

# Council

**Date: Thursday 13th October 2022**

**Time: 6.30 pm**

**Venue: Council Chamber - Guildhall, Bath**

**To: All Members of the Council**

Dear Member

**RECONVENED MEETING FROM 15<sup>TH</sup> SEPTEMBER 2022**

You are invited to attend a meeting of the **Council** on **Thursday 13th October 2022** in the **Council Chamber - Guildhall, Bath.**

The agenda is set out overleaf.

Yours sincerely



Jo Morrison  
Democratic Services Manager  
for Chief Executive

Please note the following arrangements for pre-group meetings:

Conservative	Kaposvar room, floor 1
Liberal Democrat	Brunswick room, ground floor
Labour	Labour Group room, floor 2
Independent	Independent Group room, floor 2

**Jo Morrison**

**Democratic Services**

Lewis House, Manvers Street, Bath, BA1 1JG

Telephone: 01225 39 4435

Web-site - <http://www.bathnes.gov.uk>

E-mail: [Democratic\\_Services@bathnes.gov.uk](mailto:Democratic_Services@bathnes.gov.uk)

## NOTES:

1. **Inspection of Papers:** Papers are available for inspection as follows:

Council's website: <https://democracy.bathnes.gov.uk/ieDocHome.aspx?bcr=1>

2. **Details of decisions taken at this meeting** can be found in the minutes which will be circulated with the agenda for the next meeting. In the meantime, details can be obtained by contacting as above.

## 3. **Recording at Meetings:-**

The Openness of Local Government Bodies Regulations 2014 now allows filming and recording by anyone attending a meeting. This is not within the Council's control. Some of our meetings are webcast. At the start of the meeting, the Chair will confirm if all or part of the meeting is to be filmed. If you would prefer not to be filmed for the webcast, please make yourself known to the camera operators. We request that those filming/recording meetings avoid filming public seating areas, children, vulnerable people etc; however, the Council cannot guarantee this will happen.

The Council will broadcast the images and sounds live via the internet [www.bathnes.gov.uk/webcast](http://www.bathnes.gov.uk/webcast). The Council may also use the images/sound recordings on its social media site or share with other organisations, such as broadcasters.

## 4. **Public Speaking at Meetings**

The Council has a scheme to encourage the public to make their views known at meetings. They may make a statement relevant to what the meeting has power to do. They may also present a petition or a deputation on behalf of a group.

**Advance notice is required not less than two full working days before the meeting. This means that for meetings held on Thursdays notice must be received in Democratic Services by 5.00pm the previous Monday.**

The Council now has a maximum time limit for this, so any requests to speak cannot be guaranteed if the list is full.

Further details of the scheme can be found at:

<https://democracy.bathnes.gov.uk/ecCatDisplay.aspx?sch=doc&cat=12942>

## 5. **Emergency Evacuation Procedure**

When the continuous alarm sounds, you must evacuate the building by one of the designated exits and proceed to the named assembly point. The designated exits are signposted. Arrangements are in place for the safe evacuation of disabled people.

## 6. **Supplementary information for meetings**

Additional information and Protocols and procedures relating to meetings

<https://democracy.bathnes.gov.uk/ecCatDisplay.aspx?sch=doc&cat=13505>

## Council - Thursday 13th October 2022

at 6.30 pm in the Council Chamber - Guildhall, Bath

### A G E N D A

#### 1. EMERGENCY EVACUATION PROCEDURE

The Chair will draw attention to the emergency evacuation procedure as set out under Note 5.

#### 2. APOLOGIES FOR ABSENCE

#### 3. DECLARATIONS OF INTEREST

At this point in the meeting declarations of interest are received from Members in any of the agenda items under consideration at the meeting. Members are asked to complete the green interest forms circulated to groups in their pre-meetings (which will be announced at the Council Meeting) to indicate:

(a) The agenda item number in which they have an interest to declare.

(b) The nature of their interest.

(c) Whether their interest is **a disclosable pecuniary interest** *or* an **other interest**, (as defined in Part 2, A and B of the Code of Conduct and Rules for Registration of Interests)

Any Member who needs to clarify any matters relating to the declaration of interests is recommended to seek advice from the Council's Monitoring Officer or a member of his staff before the meeting to expedite dealing with the item during the meeting.

#### 4. MINUTES (Pages 7 - 18)

To be confirmed as a correct record and signed by the Chair.

#### 5. ANNOUNCEMENTS FROM THE CHAIR OF THE COUNCIL OR FROM THE CHIEF EXECUTIVE

These are matters of information for Members of the Council. No decisions will be required arising from the announcements.

#### 6. TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

If there is any urgent business arising since the formal agenda was published, the Chair will announce this and give reasons why it has been agreed for consideration at this meeting. In making this decision, the Chair will, where practicable, have consulted with the Leaders of the Political Groups. Any documentation on urgent business will be circulated at the meeting, if not made available previously.

#### 7. QUESTIONS, STATEMENTS AND PETITIONS FROM THE PUBLIC

The Democratic Services Manager will announce any submissions received. The

Council will be invited to decide what action it wishes to take, if any, on the matters raised in these submissions. As the questions received and the answers given will be circulated in written form there is no requirement for them to be read out at the meeting. The questions and answers will be published with the draft minutes.

8. B&NES LOCAL PLAN PARTIAL UPDATE: MAIN MODIFICATIONS (Pages 19 - 26)

Following the postponement of Council due to the period of national mourning following the death of Queen Elizabeth II, and the need for an urgent decision, it was necessary to use Constitutional rule 3.4.3 (Chief Officers' Action) to reach a decision. That can be viewed here;

<https://democracy.bathnes.gov.uk/ieDecisionDetails.aspx?ID=1768>

This will be reported to Council but no debate will take place on this issue at the reconvened meeting on 13<sup>th</sup> October 2022.

9. CORPORATE AUDIT COMMITTEE ANNUAL REPORT (Pages 27 - 40)

The Corporate Audit Committee 2021/2022 Annual Report (Appendix 1) details the work carried out by the Committee for the period April 2021 to May 2022 (includes the meeting of the Committee on 19<sup>th</sup> May 2022).

10. STANDARDS COMMITTEE ANNUAL REPORT (Pages 41 - 52)

To consider the Standards Committee Annual report.

11. ANNUAL REPORT ON THE USE OF THE REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA) & INVESTIGATORY POWERS ACT (IPA) 2016 (Pages 53 - 94)

This report updates Council on the use of Regulation of Investigatory Powers Act and Investigatory Powers Act, policies, and procedures.

12. PROPORTIONALITY REVIEW (Pages 95 - 98)

There has been a change in political balance in the Council so, in line with the requirements of the Local Government & Housing Act 1989, this needs review.

13. MOTION FROM THE LABOUR GROUP - LOCAL GOVERNMENT PAY: A FULLY FUNDED, PROPER PAY RISE FOR COUNCIL AND SCHOOL WORKERS (Pages 99 - 100)

14. MOTION FROM THE LIBERAL DEMOCRAT GROUP - BUS CUTS (Pages 101 - 102)

15. MOTION FROM CLLR JOANNA WRIGHT - SUPPORT RENEWABLE ENERGY (Pages 103 - 106)

16. QUESTIONS, STATEMENTS AND PETITIONS COUNCILLORS

The Democratic Services Manager will announce any submissions received. The Council will be invited to decide what action it wishes to take, if any, on the matters raised in these submissions. As the questions received and the answers given will be

circulated in written form there is no requirement for them to be read out at the meeting. The questions and answers will be published with the draft minutes.

The Committee Administrator for this meeting is Jo Morrison who can be contacted on 01225 394358.

This page is intentionally left blank

**BATH AND NORTH EAST SOMERSET COUNCIL**

**MINUTES OF COUNCIL MEETING**

Thursday, 21st July, 2022

Present:- **Councillors** Rob Appleyard, Tim Ball, Sarah Bevan, Colin Blackburn, Alison Born, Shelley Bromley, Vic Clarke, Sue Craig, Paul Crossley, Gerry Curran, Jess David, Tom Davies, Sally Davis, Winston Duguid, Mark Elliott, Michael Evans, Andrew Furse, Kevin Guy, Liz Hardman, Steve Hedges, Joel Hirst, Duncan Hounsell, Shaun Hughes, Dr Eleanor Jackson, Dr Kumar, Ruth Malloy, Paul May, Sarah Moore, Robin Moss, Michelle O'Doherty, Lisa O'Brien, Bharat Pankhania, June Player, Vic Pritchard, Manda Rigby, Dine Romero, Mark Roper, Karen Walker, Sarah Warren, Karen Warrington, Andy Wait, Ryan Wills and Joanna Wright

Apologies for absence: **Councillors** Neil Butters, Chris Dando, Douglas Deacon, Alan Hale, Lucy Hodge, Grant Johnson, Matt McCabe, Hal MacFie, Paul Myers, Richard Samuel, Bruce Shearn, Brian Simmons, Alastair Singleton, Shaun Stephenson-McGall, Chris Watt and David Wood

**12 ELECTION OF CHAIR**

As Councillor Shaun Stephenson-McGall was unavailable to attend due to illness, the Chief Executive called for a nomination for a Chair for this meeting.

On a motion from Councillor Kevin Guy, seconded by Councillor Vic Pritchard, it was

**RESOLVED** that Councillor Lisa O'Brien be elected Chair for the duration of the meeting.

**13 EMERGENCY EVACUATION PROCEDURE**

The Chair drew attention to the emergency evacuation procedure, as set out on the agenda.

**14 APPOINTMENT OF VICE CHAIR 2022-23**

On a motion from Councillor Kevin Guy, seconded by Councillor June Player, it was

**RESOLVED** that Councillor Sarah Moore be elected as Vice Chair for the remainder of the Council year 2022/23.

Councillor Moore made and signed her Declaration of Acceptance of Office, accepted the Chain of Office from Councillor O'Brien and thanked the Council for her appointment.

**15 DECLARATIONS OF INTEREST**

An other registrable interest was declared by the following Councillors;

Councillor Liz Hardman as a member of the Fair Food Alliance, who are the drivers of the Fair Food Equity Plan – with reference to minute number 21.

Councillor Robin Moss, as Chair of Radstock & Westfield Big Local who support the Radstock Foodies Club financially – with reference to minute number 21.

Councillor Steve Hedges, as his wife works for HCRG – mentioned in debate for minute number 22 (and declared at that point).

Councillor Gerry Curran, who works for HCRG – mentioned in debate for minute number 22 (and declared at that point).

Councillor Yuktेशwar Kumar took this opportunity to announce that he was joining the Conservative group.

## **16 MINUTES - 12TH MAY 2022**

On a motion from Councillor Eleanor Jackson, seconded by Councillor Karen Walker, it was unanimously

**RESOLVED** that the minutes of 12<sup>th</sup> May 2022 be confirmed as a correct record and signed by the Chair.

## **17 ANNOUNCEMENTS FROM THE CHAIR OF THE COUNCIL OR FROM THE CHIEF EXECUTIVE**

There were none.

## **18 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR**

There were no items of urgent business.

## **19 QUESTIONS, STATEMENTS, PETITIONS AND DEPUTATIONS FROM THE PUBLIC**

David Redgewell had registered to make a statement to Council. As he was unwell, Councillor Liz Hardman read out the statement. The following questions were raised;

- Councillor Karen Walker asked if Mr Redgewell was aware that the WECA Metro Mayor Dan Norris had been invited to the Climate Emergency & Sustainability Panel meeting in September;
- Councillor Vic Pritchard commended Mr Redgewell's extensive transport knowledge but enquired why the Chew Valley had not been included in the comprehensive list he had included in his statement;
- Councillor Robin Moss asked if Mr Redgewell was aware that the Metro Mayor Dan Norris was considering franchising a number of the services mentioned.



These questions will be passed back to Mr Redgewell.

## **20 YOUTH JUSTICE PLAN 2022-23**

The Council considered a report presenting the Youth Justice Plan 2022-23.

On a motion from Councillor Dine Romero, seconded by Councillor Paul May, it was unanimously

**RESOLVED** to

1. Agree the Youth Justice Plan fulfils the requirements of the Crime and Disorder Act 1998 and can be submitted to the Youth Justice Board for England and Wales;
2. Adopt the Youth Justice Plan as part of the Council's Policy and Budget Framework that can be accommodated within the Council budget; and
3. Note that the Youth Offending Service Management Board is responsible for ensuring delivery and ask the relevant Development and Scrutiny Panel to oversee performance.

## **21 B&NES FOOD EQUITY ACTION PLAN 2022 - 2025**

The Council considered a report presenting the Food Equity Action plan 2022 – 2025.

On a motion from Councillor Dine Romero, seconded by Councillor Liz Hardman, it was unanimously

**RESOLVED**

1. To note progress since the last report (January 2021) and endorse the new Food Equity Action Plan 2022 – 2025 and future priorities for the B&NES Fair Food Alliance; and
2. To support the ambitions of the B&NES Fair Food Alliance by considering ways in which other Council and partnership strategy and policy can help to increase income equality and food security locally.

## **22 POLICY DEVELOPMENT & SCRUTINY ANNUAL REPORT**

The Council considered the annual report of the Policy Development & Scrutiny Panels.

On a motion from Councillor Karen Warrington, seconded by Councillor Karen Walker, it was unanimously

**RESOLVED** to note the work of the Policy Development & Scrutiny Panels, as set out in the Annual Report attached at Appendix 1.

## **23 CONSTITUTION REFRESH**

The Council considered a report presenting an updated Constitution.

Before opening for debate, the Chair sought clarification from the Monitoring Officer that, in considering this report today, and as certain constitutional aspects had been on the agenda for the previous meeting, the 6 month rule (Part 4A, rule 10 – *old Constitution in operation at this point*) had not been breached. This confirmation was given, as the rule contains provision for officers to bring back an issue within that time.

On a motion from Councillor Robin Moss, seconded by Councillor Tim Ball, it was

### **RESOLVED**

1. That, having considered the changes unanimously proposed by the Constitution Working Group, adopt the updated Constitution as set out at Appendix 4 to the report;
2. To agree that the date of adoption of the updated Constitution be the 2<sup>nd</sup> August 2022;
3. To agree that the Constitution Working Group should continue to meet in order to advise on the further rationalisation work to be done on the Financial Regulations and Contract Standing Orders and pick up any glitches identified.

*[Notes;*

1. *The above resolutions were carried with 42 Councillors voting in favour and 1 Councillor voting against.]*

## **24 TREASURY MANAGEMENT OUTTURN REPORT 2021/22**

The Council considered a report giving details of performance against the Council's Treasury Management Strategy and Annual Investment Plan for 2021/22.

On a motion from Councillor Tom Davies, seconded by Councillor Winston Duguid, it was

### **RESOLVED** to agree that

1. The Treasury Management Report to 31<sup>st</sup> March 2022, prepared in accordance with the CIPFA Treasury Code of Practice, is noted; and
2. The Treasury Management Indicators to 31<sup>st</sup> March 2022 are noted.

*[Notes;*

1. *The above resolution was carried with 42 Councillors voting in favour, and 1 Councillor abstaining.]*

## 25 CLIMATE & ECOLOGY BILL - MOTION FROM LIBERAL DEMOCRAT GROUP

On a motion from Councillor Paul Crossley, seconded by Councillor Sarah Warren, it was

**RESOLVED** that

Council:

1. Notes that, along with many other local authorities, Bath and North East Somerset Council is already taking action to achieve net zero carbon emissions and protect and revitalise local wildlife and natural habitats.
2. Recalls that Bath and North East Somerset Council declared a Climate Emergency in March 2019 and declared an Ecological Emergency in July 2020, and also that the UK Parliament declared an Environment and Climate Emergency in May 2019.
3. Notes that the [Climate and Ecology Bill](#) was introduced into the UK Parliament on 21 June 2021 which would, if it becomes law, require the development of a strategy to ensure that the UK's environmental response is in line with the latest science. The strategy would ensure that:
  - the ecological crisis is tackled shoulder to shoulder with the climate crisis via a joined-up approach;
  - the Paris Agreement aim is enshrined into law to ensure that the UK does its full and fair share to limit the global temperature rise to 1.5°C;
  - we halt and reverse biodiversity loss by 2030 to ensure that the UK's ecosystems are protected and restored;
  - the UK takes responsibility for its greenhouse gas footprint, including international aviation and shipping—and by accounting for consumption emissions related to the goods and services that are imported and consumed in the UK;
  - the UK takes responsibility for its ecological footprint in order to better protect the health and resilience of ecosystems—including along domestic and global supply chains; and
  - an independent, temporary Climate and Nature Assembly is set-up—representative of the UK population—to engage with the UK Parliament and UK Government to help develop the strategy.

