

TO:- Licensing and Regulatory Committee

Councillor Vincent Merrick , Councillor Mike Davies , Councillor Andrew Adams , Councillor Penny Allen ,
Councillor Meg Barrow , Councillor John Brindle , Councillor Gary Burnett , Councillor Christopher Evans ,
Councillor Sam Harper-Wallis , Councillor Rita Heseltine , Councillor Matthew Jackson , Councillor John Michell ,
Councillor Rob Nelson , Councillor Bernard Williams , Councillor David Williams

Notice is hereby given that a meeting of the Licensing and Regulatory Committee will be held as detailed below for the purpose of transacting the business set out below.

Date: Thursday, 26 October 2023

Time: 14:30

Venue: Council Chamber, Community Hub, Wolverhampton Road, Codsall, South Staffordshire, WV8 1PX



D. Heywood
Chief Executive

AGENDA**Part I – Public Session**

- | | | |
|----------|--|---------------|
| 1 | Minutes
To approve the minutes of the Licensing and Regulatory meeting of 20 July 2023. | 1 - 2 |
| 2 | Apologies
To receive any apologies for non-attendance. | |
| 3 | Declarations of Interest
To receive any declarations of interest. | |
| 4 | Quarter 2 Update on Taxi Licensing
Report of Team Manager, Environmental Health and Licensing | 3 - 4 |
| 5 | Food Safety Service Plan
Report of Team Manager, Environmental Health and Licensing | 5 - 52 |

RECORDING

Please note that this meeting will be recorded.

PUBLIC ACCESS TO AGENDA AND REPORTS

Spare paper copies of committee agenda and reports are no longer available. Therefore should any member of the public wish to view the agenda or report(s) for this meeting, please go to www.sstaffs.gov.uk/council-democracy.

Minutes of the meeting of the **Licensing and Regulatory Committee** South Staffordshire Council held in the Council Chamber Community Hub, Wolverhampton Road, Codsall, South Staffordshire, WV8 1PX on Thursday, 20 July 2023 at 14:30

Present:-

Councillor Meg Barrow, Councillor Gary Burnett, Councillor Mike Davies, Councillor Sam Harper-Wallis, Councillor Rita Heseltine, Councillor Vincent Merrick, Councillor Bernard Williams, Councillor David Williams

01 MINUTES OF MEETING 16.3.23

RESOLVED: that the minutes of the Licensing and Regulatory Committee meeting held on 16 March 2023 are a true and accurate record

02 APOLOGIES

Apologies received from Cllr Allen, Cllr Jackson, Cllr Nelson and Cllr Szalapski

03 DECLARATIONS OF INTEREST

There were no declarations of interest.

04 2022-23 QUARTER 4 REPORT TO SOUTH STAFFORDSHIRE COUNCIL

Quarter 4 report - noted

05 REVIEW OF FEES AND CHARGES FOR HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING FUNCTIONS FOR 2023-24

RESOLVED: Review of fees and charges – recommendations at 2.1 – approved namely to approve the proposed fees and charges as set out in Appendix 1 with effect from 1 September 2023, subject to any consultation comments and 2.2 approved – the abolition of one year licences for private hire vehicles aged over ten years to deliver administrative savings.

The Meeting ended at: 14:40

CHAIRMAN

Briefing Note

Title: 2023-24 Quarter 2 Report to South Staffordshire Council

Date: 25 October 2023

Prepared by: Greg Bickerdike

Job Title: Licensing Manager

Intended Audience: Internal ☐ Partner organisation ☒ Public ☒ Confidential ☐

Purpose

To report to South Staffordshire District Council on the status of taxi licensing.

Background

On 1 April 2022, South Staffordshire Council (SSC) delegated its taxi licensing function to City of Wolverhampton Council (CWC). As part of this delegation, quarterly reports were agreed. This report covers quarter two (Q2) of 2023-24: July, August and September.

Update

Work is being undertaken on a webpage where the public can access a report which updates daily on the statistics below for licence holders. This will allow for greater transparency and is hoped to reduce freedom of information requests, by making the information available continuously.

A contract is due to be signed for the new reusable and contactless driver licence badges, which will be rolled out to all drivers in the coming months. The advertisement for a new vehicle plate contract has closed and is being evaluated.

Several vehicle licences have been surrendered this quarter, due to the sale of those vehicles to unlicensed proprietors.

A private hire driver has applied for a licence and is not clear of the guidelines, which is being referred for consideration by the Regulatory Sub-Committee.

The Department for Transport's 'Taxi and private hire vehicle best practice guidance' is still awaiting publication, despite the consultation closing in June 2022.

Statistics for Q2

Licence Holders

Licence Type	Currently licensed (total)	Received	Granted	Refused
Hackney Carriage Driver	0	0	0	0
Hackney Carriage	1	0	0	0
Dual Driver	1	0	0	0
Private Hire Vehicle Operator	24	1	3	0
Private Hire Driver	208	36	33	0
Private Hire Vehicle	194	60	54	0

Enforcement Action

Licence Type	Surrendered	Reviewed	Suspended	Revoked
Hackney Carriage Driver	0	0	0	0
Hackney Carriage	0	0	0	0
Dual Driver	0	0	0	0
Private Hire Vehicle Operator	1	0	0	0
Private Hire Driver	0	0	0	0
Private Hire Vehicle	10	0	2	0

Compliance Operations

July	Codsall, Penkridge, Cheslyn Hay, Great Wyrley, Coven, Weston (Classic Ibiza Sat 15.7.23) (Base audits X 3)
August	Wombourne, Essington, Penkridge, Wombourne, Brewood, Bestival Event Saturday 19.8.23 13 X Operator audits
September	Codsall, Penkridge, Cheslyn Hay, Great Wyrley, Coven, Weston (prom spectacular Sat 9.9.23) Operator Audits X 6
October	Wombourne, Essington, Penkridge, Wombourne, Brewood, Bilbrook
November	Himley Hall Bonfire Event
December	Wombourne, Essington, Penkridge, Wombourne, Brewood, Bilbrook
January	Codsall, Penkridge, Cheslyn Hay, Great Wyrley, Coven, Weston
February	To be confirmed for rest of year.

Compliance patrols have taken place in Codsall, Cheslyn Hay, Great Wyrley, Penkridge, Brewood, Coven, Essington, Huntington, Weston-under-Lizard, Bilbrook, Wombourne, Himley, Perton and Featherstone.

- July 2023: Four high visibility patrols took place with very few SSDC vehicles about.
 - 6 vehicles checked - all compliant.
- August 2023: Two high visibility compliance patrols again very few SSDC vehicles seen.
 - 16 vehicles checked.
 - Assisted with Word of Mouth Event at Himley Hall Park.
 - 13 Base Audits, all operators passed.
- September 2023: Two high visibility compliance patrols again very few SSDC vehicles seen.
 - 14 vehicles checked.
 - 6 Base Audits, all operators passed.

Of the 24 private hire vehicle operators currently licensed 19 have been audited during this quarter and the remaining 5 will be completed before the end of year. There have been no safeguarding complaints not actioned within one working day.

Corporate Complaints

Should any applicants or licence holders be dissatisfied with the service provided, they are entitled to make a corporate complaint to Wolverhampton's Customer Feedback team.

	Upheld at Stage One	Upheld at Stage Two	Upheld by Ombudsman	Not responded to within SLA
Corporate Complaints	0	0	0	0

SOUTH STAFFORDSHIRE COUNCIL**LICENSING & REGULATORY COMMITTEE 25th October 2023****FOOD INSPECTION PROGRAMME 2023-2024****REPORT PREPARED BY: JASMIN THOMAS, ASSISTANT TEAM MANAGER
ENVIRONMENTAL HEALTH AND LICENSING****PART A – SUMMARY REPORT****1. SUMMARY OF PROPOSALS**

- To introduce to the Committee this year's Food Service Plan.
- To update Members on the Food Standard Agency's proposals on the future food intervention scheme and reporting mechanisms.

2. RECOMMENDATIONS

- 2.1** That the Committee approves the service plan for food safety and make any comments and observations on the plan.

3. SUMMARY IMPACT ASSESSMENT

POLICY/COMMUNITY IMPACT	Do these proposals contribute to specific Council Plan objectives?	
	Yes	Prosperous Communities
	Has an Equality Impact Assessment (EqIA) been completed?	
	Yes	Attached
SCRUTINY POWERS APPLICABLE	No	
KEY DECISION	No	
TARGET COMPLETION/ DELIVERY DATE	Not applicable	
FINANCIAL IMPACT	No	
LEGAL ISSUES	No	

OTHER IMPACTS, RISKS & OPPORTUNITIES	Yes	Opportunity for compliant businesses to thrive with good food hygiene rating outcomes.
IMPACT ON SPECIFIC WARDS	No	

PART B – ADDITIONAL INFORMATION

4. INFORMATION

4.1 BACKGROUND

4.2 The Food Standards Agency Framework Agreement on Official Feed and Food Controls by Local Authorities (The Framework Agreement) sets out mandatory guidance on local authority food safety performance and service planning. It recommends that the Food Service Plan be submitted annually to Members / Portfolio Holder for approval.

4.3 The plan provides the basis on which the local authority will be monitored and potentially audited by the Food Standards Agency.

4.4 The service is committed to ensuring that all food stored, manufactured and/or sold within the district is safe and without risk to health.

Through the work that the team deliver, consumers are empowered to make informed choices in relation to the food they purchase and consume through the promotion of the Food Standards Agency's National Food Hygiene Ratings Scheme.

4.5 The work of the Food and Safety Team includes undertaking food hygiene interventions, allergen awareness, infectious disease investigations, food sampling, health and safety enforcement work, event work, animal welfare licensing and licensing enforcement. The work is varied and involves undertaking inspections; investigating complaints; accidents, ensuring compliance, enforcement action which includes service of formal notices and / or instigating legal proceedings.

4.6 In 2022-23 the Team completed the work required under the Food Standards Agency's Covid Recovery Plan. All Category A, B, C and all Non-Broadly (zero, one and two rated) compliant D premises were inspected, including a substantial number of new unrated premises. Two additional part time food officers were recruited to assist with the backlog of Category D premises during a six-month period.

The overall Broadly Compliance rate achieved was 96%.

- 4.7 The backlog of new and unrated food business had been prioritised with only 18 unrated premises from 2022 – 23 remaining outstanding and most were businesses that had registered with the authority in the last months of the financial year.
- 4.8 Formal action was progressed with one business which had once repeatedly failed to comply with food hygiene and health safety laws and in line with the authorities enforcement policy a prosecution was instigated. This took a considerable amount of officer resource and was finally heard at Cannock Magistrates Court in this financial year. The results were further reported in the press:

[The Navigation owner Daryosh Rossookh banned from food business after dead mouse and filthy conditions found - Birmingham Live \(birminghammail.co.uk\)](#)

[Staffordshire publican fined for filthy conditions - BBC News](#)

[Pub owner banned from owning food businesses after filthy conditions repeatedly found including mouse infestation | Express & Star \(expressandstar.com\)](#)

The food business operator was Prohibited from having any involvement with a food business and since then the ownership of the business has taken place.

- 4.8 Since the 1st of April 2023 the Food Standards Agency have confirmed that all temporary flexibility from the Food Law Approved Code of Practice have been removed. The service must therefore follow the requirements of the Code.
- 4.9 South Staffordshire Council's Food Service Plan 2023 -2024 reflects the requirement of the Food Law Code of Practice and guidance provided by the FSA.

5 Main considerations for the Council

- 5.1 The requirement of the annual Food Service Plan for appropriate Member approval is a recommendation of the Framework Agreement on Local Authority Food Law Enforcement issued by the Food Standards Agency under the Food Standards Act 1999. Once approved, the plan will form the basis on which the Council delivers its statutory functions.
- 5.2 The Authority will requirement of the Food Law Code of Practice and guidance provided by the FSA.
- 5.3 The most significant ongoing risk to the resources required to deliver the Council's Food Service Plan 2023-2024 is sufficient resource to tackling the inspection programme in line with other priorities namely the increase in Animal Welfare licensing requirements. Resourcing is closely monitored.
- 5.4 Other service pressures if realised may include unforeseen major incidents (e.g., any further risks posed by Covid particularly in the autumn and winter periods); or other infectious disease outbreaks and major food alerts/incidents; major health and safety accidents/incidents etc. These risks are moderately likely to occur, and the

work programme and staffing will be adjusted to deal with such emergencies if they arise.

5.5 Risks that may arise if the proposed decision and related work is not taken

- Audit/intervention/scrutiny by the Food Standards Agency.
- Risk to public health through unregulated food businesses.

5.6 Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

The main risk is maintaining adequate resources to deliver the food inspection programme and other statutory duties and any potential requirements to assist Public Health in the event of increasing risks associated with Covid.

6 Additional key Issues

6.1 The Food Standards Agency have consulted on changes to the Food Hygiene Delivery Model, which has largely remained unchanged for many years.

Changes proposed include:

- to the intervention rating scheme which will move away from the current risk category and frequency of interventions,
- updating the risk-based approach to the timescales for new businesses and due official controls,
- changes to methods and techniques for official controls,

The aim of the new approach is targeting responses towards higher risk establishments.

6.2 The new hygiene delivery model is likely to involve a computer system update / configuration and officer training.

6.3 The implications for Officer time for the new delivery model is difficult to assess now as the current delivery model and proposed model use slightly different information. The FSA have confirmed that a slight reduction in official visits is required, however for local authorities with lots of poor performance the number of interventions will increase. So, on this basis an increase in Officer time is unlikely. The implications should become clearer as the computer system providers update their application following work with the FSA.

6.4 The Food Standards Agency prior to Covid were in the process of reviewing the annual LAEMS (Local Authority Enforcement Monitoring System) returns. Going forward they are considered introducing Key Performance Indicators (KPI's). Once the service starts to receive further information on this area of monitoring / reporting, the service will review service planning and delivery in line with these measures.

7 Timetable for implementation

- 7.1 The service plan sets out the broad programme of food safety work for 2023 -24 and has already been implemented.

8 Legal Implications

- 8.1 The submission of the annual Food Service Plan for appropriate Member approval is a recommendation of the Framework Agreement on Local Authority Food Law Enforcement issued by the Food Standards Agency pursuant to the Food Standards Act 1999. Once approved the plan will form the basis on which the Council carries out food safety services.

9 Conclusions

Deliver the food programme as detailed in the Plan

IMPACT ASSESSMENT – ADDITIONAL INFORMATION

Equality Impact Assessment (EqIA) completed.

