information.

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

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

Example 2: A customs officer makes an initial examination of an individual's online profile to establish whether they are of relevance to an investigation. This is unlikely to need an authorisation. However, if during that visit it is intended to extract and record information to establish a profile including information such as identity, pattern of life, habits, intentions or associations, it may be advisable to have in place an authorisation even for that single visit. (As set out in the following paragraph, the purpose of the visit may be relevant as to whether an authorisation should be sought.)

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

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

- Whether the investigation or research is directed towards an individual or organisation;

- Whether it is likely to result in obtaining private information about a person or group of people (taking account of the guidance at paragraph 3.6 above);
- Whether it is likely to involve visiting internet sites to build up an intelligence picture or profile;
- Whether the information obtained will be recorded and retained;
- Whether the information is likely to provide an observer with a pattern of lifestyle;
- Whether the information is being combined with other sources of information or intelligence, which amounts to information relating to a person's private life;
- Whether the investigation or research is part of an ongoing piece of work involving repeated viewing of the subject(s);
- Whether it is likely to involve identifying and recording information about third parties, such as friends and family members of the subject of interest, or information posted by third parties, that may include private information and therefore constitute collateral intrusion into the privacy of these third parties.

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

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

For further Information please see the Office of Surveillance Commissioners Procedures and Guidance notes July 2016, Section 289.

11. Handling of material and use of material as evidence

Material obtained from properly authorised directed surveillance or a source may be used in other investigations. Arrangements shall be in place for the handling, storage and destruction of material obtained through the use of directed surveillance, a source or the obtaining or disclosure of communications data, following relevant legislation such as the Criminal Procedure and Investigations Act (CPIA). Authorising Officers must ensure compliance with the appropriate data protection and CPIA requirements, having due regard to the Public

Interest Immunity test and any relevant Corporate Procedures relating to the handling and storage of material.

Where the product of surveillance could be relevant to pending or future proceedings, it should be retained in accordance with established disclosure requirements for a suitable period and subject to review.

12. Training

Officers conducting directed surveillance operations, using a CHIS or acquiring communications data must have an appropriate accreditation or be otherwise suitably qualified or trained.

Authorising Officers (Appendix 5) will be appointed by the Chief Executive and will have received training that has been approved by the Senior Responsible Officer. The Senior Responsible Officer will have appointed the RIPA Coordinating Officer who will be responsible for arranging suitable training for those conducting surveillance activity or using a CHIS.

All training will take place at reasonable intervals to be determined by the SRO or RCO, but it is envisaged that an update will usually be necessary following legislative or good practice developments or otherwise every 12 months.

13. Surveillance Equipment

All mobile surveillance equipment is kept in secure premises of each investigation and enforcement team in the Civic Offices. Access to the area is controlled by the relevant team, who maintain a spreadsheet log of all equipment taken from and returned to the area.

14. The Inspection Process

The IPCO – Investigatory Powers Commissioner’s Office 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.

15. GUIDANCE ON CASTLE POINT BOROUGH COUNCIL’S CORPORATE POLICY STATEMENT

All forms of covert surveillance will be regulated by Castle Point Borough Council’s Corporate Policy.

Castle Point Borough 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 purpose of preventing or detecting crime or of preventing disorder;

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 meets the requirements of this policy and government legislation.

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 Castle Point Borough Council's other relevant policies].

All requests to conduct, extend or discontinue a covert surveillance exercise must be made in writing on the relevant form. Requests must be submitted to the appropriate level of Officer within each Service (see the authorisation section set out in Appendix 5). All requests must be authorised in accordance with this policy before any covert surveillance operation can commence. The power to grant, extend and discontinue authorisations will be limited in accordance with this policy. Written authorisations for a covert surveillance operation will be subject to review within that period to establish whether the authorisation should continue for the entire three-month period.

Officers 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 as per this policy.

In the event of covert surveillance needing to be carried out in an emergency, a written request and authorisation is still required, using the relevant forms. However, 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.

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, and provide copies to the SRO and RCO/SPOC for retention in the central register.

No covert operation will be embarked upon by a Castle Point Borough Council Officer without detailed consideration of the points in this policy and of the insurance and health and safety implications involved and the necessary precautions and insurance being put in place.

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 Castle Point Borough 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) in accordance with this policy, the Human Rights Act, the Data Protection Act, RIPA and any other relevant legislation.

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.

Once a covert operation results in an individual being under suspicion of having committed a criminal 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.

16. Resources

Full Codes of Practice can be found on the Home Office website:

<http://www.homeoffice.gov.uk/>

Covert Surveillance & Property Interference:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/742041/201800802_CSPI_code.pdf

CHIS:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/742042/201800802_CHIS_code.pdf

Acquisition and Disclosure of Communications Data:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/757850/Communications_Data_Code_of_Practice.pdf

Further information can also be found on The Investigatory Powers Commissioner's Office website.

<https://www.ipco.org.uk/>

GLOSSARY OF TERMS

CD

Communications Data

Collateral intrusion

The likelihood of obtaining private information about someone who is not the subject of the directed surveillance operation.

Confidential information

This covers confidential journalistic material, matters subject to legal privilege, and information relating to a person (living or dead) relating to their physical or mental health; spiritual counselling or which has been acquired or created in the course of a trade/profession/occupation or for the purposes of any paid/unpaid office.

Covert relationship

A relationship in which one side is unaware of the purpose for which the relationship is being conducted by the other.

Directed Surveillance

Surveillance carried out in relation to a specific operation which is likely to result in obtaining private information about a person in a way that they are unaware that it is happening. It excludes surveillance of anything taking part in residential premises or in any private vehicle.

Intrusive Surveillance

Surveillance which takes place on any residential premises or in any private vehicle. A Local Authority cannot use intrusive surveillance.

Legal Consultation

A consultation between a professional legal adviser and his client or any person representing his client, or a consultation between a professional legal adviser or his client or representative and a medical practitioner made in relation to current or future legal proceedings.

Residential premises

Any premises occupied by any person as residential or living accommodation, excluding common areas to such premises, e.g. stairwells and communal entrance halls.

Senior Responsible Officer (SRO)

The SRO is responsible for the integrity of the processes in order for Castle Point Borough Council to ensure compliance when using Directed Surveillance or CHIS.

Service data

Data held by a communications service provider relating to a customer's use of their service, including dates of provision of service; records of activity such as calls made, recorded delivery records and top-ups for pre-paid mobile phones.

Surveillance device

Anything designed or adapted for surveillance purposes.

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.

The Human Rights Act 1998

Articles 6 and 8 of the Human Rights Act are relevant to RIPA.

Article 6 relates to the right to a fair trial.

Article 8 relates to the right to respect for a private and family life.

If it is proposed that directed surveillance evidence is to be used in a prosecution, or other form of sanction, the subject of the surveillance should be informed during an interview under caution.

The Data Protection Act 1998 (DPA)

The eight principles of the Act relating to the acquisition of personal data need to be observed when using RIPA. To ensure compliance, the information must:

- Be fairly and lawfully obtained and processed
- Be processed for specified purposes only
- Be adequate, relevant and not excessive
- Be accurate
- Not be kept for longer than is necessary
- Be processed in accordance with an individual's rights
- Be secure
- Not be transferred to non-EEAJ countries without adequate protection.

List of Authorising Officers

The following post holders may authorise RIPA applications where there is a likelihood of obtaining Confidential Information: Chief Executive or deputy.

The following post holders may authorise the use of a vulnerable person or a juvenile to be used as a Covert Human Intelligence Source: Chief Executive, as Head of Paid Service or his or her deputy.

The following post holders may authorise applications, reviews, renewals and cancellations of Directed Covert Surveillance of Covert Human Intelligence Sources: Chief Executives and Directors, or in their absence, the Head of Legal and Democratic Services.