Council therefore resolves to:

1. Support the Climate and Ecology Bill.
2. Write to the MPs for Bath and for North East Somerset letting them know that the motion has been passed, and urging them to support the Bill, or thanking them for already doing so; and
3. Write to [Zero Hour](#), the organisers of the cross-party campaign for the Bill, to express Bath and North East Somerset Council's support.

[Notes;

1. *The above resolutions were carried with 35 Councillors voting in favour, and 8 Councillors voting against.]*

## **26 STANDING UP FOR RESPONSIBLE TAX CONDUCT - MOTION FROM CLLR KUMAR**

On a motion from Councillor Tom Davies, seconded by Councillor Mark Elliott, it was

**RESOLVED** that

Our Council notes that:

1. The pressure on organisations to pay their fair share of tax has never been stronger.
2. Polling from the Institute for Business Ethics finds that “corporate tax avoidance” has, since 2013, been the clear number one concern of the British public when it comes to business conduct.
3. Two thirds of people (66%) believe the Government and local councils should at least consider a company’s ethics and how they pay their tax, as well as value for money and quality of service provided, when awarding contracts to companies.
4. Around 17.5% of public contracts in the UK have been won by companies with links to tax havens.
5. It has been conservatively estimated that losses from multinational profit-shifting (just one form of tax avoidance) could be costing the UK some £17bn per annum in lost corporation tax revenues.
6. The Fair Tax Mark offers a means for business to demonstrate good tax conduct, and has been secured by a wide range of businesses across the UK, including FTSE-listed PLCs, co-operatives, social enterprises and large private businesses.

B&NES Council believes that:

1. Paying tax is often presented as a burden, but it shouldn’t be.
2. Tax enables us to provide services from education, health and social care, to flood defence, roads, policing and defence. It also helps to counter financial inequalities and rebalance distorted economies.
3. As recipients of significant public funding, local authorities should take the lead in the promotion of exemplary tax conduct; be that by ensuring contractors are paying their proper share of tax, or by refusing to go along with offshore tax dodging when buying land and property.

4. Where councils hold substantive stakes in private enterprises, influence should be wielded to ensure that such businesses are exemplars of tax transparency and tax avoidance is shunned.
5. More action is needed, however, as current and proposed new UK procurement law significantly restricts councils' ability to either penalise poor tax conduct (as exclusion grounds are rarely triggered) or reward good tax conduct, when buying goods or services.
6. UK cities, counties and towns can and should stand up for responsible tax conduct - doing what they can within existing frameworks and pledging to do more given the opportunity, as active supporters of international tax justice.
7. **The Conservative government has failed to make meaningful progress on tackling tax avoidance despite international consensus reached at the G7 summit in June 2021, and has failed to push through key improvements that would have made the system fairer and more effective and would have netted the UK an additional £6.8 billion year.**
8. **Currently case law reinforces that a company's tax status cannot be used as a reason to disbar them from a procurement process; the Lib Dems believe that a real opportunity was missed by the Government when it published new procurement regulations this year which failed to allow public sector organisations to consider the tax arrangements of potential contractors.**
9. **Government instructions to support the creation of "new businesses, new jobs and new skills in the UK" through procurement are at odds with the government's continuing disregard towards this issue.**
10. **By contrast, the Liberal Democrats are committed to ensuring that all businesses operating in the UK pay their fair share of tax in the UK on those operations and also to restricting the ability of companies to unfairly shift profits out of the UK to low tax jurisdictions.**

Our Council resolves to:

1. Approve the Councils for Fair Tax Declaration.
2. Lead by example and demonstrate good practice in our tax conduct, right across our activities.
3. **Continue to ensure IR35 is implemented robustly and contract workers pay a fair share of employment taxes, as reported to the cross-party Corporate Policy Development and Scrutiny Panel on 11 July 2022.**
4. Not use offshore vehicles for the purchase of land and property, especially where this leads to reduced payments of stamp duty.
5. Undertake due diligence to ensure that not-for-profit structures are not being used inappropriately by suppliers as an artificial device to reduce the payment of tax and business rates.

6. Demand clarity on the ultimate beneficial ownership of suppliers UK and overseas and their consolidated profit & loss position, given lack of clarity could be strong indicators of poor financial probity and weak financial standing.
7. Promote Fair Tax Mark certification especially for any business in which we have a significant stake and where corporation tax is due.
8. Support Fair Tax Week events in the area, and celebrate the tax contribution made by responsible businesses are proud to promote responsible tax conduct and pay their fair share of corporation tax.
9. Support calls for urgent reform of UK procurement law to enable local authorities to better penalise poor tax conduct and reward good tax conduct through their procurement policies **and call upon our two local MPs to write to the relevant Minister to advocate for these changes.**

*[Notes;*

1. *The above resolution was carried as a result of a successful amendment to the published motion, with the amended sections shown in bold.*
2. *The successful amendment was carried with 26 Councillors voting in favour, 8 Councillors voting against and 9 Councillors abstaining.*
3. *The amended motion was then carried as the substantive motion with 38 Councillors voting in favour, 8 Councillors voting against and 5 Councillors abstaining.]*

**27 BRISTOL AIRPORT EXPANSION - CROSS PARTY MOTION FROM LIBERAL DEMOCRAT, CONSERVATIVE, LABOUR GROUPS & CLLR WRIGHT (GREEN MEMBER)**

On a motion from Councillor Shelley Bromley, seconded by Councillor Paul May, it was

**RESOLVED** that

Council notes:

1. The Planning Inspectorate's decision to allow the expansion of Bristol Airport at appeal by 2 million passengers a year, up to 12 million.
2. North Somerset Council refused planning permission for expansion on environmental and traffic congestion grounds and that local elected representatives and neighbouring Councils, including B&NES, Bristol and North Somerset, as well as the WECA Mayor, objected to the application.
3. The forthcoming High Court challenge by campaign group Bristol Airport Action Network (BAAN), which has been supported by public crowdfunding and which will be heard in Bristol High Court on 8 and 9 November 2022.

4. The Climate Emergency Declaration adopted by B&NES Council in March 2019, in which Council resolved to oppose the expansion of Bristol Airport, along with the Ecological Emergency motion adopted in July 2020 which further supported the Council's climate ambitions.
5. Bristol Airport Ltd.'s published expansion strategy, to more than double in size to serve 20 million passengers a year, and 'Carbon Roadmap' policy, which does not include emissions from aircraft.

Council believes:

6. Airport expansion is incompatible with the action being taken by West of England Councils to tackle the Climate Emergency, the UK Government's legally binding climate targets, and advice from the Government's own Climate Change Committee.
7. B&NES residents' health and wellbeing will be adversely affected by expansion, including by additional:
  - a. Traffic congestion from an additional 10,000 car movements every day – and associated pollution due to inadequate and expensive public transport links;
  - b. Noise, from an extra 23,800 flights annually, including 4,000 night flights, which will be concentrated in the summer months; and
  - c. Atmospheric and air pollution, including carbon dioxide emissions, water vapour, nitrogen oxides carbon monoxide, particulate matter, and aerosols, which will affect residents' health directly as well as impacting on climate change.

Council therefore:

8. Calls on the Secretary of State for Levelling Up, Housing and Communities to:
  - a. 'Call in' the expansion of Bristol Airport for an inquiry, due to the climate impact of airport expansion and the negative impact on neighbouring communities.
  - b. Consider all airport expansion applications on a national rather than an individual basis. Make decisions in line with the advice from the Climate Change Committee, which has said there should be 'no net expansion of airports' and also taking the cumulative impact of CO<sub>2</sub> emissions and their impact on the UK's legally binding journey to net zero into account.
9. Requests that the Leader write to the Secretary of State, the aviation minister, and local MPs to inform them of Council's position.
10. Reaffirms its 2019 pledge to provide the leadership to enable Bath & North East Somerset to become carbon neutral by 2030 and aim of making B&NES Council carbon neutral by 2030.

*[Notes;*

1. *The above resolutions were carried with 38 Councillors voting in favour and 4 Councillors abstaining.]*

## 28 COUNCIL TAX SURCHARGE - MOTION FROM CONSERVATIVE GROUP

On a motion from Councillor Tom Davies, seconded by Councillor Tim Ball, it was

**RESOLVED** that

Council:

1. Notes that properties left empty for two years or more are liable for a 200% rate of Council Tax and that properties left empty for five years or more are liable for a rate of 300%.
2. Recognises that this is in order to reduce the number of long-term empty properties in BANES so as to get as many as possible back into use.
3. Recognises that properties that have been empty for a number of years often need a great deal of work to enable them to be habitable again.
4. **Notes that the Council provides a significant amount of information and assistance to owners of Empty Properties to support them in bringing the property back in to use through the Council's own empty homes page, 'No use empty'. This includes information on financial assistance available to owners.**
5. **Notes that 283 empty properties have been brought back into use via the Council's Empty Residential Property Policy over the last two years.**

Council therefore:

6. **Acknowledges that Council approved the Council Tax long term empty property premiums policy on a cross-party basis in November 2020 and that the premiums are intended to help incentivise owners to bring empty properties back into use.**
7. **Defers consideration of this matter and asks the Council's Corporate Scrutiny Panel to review the effectiveness of the policy and consider whether any modifications are justified by the evidence and report back to Council its findings.**

*[Notes;*

4. *The above resolution was carried as a result of a successful amendment to the published motion which had been moved and seconded by Councillors Michael Evans and Karen Warrington, with the amended sections shown in bold.*
5. *The successful amendment was carried with 34 Councillors voting in favour, 7 Councillors voting against and 1 Councillor abstaining.*
6. *The amended motion was then carried as the substantive motion with 35 Councillors voting in favour and 7 Councillors voting against.]*



**29 QUESTIONS, STATEMENTS, PETITIONS AND DEPUTATIONS FROM COUNCILLORS**

There were no items.

The meeting ended at 9.24 pm

Chair .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**

This page is intentionally left blank

<b>Bath &amp; North East Somerset Council</b>	
<b>MEETING:</b>	<b>Council</b>
<b>MEETING DATE:</b>	<b>15 September 2022</b>
<b>TITLE:</b>	<b>B&amp;NES Local Plan Partial Update: Main Modifications</b>
<b>WARD:</b>	All
<b>AN OPEN PUBLIC ITEM</b>	
<p><i>These attachments are being finalised with the Inspector and will be circulated as soon as they're available.</i></p> <p>Attachment 1 – Main Modifications to the draft submitted B&amp;NES Local Plan Partial Update including Policies Map changes</p> <p>Attachment 2 – Additional Modifications to the draft submitted B&amp;NES Local Plan partial Update</p>	

## **1 THE ISSUE**

- 1.1 The Council, in its statutory role as the local planning authority, has a duty to periodically review its Local Plan to determine whether it requires updating. In spring 2020 the Council commenced work on the Local Plan Partial Update (LPPU) which amends or updates parts of the adopted Local Plan (Core Strategy and Placemaking Plan) to better address Council priorities, in particular the climate and ecological emergencies. Following the submission of the draft LPPU in December 2021 to the Secretary of State for examination, the hearings took place before an independent Inspector in June/July this year. The Inspector has confirmed through his post-hearings letter that without prejudice to his final conclusions the LPPU is capable of being found legally compliant and sound subject to the incorporation of some Main Modifications.
- 1.2 At the Council meeting on 21<sup>st</sup> July 2021, delegated authority was granted to the Head of Planning, in consultation with the Cabinet Member for Planning and Licensing, to address any issues as they arise during the examination, but to bring any proposed modifications to the LPPU to Full Council to agree and to consult on if required by the Inspector. The Inspector's recommended Main Modifications need to be subject to public consultation. Therefore, Council is now asked to agree and consult on the Main Modifications, which are necessary to ensure the LPPU is sound.

## **2 RECOMMENDATION**

The Council is asked to;

- 2.1 Agree the recommended Main Modifications to the submitted Local Plan Partial Update for public consultation and that public consultation should be undertaken for a period of six weeks.
- 2.2 Note the Additional Modifications to the submitted Local Plan Partial Update (see Attachment 2).
- 2.3 To approve the Local Plan Partial Update, incorporating the Main Modifications, for Development Management purposes.

### **3 THE REPORT**

- 3.1 The B&NES Local Plan (the Core Strategy and the Placemaking Plan) needs to be updated in order to reflect the Council's Declaration of Climate and Ecological Emergencies and the commitment to securing net zero by 2030. Whilst it is a statutory process subject to an external examination, the Local Plan is allied to the council's corporate plan and the Planning Service is focused on delivering the key priorities of the Council.
- 3.2 The importance of the Local Plan is that by law, decisions on planning applications must be taken in accordance with the development plan unless material considerations indicate otherwise. The development plan will include the Local Plan, and the neighbourhood development plans which have been made in relation to that area. As the LPPU is an update to the existing Local Plan (Core Strategy and Placemaking Plan), and not a new Plan, the plan period was not altered (remains up to 2029) and the scope of the changes was confined to those areas that can be addressed without significantly changing the strategic policy framework of the adopted Plan. It therefore does not change the spatial priorities; the spatial strategy; or the strategic housing and job growth requirements in the Core Strategy & Placemaking Plan. The scope of the Local Plan Partial Update (LPPU) was therefore confined to:
  - Updating policies in order that they better address the climate and ecological emergencies
  - Replenish housing supply in order that the Core Strategy housing requirement can be met and the necessary supply of housing land maintained with an appropriate degree of flexibility
  - Addressing a limited range of other urgent local issues e.g. related to the 'green recovery'
  - Amending policies for clarity and to ensure they are aligned with up-to-date national policy
- 3.3 The submitted LPPU can be accessed from [here](#) and is also listed in the Background documents below.
- 3.4 Following the examination hearings that took place in June/July, the Inspector has now issued the Main Modifications which he considers are necessary to make the Plan sound and therefore, capable of adoption.
- 3.5 The Main Modifications to the LPPU, along with changes to the Policies Map, will be circulated as Attachment 1. It is only these changes that will be published for public consultation, not the unchanged parts of the LPPU or Policies Map. Alongside the Main Modifications to the LPPU a number of Additional Modifications have also emerged through the Examination

hearings. The Additional Modifications are minor in nature, primarily to the supporting text of the LPPU, and are not considered to be necessary for soundness. The schedule of Additional Modifications will be circulated as Attachment 2. They will be published for information alongside the Main Modifications, but they are not subject to public consultation.

- 3.6 Whilst The Main Modifications are necessary for the soundness they do not affect the purposes and substance of the LPPU. They primarily achieve greater clarity for decision makers and ensure the LPPU reflects supporting evidence and national policy. The modifications primarily relate to the following:
- a) Changes to Policy DW1 so that it outlines how the housing requirement will be met, including housing figures for designated Neighbourhood Plan areas, and references removing the Park & Ride sites from the Green Belt.
  - b) Amending references to Supplementary Planning Documents so that decision-makers have regard to them and the LPPU does not confer upon them Development Plan status.
  - c) Renewable energy – additional supporting text to more fully explain the policy approach. Policy amendments to ensure it is clearer regarding impacts of wind energy schemes to be considered, ensure the policy reflects national policy in respect of AONBs and that the role of community benefit in commercial schemes is not incorrectly articulated.
  - d) Modifications to better explain how carbon off-setting (only where necessary should a development scheme unable to be zero carbon on-site) will be calculated and delivered via the Sustainable Construction Checklist and Planning Obligations SPD.
  - e) Deleting from the zero carbon construction policy the requirement that development schemes of over 50 dwellings meet specified over heating targets, as this is now dealt with via Building Regulations.
  - f) Amendment to nature conservation policy (NE3) to ensure species are fully protected, as well as habitats.
  - g) Biodiversity Net Gain – amended text to clearly outline national exemptions (householder applications and changes of use of existing buildings) and that we will be seeking a minimum of 10% net gain.
  - h) HMO Energy performance rating – amendment to identify the exemptions to achieving EPC rating 'C' in LPPU Policy H2, rather than solely in the SPD.
  - i) PBSA – policy approach to continue to prioritise PBSA provision on-campus and limit off-campus PBSA to that which is needed with controls. Amendments to how PBSA providers demonstrate the 'need' for off-campus accommodation.
  - j) Bath Riverside – as proposed by the Council at the examination hearings reference to the need for a new primary school to be deleted from the

policy as it is not needed and retaining reference to providing a new community hub.