PREVIOUS MINUTES

BACKGROUND PAPERS

Report prepared by: Jasmin Thomas – Assistant Team Manager
Environmental Health and Licensing

Appendix 1

Food Safety Plan 2023 - 2024

Appendix 2

April 2023

[Consultation on developing a modernised food hygiene delivery model - England | Food Standards Agency](#)

Appendix 3

Equality Impact Assessment (EqIA)



South Staffordshire Council

Food Safety Service Plan

2023-2024



www.sstaffs.gov.uk





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Food Safety Services and Management/Officer Structure	

The Food Service Plan expresses the Council's commitment to the development of the food service and the requirements set out by the Food Standards Agency (FSA) who monitor and audit local authorities' activities on food law enforcement. The Service Plan helps to ensure that the national priorities and standards are addressed and delivered locally.

The FSA 'Framework Agreement on Official Feed and Food Controls by Local Authorities', provides service planning guidance and the format for this document. This is to enable the FSA to assess our delivery of the Service Plan and to enable comparison with (and benchmarking against) other local authorities.

The FSA, in the Framework Agreement, requires that the Food Service Plan be suitably approved to ensure transparency and accountability. South Staffordshire Council's Food Service Plan has previously been approved by the Licensing and Regulatory Committee.

FSA review of the delivery of official food controls post Covid-19 Pandemic

Prior to the pandemic, the FSA was already looking to review and modernise the food hygiene delivery model in the UK, taking account of the potential implications of Brexit on food safety regulation.

In 2021, the FSA introduced a Covid19 Recovery Plan setting out the FSA's guidance and advice to local authorities on the delivery of official food controls and activities running into 2023/24. This Service has followed the guidance issued.

In the meantime, the review of the future model for food hygiene controls is ongoing and local authorities were consulted on a new model proposed for post 2024 onwards.

Aims, Objectives, Policies and Procedures

1. Corporate Vision and Aims

The Council Plan for 2020-2024 sets out the Council's vision and priorities:

1. Prosperous Communities and
2. Vibrant Communities

It aims to highlight how the authority plans to support businesses and the communities within South Staffordshire by driving economic prosperity and enhancing health and wellbeing in the district.

2. Service Aims and Objectives

To ensure that food and drink intended for sale for human consumption, which is supplied, manufactured, produced, stored, distributed, handled or consumed within South Staffordshire complies with the law, is free from contamination and is without risk to the health of consumers (people who work, live or visit South Staffordshire).

We aim to do this through the Service Plan by ensuring:

1. Under prosperous communities, to encourage businesses to be successful and attractive to their customers, but also compliant. New and existing businesses will be supported at all times.
2. Under vibrant communities, businesses will be encouraged to be successful by producing, preparing, and selling food and drink which is as safe for their customers.

2.1 Objectives

- To develop a programme of intervention work in line with the FSA's food law requirements.
- To undertake effective and appropriate food safety interventions of food premises by suitably trained and qualified officers, to ensure food law compliance and to minimise risks to health.
- To ensure food businesses are appropriately registered or approved.
- To take proactive steps to identify new or changing businesses as part of the requirement to maintain an accurate database of food businesses in South Staffordshire.
- To respond to all notifications of food poisoning incidence or outbreaks in line with agreed standards with UKHSA and Public Health and take necessary and appropriate action.
- To investigate and respond to complaints relating to food and drink, and regarding food premises, and inform complainants of the outcome.

Aims, Objectives, Policies and Procedures

2.1 Objectives (Continued)

- To undertake proactive food sampling as part of national or regional studies, or carry out reactive sampling as required locally, to demonstrate the importance of good food hygiene or to check compliance with food safety systems in place.
- To appropriately respond to enquiries and requests from food businesses, both existing and new. To appropriately respond to FSA national food alerts and incidents.
- To effectively communicate food safety matters to both businesses and consumers within South Staffordshire
- To take appropriate enforcement action proportional to the risks involved and in accordance with the Council's Enforcement Policy with due regard being given to the Primary Authority Scheme and guidance from relevant external bodies.
- To collaborate and work in partnership with the Central England Food Coordinating Group, the Staffordshire, Shropshire and Telford and Wrekin Food Group and associated partner organisations.
- To respond to the Food Standards Agency on any information or returns requested.
- To work collaboratively with UKHSA on infectious diseases and sampling.

2.2 Council Enforcement Policy

The policy directs us towards a staged approach to enforcement, opting for an informal advisory approach with most issues. Our business customers rely on the service to maintain a level regulatory playing field so that non-compliant businesses do not gain a competitive advantage. We are expected to be consistent and fair, providing advice and guidance when it is needed, using enforcement tools when necessary and appropriate.

2.3 Focussed Enforcement

- Embedding the Corporate Enforcement Policy into the team's work.
- Ensuring that resources are targeted to the highest risk areas in terms of the public, health and safety, and the environment.
- Enforcement will be focused on the most important areas and unnecessary burden reduced on businesses.
- Supporting Business and the local economy, by ensuring a level playing field through appropriate and proportional regulatory interventions and providing a degree of trusted technical advice in the fields of food safety.

The overall aim is to ensure that there is fair regulation for all, achieving a safe, clean, and green district for residents, businesses, and visitors.

3. Policies and Procedures

The Council's activities and procedures for its food safety service takes account of:

- i. It's statutory duties.
- ii. The Food Law Code of Practice (England).
- iii. The Council's Enforcement Policy.
- iv. And it's current Food Safety Service Plan.

Officers undertaking these Food Safety Services will:

- i. Contribute to the priorities identified by the Food Standards Agency and referred to in this Service Plan.
- ii. Follow procedures documented by its Assistant Team Manager, in accordance with the standard contained in the FSA's Framework Agreement on Local Authority Food Law Enforcement.
- iii. Have regard to circulars and other guidance, issued by the Food Standards Agency and the Local Government Regulations Group (LGR).
- iv. Have regard to local intelligence and data.

1. Profile of South Staffordshire district

South Staffordshire covers an area of 101,000 acres with a population of approximately 111,900 throughout its area. There is no single residential or commercial centre within the district although principal settlements include Penkridge, Brewood, Great Wyrley, Cheslyn Hay, Codsall, Bilbrook, Perton, Wombourne and Kinver.

South Staffordshire overall is a rural area with many attractions for visitors. This is reflected in the fact that many of its food businesses are caterers or retailers and some significant food producers and manufacturers.

2. Organisational Structure

The Council has adopted the Leader and Cabinet approach to local governance as the most appropriate model for South Staffordshire, and report to the Regulatory and Licensing Committee.

The Environmental Health and Licensing Team Manager reports to the Assistant Director of Community Services on food safety matters and the officers have delegated powers to determine applications for registration, consents, and formal approvals under EC Regulations for approved premises.

Appendix 1 details how this Team fits into the Council's management/officer structure.

3. Scope of the Food Safety Service

The Team provides the following services:

- Maintaining an up-to-date register of all food premises in South Staffordshire.
- Programme of food hygiene inspections and interventions in registered and approved premises. Operating the National Food Hygiene Rating Scheme in accordance with the Brand Standard.
- Investigation of infectious diseases incident and outbreaks related to food, water and environmental. Undertaking microbiological food sampling within the programme.
- Providing allergen information and advice to businesses, undertaking checks during inspections and work in collaboration with Trading Standards.
- Providing food safety advisory services.
- Responding to and investigating food complaints and hygiene complaints related to premises. Receive and act on Food Alerts / withdrawals and recalls issued by the FSA.
- Assess food and water provisions at events held throughout the district on a risk-based basis.
- Take appropriate action where failings with food law are identified, including to seize, detain and arrange disposal, as necessary, of unfit food.
- In addition, officers are also involved in wider services including health and safety enforcement work, premises licensing, public health licensing and animal welfare licensing.

3.1 Food Law Enforcement

Food law enforcement is shared between central and local government bodies. Within local authorities this is between Environmental Health and Trading Standards. The FSA are responsible for certain types of premises, including approved abattoirs and meat cutting establishments for food hygiene.

The FSA is also an independent government department and responsible for directing food law activities, enforcement support, advice and audit of enforcement activity with respect to local authority food safety and food standards controls.

The Team is responsible for food law enforcement within the district. This means taking account of both statutory enforcement responsibilities imposed by food safety and public health legislation and an

educative approach to food safety through the provision of advice to local businesses and through health promotion.

3.2 Food Hygiene and Food Safety Interventions

- The purpose of 'interventions' is to ensure that food establishments comply with current legislation and statutory guidance and for us to provide relevant food safety advice. We use a wide range of interventions to monitor and increase business compliance as guided by the Food Law Code of Practice.
- Interventions are activities which monitor, support, and increase food safety compliance within food establishments and to ensure food is safe for consumption. They include but are not restricted to the following 'official controls':
 - **Inspections and Audits (Full/Partial inspections and audits)**
 - **Monitoring**
 - **Surveillance**
 - **Verification**
 - **Sampling and analyses where examination is carried out by an Official Laboratory.**
- Other interventions which do not constitute 'official controls' can be undertaken as considered appropriate. These may be in addition to the 'official control' or at an interval between 'official controls' and include:
 - **Education, advice, and coaching**
 - **Information and intelligence gathering**
 - **Sampling where examination is not carried out by an Official Laboratory.**
- We are required to document, maintain, and implement a food hygiene interventions programme that includes all food establishments.
- The programme ensures that businesses within the district are inspected based on their inspection rating at frequencies laid down in the Code's Food Hygiene Scoring System. The frequency of the inspection will vary depending on the type of food business, the nature of the food, the degree of handling and the size of the business. Businesses potentially posing a higher risk will be inspected more frequently than those with a lower risk. We will also pay particular attention to food businesses that present particular risks to food safety based on method of processing and scale.

3.2 Food Hygiene and Food Safety Interventions (continued)

- Take account of certain types of food businesses which may require 'approval' status to operate.
- The purpose of the intervention is to establish what the scope of the business is, gather and record information, identify good practices and poor food safety breaches. In the latter case, work with the business to make improvements with compliance, communicate this to the business and evaluate a risk rating score.
- Businesses will be inspected, as far as is reasonably practicable, within the period determined by the inspection rating.
- We will always take preference to inspect higher risk businesses over the inspection of lower risk businesses. Lower risk premises with an intervention rating of category E for hygiene may be dealt with by an 'Alternative Enforcement Strategy' (AES). This allows for the removal of very low risk food businesses from the inspection programme. However, businesses classified in this way must still receive a food hygiene intervention at least once every three years.
- This year a number of category E premises will receive an intervention based on their activity or if the subject of any complaints.
- If a low-risk business requests an inspection visit, this will be undertaken to assist the business. For example, where the businesses wish to obtain greater compliance with food law or requires a food hygiene rating for business purposes.

3.3 Food Premises

Food premises are classified according to a risk rating system to determine which category they fall within.

The risk rating will determine when a premise is due for intervention and at the following minimum frequency:

- A. High risk** - visit at least every 6 months.
- B. High risk** - visit at least every 12 months.
- C. Medium risk** - visit at least every 18 months.
- D. Low risk** - visit at least every 24 months.
- E. Lowest risk** - subjected to Alternative Strategies every three years because of the relative low risk associated with these businesses, unless deemed to require a visit.

3.4 Focussed Action for Food Safety

We will continue with our work on 'focussed action' to ensure poor rated businesses improve their compliance rates. Following an inspection, businesses receiving either Zero, One or Two Rating under the National Food Hygiene Rating Scheme are deemed 'poor or borderline' with respect to food safety requirements and fall below the Food Standard's Agency's 'satisfactory' (Broadly Compliant) compliance status.

Focused action may still involve serving notices or taking further formal action, but the methods employed may vary including informal one to one meetings, tailored revisits, self-certification etc., with the onus on the business to demonstrate how they will or have improved within a short period of time to ensure levels are to at least a 'Broadly Compliant' status.

Should the business require further assistance, the Officers will be able to provide additional but specific paid for one-to-one business support advice.

3.5 New businesses and Food Registration

- Food business operators must register their establishments with their appropriate Food Authority unless they are subject to 'Approval'. We maintain a record of all registered and approved premises.
- Certain food operations require 'Approval' under Regulation 853/2004. In South Staffordshire these include some manufacturers and egg packaging plants. Premises and food operations will need to be inspected prior to issuing approvals and systems regularly monitored thereafter.
- Unrated businesses: - new businesses will be flagged for an initial inspection and will then be risk rated. Until that happens the business remains unrated. To support businesses, the team will be available to provide appropriate advice and information.
- Details of new food businesses as supplied to South Staffordshire Council are copied to Trading Standards each calendar month.
- Where we become aware that ownership of a food business has changed or a new business has commenced, we will include the business in the following periods intervention programme based on its potential risk. Businesses posing lower risks e.g., cake businesses will receive a visit at a later stage but will be offered advice to begin with.

3.6 Self-Certification Forms/Revisits

On occasions, the operator of a food business will need to make improvements to comply with food safety law. In some cases, a revisit may be undertaken after a date is specified for compliance; and /or a self-certification form will be requested to be completed to indicate what steps have been taken by the business to comply. A revisit may or may not be undertaken thereafter based on the information received and assessment of confidence in management of the business. This will always be communicated to the business operator.

3.7 National Food Hygiene Rating Scheme

Where the business falls within the scope of the Food Standards Agency's 'National Food Hygiene Rating Scheme' (FHRS), it will be awarded the appropriate hygiene rating and the information publicised on the FSA's national website - www.food.gov.uk/ratings. The hygiene ratings are given in accordance with the FSA's 'Brand Standard' for the scheme.

When food businesses are inspected, they are assessed and given a Hygiene Rating based on three criteria:
- standards of hygiene, structure and documented food safety management systems.

The ratings range from 5 (Very Good) to Zero (Urgent Improvement Necessary):

0 = urgent improvement necessary;

1 = major improvement necessary

2 = improvement necessary

3 = generally satisfactory

4 = good

5 = very good



Some 'lower risk' premises will fall within the scope scheme and for equitable reasons some of these businesses will be included in the inspection programme to allow scoring to take place.

A South Staffordshire Council Policy Document on the rating scheme details the Appeals Procedure; the Right to Reply Procedure and Request for Re-Inspection for a Re-Rating. A fee is chargeable for a business requesting a 'Re-Rating' inspection.

Details are also contained in an Information Sheet accompanying the inspection correspondence.

Data is uploaded to the FSA's website on a regular basis. 5 rated businesses immediately go live and the remaining businesses every 35 days to allow for the appeal procedure.