Principal RIPA Officers

Jason Bishop Solicitor to the Council and Head of Legal Services	Senior Responsible Officer (SRO)	01268 882462	jbishop@castlepoint.gov.uk
Jemma Matlin Legal Executive	RIPA Co- ordinating Officer (RCO) (Single Point of Contact)	01268 882258	jmatlin@castlepoint.gov.uk

Authorising Officers

Chief Executive	Authorising Officer	01268 882401	dmarchant@castlepoint.gov.uk
Head of Environments	Authorising Officer	01268 882476	tbragg@castlepoint.gov.uk
Head of Housing	Authorising Officer	01268 882419	jgrisley@castlepoint.gov.uk
Head of Licensing	Authorising Officer	01268 882369	mharris@castlepoint.gov.uk

Central Register

A central register will be maintained by the RIPA single point of contact. The register will contain details of all RIPA and CHIS applications (whether approved or not) and all reviews, renewals and cancellations. All non-RIPA applications will also be recorded.

Each operation will be given a unique reference number (URN) from which the department involved, and the year of the operation may be readily identified.

The register will also contain the following information:

- The operation reference name or number
- The name of the applicant
- The name of the subject of the surveillance or CHIS activity (for internal enquiries a pseudonym may be used)
- The date and time that the activity was authorised
- The date and time of any reviews that are to be conducted
- The date and time of any renewals of authorisations
- The date and time of the cancellations of any authorisations

Kept in conjunction with the register will be the details of the training and updates delivered to authorising officers, a list of authorising officers, a copy of the RIPA policy and copies of all relevant legislation.

The original of all documents (if any) will also be held with the register although it is envisaged that all applications, reviews, renewals and cancellations will be kept digitally. In any event, all copies must be available for inspection by the Investigatory Powers Commissioner's Office.

Briefing Report

Before any RIPA/non-RIPPA or CHIS operation commences, all staff will be briefed by the officer in charge of the case using the format of this briefing report. The original will be retained with the investigation file.

RIPA URN

Name and number to identify operation

Date, time and location of briefing

.....

Persons present at briefing

.....

Information (Sufficient background information of the investigation to date to enable all those taking part in the operation to fully understand their role).

Intention (What is the operation seeking to achieve?).

Method (How will individuals achieve this? If camcorders are to be used, remind officers that any conversations close to the camera will be recorded).

Administration (To include details of who will be responsible for maintenance of the log sheet and collection of evidence; any identified health and safety issues; the operation; an agreed stand down procedure – NOTE It will be the responsibility of the officer in charge of the investigation to determine if and when an operation should be discontinued due to reasons of safety or cost-effectiveness – and an emergency rendezvous point. On mobile surveillance operations, all those involved will be reminded that at ALL times speed limits and mandatory road signs MUST be complied with and that drivers must NOT use radios or telephones when driving unless the equipment is 'hands free').

Communications (Effective communications between all members of the team will be established before the operation commences).

Best practice regarding photographic and video evidence

Photographic or video evidence can be used to support the verbal evidence of what the officer conducting surveillance actually saw. There will also be occasions when video footage may be obtained without an officer being present at the scene. However, if it is obtained, it must be properly documented and retained in order to ensure evidential continuity. All such material will be disclosable in the event that a prosecution ensues.

Considerations should be given as to how the evidence will eventually be produced. This may require photographs to be developed by an outside laboratory. Arrangements should be made in advance to ensure continuity of evidence at all stages of its production. A new film, tape or memory card should be used for each operation.

If video footage is to be used start it with a verbal introduction to include day, date, time and place and names of officer's present. Try to include footage of the location, e.g. street name or other landmark so as to place the subject of the surveillance.

A record should be maintained to include the following points:

- Details of the equipment used
- Confirmation that the date & time on the equipment is correct
- Name of the officer who inserted the film, tape or memory card into the camera
- Details of anyone else to whom the camera may have been passed
- Name of officer removing film, tape or memory card
- Statement to cover the collection, storage and movement of the film, tape or memory card
- Statement from the person who developed or created the material to be used as evidence

As soon as possible the original recording should be copied, and the master retained securely as an exhibit. If the master is a tape, the record protect tab should be removed once the tape has been copied. Do not edit anything from the master. If using tapes, only copy on a machine that is known to be working properly. Failure to do so may result in damage to the master.

Stills may be taken from video. They are a useful addition to the video evidence.

Surveillance Log

Daily log of activity, to be kept by each operator or pair of operators.

A – Amount of time under observation

D – Distance from subject

V - Visibility

O - Obstruction

K – Known, or seen before

A – Any reason to remember, subject or incident

T – Time elapsed between sighting and note taking

E – Error or material discrepancy – e.g. description, vehicle reg etc.

Operation name or number

Date

Time of activity (from) (to)

Briefing location and time

Name of operator(s) relating to THIS log

.....

Details of what was seen, to include ADVOKATE (as above).

.....

.....

.....

.....

.....

.....

.....

R v Johnson

R. v. Johnson [1988] 1 WLR 1377 laid down the correct procedure when using observation posts:

- The police officer in charge of the observation, who should be of no lesser rank than sergeant, should testify that he had visited the observation posts and ascertained the attitude of the occupiers to the use of the premises and to disclosure which might lead to their identification. (It is suggested that the 'Sergeant' could be replaced by a section manager).
- An inspector should then testify that immediately before the trial he visited those places and ascertained whether the occupiers were the same persons as those at the time of the observations. (It is suggested that 'inspector' could be replaced by head of department).
- If they were not s/he, should testify as to their attitude to the use made of the premises and to possible disclosure which might lead to their identification.
- The judge should explain to the jury when summing up or at some other point the effect of his ruling to exclude the evidence of the location.

Public Interest Immunity (PII) protects the identity of a person who has permitted surveillance to be conducted from private premise, so this extends to the address and any other information that could reveal their identity. If, however, the location can be revealed without identifying the occupier, then it should be.

Castle Point Borough Council
NON-RIPA Authorisation Procedure.

1. Introduction

This document has resulted from the change in the law in respect of Directed Surveillance under the Regulation of Investigatory Powers Act 2000 (RIPA) and the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2012. From 1 November 2012 Directed Surveillance under RIPA only applied to the detection and prevention of a criminal offence that attracts a penalty of 6 months imprisonment or more or are offences involving the sale of tobacco and alcohol to underage children. This essentially removes the following types of activities from regulation: Surveillance of disorder (unless it carries a 6 month's custodial sentence), most summary offences such as littering, dog fouling, underage sales of fireworks, lower level benefit fraud and anti-social behaviour.

Enforcement officers can still undertake such surveillance but because it is not now regulated by The Investigatory Powers Commissioner's Office, the Council should have procedures in place to ensure that we can prove that we have given due consideration to necessity and proportionality, central tenets of European Law and the likely grounds of any challenge that may be received.

RIPA is there to ensure that certain types of covert surveillance undertaken by public authorities is done in a certain way and is human rights compliant. RIPA is permissive legislation. Authorisation under RIPA affords a public authority a defence of impunity that the activity is lawful for all purposes. However, failure to obtain an authorisation does not make covert surveillance unlawful. Section 80 of RIPA provides that the Act should not be construed so as to make it unlawful to engage in any conduct of that description which is not otherwise unlawful under this Act and would not be unlawful apart from this Act. Case law confirms that lack of authorisation under RIPA does not necessarily mean that the carrying out of directed surveillance is unlawful. Local authorities will still be able use covert surveillance for such purposes as long as it is necessary and proportionate in accordance with Article 8 of the European Convention on Human Rights (right to privacy).

2. Overview

Authority to use Non-RIPA surveillance techniques and the forms to be completed are the same as set out in the main RIPA policy. It will be the responsibility of Authorising Officers to ensure that their relevant members of staff are suitably trained and that applications for Directed Surveillance authorisations are completed correctly and that the same procedures as detailed in the main RIPA policy are followed. A current list of authorising officers is attached at Appendix five. Authorising officers will also ensure that staff who report to them follow this procedure and do not undertake or carry out any form of surveillance without first obtaining the relevant authorisations in compliance with this document and the main RIPA policy document above.

3. Directed surveillance

The same policy for regulated activities as detailed above should be followed in relation to directed surveillance activities that are not regulated. Any applications for non-RIPPA authority are still required to meet the necessity and proportionality tests as set out on pages 7 and 8 above.

Collateral Intrusion:

The same considerations for collateral intrusion apply.