- l) RUH – modifications to the supporting text and policy to better reflect collaboration between the Council and RUH Trust on the estates plan and ensuring a sustainable transport strategy is developed to help guide development of the site to improve safe and active travel links within/through the site and to the wider neighbourhood.
- m) Sion Hill site – changes to the policy to ensure delivery of north-south walking and cycling route complements the Liveable Neighbourhood scheme for the Lansdown area as it is progressed.
- n) St Martin’s Hospital – modifications to ensure that the heritage significance of the Chapel is maintained and that provision of bird and bat boxes does not harm historic buildings.
- o) University of Bath – minor changes to the policy to make it clear that provision of a 3G pitch will satisfactorily mitigate the impacts of the loss of playing fields to enable development of PBSA and to more clearly articulate development proposals must address GI, ecological and landscape impacts and the active management of travel demand.
- p) Park & Ride sites – acceptance that exceptional circumstances exist to remove the sites from the Green Belt for their use as transport interchanges. Amendments to the policy to list the transport interchange uses acceptable on the sites (previously in the supporting text) and clarify the compensatory Green Belt improvements to be made.
- q) East Keynsham safeguarded land sites – policy to be amended to specify that the sustainable transport measures listed in the policy will be investigated further through the Development Management process and provided where necessary.
- r) Somer Valley Enterprise Zone – as proposed by the Council at the hearings amending reference to ‘some’ retail to ‘ancillary’ retail to give greater clarity on the scale and type of retail use envisaged.
- s) Amended identification of strategic policies so that they are not all defined as strategic, but in line with national policy they comprise those which set out the overall strategy/policy approach to meeting development needs, protecting/enhancing the environment and addressing climate change, as well as strategic site allocations.

3.6 Further Sustainability Appraisal and Habitats Regulations Assessment of the Main Modifications have been prepared for consultation.

3.7 Following consultation on the Main Modifications the comments received are forwarded to the Inspector for his consideration. The next step is then for the Inspector to issue his final report. Dependent on the Inspector’s conclusions the Council will then consider adoption of the LPPU.

## **4 STATUTORY CONSIDERATIONS**

- 4.1 The Planning Acts require that any determination to be made like planning applications must be determined in accordance with development plan unless material considerations indicate otherwise.
- 4.2 In light of the UK plan-led planning system, Regulation 10A of The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) requires that Local Planning Authorities must review local plans every five years, starting from the date of adoption of the local plan. This is echoed in the National Planning Policy Framework (para 33) which states that reviews "...should take into account changing circumstances affecting the area, or any relevant changes in national policy".
- 4.3 The process for the preparation and review of local plans is governed by planning legislation, national planning policy (the National Planning Policy Framework 2019) and national guidance (National Planning Practice Guidance). A number of other statutes are also relevant to the review of the Plan such as the Climate Change Act 2008.
- 4.4 Under section 20(7c) of the 2004 Planning and Compulsory Purchase Act as amended, the Inspector has recommended 'main modifications' to make the submitted local plan sound and legally compliant. The Inspector requires the local planning authority to consult on all proposed main modifications.
- 4.5 In approving the LPPU for Development Management purposes the policies of the LPPU cannot, at this stage, be taken as policies that are adopted for the purposes of section 38(6) PCPA 2004. Indeed the weight to be applied to the LPPU policies in determining planning applications will, until the Plan is formally adopted, be a matter for the decision maker, on a case by case basis, according to the provisions of paragraph 48 of the National Planning Policy Framework. Paragraph 48 states:

*Local planning authorities may give weight to relevant policies in emerging plans according to:*

- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);*
- b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given.*

## **5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)**

- 5.1 The Council's planning policy framework is critical to the delivery of the new Corporate Strategy. The formulation of planning policy requires extensive cross-service working to ensure a co-ordinated approach and an efficient use of resources.

- 5.2 The preparation of Planning Policies and Supplementary Planning Documents for the District is primarily funded by the Local Development Framework budget, Government grants and funding from WECA. The scope and progress of preparation of planning policy documents will depend on the available resources. The preparation of the Local Plan Partial Update is funded by the Local Development Framework budget.
- 5.3 The planning framework in B&NES has been particularly successful in bringing substantial income into the Council such as CIL, S.106 agreements, New Homes Bonus, and HIF relative to its size.

## **6 RISK MANAGEMENT**

- 6.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision-making risk management guidance. Some of the main risks identified are;
- That the Inspectorate is not able to maintain the published timetable e.g. because the government publishes an update to the National Planning Policy Framework before the Inspector has issued his final Report and upon which the Inspector would seek views on its implications (if any) for the LPPU.
  - That there is a statutory legal challenge to the validity of the LPPU post adoption under Section 113 of the Planning and Compulsory Purchase Act 2004

## **7 EQUALITIES**

- 7.1 An Equalities Impact Assessment (EqIA) has been undertaken for the draft LPPU (Regulation 19 Draft Plan) to consider proposed new policies and amended policies (not including minor amendments). The EqIA is now updated to assess the Main Modifications. As the Main Modifications primarily achieve greater clarity for decision makers and ensure the LPPU reflects national policy and the supporting evidence, they do not affect the purposes and substance of the LPPU and no further equalities issues are identified.

## **8 CLIMATE CHANGE**

- 8.1 The scope of the Partial Update responds positively to the three immediate priorities for action and speed of ambition needed to achieve the 2030 target as identified in the Climate Emergency Progress Report to Council in October 2019. In summary, these are;
- energy efficiency improvement of the majority of existing buildings and zero carbon new build;
  - a major shift to mass transport, walking and cycling to reduce transport emissions; and
  - A rapid and large-scale increase in local renewable energy generation



## 9 OTHER OPTIONS CONSIDERED

9.1 The Council has a duty to ensure it has an up-to-date Local Plan place. Therefore, in this context it doesn't have the option not to prepare a Local Plan. The process of preparing and then adopting the LPPU is also very well advanced.

## 10 CONSULTATION

10.1 The Main Modifications to the submitted LPPU are recommended by the Inspector and subject to public consultation meeting requirements set out under section 20(7c) of the 2004 Planning and Compulsory Purchase Act.

10.2 The opportunity to comment on the Main Modifications will be publicised through a variety of means/media. The consultation on the LPPU will need to be co-ordinated with a number of other Council consultations being undertaken over the autumn.

10.3 As this is a formal consultation required by the Inspector, the public comments received will be sent directly to the Inspector.

<b>Contact person</b>	Simon De Beer, Head of Planning Services Richard Daone, Deputy Head of Planning
<b>Background papers</b>	<ol style="list-style-type: none"><li>1. <i>Submitted Local Plan Partial Update</i> <a href="https://beta.bathnes.gov.uk/sites/default/files/2021-08/Schedule%20of%20changes_combined.pdf">https://beta.bathnes.gov.uk/sites/default/files/2021-08/Schedule%20of%20changes_combined.pdf</a></li><li>2. <i>Sustainability Appraisals for Main Modifications</i></li><li>3. <i>Habitat Regulation Assessment screening report</i></li></ol>
<b>Please contact the report author if you need to access this report in an alternative format</b>	

This page is intentionally left blank

<b>Bath &amp; North East Somerset Council</b>		
MEETING:	Council	
MEETING DATE:	15th September 2022	<b>AGENDA ITEM NUMBER</b>
TITLE:	Annual Report – Corporate Audit Committee	
WARD:	ALL	
<b>AN OPEN PUBLIC ITEM</b>		
<b>List of attachments to this report:</b>		
<b>Appendix 1 – Annual Report</b>		
<b>Appendix 2 – Terms of Reference Corporate Audit Committee</b>		

## **1 THE ISSUE**

- 1.1 The Corporate Audit Committee has specific delegated powers given to it from Full Council and as such is required to report back annually on its work to Council under its Terms of Reference.
- 1.2 The Corporate Audit Committee 2021/2022 Annual Report (Appendix 1) details the work carried out by the Committee for the period April 2021 to May 2022 (includes the meeting of the Committee on 19<sup>th</sup> May 2022).

## **2 RECOMMENDATION**

Council is asked to agree that:

- 2.1 The Annual Report of the Corporate Audit Committee is noted.
- 2.2 Council approve the revised Terms of Reference for the Corporate Audit Committee.

## **3 THE REPORT**

- 3.1 Appendix 1 details the seventeenth report of the Corporate Audit Committee since it was established by the Council on 12 May 2005. It reviews the work done by the Committee over the 14 months period (April 2021 to May 2022), its future work plan, membership and support of the Committee.

- 3.2 The 29<sup>th</sup> April 2021 Committee meeting was the last of the 'virtual' Zoom meetings held, all subsequent meetings have been 'physical' meetings held in the Guildhall, Bath. The Committee meeting agendas have focussed on its core role and responsibilities as per the Committee Terms of Reference.
- 3.3 The Committee's work will continue to develop and as part of its responsibilities it has reviewed its terms of reference. The key areas of responsibility are still considered appropriate and meet current best practice. However, the attached revised Terms of Reference (Appendix 2) records two changes (highlighted in red text) from the version approved by Council on 21<sup>st</sup> July 2022. It expands on the role of the Committee in terms of the audited accounts of Council owned companies and provides examples of other matters relating to corporate governance which are properly referred to the Committee or which come to its attention, i.e. the procurement of External Audit Services, monitoring the governance of Council owned companies (Aequus Developments Ltd and Aequus Construction Ltd).

#### **4 STATUTORY CONSIDERATIONS**

- 4.1 There are no specific statutory considerations related to this report. As stated in the issue section of this report the Corporate Audit Committee is required to report back to Council annually.

#### **5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)**

- 5.1 There are no direct resource implications relevant to this report.

#### **6 RISK MANAGEMENT**

- 6.1 A proportionate risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision-making risk management guidance.
- 6.2 The Corporate Audit Committee has specific responsibility for ensuring the Council's Risk Management and Financial Governance framework is robust and effective.

#### **7 EQUALITIES**

- 7.1 A proportionate equalities impact assessment has been carried out using corporate guidelines and no significant issues have been identified.

#### **8 CLIMATE CHANGE**

- 8.1 There are no direct climate change implications related to this report.

## 9 OTHER OPTIONS CONSIDERED

9.1 No other options to consider related to this report.

## 10 CONSULTATION

10.1 The report was distributed to the Council's S151 Officer and Chair of the Audit Committee for consultation.

<b>Contact person</b>	<i>Andy Cox (01225 477316)</i>
<b>Background papers</b>	<i>None</i>
<b>Please contact the report author if you need to access this report in an alternative format</b>	

This page is intentionally left blank

## **Appendix 1 – Corporate Audit Committee Annual Report**

### **CORPORATE AUDIT COMMITTEE**

#### **ANNUAL REPORT TO COUNCIL 2021/22**

##### **1. INTRODUCTION**

This is the seventeenth annual report of the Committee since it was established by the Council on 12 May 2005.

The 2020/21 Committee Annual Report went to Full Council on 15<sup>th</sup> February 2022 and covered the meetings of the Committee for the extended period July 2020 to December 2021. This report covers the financial year 2021/22 so there will be some duplication of reporting in terms of work carried out by the Committee at its meetings of 29<sup>th</sup> April 2021, 23<sup>rd</sup> September 2021 and 15<sup>th</sup> December 2021.

##### **2. REVIEW OF WORK DONE IN 2021/22**

###### **a. Financial Governance – Annual Accounts**

- i At its meeting on the 29<sup>th</sup> April 2021 the External Auditor Update to Committee from the Grant Thornton Engagement Manager reported that they were 2-3 months behind in their work for the audit plan for 2021 (2020/21 financial statements). The Committee resolved to endorse the Audit Plans for the Council and Avon Pension Fund.
- ii. A further update by the External Auditor Grant Thornton was provided on 23<sup>rd</sup> September 2021 and it was reported that based on available resources it was hoped that the work on the Statutory Accounts would be completed in time to report to Corporate Audit Committee on 15<sup>th</sup> December 2021. Based on this revised deadline, the members of the Corporate Audit Committee requested that the External Auditor Engagement Lead write to the Chair of the Committee at the end of October 2021 to confirm whether or not, based on work carried out in October, this deadline would be achieved.
- iii. The Governance Reports for Council and the Avon Pension Fund and Audited Statement of Accounts 2020/21 were presented to the 15<sup>th</sup> December 2021 meeting of the Committee. Following the presentation entitled 'Overview of the 2020/21 Statement of Accounts' the External Auditor confirmed that following approval by the Committee the Auditors Opinion on both sets of accounts would be signed. The requirement to produce consolidated accounts including ADL accounts and the issues found in relation to property asset valuations were explained by the External Auditor. The Committee resolved that the audited Statement of Accounts, including the Letters of Representation for both Bath & North East Somerset Council and the Avon Pension Fund for 2020/21, were approved.
- iv. At the meeting on the 3<sup>rd</sup> February 2022 the Service Director – Commercial and Governance presented the report in the absence of the External Auditor Engagement Lead. He stated that the External Auditors work was on track

## **Appendix 1 – Corporate Audit Committee Annual Report**

to meet the deadline of 16<sup>th</sup> March 2022 to conclude and report on its VFM findings (see c. External Audit point vii below).

### **b. Financial Governance – Treasury Management**

- i. The Treasury Management Outturn Report 2020/21 was presented to the 23<sup>rd</sup> September 2021 meeting of the Committee which was after the report to Full Council on the 22<sup>nd</sup> July 2021. The Committee noted the Treasury Management Report to 31st March 2021, prepared in accordance with the CIPFA Treasury Code of Practice.
- ii. A Treasury Management Performance Report to 30<sup>th</sup> September 2021 was presented to the meeting on the 15<sup>th</sup> December 2021. It was reported that the Committee Report had already been presented to both Council and Cabinet.
- iii. Committee Members reviewed the Treasury Management Strategy Statement for 2022/23 on the 3<sup>rd</sup> February 2022. This set out the treasury limits in force, treasury management indicators, current position, borrowing requirement, prospects for interest rates and the borrowing and investment strategies. It was resolved to recommend the proposed actions within the Treasury Management Strategy Statement to February Council; and to note the Treasury Management Indicators (detailed in the Appendix 1 of the Statement).

### **c. External Audit**

- i. The 29<sup>th</sup> April 2021 External Auditor Report to Committee included the Grant Thornton Annual Audit Letter for 2019/20 (dated 8<sup>th</sup> March 2021) and it concluded that that the External Auditor was satisfied that the Council in all significant respects had put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources for the year ending 31 March 2020. Noted within the VFM opinion are risks around the continued financial challenge (recommendations that Management continue to monitor the use of reserves and deliver sustainable budgets in the medium term).
- ii. The External Auditor's Audit Plan for B&NES Council was also presented to the 29th April 2021 meeting. The Plan recorded 'Key Matters' for the year and this included:
  - a) Council Developments – 2019/20 was the first year that the Council had produced Group Accounts consolidating Aequus Developments Ltd and Aequus Construction Ltd. No significant audit findings were identified from the review of the consolidated accounts.