3.8 Food and Food Premises Complaints

Complaints are assessed and the most appropriate course of action taken. Priority is given to cases which pose a risk to public health to ensure all reasonable precautions are taken to prevent any recurrence. On occasions the investigation may involve further formal action. It is recognised that not all complaints require the same scope and scale of investigation and officers are guided by Food Safety Policies and Procedures.

Investigations will frequently involve contact with local food businesses, manufacturing companies and local authorities in other areas.

3.9 Requests for Service

The team have many customers, including the people who live and work in South Staffordshire, visitors, tourists, and businesses. Great customer service delivery is an important part of the Council's overall priority and as a result we aim to ensure service requests are dealt with effectively.

95% of service requests will be acknowledged within three working days and 80% resolved within 35 working days.

3.10 Food Safety Incidents

The FSA issue 'Food Alerts' and 'Food Incidents' to alert the consumer and local businesses to problems or potential problems in particular food products, and to ensure they are removed from the food chain.

The team, will as appropriate, liaise with Trading Standards, over the handling of food alerts that have implications for both authorities.

3.11 Food sampling

Food samples are taken either in response to complaints or as part of the Council's proactive surveillance procedures and interventions for ensuring that food produced and/or sold in South Staffordshire is safe to eat. The Council also participates in a regional sampling programme, coordinated by the Central England Food Coordinating Group. The national sampling programme comes from UK Health Security Agency (UKHSA). Both provide intelligence that can help identify the focus of food safety visits.

The service recognises that microbiological sampling and food testing of foods handled/produced in the district is a key area in relation to food safety and an official control defined by the FSA.

All food, environmental swabs and water samples are examined at a London laboratory for microbiological testing.

Faecal specimens are processed at the Enteric Laboratory at Birmingham Heartlands Hospital.

The services of a Public Analyst for appropriate analysis and examination of foodstuffs are through a local laboratory service.

Any unsatisfactory sample results are followed up with further sampling and investigation.

3.12 Infectious Disease Control

The service carries out the statutory responsibilities with regards to infectious diseases. This includes but is not solely in relation to food borne illness so whilst the service will investigate outbreaks of Salmonella and E. coli for example, it will also follow up incidents of Legionella and Hepatitis.

The duties include working with UKHSA to identify sources of disease, reducing the risk of transmission, gathering data, liaising with people suffering from infectious diseases and when necessary, taking formal legal action to prevent the spread of disease.

Investigation and control of major outbreaks is undertaken in conjunction with the Consultants in Communicable Disease Control (CCDCs) at UKHSA. The CCDC, employed by UKHSA West Midlands North is the Proper Officer appointed by South Staffordshire Council for the purposes of the amended Public

Health (Control of Disease) Act 1984 and the Public Health (Infectious Diseases) Regulations 1988 the latter amended by the Health and Social Care Act 2008.

The health protection powers are contained within the Public Health (Control of Disease) Act 1984 (as amended) together with the Health Protection (Local Authority Powers) Regulations 2010 and the Health Protection (Part 2A Orders) Regulations 2010.

3.13 Health Promotion and Education

The Council will promote food safety by the best possible means and currently use social media to promote food safety initiative and messages, including the 4 and 5 food hygiene ratings of businesses.

3.14 Home/Originating Authority Principle and Primary Authority Scheme

In line with Code of Practice, the team will have regard to the Home / Originating Authority Principle.

- Councils with the Head Office of a food company in their area act as a point of contact for the business and for different local authorities who deal with local outlets or products from the same company. We are an Originating Authority for five food manufacturers in the district. However, we have no formal agreements currently in place to act as a home authority for any food business.
- The Department for Business, Energy and Industrial Strategy (BEIS) co-ordinates the Primary Authorities scheme. Where agreements have been reached between business and local authorities to act as Primary Authorities, officers will before taking any formal action, consult with the Primary Authority in accordance with agreed procedures laid down.

3.15 Working with other organisations

We are a member of the Staffordshire, Telford, and Shropshire Food Liaison Group, which aims to:

- Act as a forum to provide consistency of enforcement.
- Act as a facilitator for benchmarking activities.
- Provide 'standardisation' exercises to facilitate consistency.
- Forum for sharing best practice.
- Focal point for information from outside agencies such as the FSA, CENTSA (Central England Trading Standards Authorities), UKHSA and Laboratories.

In 2015, the Central England Food Coordinating Group was set up as a strategic policy group for the wider region, covering the West Midlands, Worcester and Hereford, and South Midland Authorities as well as the Shropshire, Staffordshire local food liaison group.

Other links exist with:

- Externally, with Trading Standards at County Council to ensure improved working relationship for food standards work.
- Commissioners for school catering, OFSTED, Fire Service, Police, Social Services, Care Quality Commission etc.

The Work Programme and Service Delivery

1. Demands of the Service

Profile of food premises - April 2023

As of April 2023, there were 916 local food businesses registered with South Staffordshire Council, a slight increase from the previous year. Majority are retail and catering businesses, with a sizable number of food manufacturers located in the district.

Risk Category	A	B	C	D	E	Unrated (New / Awaiting intervention)	Total
Total Number of Premises	2	17	121	311	447	18	916
Premises due for interventions up to March 2024	2	17	80	191	346	18 (plus)	308 (exc Es)

Types of businesses - April 2023

Food Premises by Main Use - April 2023		Numbers
	Category of Establishment	
F01	Primary	4
F02	Manufacturer and Packer	32
F03	Importer	0
F05	Distributors and Transporters	4
F06A	Retailer – Supermarket /Hypermarket	18
F06B	Retailer – Small Retailers	111
F06C	Retailer – Others	31
F07A	Restaurants and Caterers	141
F07B	Hotel / Guest House	14
F07C	Pub / Club	143
F07D	Takeaway	57
F07E	Caring Premises	120
F07F	School / College	56
F07G	Mobile Food Unit	48
F07H	Others	136
Slaughter		1
TOTAL		916

Types of businesses - April 2023 (continued)

- 32 are classed as manufacturers and packers
- Fourteen manufacturers, primary producers and distributors produce / distribute products regionally and nationally.
- Nine are breweries/wineries.
- Seven are approved for products of animal origin.
- Three are approved egg packing/egg product centres.
- A significant proportion of the food premises are catering businesses forming a major part of the local economy.
- Over the last year approximately 110 businesses have either changed ownership or were new businesses.
- At the start of the 2023 -24 financial year there were 17 new or changed businesses awaiting inspection. This is a relatively small number. These are included in the inspection programme for the new financial year.
- The categories of premises figures fluctuate annually as businesses start or cease trading. It is estimated that approximately 100 new businesses will open each year.

2. Outdoor Events:

Several outdoor events take place in the district such as at Weston Park, Himley Hall, Chillington Hall as well as local events and other temporary events attracting a considerable number of businesses and members of the public. These, together with a varying number of car boot sales, in the region of 20 a year and one large market operating regularly in the district, attract many mobile food traders, which will receive interventions outside the Team's food safety inspection programme.

Events in the district are monitored, and based on risk, the organisers of some events will be requested to provide information regarding the food and water provision. A proportion will be included in further intervention work.

The Work Programme and Service Delivery

3. Sampling

Sampling will be undertaken as part of any regional and national sampling programmes, but also as a result of officers identifying premises, practices or food production processes requiring microbiological testing and verifications.

The programme so far for this year will involve:

Surveys	Month
National Survey	
STUDY 77: Ready to Eat Salad and Salad Components. Purpose: To check on the microbiological quality and safety of salads and salad components due to increased cases of food poisoning and the epidemiological link salad products.	April to March 2024
STUDY 78: Hygiene in Catering Premises. Purpose: Following the Covid pandemic and Brexit, study to assess whether hygiene standards have dropped or remained steady.	April to October 2023
Cross Regional surveys	
Legionella Study. Purpose: To assess risk of legionella in water systems post Covid and ensure legionella risks have been assessed by employers / operators.	To December 2023

4. Factors that may have major impact on service delivery

The team may need to react to unforeseen events that may occur throughout the period of the plan such as infection control outbreaks, emergency closures, food hazard warnings, increase in service requests and other areas of work covered by the team, which impact upon the resource available for programmed work. Ongoing changes in food safety priorities will also need to be responded to.

Where such factors arise, these could have an adverse impact on the routine food hygiene inspection programme.

5. Service Priorities

In line with service requirements namely,

- 100% of the high- risk food businesses (Category A & B) required to be inspected by the due date.
- 100% of Not Broadly Compliant businesses, where appropriate, to receive focussed intervention or formal action as soon as possible after the initial intervention and continued over a time span of 3 months.
- All 'Not Broadly Compliant' businesses to progress to 'Broadly Complaint' within 3 months of the initial inspection where appropriate, however, preferably much sooner.
- One of the key performance targets under the safe and sustainable districts is for 90% of registered food businesses to be 'Broadly Compliant'.



The Work Programme and Service Delivery

6. The Work Plan for 2023–2024

	Activity	FSA Requirement	South Staffordshire Requirement
1	Food Registration processes	Proactive surveillance to obtain an accurate picture of the local business landscape and to identify: - open/closed/recently re-opened/new businesses. - change of operation, activities or FBO.	Process in place to manage new business registrations.
2	New Businesses	New food business establishments where consideration of registration information/intelligence indicates high or low risk.	New businesses introduced into each inspection quarter. Higher risk prioritised first for inspection.
3	Management of food incidents and hazards - including outbreaks of foodborne illness	As stipulated by food law requirements.	Process in place.
4	Investigation and management of complaints	As stipulated by food law requirements.	Process in place.
5	Enforcement action in case of non-compliance	LA enforcement policy and food law requirements.	Follow Councils enforcement policy and requirements of food law.
6	FHRS requested re-visits	Within 3 months of request.	Process in place.
7	Sampling	In line with LA sampling programme, and assessing food business compliance.	Follow national and regional programme or as intelligence identifies.
8	Category A premises	No later than 28 days after the due intervention date.	Cat As to be inspected by the due date.
9	Category B premises	No later than 28 days after the due intervention date.	Cat Bs to be inspected by the due date
10	Category C premises	No later than 28 days after the due intervention date.	By end of quarter period.
11	Category D premises	No later than 28 days after the due intervention date.	By end of quarter period.
12	Category E premises	Post Covid to undertake carry out intervention of a proportion of Cat Es.	Small number identified for inspection based on intelligence and risks posed.
13	Sector specific official controls Support trade and enable export	Official controls that must be undertaken to support trade and enable export.	As required.
14	Allergen related work		Provide relevant allergen advice to businesses and undertake checks during intervention visits.
15	Advice to businesses		Provide appropriate and relevant advice and information to new and existing businesses on a reactive or proactive basis.

1. Officers

The number of full time equivalent (FTE) officers deployed in the provision of the food safety function for the service is 2.5 FTE as at April 2023. In total six officers support the food law enforcement function, as detailed in the table below:

Officer Post	FTE
EHO – Assistant Team Manager Food Lead	0.4
Food Safety Officers X 3	1.5
Technical Food Safety Officer	0.4
EH & L Team Manager	0.1
Administration support staff	0.1
Total	2.5

The Food Safety Officers are qualified to either the level of Higher Certificate in Food Premises Inspection or Higher Certificate in Food Control. The qualifications and competency of Environmental Health Officers and three Food Safety Officers enable them to undertake inspection of all categories of food business.

Staffing Allocation: The resources required to undertake the services described above are detailed in the table below:

Function	2023-2024 (Full time equivalent posts)
Food Premises Inspections / Interventions	60%
Complaints about Food and Food Businesses	7%
Home Authority Principle	2.5%
Advisory services/ business support	15%
Food Sampling	2%
Control and Investigation of Food Poisoning	3%
Food Alerts	0.5 %
Liaison with other Organisations	2.5%
Food Safety Promotions and Education	1.5%
Administration	3%
Staff Development	3%
Total Resources Required	100%

2. Officer Development

- Officers authorised to undertake inspections must be suitably qualified and demonstrate their competency to undertake inspections and audits of food safety systems.
- Annual personal development reviews identify officer development needs. Any additional training will reassess the officer authorisation categories in future.
- As well as this, all Officers involved in the provision of the food safety service are required to complete and keep up to date their Competency Framework. This is used to support their development.
- The Food Law Code of Practice also requires authorised food officers to receive at least 10 hours relevant food training per year.
- To fulfil training needs, officers will attend online courses and seminars arranged by the Chartered Institute of Environmental Health, UKHSA, and external organisations.

3. Financial Allocation

Sufficient financial allocation for delivery is available as per budget pages approved and scrutinised by the Lead Cabinet Member.



Quality Assessment and Performance Management

1. Procedures are in place to scrutinise all the work carried out by the team. Documented procedures have been produced. We monitor officer consistency through participation in national consistency exercises (as produced by the FSA) and local initiatives set by the Food Liaison Group.
2. The service further monitors performance against targets via internal Key Performance Indicator as detailed below:

Quarterly

% of Broad Compliance businesses for food hygiene (accumulative score).

Additionally, the inspection programme is regularly monitored and on a quarterly basis the intervention progress is accessed. All category A and B risk premises must be inspected by the inspection due date.

3. The quality of service provided by the team will be assessed by:
 - Monitoring performance against targets detailed in South Staffordshire Council's Service Plan for food premises inspections and responses to requests for service.
 - Monitoring actual working practice against procedures for:
 - Inspections of food businesses.
 - Investigation of complaints and food poisoning notifications.
 - Enforcement.
4. Performance monitoring will be undertaken by generating reports from the Uniform database on:
 - Inspections undertaken, for comparison against annual programme.
 - Complaints and other requests for service, to monitor progress.
5. Working practices will be monitored routinely by the Assistant Team Manager/Team Manager:
 - Monitoring all formal enforcement action and all proposals for formal enforcement action. A selection of reports on approved premises inspections.
 - All zero, one and two rated premises; and higher risk premises reports and files. Contentious outgoing correspondence.
 - Annual peer review of inspections (shadowing). Regular team meetings.
 - Individual performance review.
 - Regular on-going review of training needs and learning. Regular FHRS consistency training exercises with the FSA.
6. Complaints regarding services provided will be investigated under the Council's formal complaints procedure.

1. Review of Performance

1.1 Activities

The Table below shows the activities which are reported to the FSA annually and form part of their monitoring of this statutory function:

Activity	2018-19	2021-22	2022-23
All Interventions	338	249	408
Sampling Visits	33 Premises visited (58 samples)	1 premises (6 samples)	11 Premises visited (58 samples)
Advice & Education	5	All new businesses provided with advice.	All new businesses provided with advice.
Service of Improvement Notices	4	1	0
Emergency Prohibition Notices	-	-	1
Service requests- Complaints about food and hygiene of premises	68	88	167
All Food related service requests	256	Approx. 200	Approx. 270
Infectious disease notifications	152	114	171
Total premises as of April	898	893	916
Prosecutions	1 Formal caution 1 prosecution concluded September 2018. 1 Prosecution ongoing concluded July 2019.	1 instigated	1 prosecution summons served during year.
Percentage of Broadly Compliant premises	96.7%	95%	96%

1.2 Broadly Compliant

The percentage of premises Broadly Compliance at the end of the financial year March 2023 was 96% which was a very positive.