Crime Threshold:

The use of directed surveillance by local authorities relating to crimes that are not regulated by the Regulation of Investigatory Powers (Directed Surveillance and CHIS) (Amendment) Order 2012, relate to criminal activities that fall under that threshold. These are offences that are not punishable by a maximum term of at least 6 months imprisonment and do not relate to the underage sale of alcohol or tobacco. All surveillance activities that relate to crimes not falling within the regulated regime fall under this policy. It is not therefore necessary to make any applications for judicial authority relating to non-RIPA activity.

4. The Authorisation Process

The same procedures as outlined on pages 13 and 15 above apply, save for the need to seek judicial authority as this is not necessary for non-regulated activities. No application for non-RIPA authority can however be applied for using the emergency provisions set out on pages 18 and 19. It is not envisaged that non-RIPA emergency applications will be necessary.

5. Communications Data

Communications data do not come under this (non-RIPA) policy. Any applications for this material fall under regulated activities and the procedures set out in the RIPA policy must be followed.

6. Internet / Social Media / Telephones

The policies set out on pages 20 to 25 should be followed. If there is any doubt as to whether the surveillance activity falls under RIPA or non-RIPA, legal advice should be sought. Social Media sites are a useful tool for intelligence and evidence gathering. However, there is a fine distinction between accessing readily available personal information posted into the public domain on Social Media and interfering in an individual's private life. The Internet is a surveillance device. Reviewing open source sites does not require authorisation unless the

review is carried out with some regularity, usually when creating a profile, in which case directed surveillance authorisation will be required. If it becomes necessary to breach the privacy controls and become for example 'a friend' on the Facebook site, with the investigating officer utilising a false account concealing his/her identity as a council officer for the purposes of gleaning intelligence, this is a covert operation intended to obtain private information and should be RIPA authorised and the main RIPA policy will need to be followed. If the investigator engages in any form of relationship with the account operator, then they become a Covert Human Intelligence Source (CHIS) requiring authorisation as such and management by a Controller and Handler with a record being kept and a risk assessment created. Some of the examples set out in the RIPA policy above assist in deciding whether the activity requires the use of a CHIS authorisation or not. It will only be in exceptional circumstances that a Non-RIPA authorisation will be considered appropriate for social media. The use of Social Media for the gathering of evidence to assist in enforcement activities should be used with the following considerations:

- It is only in the most exceptional cases that a false identity should be used in order to 'friend' individuals on social networks. Authorisation will be required in accordance with this policy.
- Officers viewing an individual's open profile on a social network should do so only in order to obtain evidence to support or refute their investigation; this should only be done to obtain the information and if necessary, later to confirm the information.
- Systematic viewing of a profile will normally amount to surveillance and an authorisation should be obtained.
- Authorisation should also be considered where a friend request is sent or if a conversation has been entered into with the owner of the page as this may amount to a CHIS.
- Officers should be aware that it may not be possible to verify the accuracy of information on social networks and, if such information is to be used as evidence, reasonable steps must be taken to ensure its validity.

7. Handling of material and use of material as evidence

The policy relating to this on pages 25 and 26 must be followed.

8. Duration

There are no specified times relating to non-RIPA applications etc, but it is proposed that the same times provided for under RIPA are followed for consistency. Forms must be reviewed in the time stated, renewed and/or cancelled once it is no longer needed. The authorisation to carry out/conduct the surveillance lasts for a maximum of three months (from authorisation)

for Directed Surveillance. In other words, the forms do not expire, they have to be reviewed, renewed and/or cancelled once they are no longer required. Authorisations should be renewed before the maximum period in the authorisation has expired. The Authorising Officer must consider the matter afresh including taking into account the benefits of the surveillance to date, and any collateral intrusion that has occurred. An authorisation cannot be renewed after it has expired. In such event a fresh authorisation will be necessary.

9. Record Management

As for RIPA applications, a Central Register of all Authorisations, Reviews, Renewals and Cancellations and Rejections will be maintained and monitored by the SRO, RCO/SPOC.

If there is any conflict between this policy and the RIPA policy outlined above, the RIPA policy should be followed and takes precedence. Any concerns or queries should be directed to the RCO/SPOC and then to the SRO.

CABINET

24th June 2020

Subject: Housing Allocations Policy Review 2020

Cabinet Member: Councillor Mrs Egan - Cabinet Member for Place - Housing

1. Purpose of Report

To seek approval to the proposed changes to the Housing Allocations Policy and the associated Equality Impact assessment.

2. Links to Council's priorities and objectives

This report is linked to the Council's priority of Housing and Regeneration.

3. Recommendations:

That the draft Allocations Policy and the Equality Impact Assessment is approved by Cabinet.

4. Background Information

The Allocation Scheme is the prime document which supports the way the Council allocates social housing and allocations not in accordance with the scheme can be challenged.

The review of the Allocations policy had the following objectives:

- To meet our statutory obligations to help those in housing need;
- To make the best use of the scarce resources available;
- To ensure that the Council uses its housing stock to assist in meeting the support needs of the community, including those supported by Children's Services and Adult Social Care;
- To ensure that the housing stock is used effectively to reduce costs; and
- To encourage local people to engage in finding their own solutions to problems and to become independent and resilient.

5. Issues and challenges.

There are a number of issues and challenges in relation to the supply of lettings that the Council needs to be mindful of and respond to.

Access to affordable home ownership is very difficult and a significant proportion of Borough residents are priced out of the local property market. The demand for affordable social housing far exceeds supply and there is a need to carefully manage expectations and offer alternative housing options.

There is a large and growing population of older people in the Borough and there are unmet housing needs in respect of other vulnerable groups in the Borough (e.g. people with learning disabilities, physical disabilities and mental health difficulties). The use of temporary accommodation is still required for homeless households and there is a continuing need to reduce the use of temporary accommodation and source permanent housing solutions.

Provision of new social housing is constrained by the availability of suitable sites for development and the increased pressures support the increasing need to restrict the allocation of social housing to those with an evidenced housing need.

6. Consultation

The draft Allocations Policy was subject to a consultation in January and February 2020.

The Policy was consulted on with the Castle Point Tenant & Leaseholder Group, who approved it at their meeting of the 20th January.

Between the 21st January and the 14th February the consultation was via the South Essex Housing Group (SEHG) which includes all partner Local Authority Council's bordering Castle Point and all Registered Providers in the Local Authority area and Essex County Council.

Responses were received from Essex County Council, Basildon Council, Estuary Housing and Moat Housing, referencing minor amendments which were made as a result.

7. Proposals

The key proposed revisions to the Applications Policy are listed below and the draft of the full revised Allocations Policy is at Appendix A

- Applications by online form only
- Local connection – To apply to this Council the applicant must have a 'local connection'. The residence requirement for local connection has been amended to the last 5 years

- Added in an extra local connection exemption: Applicants who have need placed outside of the Borough and assisted with the Rent Deposit Scheme.
- Band D – Revised to be the band that includes only sheltered, housing applicants and care leavers.
- Close relative connection amended:
 - Applicants who currently live more than 30 miles away and have close adult relatives who are:
 - currently resident in Castle Point and
 - who are in receipt of carers allowance in relation to the applicant (not applicable to sheltered applicants) and
 - have been resident in the Borough for at least the last 5 years.
- Improved the bedroom eligibility to 1 child families child under 3 – 1 bed / Child over 3 2 bed. Currently under 5 years.
- Reviews against acceptance onto the housing register must be made using an online form

It is intended to implement the revised Allocations Policy from 1st July 2020. The implementation of the scheme will be monitored for a 6-month period from July 2020 to review the effectiveness of the changes. Following the 6-month review period, should any changes or revisions be required these would be set out for Cabinet approval.

The Choice Based Lettings System is currently being upgraded to enable the system to allocate in accordance with the Allocations Policy and to improve customer experience.

8. Corporate Implications

a. Financial Implications

The review of the Allocations Policy has been undertaken within current resources and there are no financial implications as a result of the review.

b. Legal Implications

The Allocations Policy is used in the process of allocating social housing and could be subject to challenge if not followed.

c. Human resources/equality/human rights

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

The Allocation Scheme is supported by an Equality Impact Assessment which has been reviewed in respect of the revisions outlined and is attached at Appendix B

d. Timescale for implementation and risk factors

The revised Allocation Policy will be implemented will be implemented with effect from 1 July 2020.