## Appendix 1 – Corporate Audit Committee Annual Report

- b) Impact of Covid19 Pandemic – it noted that they would review medium Term financial planning and the impacts of Covid19 on financial planning as part of the VFM work.
  - c) Financial Reporting and Audit (raising the bars) – This was linked to the guidance from the Financial Reporting Council to be more sceptical and to increase testing.
- iii. The External Auditor Actual Fee for 2019/20 was reported as £138,281 and was proposed to increase to £154,201 for the 2020/21 Audit. This was compared to the scale fee published by the Public Sector Audit Appointments Ltd (PSAA) of £95,351. The additional fees charged by Grant Thornton above the PSAA scale fee was subject to scrutiny by the Committee. In addition to the Audit Fees for 2019/20 Grant Thornton charged ‘non-audit services’ for the certification of the Housing Benefits Claim (£28,830) and the certification of the Teachers Pension Claim (£5,010).
- iv. The Audit Plan set out: the significant risks requiring special audit consideration (Council income streams, management override of internal controls, valuation of land and property, valuation of pension fund net liability); materiality for audit purposes; Value for Money arrangements; and Audit Logistics (timing of the work and audit fees).
- v. At the 23rd September 2021 Committee Meeting the future procurement of External Audit Services was discussed. The Council’s S151 Officer informed the Committee that he had just received a letter from the Local Government Association (LGA) regarding the ‘Retender of External Audit Contracts’ which confirmed the need for the Council to make a decision by 11th March 2022 whether they wanted to stay in or opt out of the national PSAA arrangement. Legislation requires a resolution of Full Council if a local authority wishes to opt into the national arrangement. The Committee resolved that a paper should be prepared and submitted for its consideration to enable it to make a recommendation to Council on whether to opt in or out of the national arrangement.
- vi. A report on the procurement options of External Auditors for the five-year period commencing 1st April 2023 was presented to the Committee on the 15th December 2021. The report considered three alternative methods for B&NES Council to appoint its external auditor:
- 1) Undertake an individual auditor procurement and appointment exercise;
  - 2) Undertake a joint audit procurement and appointing exercise with other bodies;
  - 3) Join PSSA’s sector led national scheme.

It was resolved that the Audit Committee recommend to full Council that they approve the use of PSAA to carry out the re-procurement of External Auditors to the Council.

Note: At 16<sup>th</sup> February 2022 meeting of full Council it was resolved to approve the use of Public Sector Audit Appointments Ltd (PSAA) to carry

## Appendix 1 – Corporate Audit Committee Annual Report

out the re-procurement of External Auditors to be appointed to B&NES Council for the 5-year period commencing 1st April 2023 and that the Council's Chief Financial Officer (S151) writes to PSAA to formally accept the invitation to opt into the national scheme before the deadline of Friday 11th March 2022.

- vii. On 19<sup>th</sup> May 2022 the External Auditor presented their Annual Report. Based on the National Audit Office Code of Audit Practice a more detailed report had to be prepared on the Council's overall arrangements for 2020/21 to secure economy, efficiency and effectiveness in its use of resources (Value For Money). For the three areas (criteria) under review – financial sustainability; governance; and improving economy, efficiency and effectiveness 'no risks of significant weakness' were identified. A number of improvement recommendations or opportunities for improvement were reported including:
- a. Management of the schools deficit;
  - b. Opportunities to develop risk reporting;
  - c. Introducing a regular annual update of the register of interests and declarations of gifts and hospitality completed by Members.
  - d. Continuing development of performance management reporting including Key Performance Indicators;
  - e. Strengthening the existing benchmarking processes;
  - f. Raising the profile of work completed in response to external regulators e.g. Ofsted;
  - g. Strengthening contract management arrangements.

The Annual Report also summarised its opinion on the Council's financial statements and referred to the Auditor's December 2021 Audit Findings Report. An unqualified audit opinion was provided on 16<sup>th</sup> December 2021.

The Committee resolved to note the Annual Report and recommendations arising.

- viii. At the May 2022 meeting the External Auditor also presented the External Audit Plans for the Council and the Avon Pension Fund.

The National Audit Office Code of Audit Practice records the responsibilities of the auditors and expectations of the audited body. The external auditor's responsibilities are also set out in the Terms of Appointment and Statement of Responsibilities issued by the Public Sector Audit Appointments (body appointing the Council's External Auditors).

The Grant Thornton report highlight a quality inspection review of its work by the Financial Reporting Council. Based on it's sample of audit files (local government & NHS) there were no 'significant improvements required'.

The Audit Plan recorded the purpose, respective responsibilities and scope of the audit work. The external auditor as group auditor is required to obtain

## Appendix 1 – Corporate Audit Committee Annual Report

sufficient appropriate audit evidence regarding the financial information of the components and the consolidation process to provide an opinion on the group financial statements (including Aequus Developments Ltd & Aequus Construction Ltd).

Accounting estimates and the audit risk assessment has been highlighted by the Financial Reporting Council's updated International Standard on Auditing [ISA(UK)}540]. The Audit Plan therefore advises that further information will be requested in terms of valuations and estimates e.g. land and building valuations, and pension liabilities.

Other audit responsibilities recorded in the Plan:

- Verify consistency between financial statements and the Narrative Report and Annual Governance Statement (AGS).
- Verify AGS is in line with CIPFA requirements.
- Verify compliance with duties under legislation.
- Certification of completion of the audit.

- ix. The Audit Fee for 2020/21 was confirmed in the Audit Plan report as £154,201. The fee for 2021/22 was subject to discussion with the Chief Finance Officer and communicated to the Committee.
- x. The final External Auditor report to the May 2022 Meeting was to obtain the Committees comments and / or confirmation that answers provided by management to inform the External Auditor's risk assessment were consistent with their understanding. This covered the following areas:
  - a. General Enquiries
  - b. Fraud
  - c. Laws & Regulations
  - d. Related Parties
  - e. Going Concern
  - f. Accounting Estimates

Members provided their thoughts on the responses documented and the Committee noted the responses to the risk assessment questions.

### **d. Corporate Governance**

- i. The Accounts and Audit Regulations require the Council to carry out an annual review of its governance arrangements, and to produce an annual statement detailing the results of that review.
- ii. The results of the governance review for 2020/21 were presented to the Committee in December 2021. The Committee was advised of the inclusion of the single significant issue related to the many impacts of the Covid19 pandemic.

## Appendix 1 – Corporate Audit Committee Annual Report

- iii. In preparation for compiling the Annual Governance Statement (AGS) for 2021/22 a report on the governance review process was presented to the Committee on 3<sup>rd</sup> February 2022 to enable the Committee to fulfil its responsibilities associated with the publication of the AGS 2021/22.

### e. Internal Audit

- i. On the 29<sup>th</sup> April 2021 a report was presented to the Committee on the preparation of the Internal Audit Plan 2021/22 and an updated Internal Audit Charter (setting out the purpose, authority and principal responsibilities of the Internal Audit Service). Both the Plan and the Charter were approved.
- ii. The Committee reviewed the outcomes and performance of the Internal Audit Team against the 2020/21 Internal Audit Plan on 29<sup>th</sup> April 2021. At the April 2021 meeting the Committee resolved that it noted the Internal Audit Annual Report 2020/21 and the formal opinion of the Chief Audit Executive.
- iii. On the 23<sup>rd</sup> September 2021 and 15<sup>th</sup> December 2021 the Committee were provided updates on progress on completing the approved Internal Audit Plan 2021/22. The Committee noted the progress in delivery of the 2021/22 Annual Audit Assurance Plan.
- iv. On the 3<sup>rd</sup> February 2022 the Committee members were consulted on the areas of audit activity to be included in the Internal Audit Plan 2022/23 and the need to maintain a flexible plan subject to formal re-assessment at the half-year point. The Internal Audit Plan 2022/23 and the revised Internal Audit Charter 2022 were approved by the Committee at the 19<sup>th</sup> May 2022 meeting.
- v. The Audit and Assurance Annual Report 2021/22 detailing work of the internal audit team and performance against the 2021/22 Internal Audit Plan was presented to the May 2022 meeting. The report also included the formal opinion of the Chief Audit Executive on the Council's internal control framework. It concluded that 'Reasonable Assurance' can be provided over the council's systems of internal control, helping to ensure Council priorities can be achieved. The ongoing financial challenge, heightened by the pandemic and more recently the conflict in Ukraine, places further pressure on all Council services to respond and manage risk in a proportionate way. The Council's financial position remains very challenging. A robust Internal Audit service is a vital component of the Council's governance systems and provides the third and final line of defence in relation to the internal control framework.

## **Appendix 1 – Corporate Audit Committee Annual Report**

### **f. Review of Terms of Reference**

- i. As part of good practice, a high-level desktop review was undertaken of the Committee's Terms of Reference against CIPFA's best practice model for Audit Committees.
- ii. The Terms of Reference has been amended to include responsibility for monitoring Council Companies Governance – e.g. Aequus Developments Ltd and Aequus Construction Ltd.
- iii. In relation to independent support the committee has a co-opted independent member and the level of support to inform and advise the committee will be kept under review.

### **3. CORPORATE AUDIT COMMITTEE WORK PLAN FOR 2022/23**

- i. Whilst the Committee's work will be broadly similar to previous years it will keep under close review a number of key issues –
  - a) Financial resilience of the organisation – monitoring significant issues recorded in the Annual Governance Statement 2021/22 i.e. significant increase in supply costs such as energy; and increase in service provision demand and costs e.g. Special Educational Needs (SEND) assessments;
  - b) Treasury Management Arrangements
  - c) External Audit Contract as arranged through the Public Sector Audit Appointments Ltd.
  - d) Council Companies Governance – e.g. Aequus Developments / Construction

### **4. MEMBERSHIP AND SUPPORT**

- i. Councillor Mark Elliott has been Chair of the Committee since July 2020. The Committee Members since July 2020 are:  
Councillor Andy Furse  
Councillor Brian Simmons  
Councillor Colin Blackburn  
Councillor Lucy Hodge  
Independent Committee Member – John Barker
- ii. The Committee is supported by a number of Officers notably the Service Director for Commercial & Governance (One West), and the Chief Financial Officer who leads on financial issues through his S151 role.
- iii. The external auditors are currently represented by an Engagement Lead and Audit Manager from Grant Thornton.

This page is intentionally left blank

## CORPORATE AUDIT COMMITTEE

### 1 Committee Scope

The Corporate Audit Committee is responsible for the Council's powers and duties relating to the annual accounts, audit plans, the Annual Governance Statement, risk management arrangements and the other key financial governance procedures.

### 2 Functions

1. To approve on behalf of the Council its Annual Accounts, as prepared in accordance with the statutory requirements and guidance.
2. To review and note on behalf of the Council the audited accounts of Council owned companies, in accordance with Council company governance arrangements, statutory requirements and guidance.
3. To approve the External Auditors' Audit Plan and to monitor its delivery and effectiveness during the year.
4. To approve the Internal Audit Plan within the budget agreed by the Council and to monitor its delivery and effectiveness (including the implementation of audit recommendations).
5. To consider, prior to signature by the Leader of the Council and Chief Executive, the Annual Governance Statement (including the list of significant issues for action in the ensuing year), as prepared in accordance with the statutory requirements and guidance; and to monitor progress on the significant issues and actions identified in the Statement.
6. To review periodically the Council's risk management arrangements, make recommendations and monitor progress on improvements.
7. To review periodically the Council's key financial governance procedures, i.e. Financial Regulations, Contract Standing Orders, Anti-Fraud & Corruption Policy and to recommend any necessary amendments.
8. To consider the annual Audit & Inspection Letter from the External Auditor and to monitor progress on accepted recommendations.
9. To monitor and promote good corporate governance within the Council and in its dealings with partner bodies and contractors, including review of the Council's Code of Corporate Governance and in any such other ways as the Committee may consider expedient (within the budget agreed by the Council).
10. To consider and make recommendations of any other matters relating to corporate governance which are properly referred to the Committee or which come to its attention, e.g. the procurement of External Audit Services, monitoring the governance of Council owned companies.
11. To make an annual report to Council on the work [and findings] of the

Committee, including (if necessary) any measures necessary to improve the effectiveness of the Committee.

In all of the above, the Committee will, as appropriate, wish to develop effective liaison with the following:

- a) the Standards Committee of the Council with regard to matters of ethical governance;
- b) the relevant Policy Development and Scrutiny Panel(s) - to complement but not to duplicate the exercise of their legitimate role in checking compliance with Council processes and policies and in reviewing policies and practice;
- c) relevant Cabinet Members, in particular the Leader and the Cabinet Member with responsibility for Resources, whose portfolios include executive functions related to the matters covered by these terms of reference
- d) the Council when developing the Council's Code of Corporate Governance

### **3 Composition**

The size of the Panel will be determined by Council. Appointments will be made having regard to rules on political proportionality – as set out in the [proportionality table](#). There will also be one independent non-voting co-opted member.

### **4 Quorum**

One quarter of the membership or 3 Councillor/voting Members of the Committee whichever is greater.

### **5 Substitution**

Substitute Members are permitted in line with [Council Procedure Rule 3.1.4](#).



<b>Bath &amp; North East Somerset Council</b>		
MEETING	<b>Council</b>	
MEETING DATE:	<b>15 September 2022</b>	
TITLE:	<b>Standards Committee Annual Report 2021-2022</b>	
WARD:	All	
<b>AN OPEN PUBLIC ITEM</b>		
<p><b>List of attachments to this report:</b></p> <p>Appendix 1 Standards Committee Annual report 2021-2022 [Annexes A – E are available at item 12 from this link];  <a href="https://democracy.bathnes.gov.uk/documents/g5825/Public%20reports%20pack%2012th-Jul-2022%2017.00%20Standards%20Committee.pdf?T=10">https://democracy.bathnes.gov.uk/documents/g5825/Public%20reports%20pack%2012th-Jul-2022%2017.00%20Standards%20Committee.pdf?T=10</a></p>		

**1 THE ISSUE**

1.1 To consider the Standards Committee Annual report.

**2 RECOMMENDATION**

**The Council is asked to;**

2.1 Note the work of the Standards Committee as set out in the Annual report (Appendix 1).

**3 THE REPORT**

3.1 The Standards Committee is responsible for the promotion of ethical standards within the Authority, helping to secure adherence to the Members’ Code of Conduct, monitoring the operation of the Code within Bath & North East Somerset Council, conducting hearings following investigation, and determining complaints made against Councillors in respect of alleged breaches of the Code of Conduct.

3.2 The Standards Committee agreed it would provide an annual report to the Council summarising the work of the Committee over the previous year.

**4 STATUTORY CONSIDERATIONS**

4.1 The Standards Committee is not required to produce an annual report; however, it is good practice to do so.

## **5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)**

5.1 No direct implications.

## **6 RISK MANAGEMENT**

6.1 Adherence to robust standards of conduct mitigates potential complaints about standards issues.

## **7 EQUALITIES**

7.1 No direct impact

## **8 CLIMATE CHANGE**

8.1 No direct impact

## **9 OTHER OPTIONS CONSIDERED**

9.1 None

## **10 CONSULTATION**

10.1 The S.151 Officer has been consulted.

<b>Contact person</b>	Michael Hewitt, Monitoring Officer <a href="mailto:Michael.Hewitt@bathnes.gov.uk">Michael.Hewitt@bathnes.gov.uk</a>
<b>Background papers</b>	None
<b>Please contact the report author if you need to access this report in an alternative format</b>	

# **Standards Committee Annual Report 2021 - 2022**

**Chair's Foreword**

The Standards Committee fulfils a most important role for Bath & North East Somerset Council and for the Parish and Town Councils within its area. The Committee members are all volunteers: some are Unitary Councillors; some are Parish or Town Councillors drawn from Parish or Town Councils in the Bath and North East Somerset Council area, whose nominations are facilitated by Avon Local Councils Association, and some are Independent Members, being independent members of the public. In addition, as legally required, the Authority appoints an 'Independent Person', to work alongside the Standards Committee and Monitoring Officer.

All committee members have given willingly and generously of their time and talents in approaching issues most thoughtfully and constructively. We are most grateful to them all.