Premises with a food hygiene rating of 3 or more are broadly compliant. It should be noted that premises that are yet to receive a rating (i.e., new unrated premises) are automatically counted as non broadly compliant by default.

The high compliance rate means that businesses overall have maintained good standards over the pandemic period. Regular contact with food businesses during Covid is likely to have had a positive influence on businesses to continue with good practices.

1.3 Food Hygiene Ratings for Food Premises

This demonstrates the high level of food hygiene compliance amongst the businesses in South Staffordshire.

Rating	2018-19	2021-22	2022-23
Zero	1	1	1
1	8	6	9
2	9	3	5
3	40	15	26
4	118	108	108
5	474	547	572
Total number of premises in the scheme	650	680	721

Under the scheme, businesses with a rating of 4 or below can request a Re-Rating Inspection. If they fulfil the criteria for re-inspection this will be accommodated, and the business re-inspected and given the appropriate new rating.

1.4 Interventions Achieved

- Interventions for all Category A and B premises were achieved including the backlog from 2020, where some high-risk premises such as care homes were not able to be inspected.
- All Category C premises inspected.
- No less than Broadly Compliant Ds left for interventions.
- Majority of new unrated premises inspected.
- Sampling programme restarted post Covid.
- Prosecution completed of a repeatedly poor premises and in Court in April and June 2023.

Any businesses subject to a complaint or linked to any food or water borne infectious disease were inspected, particularly if not in the original programme of inspections.

1.5 Formal Action

A food business was formally closed and a Hygiene Emergency Prohibition Notice served due to a major rodent infestation.

Further formal action considered.

1.6 Sampling

Sampling undertaken at 11 premises with 58 samples taken, these included at Camp Bestival 2022.

1.7 Allergens

Legislation from 13 December 2014 required food businesses including caterers and takeaways to provide allergy information for its customers.

The duty is placed on both Trading Standards and Environmental Health. However, as these types of premises are more routinely visited by officers from Environmental Health, it has been agreed within the Food Technical Group, that Food Safety Officers from District and Borough Councils would monitor how businesses implemented the requirements and would provide further advice as required. Any issues of concern or complaints relating to the business would be referred to Trading Standards as the main duty for enforcing these regulations rests with Trading Standards at the County Council.

From 1st October 2021, further allergen labelling requirements were introduced for prepacked for direct sale (PPDS), also known as Natasha's Law. Pre-Prepacked for direct sale is food that is packaged at the same place it is offered or sold to consumers and is in this packaging before it is ordered or selected. It can include food that consumers select themselves (e.g., from a display unit), as well as products kept behind a counter and some food sold at mobile or temporary outlets.

In South Staffordshire, allergen information is routinely checked at all catering businesses and in addition, it is now also a significant part of the intervention work to check how businesses manage allergen cross contamination issues.

1.7 Events

There were over 40 large or larger scale events in the district during the year, in addition to many smaller community events. The larger events tended to attract hundreds of customers, to tens of thousands of members of the public. These were prioritised by the team to undertake Event Management Planning checks and in terms of food, organisers were required to provide details of their food contractors and water supply provisions. Organisers are advised to only take on registered and inspected food businesses and those which were either 4 or 5 Rated businesses. Details were requested and desk top checks and some onsite visits were undertaken to determine the food hygiene and safety that was in place.

1.8 Asylum provisions

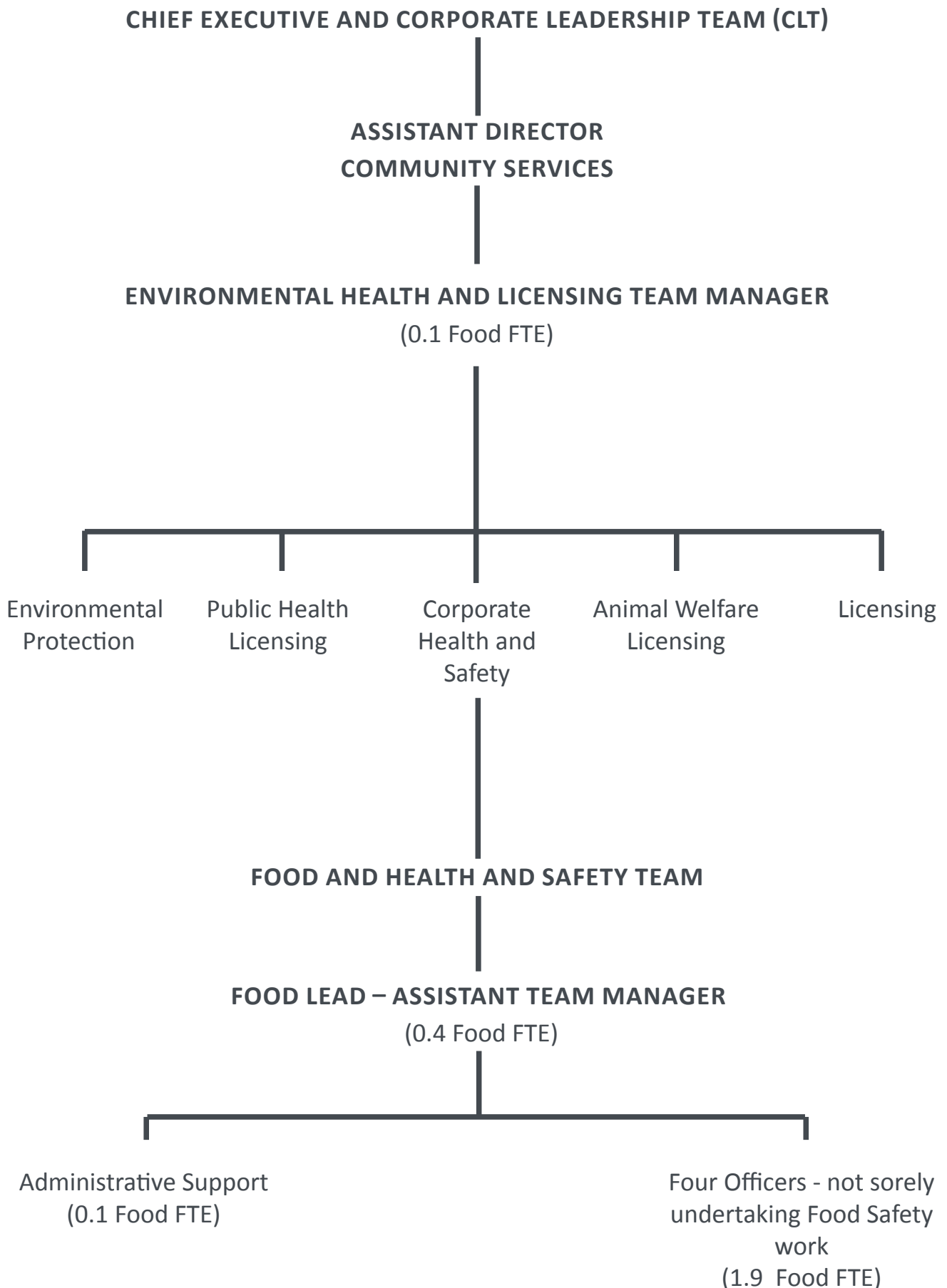
Catering provisions from external providers were looked at premises hosting asylum seekers. Some of the providers were new and liaison took place with the home local authorities.

1.9 The Central England Food Coordinating Group (CEFCG)

A strategic food group covering three Food Technical Groups from Staffordshire, Shropshire (North Food Group), West Midlands, Worcestershire, Hereford (Central Food Group) and Warwickshire, Coventry, Rugby etc. (South Food Group).

The Lead Chief EHO is the South Staffordshire Council's Environmental Health and Licensing Service Manager who attends the wider regional Central England Environmental Health Management Board (CEEHMB).









Service:	Person responsible for the assessment:	Date EqIA completed:
Environmental Health & Licencing	Jasmin Thomas	18.9.23

PART A - Identification

1	Title or name of proposal	Food Service Plan 2023-2024
2	The commencement date of the proposal and approval e.g., CLT, Cabinet, Committee, Council	April 2023 25 th October 2023 - Licensing & Regulatory Committee
3	What are the aims, objectives, and purpose of the proposal?	<p>South Staffordshire Council has a statutory responsibility to produce an annual food service plan which sets out the aims and objectives for the year, in relation to food safety and hygiene which are the functions undertaken by the District Council. The plan reviews the performance over the previous financial year, considers the likely demands on the service in the year ahead, and considers the resources available to do this.</p> <p>The food Service Plan provides information to:</p> <ul style="list-style-type: none">- safeguard the people who live, work or travel through the district by ensuring that all food and drink produced, imported, prepared or sold within the district is safe and wholesome to eat.- To enforce food safety legislation in accordance with the Environmental Health Enforcement Policy in a way which is necessary and proportionate; consistent; transparent and targeted.- To prevent and control the spread of poisoning and food borne diseases.- To carry out inspections of food premises, to monitor compliance with relevant food safety legislation and operate the National Food Hygiene Rating Scheme.- To respond to food alerts issued by the FSA, in respect of food hazards and incidents.- To investigate notifications and outbreaks of food poisoning and food borne disease in accordance with the council's procedures and the

		<p>United Kingdom Health Security Agency (UKHSA) “Major Outbreak Plan”, and to take such measures as are necessary to prevent the spread of disease.</p> <p>It has been produced to ensure that local businesses, members of the public, council officers and Members understand the approach to regulatory enforcement adopted by the Council. The service plan will help to ensure that the actions of the Council are fair, consistent, open and effective.</p> <p>The Food Service Plan and report is submitted to the Licensing & Regulatory Committee for approval.</p>
4	Status of the proposal	<p>New proposal/ <input type="checkbox"/></p> <p>Existing proposal <input type="checkbox"/> Annual Proposal <input type="checkbox"/> Date Last Reviewed:</p>
5	Are there any other functions, policies or services which might be linked with this one for the purposes of this exercise?	<p>There is a central government requirement for local authorities to comply with relevant legislation, codes of practice, guidance on enforcement priorities and a framework document to produce an annual service plan for food law enforcement. This plan is supplementary to the Commercial Service Plan.</p> <p>The plan provides more specific detail on the Food Service’s aims and objectives for the forthcoming year in complying with the current Food Law Code of Practice and Food Standards Agency Framework Agreement with Local Authorities, which embodies the requirements of the legislation.</p> <p>In addition, the food plan also considers the views and requirements of the Food Standards Agency (FSA) who provide advice and guidance for food interventions required by local authorities.</p>
6	Who is it intended to affect or benefit (the target population):	<ul style="list-style-type: none"> - Food producers, caterers and retailers in the district - Residents and visitors to South Staffordshire Council who may visit local food premises, or anyone who consumes food in the district - Elected members - Authorised officers engaged in food interventions and enforcement activity

PART B - Evidence, Research and Stakeholder Engagement

7	<p>List relevant examples of data (qualitative and quantitative) or any consultation information available that will enable the impact assessment to be undertaken</p>	<ul style="list-style-type: none"> - Level of compliance within different business sectors including food hygiene ratings achieved. - information held on the commercial Uniform database system which details all inspections / interventions. The system identifies all known local premises on the basis of risk, and thereby enables a comprehensive risk-based inspection programme to be identified for the subsequent financial year. This provides details of the type of businesses in the district and those receiving an intervention each year, and the level of compliance for each business and types of businesses. This data is essential for the purposes of the food Service Plan. - Evidence comes from feedback from officers and interaction with businesses. - Enforcement action undertaken and outcomes of statutory notices and prosecutions. - Business satisfaction surveys undertaken pre – Covid. - Work has previously been undertaken with specific external contractors to provide training on food safety management systems (Safer Food Better Business) and improving food hygiene standards in Asian & Chinese catering premises. This has provided information about the specific needs of businesses from the BME community.
8	<p>Evidence from the data from Question 7 of any feedback or complaints against the service/policy/procedure on grounds of potential or perceived discrimination</p> <ul style="list-style-type: none"> • <i>Who was consulted on this proposal?</i> • <i>How has the proposal been explained to those who would be directly or indirectly affected by it?</i> • <i>What outcome(s) are meant to be achieved from this proposal?</i> • <i>What factor(s) could contribute to the outcome(s)?</i> • <i>What factor(s) could detract from the outcome(s)?</i> 	<p>No negative feedback has been received.</p> <p>1. However, at this moment it is not known precisely how many food premises are managed by persons from particular ethnic groups etc although it is suspected that certain types of food business (e.g. takeaways) are run by and tend to members of the BME communities.</p> <p>Further information could be gained on this during the inspection process, when the ethnicity of food premises owners could be gathered. This could be</p>

		<p>cross referenced against compliance and customer satisfaction levels to help ensure these groups are not disadvantaged.</p> <p>2. Some business owners and staff may experience issues with literacy and therefore experience a lack of understanding of what legally is required of them / and or whether they understand any correspondence sent to them.</p> <p>This normally comes to light if the compliance standards are poor and further interactions take place with the businesses.</p> <p>3. A great proportion of information, advice and guidance is available online but this can make access to such information restrictive if the business owners or staff are not IT literate or have ready access to such information.</p> <p>Where such issues are identified, the business is provided with physical / paper information.</p> <p>4. Need to reinstate business customer satisfaction surveys on how businesses perceive interaction with the service and where further improvements can be made.</p> <p>5. Are members of the public satisfied with the compliance standards of businesses in the district – potential for regular surveys.</p>	
9	Does your proposal link with other proposals to have a cumulative negative affect on particular equality groups?	Yes/ No	If yes, give details
		No	

PART C – Assessment and Differential Impacts

Within this table, state whether the policy or function will have a positive or negative impact across the protected characteristics and provide any comments, reason, and evidence to support this.