There is a risk that without suitable robust eligibility criteria for the Housing Register that applications will be received and accepted from those without relevant housing need.

9. Background Papers:
None



castlepoint

benfleet | canvey | hadleigh | thundersley

Allocations Policy

2020

1. INTRODUCTION

This Housing Allocations Policy outlines how Castle Point Borough Council will assess applications for housing, determine eligibility, qualification and level of housing need, prioritise applications and allocate accommodation.

Social housing is scarce within Castle Point and therefore this policy clarifies who will be accepted onto the Council's Housing Register to make the most effective use of the very scarce resource in the Borough.

In developing this Policy, the Council has taken into consideration statutory requirements including the Housing Act 1996, Homelessness Act 2002 and other relevant legislation, regulations and guidance including but not limited to the Council's Tenancy Strategy, Homelessness and Rough Sleeping Strategy and Transfer Policy.

The Council consulted on this policy with staff, Registered Providers of Social Housing, elected members, neighbouring authorities, and the Tenant and Leaseholder Group.

The Council's objectives for the Housing Allocations scheme are to:

- Provide an accessible, fair and transparent service
- Meet local housing needs
- Meet the housing needs of the most vulnerable
- Prioritise those with the greatest / most urgent housing needs
- Make the best use of existing social housing stock
- Ensure equality of treatment for all applicants.

Acceptance onto the Housing Register or a change of circumstances resulting in a change of band does not mean housing will be provided immediately. Applicants should be aware that there are waiting periods for housing which will vary according to demand.

The Council operates a Choice Based Lettings Scheme under which applicants are able to see a choice of housing accommodation and express preference for available properties by bidding for advertised properties.

The Council seeks to give all applicants choice in relation to accommodation but may have to limit choice in certain circumstances, such as where there is limited availability or where the Council is discharging a statutory duty to a homeless household.

2. THE HOUSING REGISTER

The Council maintains a Housing Register of households who are applying for Council or Registered Provider properties within Castle Point.

How to apply:

To be considered for inclusion on the housing register all applicants must complete the on-line Choice Based Lettings form: www.castlepointhomechoice.org.uk.

The information included on the application form must be accurate. Applicants will be required to provide documentary evidence to support the information on their application and demonstrate that they have a housing need, for example proof of identity, address, income, savings and custody / access to children.

Applicants who have indicated that they have a medical, mobility, welfare or hardship need may need to be referred to an appropriate agency for an assessment.

The Council may make any further enquiries and request further evidence as it deems necessary in order to confirm the information provided on an application, such as contacting current or previous landlords, the police or support workers.

If an application is incomplete and / or further information is not provided in the appropriate timeframe the application will be cancelled and you will be notified in writing of the cancellation.

Sheltered Housing applicants:

Sheltered Housing applicants are required to complete the choice-based lettings form www.castlepointhomechoice.org.uk and an additional on-line supplementary form.

Sheltered Housing applicants will be required to attend a meeting to assess their suitability and need for support prior to acceptance onto the register.

Acceptance onto Housing Register:

If an applicant is accepted onto the Housing Register, the applicant will be notified of;

- the band their application has been placed in
- their unique application reference number (this is used to bid for homes)
- the properties they are eligible for and how to bid for properties
- how decisions may be reviewed.

If an applicant is refused entry to the Housing Register, the applicant will be notified that their application has been refused and of the reasons for the refusal.

Change of circumstances and annual reviews:

Applicants must notify the Council of any relevant change in their circumstances. Following notification of a change in circumstances, the application will be reassessed and may be moved from one band to another or removed from the register. Applicants will be notified of the outcome of any reassessments.

Applicants will be contacted annually and sent a declaration form to confirm whether they wish to remain on the Housing Register and whether their circumstances have changed. Applicants must complete and return the form within 14 days. Failure to return the form in this timeframe will result in the application being cancelled.

If at any time the Council receives evidence that an applicant who has already been accepted onto the Housing Register no longer qualifies, the applicant will be notified that their application has been cancelled and of the reasons for the cancellation.

BANDING

Completed applications and the supporting evidence provided will be assessed and a decision made on whether the applicant qualifies for the register, which banding is applicable to their circumstances and the type of properties they are eligible for.

Band	Criteria	Examples
Band A	Urgent Need	Homeless applicants with a full duty in short term temporary accommodation provided by Castle Point Council; Homeless applicants granted a 'relief duty' where a priority need and unintentionality has been identified; Lacking 3 or more bedrooms and acute overcrowding; Under-occupation; Decant of existing accommodation; High medical assessment; High welfare or hardship assessment; Young people leaving care; people moving on from supported housing projects.
Band B	High need	Homeless applicants in suitable long term temporary accommodation provided by Castle Point Borough Council; Homeless applicants with granted a 'Prevention Duty' where priority need, and unintentionality has been identified by the case officer; Lacking 2 bedrooms; Medium medical assessment; Work related reasons.
Band C	Moderate Priority	Homeless applicants pending enquiries; Homeless applicants (non-priority); Low medical assessment; Low welfare or hardship assessment; sharing facilities with non-family members; Lacking 1 bedroom.
Band E	Emergency status	Urgent move required to ensure immediate safety and welfare and where remaining in their current accommodation may cause risk of death or serious injury e.g. Witness protection

3. ELIGIBILITY AND QUALIFICATION

Applicants who are eligible and who qualify for an allocation of accommodation will be able to join the Housing Register.

You usually qualify if you are:

- a British or Irish citizen living in the UK
- an EU citizen working in the UK or with permanent residence
- from outside the EU but allowed to claim benefits

The following applicants are not eligible for an allocation of accommodation:

- Applicants who are below the age of 16 years*
- Persons from abroad who are subject to immigration control (excluding classes prescribed as eligible for an allocation of accommodation in regulations made by the Secretary of State)
- Persons who are not subject to immigration control, but who are not habitually resident in the Common Travel Area (excluding classes prescribed as eligible for an allocation of accommodation in regulations made by the Secretary of State)
- People that hold a tenancy with another Local Authority or Registered Provider (Except in exceptional circumstances – see Section 17)

* People aged 16 and 17 will usually only be considered for housing after they are 18. Exceptions are young people accepted under homeless legislation and care leavers (with recommendation from their 'parent' Local Authority). NB They only qualify for a licence or a tenancy in trust. Their application date will be used as their effective date when banding is determined.

Reciprocal arrangements exist with other Local Authorities and Registered Providers. The aim of the reciprocal arrangement is to increase the options for tenants in social housing who have a secure/assured or fixed term / flexible tenancy, to move to another Borough to avoid homelessness and increase safe options for households at risk due to a confirmed risk to the personal safety of themselves or a member of their household.

The eligibility criteria do not apply to transfer applicants who already hold an introductory, secure, starter or full assured tenancy with a Council or Registered Provider.

Sheltered Housing applicants:

The minimum age for sheltered housing applicants is:

- Non-Council tenants: 60 years or older
- Existing Council property tenant: 55 years or older.

In both cases all members of the applicant's household must be 50 years or older.

Sheltered housing does not accommodate families or adult children, only single people and couples can apply.

Sheltered housing does not provide care or support facilities such as 24/7 on site staff or personal carers.

Eligibility review:

Applicants can remain on the Housing Register for varying periods of time. Castle Point Borough Council assess eligibility at the point of application and again when considering making an allocation. It is possible for an applicant's eligibility status to change. Applicants must be eligible at the time a property is available to them.

4. INELIGIBLE APPLICANTS

Where a housing applicant is financially able to secure alternative accommodation for themselves an applicant will be ineligible to join the housing register. Assessments will be made considering local market rents and relevant market trends and data.

Owner occupiers or applicants who own other residential properties will be ineligible to apply.

The income, capital and / or interest held by a housing applicant and associated household in a current home, other property or other assets will be considered along with their ability to secure a mortgage and the size and type of property needed.