The following detailed report shows the range of matters within the scope of the Standards Committee. In the past year, there have been some 18 matters raised: of which 13 initial assessments required 'no further action' to be undertaken. Of the remaining matters 1 dealt with by informal resolution; 3 matters were withdrawn. 1 matter was referred for investigation and a hearing concluded with a finding of breach. To put these figures in context, the Standards Committee has within its purview, the unitary authority and 45 Parish and Town Councils: in total over 500 councillors.

To ensure the Council has proper arrangements for securing economy, efficiency and effectiveness the Council's External Auditors, Grant Thornton LLP, undertake an annual review. In terms of Standards, and the Register of Interests, the 2020-21 Annual Report concluded that 'overall we consider that the Council has appropriate arrangements in place to monitor standards.' However, the Auditors found that there is some variation in the timing of updates and it would be good practice to update these routinely on an annual basis.

In Bath & North East Somerset, the Standards Committee has three Independent Members: Dr Cyril Davies, Deborah Russell and myself and in this authority the Committee is chaired by an Independent Member. During the year, Deborah Russell retired from her role: we are most appreciative of Deborah's service and wise counsel. After advertisement and interviews, Sophie Sidonio was appointed an Independent Member: she is very welcome and we look forward to working with her in the future. I am most grateful to all my colleagues for their help and support and wish to highlight the exceptional commitment of the Independent Person, Tony Drew who provides such valuable service to the standards regime. The Standards Committee has recognised the burden of being an Independent Member but, also, the opportunity to provide further independent support by appointing another (equal status) Independent Person. Roger Morris was appointed after open advertisement and interview. He is most welcome and we look forward to working closely with him in the future.

Finally, I commend the Monitoring Officer, Michael Hewitt and Legal Services Manager, Shaine Lewis, and their colleagues for their most professional and successful operation of the Standards regime.

**Dr Axel Palmer**  
**Chair of the Standards Committee**

## **1. Introduction**

The Standards Committee has agreed that it will submit an annual report summarising the work the Committee has carried out during the previous year for the consideration of Council. This report comprises the Annual Review covering the period 1 April 2021 to 31 March 2022, together with background information regarding the standards regime established within Bath & North East Somerset Council. All references to 2021-22 in the report refer to this time period.

### **The Standards Committee**

The Standards Committee is responsible for the promotion of ethical standards within the Council, helping to secure adherence to the Code; monitoring the operation of the Code; conducting hearings following investigation and determining complaints made under the Code. The Standards Committee's terms of reference are set out in the Council's Constitution in Part 2, Responsibility for Functions. The Committee conducts proceedings using the Authority's Local Arrangements for dealing with complaints under the Code of Conduct for Members. The Committee is also responsible for granting dispensations to Members.

Where a Final Report from an Investigating Officer recommends a finding that there has been a breach of the Code, the Committee undertakes a hearing in accordance with the Council's Local Arrangements for dealing with complaints under the Code. The Committee will determine the facts, whether there has been a breach and if so any sanction. It can also make recommendations to Council.

### **The Monitoring Officer**

The Monitoring Officer is responsible for promoting and maintaining high standards of conduct and for reporting any actual or potential breaches of the law and maladministration to the full Council and/or to the Cabinet (as set out in s.5 (1) of the Local Government and Housing Act 1989).

The Monitoring Officer and their team administer the local arrangements for addressing complaints made under the Code of Conduct. This includes the assessment of every complaint received under the Code of Conduct. Following consideration and consultation with the Authority's Independent Person and Chair of the Standards Committee, the Monitoring Officer decides whether the complaint will be investigated. The decision will be based on whether the allegation, if proved, would constitute a failure to observe the Code of Conduct and the application of the Council's adopted assessment criteria. The Monitoring Officer may also consider that a complaint can be reasonably resolved informally and will discuss this option with the complainant and subject member where appropriate.

### **Independent Persons**

The Council has appointed two Independent Persons who are invited to attend all meetings of the Standards Committee. The Independent Persons must be consulted by the Council before it decides on a matter that has been referred to it for investigation; they can also be consulted by the Council in respect of a code of conduct complaint at any other stage; and

can also be consulted by a member or co-opted member of the Council against whom a complaint has been made. It has been emphasised that the involvement and consultation of the Independent Person is important at all stages.

### **Standards Committee Membership 2021-22**

In 2021/22 the Standards Committee comprised the following Members:

Councillors Paul Crossley, Sally Davis, Duncan Hounsell, Michelle O'Doherty, June Player.

Parish Councillors Kathy Thomas (plus 2 vacancies).

Independent Members Dr Axel Palmer (Chair), Dr Cyril Davies, Sophie Sidonio (appointed March 2022) Deborah Russell served part of the year).

Observers Independent Person Tony Drew, Roger Morris (appointed March 2022).

## **2. The Authority's Independent Persons**

The Authority's Independent Persons are Tony Drew and Roger Morris who are non-voting observers for Standards Committee. The Council also has access to a reserve Independent Person through informal arrangements with neighbouring local authorities.

## **3. Training for Standards Committee Members and Independent Persons**

Initial and refresher training on the duties and responsibilities of members serving on the Standards Committee of the Authority is important to ensure the probity and credibility of the Authority's decision making processes. Members are required to undertake basic training through the Authority's member induction programme, on election or re-election, and this is refreshed annually, before they can serve on the Standards Committee. Training is also provided for the Independent Persons appointed by the Authority in order to ensure they are able to carry out their role.

A training session for Members on Effective Hearings was delivered by the Monitoring Officer and the Legal Services Manager on 11 January 2022 followed by a Q&A session. The slides for this session can be found at **Annex A**.

Induction training was undertaken by the Monitoring Officer for Sophie Sidonio and Roger Morris following Council approval of their appointment on 24 March 2022.

## **5. Review of Standards Committee Work Programme and Action Plan for 2021/22**

The Standards Committee's Work Programme/Action Plan for 2021/22 is attached at **Annex B**. The Committee met on 3 occasions during the year and at each meeting the Committee monitored its Work Plan and noted the current position with complaints using the Complaints Tracker.

## **6. Committee Meetings and foremost workstreams**

At the start of each year the Standards Committee agrees its Work Programme/Action Plan for the year, which is then monitored at meetings throughout the year. Standard Committee sessions are scheduled every 2 months in advance. If not required, these are cancelled. The Standards Committee met on:

- 13 April 2021
- 12 October 2021
- 22 February 2022

### **Adoption of the new Model Code of Conduct**

A report was presented to the Standards Committee 13 April 2021 with a recommendation that the Local Government Association Model Councillor Code of Conduct 2020 be adopted to achieve consistency across the country and avoid any confusion. All were in agreement that the Model Councillor Code of Conduct 2020 be adopted with the following additions:

- (1) That there be an obligation for Members to have regard to advice from the Monitoring Officer and the Section 151 Finance Officer;
- (2) that reasons for decisions be provided;
- (3) that the threshold for gifts and hospitality remain at £25;
- (4) that the cumulative impact of gifts and hospitality be addressed; and
- (5) that the Standards Committee undertake an annual review after the LGA review.

### **Local Hearing**

On 22 February 2022 the Monitoring Officer presented a report into an alleged breach of the Stanton Drew Parish Council Code of Conduct. Following careful consideration of the facts contained in the Investigating Officer's report, representations from relevant parties at the meeting and the independent view provided by the Independent Person all agreed there had been a breach of the Code of Conduct. The Standards Committee then decided the appropriate sanction. Following consideration of the material facts and representations all agreed that the Standards Committee recommend that the Parish Council require Councillor Richardson to make an apology to the complainant and, in the absence of an apology consider, removing Councillor Richardson as chair of the Parish Council.

### **The Committee on Standards in Public Life – Review of Local Government Ethical Standards and the Government Response**

The report of the Committee on Standards in Public Life 'Local Government Ethical Standards - A Review by the Committee in Public Life' was published on 30 January 2019 and in March 2022 the government published its response. Whilst a limited number of changes may be

made, where only amendments to secondary legislation are required, changes that need primary legislation would not. The government's published response can be found at [Annex C](#) and a note of these as presented to the Standards Committee on 12 April 2022 is found at [Annex D](#).

The following points were noted from discussion:

- The requirement for the independent person to have a fixed term post for only two years should be eased to allow a longer time to understand the role
- To require further consultation on the question of sanction by suspension seemed strange, as the CSPL views were that there was a lack of sanction
- BANES had had an Independent Person since the Localism Act in 2011, previously there had just been an Independent Chair
- The Monitoring Officer found it very useful being able to consult on the initial assessment of complaints with the Independent Person and Independent Chair of Standards
- Having a second Independent Person would enable communication with the complainant or subject member in what could be a stressful process
- All levels of democracy should have the same set of standards – in BANES all the parish councils were members of ALCA (Avon Local Councils' Association) who recommended adopting the same Code of Conduct
- Failure to disclose an interest - when there was police involvement there was a high bar to enforcement action and from practical experience the Police were very pragmatic in their decision making.

## **Mediation**

In June 2019 a complaint (09-19 PwPPC) was received alleging breaches of the Code of Conduct at a Parish Council and this attracted a counter claim. In consultation with the Chair and Independent Person the Monitoring Officer commissioned an independent investigation which in February 2020 suggested the matter could benefit from mediation.

With Covid-19 lockdowns and the appointment of a new Monitoring Officer the mediation process did not commence until March 2022. The outcome of mediation is an agreement that PC business should be conducted in accordance with Standing Orders and best practice, communications needed to be civil, focused and in line with the Code of Conduct and any concerns associated with employees should be addressed through the Staff Committee rather than in public.



**7. Complaints under the Code of Conduct for Members and Co-opted Members for the last 5 years**

**i. Complaints by complainant**

Type of complainant	2017/18	2018/19	2019/20	2020/21	2021/22	Total
<b>BaNES Councillor</b>	1	0	0	1	4	<b>6</b>
<b>Parish / Town Councillor</b>	0	1	2	1	0	<b>4</b>
<b>Member of the public</b>	13	15	5	13	13	<b>59</b>
<b>Council Officer</b>	1	1	0	0	1	<b>3</b>
<b>Parish Clerk</b>	0	3	0	1	0	<b>4</b>
<b>Total</b>	<b>15</b>	<b>20</b>	<b>7</b>	<b>16</b>	<b>18</b>	<b>76</b>

76

**ii. Complaints by subject member**

Subject of the complaint	2017/18	2018/19	2019/20	2020/21	2021/22	Total
<b>BANES Councillor</b>	11	13	0	5	13	<b>42</b>
<b>Parish / Town Councillor</b>	4	7	7	11	5	<b>34</b>
<b>Total</b>	<b>15</b>	<b>20</b>	<b>7</b>	<b>16</b>	<b>18</b>	<b>76</b>

**iii. Complaints by type**

Type of complaint	2017/18	2018/19	2019/20	2020/21	2021/22	Total
<b>Failure to declare an interest</b>	6	5	0	3	2	<b>16</b>
<b>Bullying/failure to treat with respect</b>	4	3	0	0	0	<b>7</b>

<b>Bringing Council into disrepute</b>	5	11	7	9	16	<b>48</b>
<b>Improperly conferring advantage/disadvantage</b>	0	0	0	0	0	<b>0</b>
<b>Disclosure of confidential information</b>	0	0	0	0	0	<b>0</b>
<b>Lack of respect</b>	0	1	0	4	0	<b>5</b>
<b>Total</b>	<b>15</b>	<b>20</b>	<b>7</b>	<b>16</b>	<b>18</b>	<b>76</b>

**Note:** A complainant may make several types of complaint about a councillor.

**iv. Initial Assessments**

<b>Local Assessment Decisions</b>	<b>2017/18</b>	<b>2018/19</b>	<b>2019/20</b>	<b>2020/21</b>	<b>2021/22</b>	<b>Total</b>
<b>No Further Action</b>	4	17	5	11	11	<b>48</b>
<b>Informal Resolution</b>	10	2	1	2	2	<b>17</b>
<b>Referred for Investigation</b>	1	1	0	0	1	<b>3</b>
<b>Ongoing</b>	0	0	0	0	1	<b>1</b>
<b>Withdrawn</b>	0	0	1	3	3	<b>7</b>
<b>Total</b>	<b>15</b>	<b>20</b>	<b>7</b>	<b>16</b>	<b>18</b>	<b>76</b>

**v. Outcome of complaints**

<b>Outcomes</b>	<b>2017/18</b>	<b>2018/19</b>	<b>2019/20</b>	<b>2020/21</b>	<b>2021/22</b>	<b>Total</b>
<b>Other Action</b>	0	0	2	1	0	<b>3</b>
<b>Ongoing</b>	2	0	0	0	0	<b>2</b>
<b>Apology</b>	0	0	0	1	0	<b>1</b>

<b>No Action Required</b>	1	0	5	0	0	<b>6</b>
<b>Withdrawn</b>	1	2	0	3	0	<b>6</b>
<b>Breach</b>	2	5	0	0	0	<b>7</b>
<b>No Breach</b>	9	13	0	11	18	<b>51</b>
<b>Total</b>	<b>15</b>	<b>20</b>	<b>7</b>	<b>16</b>	<b>18</b>	<b>76</b>

A case tracker in spreadsheet format can be found at [Annex E](#)

## 8. Conclusion

The Committee has dealt with a variety of matters in the past year and aims to continue to develop and maintain the Council's ethical governance framework for the benefit of the Authority and ultimately local people. The Committee is looking forward to the next year.

This page is intentionally left blank

<b>Bath &amp; North East Somerset Council</b>		
MEETING	<b>Council</b>	
MEETING DATE:	<b>15 September 2022</b>	
TITLE:	Annual Report on the use of the Regulation of Investigatory Powers Act 2000 (RIPA) & Investigatory Powers Act (IPA) 2016	
WARD:	All	
<b>AN OPEN PUBLIC ITEM</b>		
<b>List of attachments to this report:</b>		
Appendix 1 Usage Statistics		
Appendix 2 Revised Policy		

**1 THE ISSUE**

1.1 This report updates council on the use of Regulation of Investigatory Powers Act and Investigatory Powers Act, policies, and procedures.

**2 RECOMMENDATION**

**The Council is asked to:**

**2.1 Note the use of Regulation of Investigatory Powers Act 2000 and Investigatory Powers Act 2016 (RIPA/IPA) by the Council (Appendix 1)**

**2.2 Note the changes to the Council’s Policy on Regulation of Investigatory Powers Act 2000 and Investigatory Powers Act 2016 (“the Policy”)**

**3 THE REPORT**

- 3.1 The Regulation of Investigatory Powers Act 2000 permits Councils to carry out covert (secret) surveillance of alleged offenders for the prevention and detection of crime and the protection of public health. This is undertaken by either the use of Directed Surveillance or the use of a Covert Human Intelligence Source (CHIS). The Investigatory Powers Act 2016 allows the Council to apply to telecommunications providers for data information (but not the contents of communications) about individuals who are suspected of committing crimes. When RIPA & IPA are applied, it ensures that the actions taken by the Council comply with the Human Rights Act 1998.
- 3.2 The Investigatory Powers Commissioner's Office (IPCO) is responsible for the inspection of public authorities with regard to compliance with RIPA & IPA. The Council has previously been inspected in May 2014 and June 2017 and in 2020 a 'desk top' inspection was undertaken. The frequency of inspection for Local Authorities is every 3 years and in all likelihood the Council will be inspected in the near future.
- 3.3 The Policy was last revised in July 2019 and there have been no changes to the legislation since the last revision.
- 3.4 The Policy is based on the Home Office published Codes of Practice updated 7 December 2020. That update, however, was to ensure that all codes were in the correct section and no material amendments were made to the content of the codes.
- 3.5 The Policy has undergone minor amendments to include a revision date, page numbering and Schedule 1 has been updated to reflect the council's current personnel structure for Designated Persons/Authorising Officers and Senior Responsible Officers for Communications Data (CD).

## **4 STATUTORY CONSIDERATIONS**

- 4.1 The revised code on Covert Surveillance and Property Interference recommends that elected members should review the use of RIPA/IPA powers and set the policy annually.