What is the effect of the change on each characteristic – tick one				Reason		Action* Required
	Positive impact	Negative impact*	Neutral	Explanation of impact analysis	Is this likely to be unlawful?	Yes / No
Age Young People (up to 18) 18-50, 50 – 6565+	✓			Businesses serving food predominantly to vulnerable groups (including those under the age of 5 or over the age of 65) are inspected more frequently (typically annually) than other catering premises.	No	No
Disability Visual impairment Hearing impairment Physical impairment Learning impairment Mental Health Other impairments	✓			The Service Plan applies equally to all residents of South Staffordshire irrespective of disability. Food businesses serving predominantly immuno-compromised persons (such as some care homes and hospital kitchens) are inspected at a more frequent interval. Some allergies can be persistent and life threatening; our inspections of food businesses include an assessment of allergen management and communication, with appropriate enforcement where necessary is shared with Trading Standards..	No	No

Gender reassignment Transitioned Transitioning Non-Binary			✓	There is no evidence that this will impact on any specific person based on this characteristic.	No	No
Marriage & Civil Partnership Marriage Civil Partnership			✓	There is no evidence that this will impact on any specific person based on this characteristic.	No	No
Pregnancy and Maternity Pregnancy Maternity (Period after birth) Adoption			✓	There is no evidence that this will impact on any specific person based on this characteristic.	No	No
Race Ethnicity, National Origin Asylum Seeker/Refugees Gypsies & Travellers Migrants, Other	✓			<p>There is no evidence that this will impact on any specific person or business based on this characteristic. Any incidental impact on those within this group is very likely to be positive – for example – promotion of the Food Standard Agency’s guidance for Chinese and Indian cuisines where appropriate.</p> <p>Levels of awareness of the requirements of legislation can be lower in some minority groups. As a result, people from some minority groups may face a disproportionate level of enforcement action. Language and literacy may also exacerbate this problem, but information leaflets and translation services are available.</p>	No	No

				<p>The enforcement policy seeks to ensure that enforcement activities are consistent, proportionate, transparent, and targeted in accordance with the Enforcement Concordat.</p> <p>All letters go out in English unless we are aware that the recipient does not speak English or does not have access to a friend / relative who can translate for them. Use of interpreting service during formal interviews as required under PACE.</p> <p>Specific training on improving compliance and food hygiene training instigated for Asian & Chinese businesses in the past.</p> <p>During our routine inspections, we will look for evidence of modern slavery and share this information with partner agencies such as the police, border force and fire service. In these situations, unsafe working conditions or inadequate accommodation will be remedied using these our enforcement powers and the partner agencies</p>		
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				enforcement powers as appropriate.		
Religion or Belief Buddhists, Christians, Hindus, Jews, Muslims, Sikhs, Others Belief e.g., Humanists Non-Belief			✓	Officers need to have a wide knowledge of diverse cultures domestically and commercially within the district. This includes knowledge and respect of different religions and faiths that we come into contact with on a day-to-day basis. E.g. knowledge types of foods consumed by different groups and practices.	No	No
Sex Female, Male, Non-Binary			✓	There is no evidence that this will impact on any specific person based on this characteristic.	No	No
Sexual Orientation Lesbian, Gay, Bi-Sexual			✓	There is no evidence that this will impact on any specific person based on this characteristic.	No	No
Other lone parents, carers, unemployed Social economic groups, low-income groups, literacy issues	✓			Included in the inspection programme are food banks and other premises serving low-income groups or those otherwise under financial pressure in the current economic climate to ensure that food is safe and what it says it is. Officers will explain the requirements of food law in easy-to-understand ways, correspondence will be sent in plain English, the law is not specified in any correspondence to	No	No

				<p>ensure letters and emails are not perceived to be difficult to read.</p> <p>Food hygiene ratings are designed to be displayed in an easily understandable format.</p>		
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PART D – Outcomes, Action, and Public Reporting

What Justifiable Action Does the Evidence, Engagement and Consultation Suggest You Take?

	Description	Yes / No
A	No Major Change Required When no potential for discrimination or adverse impact is identified and all opportunities to promote equality have been taken.	No
B	Adjustments needed to remove barriers or to better promote equality Are you satisfied that the proposed adjustments would remove the barriers identified?	No
C	Continue despite possible adverse impact For important relevant proposals, compelling reasons will be needed. You should consider whether there are sufficient plans to reduce the negative impact and/or plans to monitor the actual impact.	No
D	Stop and rethink your proposal Actual or potential unlawful discrimination is identified; the proposal will need reviewing immediately.	

PART E – Monitor Evaluate and Review

Action and Monitoring Plan - where the assessment in Part C & D indicates a potential negative impact, how will this be reduced or mitigated to reduce impact moving forwards?

Conclusions Reached About Potential Impact		
Possible Impact	Group(s) Affected	Evidence
Impact Identified	Action	Responsibility
Timescale	Expected Outcomes	Review Date

PART F – To be completed by Equality Service Group

Date Reviewed	Name of Representatives involved in Review (min of 3). If less than 3 please explain what exceptional circumstances apply
General Comments	
Recommendations	
Publish Results <input type="checkbox"/> Carry out further impact assessment, if yes state the review date and ensure this is diarised for action <input type="checkbox"/>	Specific Recommendations to Consider:
Confirm that the recommendations have been actioned or explain why if any cannot be actioned.	

Remove the red prompt questions and this text and then send the form to your Corporate Director/Assistant Director to review and sign,

Part G – Corporate Director/Assistant Director Approval

- I am satisfied with the results of this EqIA.
- I have seen the Council's Equality Schemes or Equality Action Plan and am satisfied with the contribution it can make.

Approved

Corporate Director/Assistant Director Signature:

Date:

Once signed the author of the EqIA should attach it to the report.

Please send a copy to Thomas Reynolds, Performance & Customer Insight Manager requesting that the EqIA is published on our internal equality site.

Where the EqIA relates to a member report the EqIA should be sent to Member Support at the same time as issuing your report to ensure it is on the CMIS system prior to the Cabinet/Committee/Council meeting.

If the EqIA relates to an Individual Decision, please ensure that the EqIA is attached to the report.

SOUTH STAFFORDSHIRE COUNCIL

LICENSING AND REGULATORY COMMITTEE – 26 OCTOBER 2023

REGULATION OF INVESTIGATORY POWERS ACT – UPDATE ANNUAL REPORT

REPORT OF THE CORPORATE DIRECTOR OF GOVERNANCE

PART A – SUMMARY REPORT

1. SUMMARY OF PROPOSALS

- 1.1 This report is intended to update the Licensing and Regulatory Committee on the Council's compliance with and use of the Regulation of Investigatory Powers Act.

2. SUMMARY IMPACT ASSESSMENT

POLICY/COMMUNITY IMPACT	Do these proposals contribute to specific Council Plan objectives?	
	Yes	Prosperous Communities – RIPA when utilised, underpins the enforcement work undertaken to protect our environment.
	Has an Equality Impact Assessment (EqIA) been completed?	
	No	Not required – no significant changes being made that would have an equality impact.
SCRUTINY POWERS APPLICABLE	No	
KEY DECISION	No	
TARGET COMPLETION/ DELIVERY DATE	26 October 2023	
FINANCIAL IMPACT	No	None
LEGAL ISSUES	Yes	Ensuring compliance with the requirements of RIPA.
OTHER IMPACTS, RISKS & OPPORTUNITIES	No	Key risk is ensuring compliance with RIPA and the consequences that failure to do that would involve.
IMPACT ON SPECIFIC WARDS	No	Applies to all wards

PART B – ADDITIONAL INFORMATION

3. INFORMATION

- 3.1 South Staffordshire Council, as a public authority, is subject to the controls set out in the Regulation of Investigatory Powers Act (RIPA) when undertaking *covert*

surveillance in relation to a criminal investigation. Responsibility for oversight of compliance with RIPA, in terms of members, rests with Licensing and Regulatory Committee.

3.2 The use of RIPA since 2020 is set out below:

2020 = 2

2021 = 3

2022 = 1

2023 (to date) = 1

3.3 The Council continues to robustly enforce legislation where appropriate for example to tackle fly-tipping, planning breaches, food safety etc. The use of covert surveillance should always be a last resort. It has been employed by the Council in recent years in respect of fly-tipping detection and prosecution.

3.4 Following recent updated guidance in this area, discussions were had with the oversight body, the Investigatory Powers Commissioner's Office, who indicated the proposed approach would be acceptable if no private information was being obtained. It is therefore proposed that the obtaining of a RIPA authorisation for the use of CCTV cameras to capture fly-tippers is no longer required. CCTV will still be utilised but as the images obtained do not capture private information (as defined), then it is considered no longer necessary to go through the RIPA approval process.

3.5 An assessment of proposed surveillance will still be undertaken to ensure that any Human Rights Act considerations are appropriately addressed. However, this will not require court approval as a current RIPA authorisation does. This will have the additional benefit of speeding up the approval process, as delays in obtaining court dates for approval have been regularly experienced in recent years.

3.6 In order to ensure awareness of RIPA was also maintained across the whole of the Council, a message is regularly included in the Weekly News Round-Up, reminding staff of the need to consider RIPA if undertaking criminal investigations.

3.7 The Corporate Policy & Guidance Document has been reviewed. No significant changes were identified, other than taking account of the amended approach to fly-tipping enforcement as detailed above. The only other changes were in respect of the updating of job titles and Authorising Officers.

4. IMPACT ASSESSMENT – ADDITIONAL INFORMATION

None

5. PREVIOUS MINUTES

July 2022 Licensing and Regulatory Committee

6. BACKGROUND PAPERS

None

7. RECOMMENDATIONS

- 7.1 That Members note the contents of the Report and approve the revised RIPA Policy and Guidance document attached as Appendix 1.

Report prepared by: Lorraine Fowkes – Corporate Director of Governance



South Staffordshire Council

Corporate Policy and Guidance Document on on the Regulation of Investigatory Powers Act 2000 (RIPA)



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The Regulation of Investigatory Powers Act 2000 (RIPA)

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NB:

The Regulation of Investigatory Powers Act 2000 ('RIPA') ("the Act") refers to 'Designated Officers'. For ease of understanding and application within South Staffordshire Council, this Corporate Policy & Guidance Document refers to 'Authorising Officers'. For the avoidance of doubt, therefore, all references to 'Authorising Officers' refer to 'designated officers' as described in the Act.

Version Date: V.10

Review Date: October 2023

The Regulation of Investigatory Powers Act 2000 (RIPA)

A. INTRODUCTION AND KEY MESSAGE

1. South Staffordshire Council is fully committed to operating its covert investigation activities in the letter and the spirit of the Regulation of Investigatory Powers Act 2000 (RIPA) as it provides protection for the legitimate rights of people living or working or visiting the District. Whilst fully supporting these fundamental rights South Staffordshire Council will deliver effective enforcement services that protect the wider public interest by the necessary and proportionate use of lawful covert investigation techniques.

South Staffordshire Council takes its responsibilities under RIPA for ensuring that any actions authorised in possession of its RIPA powers are both necessary and proportionate, extremely seriously. To this end the council has approved this Policy and Guidance Document, which will be kept under review as to its effectiveness and appropriateness by the Corporate Director of Governance.

2. The Human Rights Act 1998 (which brought much of the European Convention for the Protection of Human Rights and Fundamental Freedoms into UK domestic law) requires the council, and organisations working on its behalf, pursuant to Article 8 of the European Convention, to respect the private and family life of citizens, their home and their correspondence.
3. The European Convention did not, however, make this an absolute right, but a qualified right. Accordingly, in certain circumstances, the council may interfere in the citizen's right mentioned above, if such interference is:

A. in accordance with the law;

B. necessary (as defined in this document); and

C. proportionate (as defined in this document).

4. RIPA provides a statutory mechanism (i.e. 'in accordance with the law') for authorising covert surveillance and the use of a 'covert human intelligence source' (CHIS) – e.g. undercover agents - or the acquisition of communications data (as defined later in this document). It seeks to ensure that any interference with an individual's right under Article 8 of the European Convention is necessary and proportionate. In doing so, the RIPA seeks to ensure both the public interest and the human rights of individuals are suitably balanced.

The Regulation of Investigatory Powers Act 2000 (RIPA)

5. The purpose of this guidance is to:
 - explain the scope of RIPA and the circumstances where it applies
 - provide guidance on the authorisation procedures to be followed
6. The council has had regard to the Codes of Practice produced by the Home Office in preparing this guidance. If any doubt arises, the Home Office Code of Practice should be consulted; the Code of Practice takes precedence over this guidance.

Covert Human Intelligence Sources

Covert Surveillance

Communications Data

The codes do not have the force of statute, but are admissible in evidence in any criminal and civil proceedings. Staff should refer to the Home Office Codes of Practice for supplementary guidance.

In addition, further guidance in respect of the judicial approval process and the crime threshold has been issued by the Home Office:

RIPA Guidance

This is non-statutory guidance but should be consulted as necessary.

7. Directly employed council staff and external agencies working for the council are covered by the Act for the time they are working for the council. All external agencies must, therefore, comply with RIPA and the work carried out by agencies on the council's behalf must be properly authorised by one of the council's designated Authorising Officers.
8. If the correct procedures are not followed, evidence obtained through the use of covert surveillance, a CHIS or the acquisition of communications data, may be disallowed by the courts, resulting in the possible loss of what would otherwise have been a successful prosecution and the potential for costs to be awarded against the council or even an individual officer. In addition, a complaint of maladministration could be made to the Ombudsman, and the council could be ordered to pay compensation. Furthermore, any individual who is aggrieved by any act by the council or any of its staff may seek damages through the courts. Such action would not, of course, promote the good reputation of the council and could be the subject of adverse press and media interest. It is essential, therefore, that all involved with RIPA comply with this document and any further guidance that may be issued, from time to time, by the Corporate Director of Governance.

The Regulation of Investigatory Powers Act 2000 (RIPA)

9. A flowchart of the procedures to be followed appears at **Appendix 2**.
10. The authoritative position on RIPA is, of course, the Act itself and any officer who is unsure about any aspect of this document should contact, at the earliest possible opportunity, the Corporate Director of Governance for advice and assistance. Appropriate training and development will be organised and training given to Authorising Officers and Applicants and any other Senior Manager who may from time to time need to seek authorisation under RIPA.
11. The Corporate Director of Governance will maintain and check the corporate register of all RIPA authorisations, reviews, renewals, cancellations and rejections. It is the responsibility of the relevant Authorising Officer, however, to ensure the Corporate Director of Governance receives a copy of the relevant forms as soon as possible but in any event within five working days of authorisation, review, renewal, cancellation or rejection.
12. RIPA and this document are important for the effective and efficient operation of the council's actions with regard to the use of covert surveillance, CHIS and the acquisition and disclosure of communications data. Therefore, this document will be kept under annual review by Corporate Director of Governance. Authorising officers and applicants should bring any suggestions for continuous improvement of this document to the attention of the Corporate Director of Governance at the earliest possible opportunity.
13. In terms of monitoring e-mails and internet usage, it is important to recognise the important relationship and overlap with the council's current e-mail and internet policies and guidance; the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000, and the Data Protection Act 2018. RIPA forms should only be used wherever relevant and are only relevant where the criteria listed on the forms are fully met. Under normal circumstances the council's E-mail and Internet Usage Policies should be used, as any surveillance is likely to be more relevant under terms of employment as opposed to RIPA.
14. Confidential personal information (information where a high degree of privacy may be expected due to the relationship between the parties concerned e.g. solicitor/client; priest/parishioner; journalist/informant; counsellor/consultee, etc) will not be acquired as a result of any covert surveillance, the use of CHIS and the acquisition and disclosure of communications employed by the council. Where there is any identified risk of acquiring confidential information prior to authorisation, then such activity shall only be authorised by the Chief Executive.