Housing applicants who are adequately housed will be ineligible to apply.

5. REASONABLE PREFERENCE:

In accordance with the Housing Act this policy sets out how, when deciding who will be offered accommodation, the Council will give reasonable preference to the following applicants:

- Applicants who are homeless under the meaning in the Housing Act
- Applicants to whom a duty is owed under Homeless legislation.
- People occupying insanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions
- People who need to move on medical or welfare and /or hardship grounds
- Applicants who are serving or former serving members of the regular armed forces or reserve forces (differing circumstances are separately considered within the policy).

6. REDUCED PREFERENCE

Reduced preference will apply where a housing applicant is financially able to secure alternative accommodation for themselves. Assessments will be made considering local market rents and relevant market trends and data.

Reduced preference will apply to those who have been granted a full homeless duty and have previous incidents of unacceptable behaviour or under a prevent or relief duty where they have failed to cooperate.

7. LOCAL CONNECTION

Relatives:

Applicants (excluding sheltered housing) who do not meet at least one of the following criteria will not qualify for the Housing Register.

- Applicants who have been resident in Castle Point continuously for the last 5 years.
- Applicants who have close adult relatives who are;
 - currently resident in Castle Point; and
 - who are in receipt of carers allowance in relation to the applicant; and
 - have been resident in the Borough for at least the last 5 years; and
 - the cost of travel in relation to caring duties is causing financial hardship (evidence will need to be supplied and a financial assessment undertaken).

Close adult relatives include parents, siblings or children over the age of 18 (including step equivalents).

Sheltered housing:

Sheltered housing applicants must have a close adult relative who has been living in the Borough for a minimum of 5 years continuously.

Employment:

- Applicants who have paid permanent contracted employment within Castlepoint for 24 hours or more a week (16 hours for single parents with dependent children) and:
 - the employment has been for a continuous period of 12 months prior to the application; and
 - the cost of travel to and from the place of employment is causing financial hardship (evidence will need to be supplied and a financial assessment undertaken).

Local Connection Exemptions:

The following applicants are exempt from the local connection criteria:

- Housing applicants granted a main duty who, under homelessness code of guidance, fulfil the local connection criteria.
- Applicants who are serving in or have served in the regular or reserve armed forces within the 5 years immediately prior to the date of their application.
- Applicants who are serving or former serving members of the regular armed forces or reserve forces who suffer from a serious injury, illness or disability sustained as a result of their service.
- Applicants who are a bereaved spouse/civil partner of a former serving member of the regular armed forces and have recently ceased or will cease to be entitled to reside in services accommodation following the death of their spouse/civil partner.
- Care Leavers below the age of 21 years who have been accommodated within Castle Point for a continuous period of at least 2 years (including some time before they were 16 years of age).
- Applicants who are Essex care leavers below the age of 25, and were resident in the Borough when they became looked after, who were subsequently placed by Essex County Council outside of the Borough but wish to return.
- Applicants living in temporary accommodation outside the Borough who had a local connection at the time they were placed there by Castle Point Borough Council.
- Applicants from outside the Borough who need to be housed within the Borough to receive care or support for themselves or a member of the household and where it is unreasonable to travel to receive the care or support.
- Applicants who are leaving an institution such as a prison or secure unit or a hospital, rehabilitation centre, refuge, hostel or supported accommodation scheme and did have a qualifying local connection to Castle Point through residence in settled accommodation immediately before they moved into their current accommodation.
- Applicants rehoused outside the Borough of Castle Point under a homelessness duty.
- Other exceptional circumstances (such cases will be referred to the Head of Housing and Communities for consideration).

8. HOUSEHOLD MEMBERS AND BEDROOM ELIGIBILITY

Set criteria will be used to determine the number of bedrooms an applicant is eligible to bid for, taking into account the number and ages of all “permanent” members of the applicant’s household.

Any adult who resides with the applicant, where the accommodation is their main and principle home, will be classed as a permanent household member.

Any child below the age of 18 who resides with the applicant as their main home will be classed as a permanent household member. In cases of shared parenting the general principle is that a child needs one home of an adequate size and the Council will not accept responsibility for providing a second home for children to stay with a different parent.

Where there is evidence that additional bedrooms are required, the applicant may be permitted to bid for larger properties.

Examples include:

- Where the applicant is a prospective foster carer and requires an additional bedroom in order to foster a child (subject to Social Services have approved the applicant as a foster carer subject to the availability of suitably sized accommodation will be required).
- Where the applicant has a need for an additional bedroom for an overnight waking carer on a permanent basis (proof of the applicant’s need for an overnight waking carer will be required).
- Where the applicant has a medical or welfare need for an additional bedroom.
- Where a member of the applicant’s household is in full-time education or is serving in the armed forces and does not reside with the applicant throughout the year, but their permanent home is with the application.

Due to limited availability, families with 5 or more children may be given preference over smaller eligible households for properties with 4 or more bedrooms.

Eligible property size:

(x indicates eligibility)	Property size				
Applicant type	Bedsit	1 bed	2 bed	3 bed	4 bed
Single adult	x	x			
Couples		x			
1 child families – child under 3 years of age		x			
1 child families – child over 3 years of age			x		
2 child families – children same gender			x		
2 child families – children different gender, eldest child over 10 years of age and the other under 5 years of age			x		
2 child families – children different gender, one child over 10 years of age and the other over 5 years of age				x	
Families with 3 or 4 children				x	
Families with 5 or more children					x

NB: Qualifying applicants to Housing Associations will be nominated according to the Housing Associations policy.

9. ADVERTS

Vacant properties are advertised on the Council's Choice Based Lettings System. Adverts will contain as much information as possible about the property and the applicable eligibility criteria.

The Choice Based Lettings System will include information about Castle Point Council properties and Housing Association properties.

The Council reserves the right to advertise some properties giving preference to certain applicants including but not limited to transfer tenants, Tenant Incentive Scheme (TIS) applicants, homelessness cases, decants to achieve best use of housing stock.

10. BIDDING FOR PROPERTIES

Properties available to rent are advertised for 4 days from midnight on a Wednesday to midnight on the Sunday every week.

It makes no difference when a bid is placed within that timeframe. Bids made in time are all considered equally and ranked according to priority.

Applicants can express an interest in available properties by placing bids through the Choice Based Lettings System. Applicants can bid for up to 3 properties during the time they are advertised. Applicants are only able to bid for properties that are suitable for their family size. Bids are not accepted after midnight on a Sunday.

The expression of interest in a property by making a bid does not guarantee the offer of a tenancy.

Applicants 'ready for move on', owed a homeless duty, non-statutory successions or Tenant Incentive Scheme applicants with significant rent arrears will be placed on 'auto bid'. The system will then auto match the applicant to a property to meet their housing need.

To ensure the best use of housing stock the Council reserves the right on occasions to give preference to certain types of application.

11. SHORTLISTING

Applicants who place bids for properties will be shortlisted in the following order (subject to the additional criteria below):

- Applicants in Emergency / Exceptional band E
- By need for any specialist components in the property (such as a significant disabled adaptation)
- By housing need band (from band A down to band C) (from oldest to newest).
- By banding effective date (from oldest to newest)

If more than one applicant with the same band and banding effective date bids for the same property, the Council will decide taking into consideration the individual housing circumstances of each case and relevant factors, such as previous offer refusals.

Wheelchair standard properties or properties with similar significant disabled adaptations will be matched to applicants who have a need for the adaptations and who are most suited to the vacancy. A specialist such as an Occupational Therapist may need to be consulted on the suitability of a property for the applicant(s).

If an applicant who has a need for accommodation with disabled adaptations bids for a property that does not meet this need, the Council will consider whether it is reasonable and practical to adapt the property taking into account budget availability and best use of available housing stock.

Where there is a shortage of accessible or adapted properties the Council may, subject to budget availability, identify properties that are suitable for adaptation and consider giving applicants who have disabilities preference for these properties.