## **5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)**

- 5.1 There are no direct implications arising from this report. Although the Council is an infrequent user of RIPA/IPA powers, the IPCO requires the Council 's procedures to remain in a good state of readiness should these need to be implemented. Consequently, the financial implications are limited to the cost of periodic refresher training for officers in the use of RIPA powers.

## **6 RISK MANAGEMENT**

6.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision-making risk management guidance.

## **7 CLIMATE CHANGE**

7.1 There are no impacts on climate change arising from this report.

## **8 OTHER OPTIONS CONSIDERED**

8.1 None

## **9 CONSULTATION**

9.1 The Monitoring Officer and Council S.151 Officer have been consulted on the contents of this report.

<b>Contact person</b>	Shaine Lewis, Legal Services Manager tel: 01225 395279
<b>Background papers</b>	None
<b>Please contact the report author if you need to access this report in an alternative format</b>	

**Key Statistics 2020**

**SURVEILLANCE DATA**

None

**COMMUNICATIONS DATA\***

None

**REQUEST FOR USE OF COUNCIL CCTV BY PARTNER ENFORCEMENT AGENCIES**

None

**Key Statistics 2021**

**SURVEILLANCE DATA**

None

**COMMUNICATIONS DATA\***

None

**REQUEST FOR USE OF COUNCIL CCTV BY PARTNER ENFORCEMENT AGENCIES**

None



**BATH AND NORTH EAST SOMERSET COUNCIL**

**Policy on**

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

**and**

**Investigatory Powers Act 2016 (IPA)**

Revised November 2022

**BATH AND NORTH EAST SOMERSET COUNCIL**

**REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)**

**&**

**INVESTIGATORY POWERS ACT 2016 (IPA)**

**POLICY**

**CONTENTS**

	<b>Purpose</b>	
A 1.0	Purpose of Policy	4
A 2.0	Introduction	4
B 1.0	<b>PART I - RIPA</b>	5
B 2.0	Applications for Authorisations	6
B 3.0	Scrutiny and Tribunal	7
B 4.0	Benefits of RIPA Authorisations	8
B 5.0	Statutory Definitions	8
B 6.0	When does RIPA apply?	11
B 7.0	Training	12
B 8.0	Central Register and Records	12
B 9.0	Overview and Scrutiny	12
B 10.0	Internet & Social Media Policy	13
B 11.0	Aerial Surveillance	13
	<b>Covert Surveillance</b>	14
C 1.0	CHIS	14
C 2.0	Directed Surveillance	16
C 3.0	Judicial Approval of Authorisations	18
C 4.0	Notifications to Inspector/Commissioner	19
C 5.0	Applications for CHIS	19
C 6.0	Urgent Authorisations	19
C 7.0	Duration and Cancellation	20
C 8.0	Reviews	20
C 9.0	Renewals	21
C 10.0	Central Register of Authorisations	21
0	Retention of Records	22
C 12.0	Complaints Procedure	23
	<b>PART II - IPA</b>	24
D 1.0	<b>Acquisitions and Disclosure of Communications Data</b>	24

D 2.0	What is Communications Data(CD)?	25
D 3.0	Senior Responsible Officer (SRO)	25
D 4.0	Applications Forms	26
D 5.0	Duration	26
D 6.0	Renewal and Cancellation	26
D 7.0	Retention of Records	26
D 8.0	Oversight and Complaints	27

SCHEDULE 1

<b>List of the Council's SRO's/ SPOCS Authorising Officers OCDA</b>	28
---	----

SCHEDULE 2

<b>Version Control Table</b>	29
------------------------------	----

SCHEDULE 3

<b>CHIS Authorisation Process</b>	30
-----------------------------------	----

SCHEDULE 4

<b>Internet &amp; Social Media Policy for the purpose of RIPA 2000</b>	33
--	----

## **REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)**

**&**

## **INVESTIGATORY POWERS ACT 2016 (IPA)**

### **A.1 Purpose**

The purpose of this Policy and accompanying guidance is to explain:

- the scope of RIPA and IPA
- the circumstances where these apply

### **A.2 Introduction**

A 2.1 **RIPA** - which came into force in 2000, regulates the use of investigatory powers exercised by various bodies including Local Authorities, and ensures that they are used in accordance with human rights. This is achieved by requiring certain investigations to be authorised by an appropriate officer and that, judicial approval is obtained before they are carried out.

A 2.2 **IPA** - which came into force in 2019, regulates the acquisition and disclosure of Communications Data (CD) by various bodies including Local Authorities. This is achieved by requiring application for CD to be facilitated by collaboration with the National Anti-Fraud Network (NAFN) and approved by the Office for Communications Data Authorisations (OCDA)

A 2.3 This policy sets out Bath and North East Somerset Council's (the Council) position in relation to RIPA and IPA. Part I deals with RIPA and Part II deals with IPA

A 2.4 Consideration must be given, prior to authorisation as to whether or not the acquisition of private information is necessary and proportionate, i.e. whether a potential breach of human rights is justified in the interests of the community as a whole, or whether the information could be obtained in other ways.

## **POLICY ON REGULATION OF INVESTIGATORY POWERS ACT 2000** **(RIPA)**

### **PART I – RIPA**

B 1.0 The investigatory powers, which are relevant to a Local Authority, are directed covert surveillance in respect of specific operations involving criminal offences that are either punishable, whether on summary conviction or indictment, by a maximum term of at least six months imprisonment, or are related to the underage sale of alcohol and tobacco and the use of covert human intelligence sources (CHIS). The Act makes it clear for which purposes they may be used, to what extent, and who may authorise their use. There are also Codes of Practice in relation to the use of these powers and these can be viewed at

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

B 1.1 This policy sets out the practice to be followed before any covert surveillance is undertaken. The Council will only carry out covert surveillance where such action is necessary, proportionate and justified and will endeavour to keep such surveillance to a minimum. The Council recognises its obligation to comply with RIPA when such an investigation is for the purpose of preventing or detecting crime, preventing disorder or the protection of public health and has produced this document as guidance to assist officers. The procedures and guidance set out in this Policy are based on the provisions of RIPA, the Home Office Codes of Practice on Covert Surveillance and Covert Human Intelligence Sources (CHIS), the Home Office guidance to Local Authorities in England and Wales on the judicial approval process for RIPA and the crime threshold for directed surveillance and guidance issued by the Investigatory Powers Commissioner. See

B 1.2 Officers should be aware of the scope and extent of activities covered by the provisions of RIPA. In many cases, investigations carried out by Council officers will not be subject to RIPA, as they involve overt rather than covert surveillance (see below).

B 1.3 RIPA does:

- require prior authorisation and judicial approval of directed covert surveillance
- prohibit the Council from carrying out intrusive surveillance

- require prior authorisation and judicial approval of the conduct and use of CHIS
- require safeguards for the conduct and use of CHIS.

B 1.4 RIPA does not:

- prejudice any existing powers available to the Council to obtain information by any means not involving conduct requiring authorisation under RIPA. For example, it does not affect the Council's current powers to obtain information via the DVLA or from the Land Registry as to the ownership of a property.
- authorise the use of directed covert surveillance unless the crime threshold is met.

B 2.0 **Applications for Authorisations**

B 2.1 All applications for authorisation in accordance with RIPA must be considered by one of the Council's designated authorising officers. Schedule 1 of this Policy identifies the officers authorised to act as the Council's designated persons. Any incomplete or inadequate application forms will be returned to the Applicant Officer for amendment. The Authorising Officer shall in particular ensure that:

- a criminal offence is being investigated;
- there is a satisfactory reason for carrying out the surveillance;
- the crime threshold is met or the offences relate to the underage sale of alcohol or tobacco;
- the covert nature of the investigation is necessary;
- proper consideration has been given to collateral intrusion;
- the proposed length and extent of the surveillance is proportionate to the information being sought;
- the authorisations are reviewed and cancelled;
- records of all authorisations are sent to the Monitoring Officer for entry on the Central Register;
- an analysis of alternative methods, other than directed covert surveillance has been considered as a way of obtaining the necessary information together with reasons why those alternatives are inappropriate. This is to ensure that RIPA powers

are used as a last resort;

B 2.2 After authorisation has been obtained from an authorising officer the Applicant Officer must attend the Magistrates' Court in order to obtain Judicial approval for the authorisation.

B 3.0 **Scrutiny and Tribunal**

B 3.1 The Council must obtain an order from a Magistrate approving the grant or renewal of any authorisation for the use of directed surveillance or CHIS before the authorisation can take effect and the activity be carried out. The Council can only challenge a decision of the Magistrate on a point of law by way of judicial review.

B 3.2 The Investigatory Powers Commissioner (IPC) was set up to oversee and monitor compliance with RIPA operations carried out by public authorities. The IPC has "*a duty to keep under review the exercise and performance by the relevant persons of the powers and duties under Part II of RIPA*", and the IPC will from time to time inspect and examine the Council's policies, records, operations and procedures for this purpose.

B 3.3 In order to ensure that investigating authorities are using the powers properly, the Act also establishes a Tribunal to hear complaints from persons aggrieved by conduct, e.g., directed surveillance. Applications will be heard on a judicial review basis. Such claims must be brought no later than one year after the taking place of the conduct to which it relates, unless it is just and equitable to extend this period.

B 3.4 The Tribunal can order:

B 3.4.1 the quashing or cancellation of any warrant or authorisation;

B 3.4.2 the destruction of any records or information obtained by using a warrant or authorisation;

B 3.4.3 the destruction of records or information held by a public authority in relation to any person.

B 3.5 The Council has a duty to disclose to the Tribunal all documents it requires, if any Council officer has:

B 3.5.1 granted any authorisation under RIPA;

B 3.5.2 engaged in any conduct as a result of such authorisation.

#### B 4.0 **Benefits of RIPA Authorisations**

B 4.1 RIPA states that if authorisation is given to engage in a certain conduct and the conduct undertaken is in accordance with the authorisation (including judicial approval), then it will be lawful for all purposes. Consequently, RIPA provides a defence to an accusation of an infringement of a human right.

B 4.2 Material obtained through properly authorised covert surveillance is admissible evidence in criminal proceedings.

#### B 5.0 **Statutory Definitions**

B 5.1 'Surveillance' includes:

B 5.1 monitoring, observing, listening to people, watching or following their movements, listening to their conversations and other such activities or communications.

B 5.1.2 recording anything mentioned above in the course of surveillance.

B 5.1.3 surveillance by, or with the assistance of, appropriate surveillance device(s).

Surveillance can be overt or covert.

B 5.2 **Overt surveillance** will include most of the surveillance carried out by the Council – there will be nothing secretive, clandestine or hidden about it. For example, sign posted CCTV cameras normally amount to overt surveillance (but see 6.6 and 7.3 below). 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 carried out by Environmental Health for food hygiene or other purposes), and/or will be going about Council business openly (e.g. a parking attendant walking through a Council car park).

B 5.3 Similarly, surveillance will be overt if the subject has been told it will happen. This will be the case where a noisemaker is warned that noise will be recorded if the noise continues; or where an entertainment licence is issued subject to conditions, and the licensee is told that officers may visit without notice or without identifying themselves to the owner/proprietor to check that the conditions are being met. Such warnings should be given to the person concerned in writing.

B 5.4 Overt surveillance does not require any authorisation under RIPA. Neither does **low-level surveillance** consisting of general observations in the course of law enforcement (for example, where a planning officer drives past a site to check whether planning conditions are being complied with). Repeated visits may amount to systematic surveillance, however, and require authorisation: if in doubt, legal



advice should be sought. Home Office guidance also suggests that the use of equipment such as binoculars or cameras, to reinforce normal sensory perception by enforcement officers as part of a *general* observation does not need to be regulated by RIPA, as long as the *systematic* surveillance of an individual is not involved.

B 5.5 **Covert surveillance** (S. 26(9)(a)) is surveillance carried out in a manner calculated to ensure that the person subject to the surveillance is unaware that it is, or may be taking place. RIPA requires the authorisation to two types of covert surveillance (**directed surveillance** and **intrusive surveillance**) plus the use of CHIS.

B 5.6 **Directed surveillance** (s.26(2)) is surveillance which:

B 5.6.1 is covert; and

B 5.6.2 is not intrusive surveillance (see definition below – **the Council is prohibited by law from carrying out any intrusive surveillance**);

B 5.6.3 is not carried out in an immediate response to events where it would not be practicable to obtain authorisation under the Act;

B 5.6.4 is undertaken for the purpose of a specific investigation or operation in a manner likely to obtain private information about an individual (whether or not that person is specifically targeted for purposes of an investigation).

B 5.6 **Private information** in relation to a person includes any information relating to his private and family life, his home and his 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 way a person runs his/her business may also reveal information about his or her private life and the private lives of others. Prolonged surveillance targeted on a single person will undoubtedly result in the obtaining of private information about him/her and others that s/he comes into contact or associates with.

B 5.7 Similarly, although signposted town centre CCTV cameras do not normally require authorisation, this will be required if the camera is tasked for a specific purpose which involves prolonged surveillance on a particular person or place.

B 5.8 Other examples of directed surveillance include:

B 5.8.1 officers following an individual over a period to establish whether s/he is working whilst claiming benefit.

B 5.8.2 test purchases where a hidden camera or other recording device is used.

B 5.9 Surveillance that is unforeseen and undertaken as **an immediate response** to a situation normally falls outside the definition of directed surveillance and, therefore, authorisation is not required. However, if a specific investigation or operation is subsequently to follow, authorisation must be obtained in the usual way before it can commence. In no circumstance will any covert surveillance operation be given backdated authorisation after it has commenced.

**B 5.10 Intrusive Surveillance (s. 26(3))** occurs when surveillance:

B 5.10.1 is covert;

B 5.10.2 relates to residential premises and private vehicles; and

B 5.10.3 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.

Residential premises do not include common areas to which a person has access in connection with their use of occupation for example hotel reception area or communal stairways.

B 5.11 Directed surveillance carried out at the following locations for the purpose of legal consultation shall be treated as intrusive surveillance:

B 5.11.1 Any place in which persons who are serving sentences of imprisonment or detention, remanded in custody or committed in custody for trial or sentence may be detained;

B 5.11.2 Police stations;

B 5.11.3 Hospitals where psychiatric services are provided;

B 5.11.4 The place of business of any professional legal adviser;

B 5.11.5 Any place used for the sittings and business of any court, tribunal, inquest or enquiry;

B 5.11.6 Any place which persons may be detained under certain circumstances provided by the Immigration Act 1971 or UK Border Act 2007.

Intrusive surveillance can be carried out only by police and other law enforcement agencies. **Council officers must not carry out intrusive surveillance.**

B 5.12 **‘Covert human intelligence source’** (CHIS) (s.26(8)) is defined as a person who establishes or maintains a personal or other relationship with a person for the covert purpose of obtaining information or providing access to information to another person or covertly discloses information obtained through the use of such a relationship or as a consequence of the relationship.

B 5.13 **‘Authorising Officer’** in the case of Local Authorities these are specified as Assistant Chief Officers (and more senior officers), Assistant Heads of Service, Service Managers or equivalent, responsible for the management of an investigation (see Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 (SI 2010/521). The Council’s authorising officers are set out in Schedule 1 to this Policy.

B 5.14 **‘Applicant Officer’** those council officers who apply for RIPA authorisation.

B 5.15 **‘Crime Threshold’** applies to an authorisation for directed surveillance to prevent and detect conduct which constitutes one or more criminal offences. The criminal offences must be punishable, whether on summary conviction or indictment by a maximum term of at least 6 months imprisonment, or be an offence under:

7.11.1 S.146 of the Licensing Act 2003 (sale of alcohol to children);

7.11.2 S.147 of the Licensing Act 2003 (allowing the sale of alcohol to children);

7.11.3 S.147A of the Licensing Act 2003 (persistently selling alcohol to children);

7.11.4 S.7 of the Children and Young Persons Act 1933 (sale of tobacco, etc., to persons under eighteen).

## B 6.0 **When does RIPA apply?**

Where the directed covert surveillance of an individual or group of individuals, or the use of a CHIS is necessary for the purpose of preventing or detecting crime or of preventing disorder.