The Regulation of Investigatory Powers Act 2000 (RIPA)

15. The acquisition of communications data shall be undertaken through a Clearing House, thus avoiding the need for the council to employ a Single Point of Contact (SPOC) under RIPA (and associated legislation) and the Home Office Code of Practice.

16. RIPA states that:

“if authorisation confers entitlement to engage in a certain conduct and the conduct is in accordance with the authorisation, then it shall be “lawful for all purposes”.

However, the opposite is not true - i.e. if you do not obtain RIPA authorisation it does not make any conduct unlawful (e.g. use of intrusive surveillance by local authorities). It just means you cannot take advantage of any of the special RIPA benefits and you may have to justify infringing a person's Human Rights and any evidence you place before the courts may be subject to challenge in respect of the processes used to obtain the evidence (s78 Police and Criminal Evidence Act 1984).

17. If you are in any doubt with regard to the RIPA, this document or the related legislative provisions, please consult the Corporate Director of Governance at the earliest possible opportunity.

B. COUNCIL POLICY STATEMENT

1. The council takes its statutory responsibilities seriously and will, at all times, act in accordance with the law and take necessary and proportionate action in this regard. The Corporate Director of Governance is duly authorised by the council to keep this document up to date and to amend, delete, add or substitute relevant provisions, as necessary. For administration and operational effectiveness, the Corporate Director of Governance is also authorised to add or substitute officers authorised for the purpose of RIPA in consultation with the Chief Executive.
2. The council has adopted a policy to the effect:
 - a. that applicable covert surveillance operations, the use of CHIS and the acquisition and disclosure of communications data conducted by the council should comply with the requirements of RIPA and the Home Office Codes of Practice;
 - b. that only the officers detailed in **Appendix 1** shall be permitted to authorise a covert surveillance exercise, a CHIS or the acquisition of communications data, subject in each case to the restrictions noted in that appendix.
 - c. that, where it is judged necessary to obtain it, the acquisition of communications data shall be undertaken through a Clearing House, thus avoiding the need for the council to employ a Single Point of Contact (SPOC) under RIPA (and associated legislation) and the Home Office Code of Practice;

The Regulation of Investigatory Powers Act 2000 (RIPA)

- d. that covert surveillance; CHIS and the acquisition and disclosure of communications data shall only be employed when necessary for the purposes of the prevention or detection of crime or preventing disorder and when such action is considered to be proportionate to the offence or disorder concerned; and
 - e. that this document and the Home Office Codes of Practice be brought to the attention of all the staff who may carry out covert surveillance or the use of CHIS.
3. Operations under RIPA can be authorised only on the following ground:

- **For the purpose of preventing or detecting crime or of preventing disorder.**

In order for a directed surveillance authorisation to be made, the serious crime test must be passed. This means there must be a criminal offence and the offence under investigation must carry a sentence of six months imprisonment. There is an exception for underage sale operations in respect of alcohol and tobacco sales.

4. In assessing whether or not the proposed surveillance is necessary and proportionate, the authorising officer must consider other appropriate means of gathering the information. The least intrusive method will be considered proportionate by the Courts. Surveillance activity should only be used as a last resort.

HRA Assessments outside of RIPA

5. The council may wish to undertake surveillance (e.g. noise monitoring prior to service of an Abatement Notice or use of CCTV cameras for fly-tipping operations) and may on occasion determine that this should be on a covert basis. As detailed in this document, noise monitoring is usually notified to the person being monitored and therefore is outside of RIPA. However, if in particular circumstances, covert surveillance is considered appropriate outside of RIPA, then a full HRA assessment should be undertaken. The same forms as for RIPA should be used, as HRA Assessment Forms, and be authorised in the usual way (there is no need for Judicial Approval). This will assist in considering and assessing the issues and also protecting the council if challenged under HRA.

C. AUTHORISING OFFICER RESPONSIBILITIES

1. The policy and guidance in this document will become operative with effect from October 2023. It is essential, therefore, that applicants take personal responsibility for the effective and efficient operation of this document.

The Regulation of Investigatory Powers Act 2000 (RIPA)

2. Certain officers have delegated power to authorise applications under RIPA, always provided that the officer is sufficiently removed from the investigation that they can be deemed to manage it but are not involved in its day to day conduct (i.e.: they MUST NOT take part in the surveillance or in the management of the Covert Human Intelligence Source to which the application relates). This will usually allow a delegation down to a level such as Assistant Director.
3. It will be the responsibility of Authorising Officers who have been duly certified to ensure their relevant members of staff are also suitably trained as 'Applicants' so as to avoid common mistakes appearing on Forms for RIPA authorisations.
4. Authorising Officers will also ensure that staff who report to them follow this Corporate Policy & Guidance Document and do not undertake or carry out any form of covert surveillance without first obtaining the relevant authorisations in compliance with this Document.
5. The Corporate Leadership Team will also ensure that staff who report to them follow this policy and guidance document and do not undertake or carry out any form of surveillance or seek the acquisition of communications data without first obtaining the relevant authorisations in compliance with this document.
6. Authorising Officers must also pay particular attention to health and safety issues that may be raised by any proposed surveillance activity. Under no circumstances, should an authorising officer approve any RIPA form unless, and until they are satisfied the health and safety of council employees/agents are suitably addressed and/or risks minimised, so far as is possible, and proportionate to/with the surveillance being proposed. If an authorising officer is in any doubt, they should obtain prior guidance on the same from their Director, the Health & Safety Officer and/or the Corporate Director of Governance.
7. Authorising Officers must acquaint themselves with the relevant Codes of Practice issued by the Home Office regarding RIPA. Any failure to comply exposes the council to unnecessary legal risks and criticism from the Investigatory Powers Commissioner's Office (IPCO). Cancellations must be dealt with promptly.
9. Inadvertently obtaining confidential information during surveillance must be given prior thought before any application, as failure to do so may invalidate the admissibility of any evidence obtained. Furthermore, thought must be given before any forms are signed to the retention and disposal of any material obtained under a RIPA Authorisation. Where there is any possibility of confidential information being obtained through covert surveillance, the application must be authorised by the Chief Executive.

The Regulation of Investigatory Powers Act 2000 (RIPA)

10. Authorising officers must ensure proper regard is had to necessity and proportionality before any applications are authorised. 'Stock phrases' or cut and paste narrative must be avoided at all times as the use of the same may suggest that insufficient detail had been given to the particular circumstances of any person likely to be the subject of the authorisation. Any equipment to be used in any approved surveillance must also be properly controlled, recorded and maintained for audit purposes.
11. Authorising Officers must also ensure that, when sending copies of any forms to the Corporate Director of Governance (or any other relevant authority), they are sent in sealed envelopes and marked 'Private & Confidential'.
12. Authorising Officers must also address the issue of what will happen to the product of the surveillance (i.e. the evidence obtained) and this must be detailed on the form. Where the product of surveillance could be relevant to pending or future criminal or civil proceedings, it should be retained in accordance with established disclosure requirements for a suitable period and subject to review.

There is nothing in RIPA which prevents material obtained from properly authorised surveillance from being used in other investigations. Authorising Officers must ensure, therefore, that arrangements are in place for the handling, storage and destruction of material obtained through the use of covert surveillance. Authorising Officers must also ensure compliance with the appropriate data protection requirements and any relevant codes of practice produced by individual authorities relating to the handling and storage of material.

D. WHAT RIPA DOES AND DOES NOT DO

1. RIPA **does**:
 - require prior authorisation of directed surveillance;
 - require prior authorisation of the conduct and use of a CHIS;
 - require prior authorisation for the acquisition of communications data;
 - require safeguards for the conduct and use of a CHIS;
 - limit the purposes for which covert surveillance, CHIS or the acquisition of communications data may be used by the council, and
 - prohibit the council from carrying out intrusive surveillance.

The Regulation of Investigatory Powers Act 2000 (RIPA)

2. RIPA **does not**:
 - make lawful conduct which is otherwise unlawful, or
 - prejudice or dis-apply any existing powers available to the council to obtain information by any means not involving conduct that may be authorised under this Act. For example, it does not affect the council's current powers to obtain information via the DVLA or to get information from the Land Registry as to the ownership of a property.
3. If an Authorising Officer or any applicant is in any doubt, they should seek advice from the Corporate Director of Governance before any directed surveillance or CHIS is authorised, renewed, cancelled or rejected, or any acquisition of communications data sought.

E. TYPES OF SURVEILLANCE

1. 'Surveillance' includes

- monitoring, observing, listening to persons, watching or following their movements, listening to their conversations and other such activities or communications.
- recording anything mentioned above in the course of authorised surveillance.
- surveillance, by or with, the assistance of appropriate surveillance device(s).

Surveillance can be overt or covert.

2. Overt Surveillance

Most of the surveillance carried out by the council will be done overtly - there will be nothing secretive, clandestine or hidden about it. In many cases, officers will be behaving in the same way as a normal member of the public (e.g. in the case of most test purchases), and/or will be going about council business openly (e.g. a market inspector walking through markets).

Similarly, surveillance will be overt if the subject has been told it will happen (e.g. where a noisemaker is warned (preferably in writing) that noise will be recorded if the noise continues, or where a premises licence is issued subject to conditions, and the licence holder is told that officers may visit without notice or identifying themselves to the owner/ proprietor to check that the conditions are being met.

3. Covert Surveillance

Covert surveillance is carried out in a manner calculated to ensure that the person subject to the surveillance is unaware of it taking place. (Section 26(9)(a) of RIPA).

RIPA regulates three types of covert surveillance: directed surveillance; intrusive surveillance and the use of covert human intelligence sources (CHIS).

The Regulation of Investigatory Powers Act 2000 (RIPA)

4. Directed Surveillance

Directed Surveillance is surveillance which:

- is undertaken for the purpose of a specific investigation or operation in a manner likely to obtain private information (see definition below) about an individual (whether or not that person is specifically targeted for purposes of an investigation) (Section 26(10) of RIPA) and
- is covert; and
- is not intrusive surveillance (see definition below – the council must not carry out any intrusive surveillance); and
- is not carried out as an immediate response to events which would otherwise make seeking authorisation under the Act unreasonable, e.g. spotting something suspicious and continuing to observe it for a short time.

5. Private Information

Private information in relation to a person includes any information relating to their private and family life, their home and their correspondence. The fact that covert surveillance occurs in a public place or on business premises does not mean that it cannot result in the obtaining of private information about a person. The definition of private information has been given a wide interpretation by the Courts and will include business information in appropriate circumstances. Prolonged surveillance targeted on a single person will undoubtedly result in the obtaining of private information about them and possibly others that they come into contact, or associate, with (collateral intrusion).

Following a review of operating procedures, the council will no longer seek RIPA authorisation for covert use of CCTV cameras in respect of fly-tipping operations. This is on the basis that such operations are unlikely to include the obtaining of private information as defined. Such operations will be subject to a HRA assessment but generally will not require RIPA authorisation.

Similarly, although overt public realm CCTV cameras do not normally require authorisation; if the camera is tasked for a specific purpose which involves the prolonged surveillance of a particular person or persons, authorisation will be required. The way a person runs their business may also reveal information about his or her private life and the private lives of others.

The use of CCTV in South Staffordshire is subject to its own Policy, Procedure and Protocols as developed by the council. The CCTV policy is viewed as complementary to this policy document.

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For the avoidance of doubt, only those officers designated and certified as Authorising Officers for the purpose of RIPA can authorise 'directed surveillance' if and only if the RIPA authorisation procedures detailed in this Document are followed. If an Authorising Officer has not been 'certified' for the purposes of RIPA, she/he can NOT carry out or approve/reject any action set out in this Corporate Policy & Procedures Document.

6. Intrusive Surveillance

This is when the surveillance is:

- covert;
- relates to residential premises or private vehicles; and
- involves the presence of a person in the premises or in the vehicle or is carried out by a surveillance device in the premises/vehicle. Surveillance equipment mounted outside the premises will not be intrusive, unless the device consistently provides information of the same quality and detail as might be expected if it were in the premises/vehicle. Merely observing movements from/to a house from a parked vehicle will not be classed as intrusive surveillance.

This form of surveillance can be carried out only by Police and other law enforcement agencies. Council officers must not carry out intrusive surveillance. Likewise, the council has no statutory powers to interfere with private property

7. Employee Surveillance using Covert Surveillance

Following a decision of the Surveillance Tribunal, it has been established that RIPA authorisation is not required where the surveillance is undertaken as part of an investigation in relation to an employee's misconduct or breach of the terms and conditions of the employee's contract of employment i.e. any investigation undertaken other than into an alleged criminal offence.

However, such surveillance may still potentially be viewed as infringing the employee's right to privacy as established under Article 8 of the Human Rights Act.

Where such surveillance, pertaining to a non-criminal investigation into the conduct of an employee is required, officers are required to complete the appropriate form, as for RIPA, and then forward the form to a Senior Authorising Officer for approval. The applicant is not required to be one of the employees listed in **Appendix 1**.

For purposes of consistency, authorisations will last for three months and appropriate action must be taken to review, renew and cancel authorisations.

The Senior Authorising Officer will apply the same criteria as if the request was for RIPA authorisation.

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Once authorised, a signed copy of the authorised form and subsequent review, renewal and cancellation forms must be kept secure with the investigation file. **There is no requirement to log the authorisation on the Central Register.**

8. Social Networks

The use of the internet and in particular social networking sites is increasingly an area used by Investigating Officers. The following extract from the previously issued OSC Guidance should be considered before any such use:

Covert surveillance of Social Networking Sites (SNS)

The fact that digital investigation is routine or easy to conduct does not reduce the need for authorisation. Care must be taken to understand how the SNS being used works. Authorising Officers must not be tempted to assume that one service provider is the same as another or that the services provided by a single provider are the same.