The Council reserves the right to overlook bids, for example in the following circumstances:

- Where the applicant is already under offer for a different property.
- Where the applicant has been awarded priority due to overcrowding or a medical or welfare need for an additional bedroom and has bid for a property with the same or fewer bedrooms.
- Where the applicant has been awarded priority due to under-occupancy and has bid for a property with the same or more bedrooms.
- Where the applicant poses a risk to individuals or the community.
- Where the applicant has bid for a property for which they are not eligible due to a system or administrative error.
- Where the applicant has bid for a property for which they are no longer eligible following a change in their circumstances.
- Where the applicant is in rent arrears.

12. ALLOCATIONS AND OFFERS

The Council will review bidding shortlists and allocate properties in accordance with this Policy. Successful applicants will be contacted if they have been matched to a property. Applicants will have 2 working days to respond to an offer of accommodation. Some applicants may be given longer to consider an offer, for example where there are identified vulnerabilities that significantly affect the applicant's ability to respond.

Failure to respond to an offer by the specified deadline may be treated as a refusal. If an applicant fails to respond to an offer, their application will be suspended pending contact and confirmation of their circumstances. The application will be cancelled if there is no contact within 28 days.

Applicants who owe housing related debts will need to provide evidence to confirm that repayment plans have been maintained.

Applicants may be required to complete an affordability assessment to confirm that the accommodation offered will be suitable.

If an applicant accepts an offer of accommodation, arrangements will be made for a viewing of the property and subsequent signing of a tenancy agreement. Failure to attend an arranged viewing or sign-up appointment will be treated as a refusal.

Applicants are limited in the number of offers that they can refuse:

Applicants entitled to one offer only:

- Band A applicants (With the exception of TIS)
- Applicants in supported accommodation
- Child in Care nominations
- Applicants accepted as statutorily homeless and qualifying for the Home Choice Scheme
- Non statutory successions

Applicants entitled to two offers only:

- Transfer applicants
- General needs applicants

If an applicant refuses offers of suitable accommodation (unless homeless and/or ready for move on), they will not be permitted to bid for further properties or considered for another offer of accommodation for a period of 12 months. The applicant will be suspended until 12 months have passed.

If an applicant who has been placed in band E because they have an emergency level housing need refuses an offer of suitable accommodation, they will lose their priority status.

If the applicant is owed a homeless duty under the Housing Act and /or has move on status refuses an offer of suitable accommodation, they will lose their priority status and if applicable their relevant homeless duty will be discharged.

The Council reserves the right to withdraw any offer of accommodation where there is just cause. The Council will explain to the applicant why an offer has been withdrawn.

The Council will, where possible, work with vulnerable applicants to try to ensure suitable properties are not being refused for spurious reasons or with no understanding of the implications.

The Council may in emergency situations direct let a property that they deem suitable. Such cases will be referred to the Head of Housing and Communities for consideration.

13. UNACCEPTABLE BEHAVIOUR

Applicants who are unsuitable to be a tenant because they (or any member of their household) have been responsible for unacceptable behaviour will not qualify for the Housing Register.

Examples of unacceptable behaviour include but are not limited to:

- Significant housing related debt (equating to the equivalent of 8 weeks rent arrears,) Examples of housing related debt can include arrears of Council Tax, Housing Benefit overpayments, non-payment of rent deposit debt, former tenant rent arrears.
- Violence or threats of violence or intimidation
- Being a perpetrator of domestic violence or a hate crime
- Conviction for illegal or immoral use of their home
- Physical, sexual or financial abuse
- Anti-social behaviour
- Drug use and dealing
- Property damage and /or allowing condition of a property to deteriorate beyond reasonable wear and tear
- Giving false information or withholding information in relation to an application for housing within Castle Point or any other area.

The Council will consider all relevant factors such as health, dependents and the individual circumstances of the housing applicant. Decisions will be made based on proportionality and reasonableness.

When assessing whether an applicant is unsuitable to be a tenant the Council will consider:

- The seriousness of the applicant's behaviour
- The duration of the behaviour and/or the number and frequency of incidents
- The length of time that has elapsed since the behaviour took place
- Relevant vulnerabilities and support needs
- Whether there has been meaningful engagement with support agencies
- Whether there has been a significant and sustained change in the applicant's behaviour.

Applicants who have been guilty of unacceptable behaviour will not be able to join the Housing Register until they have demonstrated a significant change in their behaviour and the Council is satisfied that the behaviour is unlikely to reoccur, and that the applicant is now suitable to be a tenant.

14. DELIBERATE WORSENING OF CIRCUMSTANCES

Applicants whose housing need arises as a result of deliberately worsening their own housing circumstances will be assessed on the basis of their previous accommodation or

circumstance. If assessed as having deliberately worsened your circumstances this may reduce your preference or render you ineligible to join the housing register.

Examples of worsening of circumstances include:

- Applicants who have sold a property or given up a tenancy of a property that was suitable and reasonable to occupy and moved into accommodation that is overcrowded, in a poor state of repair or unaffordable.
- Applicants who reside in a property that is in a poor state of repair due to neglect or damage that they, or a member of their household, caused.
- Applicants who reside in a property that is in a poor state of repair and will not permit their landlord access to carry out repairs or improvement works.
- Applicants who have created overcrowding within their accommodation by moving extended family into the property when there was no need to do so.
- Applicants who have colluded with their landlord in the service of a notice.

Applicants found to have worsened their circumstances have a right to ask for a review of the decision.

15. FALSE STATEMENTS AND WITHHOLDING INFORMATION

It is an offence for housing applicants to give false information or knowingly withhold information that has been asked for in respect of a housing register application.

The Council may take action against applicants who withhold or provide false information regarding their housing application.

Where an applicant has been allocated a property as a result of providing false information, the Council or Registered Provider may take court action to obtain possession of the property.

Applicants proven to be providing false information will be excluded from the housing register.

16. REVIEWS AND APPEALS

If an applicant does not agree with a decision made by the Council in respect of their application, they have the right to request a review of the decision. The circumstances in which an applicant may request a review include:

- The Council has decided that an applicant is not eligible or does not qualify for the Housing Register.
- The applicant believes their application has been assessed incorrectly and placed in the wrong Band.
- The applicant believes they should be eligible to bid for a size or type of property that they have not been permitted to bid for.
- The Council has decided to withdraw an offer of accommodation.
- An application has been cancelled and the applicant's request to have the application reinstated has been refused.

Review process:

Applicants who wish to request a review of a decision will need to submit their request in writing to housingadvice@castlepoint.gov.uk within 14 days of the date of the decision. The Council will only be prepared to consider late review requests in exceptional

circumstances and where there is good reason for the delay, the Council's decision is final.

A review request should include details of why the applicant feels the decision is incorrect and any points the applicant wants the Council to consider when carrying out the review. If the applicant submits new information or evidence that was not available when the original decision was made, such as information relating to a change in circumstances, the application may be referred for a reassessment rather than a review.

All reviews will be completed by a Senior Officer who was not involved in the original decision. A review will normally be carried out within 56 days. Written notification of the review decision, including grounds for the decision, will be sent to the applicant at the correspondence address provided for their application. If the applicant does not have a correspondence address, a copy of the letter will be made available for collection from the Council Offices for a period of at least 21 days.

If an applicant has been matched for a property but has been refused an offer of accommodation by a Registered Provider, they should make a request to the Registered Provider in the first instance to review its decision. Each Registered Provider operates its own appeals process.

17. EQUAL OPPORTUNITIES AND DATA PROTECTION

The Council promotes equal opportunities and aims to implement and maintain services that ensure no applicant is treated unfairly on the grounds of age, gender identity, marital status, pregnancy or maternity, sexual orientation, race, religious belief or disability or disadvantaged by the application of criteria that has a direct or indirect discriminatory effect that cannot be justified by law.

Advice and assistance are available to ensure that the Allocations Policy and Choice Based Lettings scheme are accessible for all applicants. Assistance can be provided to applicants who are unable to search or bid for properties as a result of a disability or assessed vulnerability if required. Information can be translated or made available in different formats, such as large print, upon request if required.

Personal information that the Council hold in relation to applications will be processed in accordance with Data Protection legislation. Information may need to be disclosed to Registered Providers or other landlords who may be able to offer accommodation. More information about how and why the Council may process personal data, data protection rights is available on the Council's website.