B 6.1 The Council can only authorise directed covert surveillance to prevent and detect conduct which constitutes one or more criminal offences. The criminal offences must be punishable, whether on summary

conviction or indictment by a maximum term of at least 6 months imprisonment, or be an offence under:

- S.146 of the Licensing Act 2003 (sale of alcohol to children);
- S.147 of the Licensing Act 2003 (allowing the sale of alcohol to children);
- S.147A of the Licensing Act 2003 (persistently selling alcohol to children);
- S.7 of the Children and Young Persons Act 1933 (sale of tobacco, etc., to persons under eighteen).

B 6.2 CCTV – the normal use of CCTV is not usually covert because members of the public are informed by signs that such equipment is in operation. However, authorisation should be sought where it is intended to use CCTV to target a specific individual or group of individuals via CCTV recordings.

B 6.3 The use of RIPA powers must be in relation to the performance of a core function of the Council and not ‘ordinary functions’ such as employment issues or contractual arrangements. It will include criminal misconduct investigations.

#### B 7.0 **Training**

B 7.1 Each Director shall be responsible for ensuring that relevant members of staff, involved with any aspect of covert surveillance, are aware of the Act’s requirements.

B 7.2 The Monitoring Officer shall ensure that refresher training is offered once a year to all services of the Council and also give advice and training on request. Applicant Officers must have received training and bi-annual refresher guidance on RIPA.

#### B 8.0 **Central Register and Records**

B 8.1 A Central Register of all authorisations including the application for judicial approval, and Order form shall be retained by the Monitoring Officer. The content of the application forms and authorisations will be monitored to ensure that they comply with the Act. The Monitoring Officer will report any breaches of this Policy or the Act’s provisions to the Strategic Management Team of the Council

#### B 9.0 **Overview and Scrutiny**

B 9.1 The Monitoring Officer shall be the Senior Responsible Officer who will:

- ensure compliance with the Council’s policy, relevant RIPA legislation and guidance;

- engage with commissioners and inspectors when the Council's inspection is due (usually every three years);
- oversee any post-inspection action plans recommended or approved by a Commissioner.

B 9.2 This policy shall be reviewed, and where necessary amended, at least once a year and the version control table at Schedule 2 updated accordingly. If requiring amendment, the revised policy shall be presented to and considered by the following:

- The Strategic Management Team
- The relevant Council Committee/Cabinet

B 9.3 The Senior Responsible Officer will report to the relevant Council committee/Cabinet, detailing the Council's use of RIPA powers, annually.

B 9.4 The Council's elected members will not be involved in any decisions made on specific authorisations granted.

#### B.10 **Internet & Social Media Policy**

B 10.1 In order to prevent and detect crime a social media policy has been introduced to ensure that a lawful process is followed when accessing Social Networking Sites "SNS" and the internet at Schedule 3

#### B.11.0 **Aerial Surveillance**

B 11.1 Where surveillance using airborne crafts or devices, for example helicopters or unmanned aircraft ('drones'), is planned, consideration must be given as to whether a surveillance authorisation is appropriate. In considering whether the surveillance should be regarded as covert, account should be taken of the reduced visibility of a craft or device at altitude. If these devices are used in a covert and pre-planned manner, as part of a specific investigation or operation, for the surveillance of a specific person or group of people, a directed surveillance authorisation should be considered. Such covert surveillance is likely to result in the obtaining of private information about a person (namely, a record of their movements and activities) and therefore falls properly within the definition of directed surveillance.

## C 1.0 Covert Human Intelligence Source

C 1.1 The RIPA definition (section 26) is anyone who:

C.1.1.1 establishes or maintains a personal or other relationship with a person for the covert purpose of facilitating the doing of anything falling within paragraphs C 1.1.2 –C 1.1.3;

C 1.1.2 covertly uses such a relationship to obtain information or provide access to any information to another person; or

C 1.1.3 covertly discloses information obtained by the use of such a relationship or as a consequence of the existence of such a relationship.

C 1.2 Any reference to the conduct of a CHIS includes the conduct of a source which falls within C1.1.1 - C 1.1.3. or is incidental to it. References to the use of CHIS are references to inducing, asking or assisting a person to engage in such conduct.

C 1.3 Section 26(9) of RIPA goes on to define:

C 1.3.1 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 that purpose; and

C 1.3.2 a relationship is used covertly, and information obtained as mentioned in section 26 (8)c and is disclosed covertly, if and only if, it is used or, as the case may be, disclosed in a manner that is calculated to ensure that one of the parties to the relationship is unaware of the use or disclosure in question.

C 1.4 The Council is only likely to use a CHIS in **very exceptional circumstances**, and advice should be sought from the Monitoring Officer before any authorisation is sought.

C 1.5 If the Monitoring Officer deems that the use of a CHIS is appropriate the application must be authorised and judicial approval obtained.

C 1.6 The provisions of RIPA relating to CHIS do **not** apply;

C .1.61 where members of the public volunteer information to the Council as part of their normal civic duties;

- C 1.6.2 where the public contact telephone numbers set up by the Council to specifically receive information;
- C.1.6.3 where test purchases are carried out in the normal course of business
- C.1.6.4 where members of the public are asked to keep diaries of incidents in relation to planning enforcement or anti-social behaviour.

as none of these situations normally require a relationship to be established for the covert purpose of obtaining information.

- C 1.7 If a CHIS is used, both the use of the CHIS and his or her conduct require prior authorisation and judicial approval;
- C.1.7.1 conduct – establishing or maintaining a personal or other relationship with a person for the covert purpose of (or incidental to the covert purpose of) obtaining and passing on information
  - C.1.7.2 use – inducing, asking or assisting a person to engage in the conduct of a source or to obtain information by means of the conduct of such a source.
- C.1.8 One person within the Council will be responsible for tasking the source, dealing with them, directing their day-to-day activities and recording information supplied by them and monitoring their welfare and security. A risk assessment MUST be carried out at the start, during and after the investigation (see Schedule 3 and Section 29(5) of RIPA for the specific requirements that need to be satisfied and for details of the different persons required to undertake separate responsibilities).
- C 1.9 Special safeguards exist for the use of individuals who are under the age of 18 years old as a CHIS. The Regulation of Investigatory Powers (Juveniles) Order 2000 details the special provisions that must be satisfied.
- C.1.10 Only an Authorising Officer may grant an authorisation for the use of a juvenile as a CHIS. Under no circumstances may a juvenile under the age of 16 be authorised to act as a CHIS against the wishes of his parents or person who has parental responsibility for him/her. The duration of an authorisation for the use of a juvenile as a CHIS is one month.
- C.1.11 A vulnerable individual is a person who is or may be in need of community care services for reason of mental or other disability, age or illness or is unable to take care of himself or protect himself from significant harm or exploitation. Only in the most exceptional circumstances may an Authorising Officer grant an authorisation for the use of a vulnerable individual as a CHIS.

C.1.12 There is a risk that an informant who is providing information to the Council voluntarily may in reality be a CHIS even if not tasked to obtain information covertly. It is the activity of the CHIS in exploiting a relationship which is authorised in the 2000 Act, not whether the CHIS is asked to do so by the Council. Where an informant gives repeat information about a suspect or about a family and it becomes apparent that the informant may be obtaining the information in the course of a neighbourhood or family relationship it may mean that the informant is in fact a CHIS. Legal advice should always be sought in such instances before acting on the information from any such informant.

## C 2.0 **Directed Surveillance**

C 2.1 All application forms see

<https://www.gov.uk/government/collections/ripa-forms--2>

must be fully completed by the Applicant Officer with the required details and sufficient information to enable to Authorising Officer to make an informed decision that he is satisfied and believes that RIPA is necessary and proportionate. The application form must also provide all the information required for approval by the Judiciary. No authorisation shall be granted unless the Authorising officer is satisfied that the RIPA authorisation is:

- Necessary for either the purpose of preventing or detecting crime or the prevention of disorder that involves a criminal offence or offences that are either punishable, whether on summary conviction or indictment, by a maximum term of at least six months imprisonment or are related to the underage sale of alcohol and tobacco (see paragraph 7.2 the policy above);
- Proportionate this means that:
  - the method of surveillance proposed is not excessive to the seriousness of the matter under investigation;
  - it must be the method that is least invasive of the individual or individual being observed;
  - the privacy of innocent members of the public must be respected and collateral intrusion minimised (see 2.2 below); and
  - that no other form of investigation would be appropriate.

The authorisation completed by the Authorising Officer should indicate that full consideration has been given to the above points and a record should be made on the appropriate forms.



Both the Applicant Officer and Authorising Officer should refer to their training notes regarding the completion of the RIPA forms, with particular attention to necessity and proportionality.

- C 2.2 The Authorising Officer must also take into account the risk of **'collateral intrusion'** i.e. intrusion on, or interference with, the privacy of persons other than the subject of the investigation, particularly where there are special sensitivities e.g. premises used by lawyers, doctors or priests for any form of medical or professional counselling or therapy. The application form must include a detailed assessment of any risk of collateral intrusion for this purpose.
- C 2.3 Steps must be taken to avoid unnecessary collateral intrusion and minimise any necessary intrusion. The Applicant Officer must inform the Authorising Officer of any unexpected interference with the privacy of individuals who are not covered by the authorisation, as soon as these become apparent.
- C 2.4 A single authorisation may refer to a number of individuals but relate to a single investigation and are "same fact". However, necessity, proportionality and collateral intrusion should be considered individually. If particular subjects are subsequently ruled out of the investigation, those individuals should be removed at the next review. Such circumstances should prompt an early review.
- C 2.5 Special consideration should be given in respect of confidential information. Particular attention is drawn to areas where the subject of surveillance may reasonably expect a high degree of privacy e.g. where confidential information is involved. Confidential information consists of matters subject to legal privilege, confidential personal information or confidential journalistic material (S98 – 100 Police Act 1997). The Chief Executive, Monitoring Officer or Deputy Monitoring Officer must sign any authorisation before judicial authority is sought.

#### C 2.6 Legal Privilege

This applies to legal consultation and includes communications or consultation between an individual and his/her legal adviser or a person representing their client in connection with the giving of legal advice in connection with or in contemplation of legal proceedings. This also includes consultations with medical practitioners. Such information is unlikely ever to be admissible as evidence in criminal proceedings.

If in doubt, the advice of the Monitoring Officer should be sought in respect of any issues in this area.

#### C 2.7 Confidential Personal Information

This is oral or written information held in (express or implied) confidence, relating to the physical or mental health or spiritual counselling concerning an individual (alive or dead) who can be identified from it. Specific examples provided in the codes of practice are consultations between a health professional and a patient, discussions between a minister of religion and an individual relating to the latter's **spiritual welfare** or matters of **medical or journalistic confidentiality**.

#### C 2.9 Confidential Journalistic Material

This is material acquired or created for the purposes of journalism and held subject to an undertaking to hold it in confidence.

It should be noted that matters considered under RIPA may not necessarily be properly regarded as confidential under Section 41 Freedom of Information Act.

**Where such information is likely to be acquired, the surveillance may only be authorised by the Monitoring Officer.**

#### C 3.0 Judicial Approval of Authorisations

- C 3.1 Once the Authorising Officer has authorised the Directed Surveillance or CHIS the Applicant Officer (who completed the application form) should contact the Magistrates' Court to arrange a hearing for the authorisation to be approved by a Magistrate.
- C 3.2 The Applicant Officer will provide the Magistrate with a copy of the original authorisation and the supporting documents setting out the case. This forms the basis of the application to the Magistrate and should contain all the information that is relied upon.
- C 3.3 In addition the Applicant Officer will provide the Magistrate with a partially completed judicial application/order form.
- C 3.4 The hearing will be in the Magistrates' Court and the Applicant Officer will be sworn in and present the evidence as required by the Magistrate. Any such evidence should be limited to the information in the authorisation.
- C 3.5 The Magistrate will consider whether he/she is satisfied that at the time the authorisation was given there were reasonable grounds for believing that the authorisation or notice was necessary and proportionate and whether that continues to be so. He/she will also consider whether the authorisation was given by the appropriately designated person at the correct level within the Council and whether (in the case of directed surveillance) the crime threshold has been met.

### C 3.6 The Magistrate can:

- C 3.6.1 approve the grant of the authorisation which means that the authorisation will then take effect; or
- C 3.6.2 refuse to approve the grant of the authorisation which means the authorisation will not take effect but the Council may look at the reasons for the refusal, make amendments and re-apply for judicial approval; or
- C 3.6.3 refuse to approve the grant of the authorisation and quash the original authorisation. The Court cannot exercise its power to quash the authorisation unless the Applicant Officer has at least two business days from the date of the refusal in which to make representations.

### C 4.0 **Notifications to Inspector/Commissioner**

C 4.1 The following situations must be brought to the Inspector/Commissioner's attention at the next inspection:

- where an officer has had to authorise surveillance in respect of an investigation in which he/she is directly involved;
- where a lawyer is the subject of an investigation or operation;
- where confidential personal information or confidential journalistic information has been acquired and retained.

### C 5.0 **Applications for CHIS**

C 5.1 The process is the same as for directed surveillance except that the authorisation must specify the activities and identity of the CHIS and that the authorised conduct is carried out for the purposes of, or in connection with, the investigation or operation so specified.

All application forms <https://www.gov.uk/government/collections/ripa-forms--2>

must be fully completed with the required details to enable the Authorising Officer to make an informed decision and to be approved by the Magistrate.

### C 6.0 **URGENT AUTHORISATIONS**

C 6.1 Urgent authorisations should not normally be necessary. However, in exceptional circumstances, if the authorisation cannot be handled on the next working day the Court's out-of-hours service can be contacted.

Legal Advice should be sought from the Monitoring Officer about whether it is appropriate to utilise this facility.

C 6.2 If the need for authorisation has been neglected, or if the situation is of the Applicant Officer's own making, this will not amount to an urgent or exceptional circumstance.

#### C 7.0 **Duration and Cancellation**

C 7.1 Every authorisation and every renewal (except in the cases of oral authorisations or where the use of a juvenile CHIS is being authorised) must be for the designated statutory period. If the operation is to only last for a short time, this is information which should be considered in the review and/or cancellation.

C 7.2 An authorisation for directed surveillance shall cease to have effect (if not renewed) 3 months less one day from the date of judicial approval but still requires to be cancelled using the appropriate form even if the surveillance is required for less than 3 months.

C 7.3 An authorisation for CHIS shall cease to have effect (unless renewed) 12 months from the date of judicial approval but it is still necessary to cancel the authorisation using the appropriate form.

#### **NOTE:**

**Authorisations should continue for the minimum period reasonable for the purpose they are given and then cancelled promptly.**

#### C 8.0 **Reviews**

C 8.1 The Authorising Officer should review all authorisations prior to their expiry date and at intervals determined by him/herself. This should be as often as necessary and practicable. Particular attention should be paid to the possibility of obtaining confidential information. The Applicant Officer can do the necessary research and prepare the papers for the review but the actual review is the responsibility of the original Authorising Officer and should be conducted by him. Necessity and proportionality should be reconsidered if the surveillance is to continue.

C 8.2 The Applicant Officer must make the Authorising Officer aware of any proposed or unforeseen changes to the nature or extent of the surveillance operation which may result in further or greater intrusion into the private life of any person by means of a review. The Authorising Officer should consider whether the proposed changes are proportionate before approving or rejecting them.

C 8.3 Where authorisation is given for the surveillance of unidentified individuals whose identity is later established, the review should include

reference to their identity. A fresh authorisation will not be necessary if the investigation remains the same.

C 8.4 Evidence of the review should be recorded.

#### C 9.0 **Renewals**

C 9.1 Any Authorising Officer may renew an existing authorisation on the same terms as the original at any time before the original ceases to have effect. This renewal must then be approved by a Magistrate in the same way the original authorisation was approved. The process set out in C 3.0 above should be followed.