- Whilst it is the responsibility of an individual to set privacy settings to protect unsolicited access to private information, and even though data may be deemed published and no longer under the control of the author, it is unwise to regard it as “open source” or publicly available; the author has a reasonable expectation of privacy if access controls are applied. In some cases data may be deemed private communication still in transmission (instant messages for example). Where privacy settings are available but not applied the data may be considered open source and an authorisation is not usually required. Repeat viewing of “open source” sites may constitute directed surveillance on a case by case basis and this should be borne in mind.
- Providing there is no warrant authorising interception in accordance with section 48(4) of the 2000 Act, if it is necessary and proportionate for a public authority to breach covertly access controls, the minimum requirement is an authorisation for directed surveillance. An authorisation for the use and conduct of a CHIS is necessary if a relationship is established or maintained by a member of a public authority or by a person acting on its behalf (i.e. the activity is more than mere reading of the site’s content).
- It is not unlawful for a member of a public authority to set up a false identity but it is inadvisable for a member of a public authority to do so for a covert purpose without an authorisation for directed surveillance when private information is likely to be obtained. The SRO should be satisfied that there is a process in place to ensure compliance with the legislation. Using photographs of other persons without their permission to support the false identity infringes other laws.

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- 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 authorisation, and without the consent of the person whose identity is used, and without considering the protection of that person. The consent must be explicit (i.e. the person from whom consent is sought must agree (preferably in writing) what is and is not to be done).

Officers are also required to be aware of and take account of the Home Office Guidance in particular paragraphs 3.10 – 3.17 and 4.11 – 4.16.

Officers should consult with the Corporate Director of Governance before using social media for any covert/investigatory purpose. It is imperative that the council does not inadvertently undertake unauthorised surveillance in this area. In particular, officers should be aware that anything more than an initial check on a person MAY require authorisation. Officers must check before proceeding.

9. Proportionality

The term contains three concepts:

- the means should not be excessive by relation to the gravity of the crime or disorder being investigated.
- the least intrusive means of surveillance.
- collateral intrusion involves invasion of third parties' privacy and should, so far as is possible be minimised.

In other words, this involves balancing the intrusiveness of the activity on the subject and others who might be affected by it against the need for the activity in operational terms. The activity will not be proportionate if it is excessive in the circumstances – each case will be judged and be unique on its merits - or if the information which is sought could be reasonably obtained by other less intrusive means. All such activity must be carefully managed to meet the objective in question and must not be arbitrary or unfair. Extra care should also be taken over any publication of the product of the surveillance.

The Regulation of Investigatory Powers Act 2000 (RIPA)

10. Examples of different types of surveillance

Type of surveillance	Examples
Overt	<ul style="list-style-type: none"> » Police officer or parks warden on patrol. » Signposted town centre CCTV cameras (in normal use). » Recording noise coming from outside the premises after the occupier has been warned that this will occur if the noise persists. » Sampling purchases (where the officer behaves no differently from a normal member of the public). » Dog warden in uniform on patrol in park, street or van » Food safety or health & safety inspections.
Covert but not requiring prior authorisation	<ul style="list-style-type: none"> » CCTV cameras providing general traffic, crime or public safety information.
Directed must be RIPA authorised.	<ul style="list-style-type: none"> » Officers follow an individual or individuals over a period, to establish whether they are working when claiming benefit or has long term sick leave from employment. » Test purchases where the officer has a hidden camera or other recording device to record information which might include information about the private life of a shop-owner, e.g. where they are suspected of running their business in an unlawful manner. » Surveillance of a property in relation to the movement or selling of illegal food products.
Intrusive - the council cannot do this.	<ul style="list-style-type: none"> » Planting a listening or other device in a person's home or in their private vehicle.
Interception of telecommunication apparatus - the council cannot do this.	<ul style="list-style-type: none"> » Phone tapping etc.

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11. Further Information

Further guidance on surveillance can be found in the Home Office Code of Practice on surveillance. A database has been established on “The Core” giving further reference documents regarding RIPA authorisations; including the Home Office Codes of Practice.

12. Confidential Information

Special safeguards apply with regard to confidential information relating to legal privilege, personal information and journalistic material. The Authorising Officer and the person carrying out the surveillance must understand that such information is confidential and cannot be obtained. Further guidance is available in the Home Office Codes of Practice.

13. Collateral Intrusion

Before authorising surveillance the Authorising Officer should also take into account the risk of intrusion into the privacy of persons other than those who are directly the subjects of the investigation or operation (collateral intrusion). Measures should be taken, wherever practicable, to avoid or minimise unnecessary intrusion into the lives of those not directly connected with the investigation or operation.

Those carrying out the surveillance should inform the Authorising Officer if the investigation or operation unexpectedly interferes with the privacy of individuals who are not covered by the authorisation. When the original authorisation may not be sufficient, consideration should be given to whether the authorisation needs to be amended and re-authorised or a new authorisation.

Further guidance is available in the Home Office Codes of Practice.

14. Risk Assessment

A risk assessment must be undertaken for each application.

15. Retention and Destruction of Product of Surveillance

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

There is nothing in RIPA which prevents material obtained from properly authorised surveillance from being used in other investigations. Authorising Officers must ensure, therefore, that arrangements are in place for the handling, storage and destruction of material obtained through the use of covert surveillance. Authorising officers must also ensure compliance with the appropriate data protection requirements and any relevant codes of practice produced by individual authorities relating to the handling and storage of material.

The Regulation of Investigatory Powers Act 2000 (RIPA)

F. CONDUCT AND USE OF A COVERT HUMAN INTELLIGENCE SOURCE (CHIS)

1. Who is a CHIS?

- Someone who establishes or maintains a personal or other relationship for the covert purpose of helping the covert use of the relationship to obtain information.
- A purpose is covert, in relation to the establishment or maintenance of a personal or other relationship, if, and only if, the relationship is conducted in a manner that is calculated to ensure that one of the parties to the relationship is unaware of the purpose behind the relationship.
- RIPA does not apply in circumstances where members of the public volunteer information to the council as part of their normal civic duties, or to contact numbers set up to receive information.
- If information is received via hotline or similar, this does not constitute a CHIS.
- South Staffordshire Council guidance is not to ask the informant to gather information on the council's behalf, as this may result in forming a relationship with the subject and therefore becoming a CHIS.

2. What must be authorised?

The conduct or use of a CHIS requires prior authorisation.

Conduct of a CHIS = Establishing or maintaining a personal or other relationship with a person for the covert purpose of (or is incidental to) obtaining and passing on information about another person or persons.

Use of a CHIS = Actions inducing, asking or assisting a person to act as a CHIS and the decision to use a CHIS in the first place.

3. Juvenile Sources

Special safeguards apply to the use or conduct of juvenile sources (i.e. under 18 year olds).

Contact the Corporate Director of Governance if considering use of a juvenile source.

The Regulation of Investigatory Powers Act 2000 (RIPA)

4. Vulnerable Individuals

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 be unable to take care of themselves or unable to protect themselves against significant harm or exploitation. A vulnerable individual will only be authorised to act as a source in the most exceptional of circumstances. **Contact the Corporate Director of Governance if considering use of a vulnerable source.**

5. Test Purchases

Carrying out test purchases will not (as highlighted above) require the purchaser to establish a relationship with the supplier with the covert purpose of obtaining information and, therefore, the purchaser will not normally be a CHIS. For example, authorisation would not normally be required for test purchases carried out in the ordinary course of business (e.g. walking into a shop and purchasing a product over the counter).

By contrast, developing a relationship with a person in the shop, to obtain information about the seller's suppliers of an illegal product (e.g. illegally imported products) will require authorisation as a CHIS. Similarly, using mobile hidden recording devices or CCTV cameras to record what is going on in the shop will require authorisation as directed surveillance. A combined authorisation can be given for a CHIS and also directed surveillance.

6. Anti-social behaviour activities (e.g. noise, violence, race etc)

Persons who complain about anti-social behaviour, and are asked to keep a diary, will not normally be a CHIS, as they are not required to establish or maintain a relationship for a covert purpose. Recording the level of noise (e.g. the decibel level) will not normally capture private information and, therefore, does not require authorisation.

Recording sound (with a Digital Audio Type recorder) on private premises could constitute intrusive surveillance unless it is done overtly. For example, it will be possible to record if the noisemaker is warned that this will occur if the level of noise continues. Placing a stationary or mobile video camera outside a building to record anti social behaviour on residential estates will require prior authorisation, unless the system complies with the CCTV statutory code of practice, and there is clear signage indicating the use of CCTV and the purposes for which the information may be used.

The Regulation of Investigatory Powers Act 2000 (RIPA)

G. COMMUNICATIONS DATA

What is Communications Data?

1. Communications data means any traffic or any information that is or has been sent by or over a telecommunications system or postal system, together with information about the use of the system made by any person.

Procedure

2. There are two powers granted by s.22 RIPA in respect of the acquisition of Communications Data from telecommunications and postal companies (“Communications Service Provider”).
3. S.22(3) provides that any authorised person can authorise another person within the same relevant public authority to collect the data. This allows the local authority to collect the communications data themselves, i.e. if a Communications Service Provider is technically unable to collect the data, an authorisation under this section would permit the local authority to collect the communications data themselves.
4. In order to compel a Communications Service Provider to obtain and disclose, or just disclose Communications Data in their possession, a notice under s.22(4) RIPA must be issued. The sole grounds to permit the issuing of a s.22 notice by a Permitted Local Authority is for the purposes of **“preventing or detecting crime or of preventing disorder”**. The issuing of such a notice will be the more common of the two powers utilised, in that the Communications Service Provider will most probably have means of collating and providing the communications data requested.
5. Use of s.22(3) should only be used where the local authority is seeking to collect the information themselves, i.e. either to install its own monitoring system or using its own staff to obtain the information from the Communications Service Provider.
6. Use of s.22(4) should be used when the Communications Service Provider is being required to disclose or obtain and disclose the specified information.

The council uses the National Anti-Fraud Network (NAFN) to undertake the Single Point of Contact (SPoC) role in respect of communications data applications. NAFN should be contacted by the Applicant at any early stage in order to ensure the application is appropriate. An Authorising Officer will be notified by the SPoC at NAFN when an application is awaiting approval. NAFN will manage the process and hold records on behalf of the council.

7. Once a notice has been issued, it must be sent to the Communications Service Provider. In issuing a notice, the Authorising Officer can authorise another person to liaise with the Communications Service Provider covered by the notice. This function will be undertaken by NAFN.
8. For the council Authorising Officers who have been duly authorised by the Corporate Director of Governance for the purposes of RIPA may sign the Communications Data forms. Copies of forms must be provided to the Corporate Director of Governance within five working days signing.

The Regulation of Investigatory Powers Act 2000 (RIPA)

H. AUTHORISATION PROCEDURES

Directed surveillance, the use of a CHIS and the acquisition of communications data can only be lawfully carried out if properly authorised, and in strict accordance with the terms of the authorisation. **Appendix 2** provides a flow chart of process from application consideration to recording of information.

1. Authorising Officers

Forms can only be signed by Authorising Officers who have attended appropriate training. Authorised posts are listed in **Appendix 1**. This appendix will be kept up to date by the Corporate Director of Governance, and added to as needs require. The Corporate Director of Governance has been duly authorised to add, delete or substitute posts listed in **Appendix 1** as approved by the Chief Executive.

Authorisations under RIPA are separate from delegated authority to act under the Council's Scheme of Delegation and internal Schemes of Management. All RIPA authorisations, save for authorisations to collect communications data under s.22 (3), are for specific investigations only, they must be reviewed at a minimum at monthly intervals and must be renewed or cancelled once the specific surveillance is complete or about to expire. The authorisations do not lapse with time! Authorisations to collect communications data under s.22 (3) have a lifespan of one month. However, they can be renewed by serving a new authorisation or notice for further months, within any time within the current life of the notice. It is the personal responsibility of the Authorising Officer to ensure that dates are adhered to; it is not the responsibility of the applicant.

2. Training Records

Proper training will be given before Authorising Officers are certified to sign any RIPA forms. A central register of all those individuals who have undergone training will be kept by the Corporate Director of Governance.

If the Corporate Director of Governance feels that an Authorising Officer has not complied fully with the requirements of this document, or the training provided to them, the Corporate Director of Governance is duly authorised to retract that officer's authorisation until they have undertaken further approved training or one to one guidance from, or arranged by the Corporate Director of Governance.

The Regulation of Investigatory Powers Act 2000 (RIPA)

3. Application Forms

Only the approved RIPA forms downloaded from the Home Office website must be used. Any other forms will be rejected by the authorising officer and/or the Corporate Director of Governance.

A plan indicating the area where surveillance is to take place together with proposed surveillance points should be included to enable the authorising officer to better assess the potential for collateral intrusion. A postcode for each property to be kept under surveillance should be included on all forms.

4. Grounds for Authorisation

Directed Surveillance or the Conduct and Use of the CHIS and/or disclosure of communications data can be authorised by the council only on the following ground:-

- For the prevention or detection of crime or of preventing disorder

No other grounds are available to local authorities.

In addition, for Directed Surveillance, the offence under investigation must be one that carries a sentence of six months imprisonment. There is an exception to this requirement in respect of test purchase operations for sales of age restricted products (alcohol and tobacco).

5. Assessing the Application Form

Before an Authorising Officer signs a form, they must:

- (a) be mindful of the requirements policy & procedures document; the training provided by the council and any other guidance issued, from time to time, by the Corporate Director of Governance on such matters;
- (b) satisfy themselves that the RIPA authorisation is:-
 - (i) in accordance with the law;
 - (ii) necessary in the circumstances of the particular case for the prevention or detection of crime or for preventing disorder; and
 - (iii) proportionate to what it seeks to achieve.

The Regulation of Investigatory Powers Act 2000 (RIPA)

- (c) in assessing whether or not the proposed surveillance is proportionate, consider other appropriate means of gathering the information. **The less intrusive method will be considered proportionate by the courts.** Furthermore, the level of surveillance must be proportionate to the offence or disorder under investigation or for which a prosecution is sought.
- (d) take into account the risk of intrusion into the privacy of persons other than the specified subject of the surveillance (collateral intrusion). Measures must be taken wherever practicable to avoid or minimise (so far as is possible) collateral intrusion and the matter may be an aspect of determining the level of proportionality;
- (e) set a date for a review of the authorisation and ensure that a review takes place no later than that date;
- (f) obtain a Unique Reference Number (URN) for the application as follows:

Year/Authorising Officer Code/Number of Application

- (g) ensure that a copy of the RIPA forms (and any review/cancellation of the same) is forwarded to the Corporate Director of Governance for inclusion in the central register, **within five working days of the relevant authorisation, review, renewal, cancellation or rejection.**

6. Risk Assessment

Each application should be accompanied by a risk assessment proforma (R.A.1). An authorising officer may not approve an application for covert surveillance in the absence of such an assessment.