18. ASSESSING HOUSING NEED

Applicants who have a confirmed housing need will be placed in 1 of 4 housing need bands:

- Emergency / Exceptional
- Urgent
- High
- Moderate

Band E – Emergency / Exceptional Housing Need

Applicants who have an emergency need will be placed in band E.

Band E allocations require approval by 2 housing management team members.

Examples of emergency situations include;

- Witness protection

Exceptional Circumstances

In exceptional circumstances other applicants who do not fall within any of the categories listed below may be considered to have a housing need and fall within one of the housing bands (such cases will be referred to the Head of Housing and Communities for consideration).

Castle Point Borough Council will need to be satisfied that the current Landlord does not have the required property when considering exceptional circumstances in relation to other Local Authority tenants or Registered Providers.

Band A: Urgent Housing need

Applicants will be placed in band A where they meet at least one of the following criteria:

Homeless Duty:

- Housing applicants who have been assessed under the Housing Act and who have been granted a full duty.
- Applicants who have been assessed as having a priority need and unintentionally homeless and been granted a relief duty
- Applicants who have been granted a full duty and are in short term temporary accommodation.

Dangerous or Hazardous Housing Conditions:

- Applicants who are living in accommodation that has been classified as being “statutorily overcrowded” This banding will not apply if the applicant has been placed in the accommodation temporarily
- Applicants who are living in accommodation with conditions that have been classified as being unsafe or posing an imminent risk of significant harm and where the issues cannot be remedied by the landlord within a time period that the Council considers to be reasonable.
- Applicants who are residing in a property that is subject to a demolition order.
- Applicants who are living in a property that has been assessed as having a Health and Housing Rating System Category 1 hazard by the Council’s Environmental Health team where the Council is satisfied that the problem cannot be resolved by the landlord within 6 months and where continuing to occupy the accommodation will pose a considerable risk to a household members health.

Emergency Medical or Mobility Need:

- Applicants who have been assessed as having a high medical priority by an independent medical advisor.
- Applicants who have a progressive, chronic or life-threatening medical condition and cannot be discharged from hospital because they do not have any accommodation or their accommodation is unsuitable, for example because they cannot access toilet and/or bathing facilities in the property.
- Applicants who have a progressive, chronic or life-threatening medical condition and urgently need to move to accommodation with significant disabled adaptations, such as wheelchair standard accommodation.

Armed Forces:

- Applicants who are serving or former serving members of the regular armed forces or reserve forces who are assessed by an independent medical advisor as suffering from a serious injury, illness or disability sustained as a result of their service
- Applicants who are a bereaved spouse/civil partner of a former serving member of the regular armed forces and have recently ceased or will cease to be entitled to reside in services accommodation following the death of their spouse/civil partner.

Acute overcrowding:

- Housing applicants that lack 3 or more bedrooms when assessed against their eligible property size.
- Housing applicants that lack 2 or more bedrooms when assessed against their eligible property size and have exclusive use of one room but share kitchen or bathroom facilities with non-family members. (Does not include temporary accommodation).
- Housing applicants who have been assessed as overcrowded in line with the Housing Act.

Under occupation:

- Transfer applicants releasing under occupied 2 or more bedroomed accommodation and moving to smaller accommodation under the Council's transfer incentive scheme.
- Successions, required to move to smaller accommodation
- Housing applicants releasing under occupied 2,3 and 4 bed accommodation and moving to smaller accommodation where a statutory or non-statutory right of succession has been determined.

Decant of existing accommodation

- Housing applicants who are tenants of the Council who are required to vacate their homes as a result of a regeneration or demolition scheme.

Young people leaving care

- Housing applicants who are two weeks prior to their 18th birthday and are due to leave local authority care and are ready to move to independent accommodation.

High welfare or hardship assessment

- Applicants that have been assessed by the Council as having a high welfare or hardship need. Welfare and hardship need cases are referred to a Housing manager for decision.

Ready for “Move-On”

- Applicants in short term supported housing who have been assessed as ‘ready to move on’ to independent accommodation and who would be considered likely as to be accepted as threatened with homelessness and in priority need.

Reciprocals

- Approved management transfers from outside the Borough under a reciprocal arrangement with the relevant Local Authority or Registered Provider.

Band B: High Housing need

Applicants will be placed in band B where they meet at least one of the following criteria:

Homeless Duty:

- Applicants who have been assessed under the Housing Act and who have been granted a duty who are in suitable long-term temporary accommodation arranged by the Council
- Applicants who have been assessed as having a priority need and unintentionally homeless and been granted a prevention duty.

Medium medical or mobility need:

- Applicants who have been assessed as having a medium medical priority by an independent medical advisor.

Medium overcrowding

- Applicants that lack 2 or more bedrooms when assessed against their eligible property size.

Armed Forces:

- Applicants who are serving or former serving members of the regular armed forces or reserved forces who have no housing need and the application is made within 5 years of discharge.

Work related:

- Applicants who have paid permanent contracted employment within Castlepoint for 24 hours or more a week (16 hours for single parents with dependent children) and the employment has been for a continuous period of 12 months prior to the application; and the cost of travel to and from the place of employment is causing financial hardship (evidence will need to be supplied and a financial assessment undertaken).

Medium welfare or hardship assessment

- Applicants that have been assessed by the Council as having a medium welfare or hardship need. Welfare and hardship need cases are referred to a Housing manager for decision.

Band C: Moderate Housing need

Applicants will be placed in band C where they meet at least one of the following criteria:

Homeless Duty:

- Applicants who have been assessed as having a priority but been assessed as intentionally homeless, where there is a requirement under the Housing Act to afford reasonable preference on the grounds of homelessness.
- Applicants who have been granted a duty who are homeless and have a local connection but unlikely to have a priority need and/or are awaiting their homelessness decision.

Low medical or mobility need:

- Applicants who have been assessed as having a low medical priority by an independent medical advisor.

Low overcrowding

- Applicants that lack 1 bedroom when assessed against their eligible property size.
- Transfer applicants that have resided in a bedsit for more than 12 months (Aged 25 or over).
- Applicants staying or living with nonfamily members that do not have the exclusive use of a bedroom/one room and share kitchen and bathroom facilities.

Low welfare or hardship assessment

- Applicants that have been assessed by the Council as having a low welfare or hardship need. Welfare and hardship need cases are referred to a Housing manager for decision.



Allocations Policy

Equality Impact Assessment (EqIA)

2020

Strategy and Policy EqIA

All strategies and policies must be initially screened for their positive and negative equality impacts.

This initial screening will determine whether or not it is necessary to carry out a full EqIA for the strategy or policy.

This template has been designed to help you initially screen your strategy or policy and, if necessary, undertake a full EqIA .

Title of strategy or policy:	Allocation Policy (With reference to Tenancy Policy and Choice Based Lettings Policy)
Person undertaking EqIA:	Diane Logue
Head of Service:	Craig Watts
Department:	Housing & Communities
Date EqIA completed:	January 2020

Strategy and policy overview

Strategy and policy overview	
<p>What is the strategy or policy intending to achieve?</p> <p>What are the summary aims and objectives of the strategy or policy?</p> <p>Who will benefit from implementing the strategy or policy?</p> <p>What are the links to the Council's corporate priorities?</p> <p>What are the links to other Council strategies and policies?</p> <p>What are the links to other community strategies and policies?</p>	<p>The Allocation Policy outlines the approach to the assessment of housing need and the allocation of social housing in the Borough.</p> <p>The Allocation Policy has been developed with the following aims:</p> <ul style="list-style-type: none"> • To ensure consistency and fairness in the allocation of social housing (Council and housing association accommodation) in the Borough • To ensure that those seeking social housing in the Borough are able to exercise choice in deciding where they wish to live and what type of property they would prefer having regard to their needs and circumstances <p>The Allocation Policy enables the Council to consider the individual circumstances and needs of housing applicants whilst making the most effective use of the very scarce resource of social housing stock in the Borough.</p> <p>The Allocation Policy sets out:</p> <ul style="list-style-type: none"> • How to apply for housing • Who is eligible to be accepted on to the housing register

- Who is not eligible to be accepted on to the housing register
- How housing needs will be assessed
- How priority will be determined
- What the decision making processes are
- How homes will be offered and allocated

The Allocation Policy is linked to the following corporate priorities:

- Housing and Regeneration
- Health and Community Safety
- Transforming our Community

The Allocation Policy is linked to other statutory requirements and strategies and policies, including but not limited to:

- Housing Act 1996
- Homelessness act 2002
- Tenancy Strategy and Rough Sleeping Strategy
- Homelessness Strategy
- Transfer Policy
- Corporate Plan
- Local Plan

Equality Act 2010

When framing qualification criteria a Local Authority needs to have regard to its duties under the Equality Act as well as the requirements to give reasonable preference to certain classes of person.

The Equality Act 2010 introduces 2 specific statutory duties on public bodies such as local authorities:

- **Socio-economic duty:**

- Have due regard when making strategic decisions to the need to reduce inequalities of outcome which result from socio-economic disadvantage

- **Single (integrated) equality duty:**

- Eliminate discrimination, harassment and victimisation or any other conduct prohibited by the Act
- Advance equality of opportunity between persons who share a “protected characteristic” and those who do not
- Foster good relations between people who share a “protected characteristic” and those who do not

The Equality Act 2010 brings together all of the different equality strands and refers to them as “**protected characteristics**”:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

Initial screening

This initial screening template will determine whether or not the strategy or policy requires a full EqlA

If any of the answers to the 6 screening questions is “yes”, then a full EqlA will be required.

Initial screening		
Does the strategy or policy aim to reduce inequalities of outcome which result from socio-economic disadvantage?	Yes	The Allocation Policy aims to meet the housing needs of the most vulnerable people in the community.
Does the strategy or policy aim to eliminate discrimination, harassment and victimisation?	Yes	The Allocation Policy recognises the priority that must be given to people experiencing discrimination, harassment and victimisation.
Does the strategy or policy aim to advance equality of opportunity?	Yes	The Allocation Policy aims to ensure consistency and fairness in the allocation of social housing in the Borough and ensure that all people seeking social housing in the Borough are able to exercise choice in deciding where they wish to live and what type of property they would prefer having regard to their needs and circumstances.
Does the strategy or policy aim to foster good community relations?	Yes	The Allocation Policy aims to support the objective of Transforming our Community.

Initial screening (continued)		
Does the strategy or policy aim to reduce inequalities of outcome which result from socio-economic disadvantage?	Yes	The Allocation Policy aims to meet the housing needs of the most vulnerable people in the community.
Does the strategy or policy have the potential to make a negative contribution to equality?	Yes	The Allocation Policy does not knowingly contribute to discrimination or inequality but there is a potential for this to arise if advice and support for vulnerable or potentially excluded housing applicants is not facilitated to enable their full participation.
Does the strategy or policy make a positive contribution to equality?	Yes	The Allocation Policy actively aims to promote equality of opportunity in applying for housing and allocating scarce housing resources and it also aims to improve the quality of life of those people in the greatest housing need.
Initial screening outcome	Full EqlA is required	

Full assessment

Information gathering	
<p>What quantitative and qualitative information is there?</p> <p>What additional information is required?</p>	<p>The Allocation Policy has been continuously reviewed and developed with an understanding of the current and likely future levels of housing need, the current and likely future supply of vacancies and the inevitable constraints on meeting all evidenced housing need.</p> <p>Additionally, the Policy was developed with an understanding of current housing legislation and supporting central Government guidance and the statutory duties arising from the Equality Act 2010 and has been reviewed to ensure that it complies with the requirements of the Localism Act 2011.</p>
<p>What are the outcomes of any internal and/or external consultation with stakeholders?</p> <p>What further consultation is required?</p>	<p>In developing the original Allocation Policy there was lengthy consultation and engagement with operational staff (housing management and housing options) to ensure that their knowledge, information and experience of current housing waiting lists, assessing housing need and allocating accommodation was taken in to account. Since it's inception in 2011 the Policy has been continuously reviewed.</p> <p>The Allocation Policy has been reviewed during 2020 and consultation with relevant stakeholders, Tenant and Leasehold Group and the South Essex Housing Group, has taken place prior to the planned submission. The policy is due to be put to Cabinet in March 2020.</p>

What examples are there of existing good practice?	The Allocation Policy is intending to achieve a consistent approach to the assessment of housing need and the allocation of social housing in the Borough. Experience gained since the introduction of the Policy in 2011 has informed the review process and considered the lessons learned.
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Making a judgement	
How will the strategy or policy eliminate discrimination, harassment and victimisation?	<p>The Allocation Policy takes account of the priority that must be given to people experiencing discrimination, harassment and victimisation.</p> <p>The Policy allows for a housing applicant to be awarded “exceptional or emergency” status where an urgent move is required to ensure their immediate safety and welfare for whatever reason and/or where remaining in their current accommodation may cause risk of death or serious injury.</p> <p>Band A of the Policy allows for housing applicants experiencing harassment, abuse or violence to be given the appropriate high priority where it is right to do so.</p> <p>The Allocation Policy allows for “welfare and hardship” factors not assessed elsewhere to be considered and for a housing applicant’s priority and band to be increased in appropriate circumstances.</p>
How will the strategy or policy advance equality of opportunity?	The Policy aims to ensure consistency and fairness in the allocation of social housing in the Borough and ensure that all people seeking social housing in the Borough are able to exercise choice in deciding where

	<p>they wish to live and what type of property they would prefer having regard to their needs and circumstances.</p> <p>The Policy is a published document that transparently lays out how housing needs will be assessed and prioritised.</p> <p>The CBL scheme enables housing applicants to genuinely express choice through the advertising and bidding processes.</p>
How will the strategy or policy foster good community relations?	The Allocation Policy aims to support the objectives of promoting Public Health and Wellbeing and Transforming our Community.
<p>Does the strategy or policy have the potential to make a negative contribution to equality?</p> <p>If so, which groups with “protected characteristics” will be affected and what are the reasons?</p>	<p>The Policy does not knowingly contribute to discrimination or inequality but there is a potential for this to arise if advice and support for vulnerable or potentially excluded housing applicants is not facilitated to enable their full participation.</p> <p>The Policy has the potential to have an adverse impact on elderly and/or disabled people given that they may not fully understand the CBL scheme’s advertising and bidding processes and/or be able to fully engage with the options offered.</p>
What can be done to address any contribution to inequality caused by the strategy or policy?	Administration of the scheme must ensure that vulnerable or potentially excluded housing applicants can fully participate. This can be done by identifying potentially vulnerable applicants and establishing what advice and support may be required, training/briefing Council staff and appropriate agencies and organisations on the operation of the CBL scheme, facilitating advice and support either directly by the Council or

	<p>via referrals to appropriate agencies, facilitating direct mailing of adverts for eligible vacant accommodation in appropriate circumstances and facilitating direct allocations of accommodation in appropriate circumstances.</p>
<p>What can be done to assist understanding of the strategy or policy?</p>	<p>Administration of The Policy must ensure that full information is provided to housing applicants.</p> <p>The website will provide clear guidance to complement the Allocation Policy. Provision of the allocation in other formats as appropriate (e.g. large print, Braille, CD, other languages) can be made available. The Council works closely with Peabody and signposts clients to their services to aid with completion of documents.</p>

Action plan					
Equality objective	Action(s)	Lead responsibility	Resources	Timescale(s)	Outcome(s)
Ensure that Choice Bases Lettings website is accessible and understandable.	Review of CBL website to complement the Allocation Policy.	Tenancy Services Manager	Staff time	On-going	Housing applicants have sufficient information to understand and participate in the CBL scheme
	Provision of information in other formats as appropriate (e.g. large print, Braille, CD, other languages)	Tenancy	Staff time HRA budget	Ongoing as necessary from implementation of policy	
Ensure that vulnerable housing applicants receive all necessary support	Ensure that the auto bid facility is utilised where necessary for vulnerable clients	Housing Options Officer	Staff time HRA budget	On-going	Vulnerable applicants housed as appropriate