7. Additional Safeguards when Authorising a CHIS

When authorising the conduct or use of a CHIS, the Authorising Officer must also:

- (a) be satisfied that the conduct and/or use of the CHIS is proportionate to what is sought to be achieved;
- (b) be satisfied that appropriate arrangements are in place for the management and oversight of the CHIS and this must address health and safety issues through a risk assessment;
- (c) consider the likely degree of intrusion of all those potentially affected;
- (d) consider any adverse impact on community confidence that may result from the use or conduct or the information obtained; and
- (e) ensure records contain particulars and are not available except on a need to know basis.

The Regulation of Investigatory Powers Act 2000 (RIPA)

The requirements of s.29(5) RIPA and the Regulation of Investigatory Powers (Source Records) Regulations 2000 (SI: 2000/2725) must be considered and applied when authorising the use of a CHIS. Contact the Corporate Director of Governance for advice on the requirements if required.

8. Judicial Approval - all applications

Once an application has been approved by the Authorising Officer, the Applicant must contact Newcastle Magistrates' Court to obtain consent from a JP. The Applicant must attend the Court and provide the following to the Court:

- Application
- Supporting Information
- Draft Consent Order

NB: An application is not active until consent of a JP is obtained and no activity must occur prior to the consent of the JP being obtained.

9. Urgent Authorisations

As all applications have to be approved by a JP, urgent oral authorisations are not longer available.

10. Duration

The Authorisation **must be reviewed and renewed in the time stated and cancelled** once it is no longer needed. The 'authorisation' to carry out/conduct the surveillance lasts for three months (from authorisation) for Directed Surveillance, and 12 months (from authorisation) for a CHIS. However, whether the surveillance is carried out/conducted or not, in the relevant period, does not mean the 'authorisation' is 'spent'. In other words, the Authorisations do not expire! The authorisations have to be reviewed, renewed and/or cancelled (once they are no longer required)!

Notices/Authorities issued under s.22 compelling disclosure of Communications Data are only valid for one month, but can be renewed for subsequent period of one month at any time.

Authorisations can be renewed in writing before the maximum period 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.

A renewal must also be approved by a JP in the same way as an original application.

The Regulation of Investigatory Powers Act 2000 (RIPA)

I. WORKING WITH OR THROUGH OTHER AGENCIES

1. When some other agency has been instructed on behalf of the council to undertake any action under RIPA, this document and the forms in it must be used (as per normal procedure) and the agency advised or kept informed, as necessary, of the various requirements. They must be made aware explicitly what they are authorised to do.
2. When some other agency (e.g. Police, Customs & Excise, Inland Revenue etc):
 - (a) wishes to use the council's resources (e.g. CCTV surveillance systems), that agency must use its own RIPA procedures and, before any officer agrees to allow the council's resources to be used for the other agency's purposes, he/she must obtain a copy of that agency's RIPA form for the record (a copy of which must be passed to the Corporate Director of Governance for the central register) and/or relevant extracts from the same which are sufficient for the purposes of protecting the council and the use of its resources;
 - (b) wishes to use the council's premises for their own RIPA action, the council should, normally, co-operate with the same, unless there are security or other good operational or managerial reasons as to why the council's premises should not be used for the agency's activities. Suitable insurance or other appropriate indemnities may be sought, if necessary, from the other agency for the council's co-operation in the agency's RIPA operation. In such cases the council's own RIPA forms should not be used as the council is only 'assisting' not being 'involved' in the RIPA activity of the external agency.
3. In terms of 2(a), if the police or other agency wishes to use council resources for general surveillance, as opposed to specific RIPA operations, an appropriate letter requesting the proposed use, extent of remit, duration, who will be undertaking the general surveillance and the purpose of it must be obtained from the police or other agency before any council resources are made available for the proposed use.

A council Authorising Officer can grant a directed surveillance authorisation to cover both council and Government Department investigators involved in a joint investigation. Equally a Government Department Authorising Officer can do the same on a joint investigation.

The nominated investigator from the organisation with primary responsibility will complete the application, including the names and organisation of all investigators likely to be involved in the surveillance. The Authorising Officer from the lead organisation must make the decision on suitability for surveillance to take place. The Authorising Officer must retain records as described in paragraphs J2 to J4 (Record Management).

The Regulation of Investigatory Powers Act 2000 (RIPA)

To ensure that the Authorising Officer is aware of the full facts of the case, the applicant must record the following information on the RIPA form:

- That the request for surveillance is part of a joint investigation.
- Include how many of the officers to be deployed at any one time are investigators from the council or Government Department.
- If possible, name the investigators involved.

Where joint surveillance is authorised by one organisation (i.e. the lead organisation), it is good practice for the Investigating Officer/Manager of the other organisation to advise their Authorising Officer of the surveillance activity. This advice is given so that each authorising officer is aware of all surveillance activity being undertaken by their own investigators, regardless of which organisation authorised the activity.

If in doubt, please consult with the Corporate Director of Governance at the earliest opportunity.

J. RECORDS MANAGEMENT

The council must keep a detailed record of all authorisations, renewals, cancellations and rejections. A central register of all authorisation forms will be maintained and monitored by the Corporate Director of Governance.

1. Central Register maintained by the Corporate Director of Governance.

The following documents must be retained by the Corporate Director of Governance for such purposes.

The central register includes:

- the original completed RIPA, CHIS and COMMS forms together with any supplementary documentation and notification of the approval given by the authorising officer
- a record of the type of authorisation, date given and the name of authorising officer
- the title of the investigation and a description
- whether the urgency provisions have been utilised
- the frequency of reviews prescribed by the authorising officer
- that confidential information is not anticipated to be acquired
- the date cancelled
- the unique reference number for the authorisation (URN).

The Regulation of Investigatory Powers Act 2000 (RIPA)

The council will retain the central records for a period of at least three years from the ending of the authorisation. The Investigatory Powers Commissioner's Office can audit/review the council's policies and procedures, and individual authorisations

Each form will have a URN which is issued at the time of the original authorisation and must be shown on all subsequent forms. The Corporate Director of Governance will issue the relevant URN to applicants.

Authorising Officers must forward originals of all completed forms to the Corporate Director of Governance for the central register, within five working days of the authorisation, review, renewal, cancellation or rejection. The Corporate Director of Governance will monitor the same and give appropriate guidance, from time to time, or amend this document, as necessary.

As part of the central record a control matrix will be maintained by the Corporate Director of Governance, to record the progress of each application.

2. Records which must be maintained in the Service Unit/Service Area

Copies of all forms must be retained by each Service Unit/Service Area together with all supporting documentation (and should be clearly marked "file copy"). In addition, the following shall be maintained within the Service Unit/Service Area in a secure place:

- the period over which surveillance occurred
- the frequency of reviews prescribed
- the results of each review
- the date & time of instructions given by the authorising officer

Such records shall be maintained for at least three years from the conclusion of the investigation or operation. It shall be the responsibility of Member of the Corporate Leadership Team with Management Responsibility for the relevant service unit/service area to ensure that such facilities are available for use and used in accordance with this procedure.

K. RETENTION OF PRODUCT

1. Confidential Information

Confidential personal information (information where a high degree of privacy may be expected due to the relationship between the parties concerned e.g. solicitor/client; priest/parishioner; journalist/informant; counsellor/consultee, etc) will not be acquired as a result of any covert surveillance, the use of CHIS and the acquisition and disclosure of communications employed by the council. Where there is any identified risk of acquiring confidential information prior to authorisation, then such activity shall not be authorised.

Any confidential information which is inadvertently obtained shall be destroyed forthwith.

2. Collateral Information

Collateral information (information about persons not connected with the investigation or prosecution) shall, wherever possible, be destroyed forthwith.

3. No Action Cases

Where information is acquired which does not ultimately give rise to a prosecution or any other action, it shall be destroyed, unless there is any likelihood of further action in the same matter at a later date.

4. Prosecution Cases

In all cases where a prosecution or other action is to be taken, the product acquired will be retained in order to comply with inter alia the Criminal Procedures and Investigations Act 1996.

5. Destruction of Product

Wherever any product is to be destroyed in accordance with this policy, it shall be done so in a secure and confidential manner, so as to avoid any information being divulged other than in accordance with the law.

The Regulation of Investigatory Powers Act 2000 (RIPA)

L. CONCLUSION

1. Where there is an interference with the right to respect for private life and family guaranteed under Article 8 of the European Convention on Human Rights, and where there is no other source of lawful authority for the interference, or if it is held not to be necessary or proportionate to the circumstances, the consequences of not obtaining or following the correct authorisation procedure set out in RIPA and this document, may be that the action (and the evidence obtained) will be held to be unlawful by the Courts pursuant to Section 6 of the Human Rights Act 1998.
2. Obtaining an authorisation under RIPA and following this document, will ensure that the action is carried out in accordance with the law and subject to stringent safeguards against abuse of anyone's human rights.
3. All applicants will be suitably trained and must when preparing an application for submission to an Authorising Officer have due regard to these issues.
4. Authorising officers will be suitably trained and they must exercise their minds every time they are asked to sign a form. They must never sign forms without thinking about their personal and the council's responsibilities. Careful consideration must be given to the potential for collateral intrusion.
5. Any boxes not needed on the form(s) must be clearly marked as being 'NOT APPLICABLE', 'N/A' or a line put through the same. Great care must also be taken to ensure accurate information is used and is inserted in the correct boxes. Reasons for any refusal of an application must also be kept on the form and the form retained for future audits.
6. For further advice and assistance on RIPA, please contact the council's Corporate Director of Governance.

Appendix 1

List of authorised signatories

SENIOR AUTHORISING OFFICER

DESIGNATION

Chief Executive – Dave Heywood

AUTHORISING OFFICERS

DESIGNATION

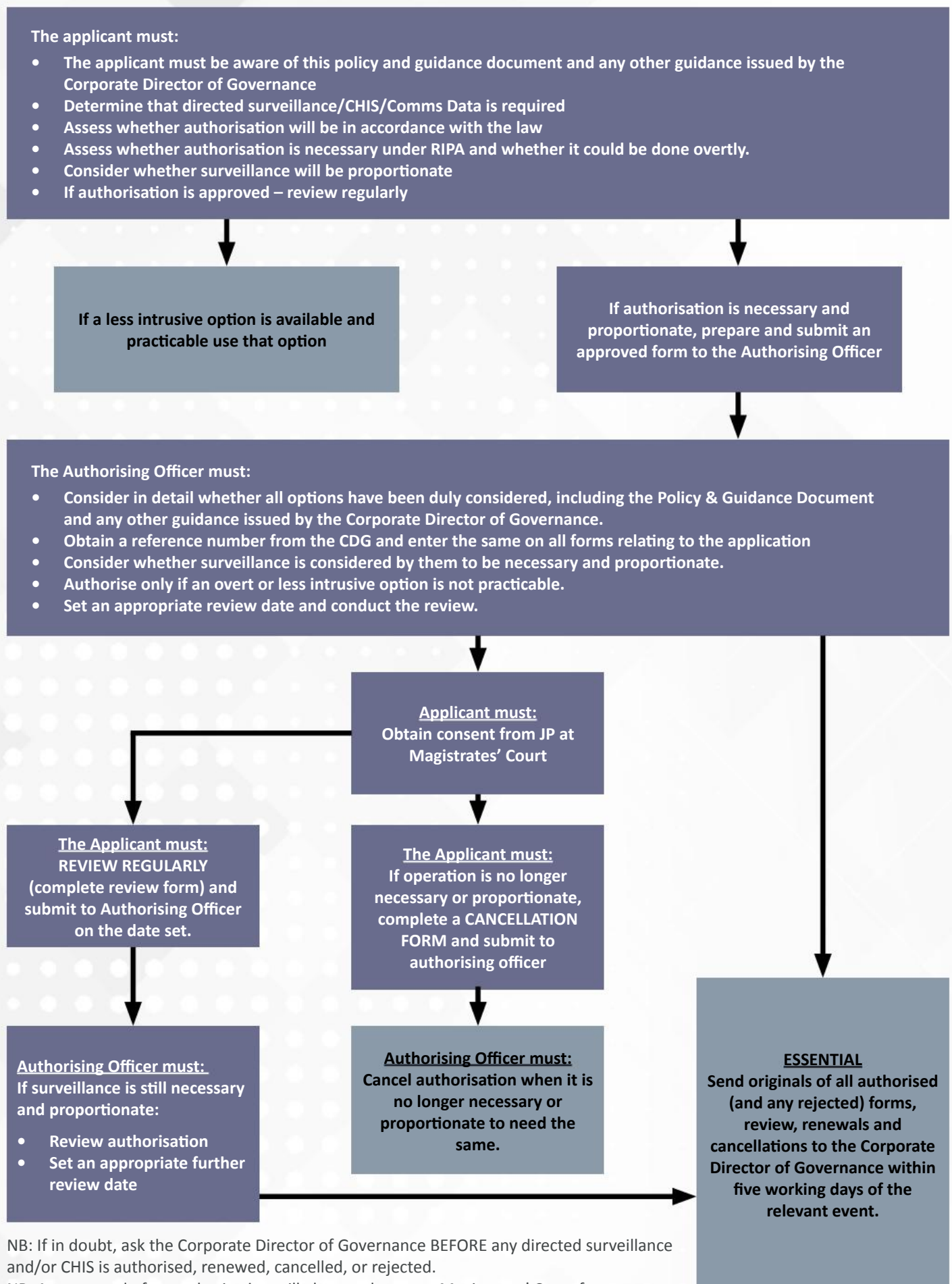
Corporate Director – Chief Operating Officer – Jackie Smith

Corporate Director of Place and Communities – Annette Roberts

Notes:

1. Only the Chief Executive may sign authorisation relating to Juvenile Sources and vulnerable individuals and where a potential for the acquisition of confidential information has been identified.
2. Employee surveillance using covert surveillance may only be authorised by the Chief Executive.
3. An authorising officer may not sign an authorisation or give authorisation under the agency procedures relating to a service/activity for which he/she has management responsibility.

Appendix 2 - RIPA Flow Chart



NB: If in doubt, ask the Corporate Director of Governance BEFORE any directed surveillance and/or CHIS is authorised, renewed, cancelled, or rejected.

NB: Any renewal of an authorisation will also need to go to Magistrates' Court for consent from a JP as for the original application.