C 9.2 A CHIS authorisation must be thoroughly reviewed before any application for renewal is sought. Once the Authorising Officer has approved an application to renew, that application must then be approved by a Magistrate in the same way that the original authorisation was approved. The process set out in C 3.0 above should be followed.

#### C 10. **Central Register of Authorisations**

C 10.1 The Council must maintain the following documents:

- a copy of the application and a copy of the authorisation together with any supplementary documentation and notification of the approval given by the Authorised Officer;
- a copy of the order made by the Magistrate;
- a record of the period over which the surveillance has taken place;
- the frequency of reviews prescribed by the Authorising Officer;
- a record of the result of each review of the authorisation;
- a copy of any renewal of an authorisation and order made by the judiciary and supporting documentation submitted when the renewal was requested;
- the date and time when any instruction was given by the Authorising Officer.

C 10.2 To comply with C 10.1 above the Monitoring Officer will hold the central register of all authorisations issued by Authorising Officers of the Council. The original copy of every authorisation, judicial order, review, renewal and cancellation issued should be lodged immediately with Legal Services in an envelope marked 'Private and Confidential'.

C 10.3 The Council must also maintain a centrally retrievable record of the following information for a period of 3 years or until the next IPC inspection whichever is the latter:

- type of authorisation
- date the authorisation was given
- date the Order was made by the Magistrate
- name and rank/grade of the Authorising Officer
- unique reference number of the investigation/operation
- title (including brief description and names of the subjects) of the investigation/operation;
- whether urgency provisions were used, and if so why
- details of renewal
- whether the investigation/operation is likely to result in obtaining confidential information
- whether the authorisation was granted by an individual directly involved in the investigation
- date of cancellation

These records will be retained for at least 3 years and will be available for inspection by the Investigatory Powers Commissioners Office.

## C 11. **Retention of Records**

C 11.1 All documents must be treated as strictly confidential and the Authorising Officer must make appropriate arrangements for their retention, security and destruction, in accordance with the Council's Data Protection Policy and the RIPA codes of practice. The retention period of the purposes of this guidance is three years from the ending of the period authorised.

C 11.2 The Council's Records Retention and Disposal Policy should be referred to which sets out how different types of records are created as part of any investigation, their storage, retrieval, maintenance, protection and final disposal. The Council also has a separate Code of Practice which covers these issues specifically for CCTV tapes.

## C 12 **Complaints Procedure**

C 12.1 The Council will maintain the standards set out in this guidance and the relevant Codes of Practice. The IPC has responsibility for monitoring and reviewing the way the Council exercises the powers and duties conferred by RIPA.

C 12.2 A contravention of the General Data Protection Regulations (GDPR) may be reported to the Information Commissioner. Before making such a reference, a complaint concerning a breach of the guidance should be made using the Council's own internal complaints procedure. To request a complaints form, please contact the Customer Feedback & Standards Manager, Bath and North East Somerset Council on 01225 477013 or via [councilconnect@bathnes.gov.uk](mailto:councilconnect@bathnes.gov.uk)

## **POLICY ON INVESTIGATORY POWERS ACT 2016 (IPA)**

### **PART II - IPA**

#### **D 1.0 ACQUISITION AND DISCLOSURE OF COMMUNICATIONS DATA**

D 1.1 With effect from 5 February 2019, and in accordance with Part 3 and chapter 2 of Part 6 of the Investigatory Powers Act 2016 (“the IPA”), Local Authorities can obtain ‘communications data’(CD) provided that the acquisition of such CD is necessary for the applicable crime purpose ; and proportionate to what is sought to be achieved by acquiring such CD.

D 1.2 The applicable crime purpose will depend upon whether the CD being sought is classified as entity data or events data. Where the CD sought is wholly or partly events data the purpose must be for a serious crime. In any other case the CD must be for the purpose of preventing or detecting crime or of preventing disorder.

- *Serious crime*” means crime where-
- (a) the offence, or one of the offences, which is or would be constituted by the conduct concerned is an offence for which a person who has reached the age of 18 and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of 1 year or more, or
- (b) the conduct involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose

D. 1.3 The Communications data Code of Practice can be accessed here:

<https://www.gov.uk/government/publications/code-of-practice-for-the-acquisition-and-disclosure-of-communications-data>

#### **Important: The Council is NOT Permitted to Intercept any Communications**

D 1.4 The purpose and effect of the procedure is the same as RIPA i.e. to ensure proper consideration is given to permitting such investigations and to provide protection against a human rights challenge.



D 1.5 Applications for CD are subject to independent examination, scrutiny and approval by the IPC through the “Office of Communications Data Authorisations (OCDA). All applications for CD must be undertaken online through NAFN acting as single point of contact SPOC pursuant to the IPA.

## **D 2.0 What is ‘Communications Data’?**

D 2.1 The term Communications Data includes the “who”, “where”, and “how” of a communication but not the content i.e. what was said or written. CD is generated, held or obtained in the provision, delivery and maintenance of communications services i.e. postal services or telecommunications services.

D 2.2 The Council may only acquire less intrusive types of CD. These are:

Entity Data – this data describes or identifies the entity. Entities can be individuals and objects (such as mobile phones).

Events Data –for CD this is limited to communications events which identifies any person, apparatus or location to or from which a communication is transmitted

e.g.:

- incoming call records,
- the location of a mobile phone,
- numbers called

D 2.3 CD relating to Events data is more intrusive than data relating to Entities

## **D 3.0 Senior Responsible Officer**

D 3.1 The Monitoring Officer shall be appointed as the Council’s Senior Responsible Officer and in their absence the Corporate Director for People & Policy.

The SRO is responsible for

- the integrity of the process in place within the public authority to acquire communications data;
- engagement with authorising officers in the Office for Communications Data Authorisations (where relevant);
- compliance with Part 3 of the Act and with the code, including responsibility for novel or contentious cases;
- oversight of the reporting of errors to the IPC and the identification of both the cause(s) of errors and the implementation of processes to minimise repetition of errors;

- ensuring the overall quality of applications submitted to OCDA by the public authority;
- engagement with the IPC's inspectors when they conduct their inspections; and
- where necessary, oversight of the implementation of post-inspection action plans approved by the IPC.

#### D 4.0 **Application Forms**

D 4.1 The Council will maintain a collaboration agreement with the National Anti- Fraud Network (NAFN). All applications must be made online at <https://www.nafn.gov.uk/> NAFN will act as a single point of contact (SPOC) between both the communications service providers (CSPs) and the Council concerning the request and provision of CD. This is to ensure a centralised and managed approach in making applications to obtain CD and facilitates lawful acquisition of CD and effective co-operation between the Council and CSPs.

In addition to being considered by a NAFN SPOC, the applicant for CD must ensure that the Council's SRO is aware of the application being made before it is submitted to an authorising officer in OCDA. The Council's SRO's will be notified to NAFN.

#### D 5.0 **Duration**

D 5.1 Authorisations to obtain CD are only valid for one month beginning with the date on which the OCDA approval is granted

#### D 6.0 **Renewal and Cancellation**

D 6.1 An authorisation may be renewed at any time during the month it is valid using the same procedure as used in the original application (including seeking OCDA approval). A renewal takes effect on the date which the authorisation it is renewing expires.

D 6.2 The code requires that all authorisations must be cancelled by the Council or OCDA as soon as it is no longer necessary, or the conduct is no longer proportionate to what is sought to be achieved. The Council must notify the SPOC which must cease the authorised conduct.

#### D 7.0 **Retention of Records**

D 7.1 Applications, authorisations and notices must be retained until the Council has been audited by the Commissioner. Applications must

also be retained to allow the Tribunal (see paragraph D 8.0 to carry out its functions.

D 7.2 A record must be kept of:

- the dates of which the authorisation or notice is started or cancelled;
- any errors that have occurred in the granting of authorisations or giving of notices.

D 7.3 A report and explanation of any errors must also be sent to the Commissioner as soon as is practicable. Communications data, and all copies, extracts and summaries of it, must be handled and stored securely and the requirements of the GDPR must be observed. The Monitoring Officer will maintain a centrally retrievable register.

#### D 8.0 **Oversight and Complaints**

D 8.1 The Act provides for an Investigatory Powers Commissioner whose remit is to provide independent oversight of the use of the powers contained within the IPA and the code requires any person who uses the powers conferred by the IPA to comply with any request made by the Commissioner to provide any information he requires to enable him to discharge his functions.

D 8.2 The IPC must inform any affected person of any rights that the person may have to apply to the Investigatory Powers Tribunal.

## **SCHEDULE 1**

### **Designated Persons/Authorising Officers**

Chief Executive  
Monitoring Officer  
Deputy Monitoring Officer

**Note: When the above are the Applicant Officer in a matter they may NOT authorise the same application for surveillance.**

### **Senior Responsible Officers for CD**

Monitoring Officer  
Corporate Director for People and Policy

### **SPOC for CD**

NAFN      <https://www.nafn.gov.uk/>

**SCHEDULE 2**

**VERSION CONTROL TABLE  
Since 2014**

<b>RIPA POLICY VERSIONS</b>	<b>DATE</b>	<b>STATUS</b>	<b>Approved by Council</b>
Version 1	14 April 2014	Superseded	
Version 2	18 May 2017	Superseded	
Version 3	31 July 2019	Superseded	
Version 4	15 September 2022		

## **SCHEDULE 3**

### **AUTHORISING A CHIS: PROCEDURE**

The Council will only authorise a CHIS in exceptional circumstances. Section 29 of RIPA sets out the criteria for authorising a CHIS.

#### **The Authorising Officer**

The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 (SI 2010 N0.521) states that the Authorising Officer for a local authority can be a Director, Head of Service, Service Manager or equivalent.

Where the surveillance involves the likelihood of obtaining confidential information, the deployment of juveniles or vulnerable people, then authorisation has to be sought from the Head of Paid Service and in their absence, the acting Head of Paid Service.

#### **Time Limits**

The current time limits for an authorisation 12 months for a CHIS (1 month if the CHIS is underage).

A renewal must be authorised prior to the expiry of the original authorisation, but it runs from the expiry date and time of that original authorisation. Authorisations may be renewed more than once if still considered necessary and proportionate and approved by a Magistrate.

Applications for renewals should not be made until shortly before the original authorisation period is due to expire but applicants must take account of factors, which may delay the renewal process (e.g. intervening weekends or the availability of the relevant local authority authorising officer and a Magistrate to consider the application).

#### **Authorising Officer's Consideration**

S.29 (2) states:

“A person shall not grant an authorisation for the conduct or the use of a covert human intelligence source unless he believes-

- (a) that the authorisation is necessary on grounds falling within subsection (3);
- (b) that the authorised conduct or use is proportionate to what is sought to be achieved by that conduct or use; and
- (c) that arrangements exist for the source's case that satisfy the requirements of subsection (5) and such other requirements as may be imposed by order made by the Secretary of State. “

Consequently the following matters must be satisfied before authorising the deployment of a CHIS:

## 1. Necessity

The deployment of a CHIS has to be necessary on one of the grounds set out within in S.29 (3). Local authorities can only authorise on the following grounds; where it is necessary:

“for the purpose of preventing or detecting crime or of preventing disorder.”  
(S.29 (3) (b)) or

The matter being investigated must be an identifiable criminal offence, constitute disorder or be for the purpose of protecting public health.

## 2. Proportionality

Proportionality means ensuring that the deployment of the CHIS is the least intrusive method to obtain the required information having considered all reasonable alternatives. This requires consideration of not only whether a CHIS is appropriate but also the method to be adopted, the duration and the equipment to be used. The CHIS Code Para 3.5 provides guidance on the elements of proportionality

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

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

## 3. Security and Welfare Arrangements

CHIS's are often placed in difficult and sometime dangerous situations. Appropriate security and welfare arrangements must also be in place in relation to each CHIS. S.29 (5) requires there to be:

- A person who will have day-to-day responsibility for dealing with the CHIS on behalf of that authority, and for his/her security and welfare; (**CHIS Handler**)
- 
- A person who will have general oversight of the use made of the CHIS. (**CHIS Controller**) This person must be different to the one above.
-

- A person who will maintain a record of the use made of the CHIS. This can be one of the above or a separate person.
- 
- Proper and secure records to be kept about the use made of the CHIS.

#### **4. Risk Assessment:**

An applicant considering deploying a CHIS should take into account the safety and welfare of that CHIS when carrying out actions in relation to an authorisation or tasking, and the foreseeable consequences to others of that tasking.

Before authorising the use or conduct of a CHIS, the authorising officer should ensure that a risk assessment is carried out to determine the risk to the CHIS of any tasking and the likely consequences should the role of the CHIS become known. The ongoing security and welfare of the CHIS, after the cancellation of the authorisation, should also be considered at the outset. Also, consideration should be given to the management of any requirement to disclose information tending to reveal the existence or identity of a CHIS to, or in, Court.

The CHIS handler is responsible for bringing to the attention of the CHIS controller any concerns about the personal circumstances of the CHIS, insofar as they might affect:

- the validity of the risk assessment;
- the conduct of the CHIS; and
- the safety and welfare of the CHIS.

Where appropriate, concerns about such matters must be considered by the authorising officer, and a decision taken on whether or not to allow the authorisation to continue.



## **SCHEDULE 4**

### **Bath & North East Somerset Council Social Media Policy for the Purposes of Regulation of Investigatory Powers Act 2000' RIPA'**

Bath & North East Somerset Council recognises the benefits and opportunities that the internet and multi-media provide to access and share information using a wide range of on line facilities. This is referred to Social Networking Sites – 'SNS'.

There are however some considerations and standards to apply when using such sites and this policy establishes the Council's position regarding the use of the internet, mobile web browsing and specifically social media websites when undertaking investigations under and in accordance with RIPA.

The Council's ICT Security Policy provides the basis for this policy and associated guidance. This policy should be read in conjunction with the supporting RIPA Policy and any guidance issued by the IPC – Investigatory Powers Commissioner.

This policy covers external investigations, which could also apply to internal staff that may be subject to an investigation. Advice should be taken from HR should an investigation involve a member of staff.

#### **Contents**

1. This policy covers the use of social media, including social networking websites such as Twitter, Facebook, LinkedIn, and YouTube, content communities and blogs.
2. The policy and guidance aim to ensure that the council and its employees when undertaking investigations are protected and that a lawful and fair process is followed.
3. This policy closely relates to other council documents but in particular ICT Security policy.
4. The other legislation that may also be impacted by an investigation being carried out is as follows: Human Rights Act 1998, Freedom of Information Act 2000 and the GDPR

#### **Conducting an investigation under the Social Media Policy.**

5. The implications of enforcement through monitoring of social media

and its human rights implications are difficult areas for law enforcement with complex privacy considerations:

5.1 The three main issues are:

- (1) What expectation of privacy a user may reasonably have when posting on the Internet; and
- (2) How covert or overt the officer looking at information on the internet is being.
- (3) Whether or not a RIPA or CHIS authorisation should be obtained.

### Investigatory 'Tools'

There are three main investigatory tools under RIPA that Officers may consider using in an investigation involving SNS. They are:

The use of 'Directed Surveillance, which is essentially covert surveillance carried out in places other than residential premises or private vehicles which is relevant where an investigatory technique might infringe Article 8 rights (e.g. where personal data or sensitive data is likely to be accessed or acquired and where there is an expectation of privacy) and which is subject to a 'crime threshold' when investigating criminal offences.

The use of Covert Human Intelligence Source (CHIS) which includes undercover officers (most significantly included covert profiles), informants and persons making test purchases; and

5.2 Powers to acquire or obtain 'communications data'.

5.3 The Council is seeking to focus on 3 broad categories so as to give an indication of what is and what is not acceptable for it to do. Prior to starting a browsing session an officer should consider what he/she is seeking to achieve and is likely to be doing and be aware of when their actions might cross the boundary from one "level" to another.

### Three Broad Categories

6. **Category 1** – Viewing publically available postings or websites where **the person viewing does not have to register a profile, answer a question, or enter any significant correspondence in order to view.** E.g. a typical trader's website.

- There must be a low expectation of privacy and **no RIPA authorisation would normally** be required to view or record these pages.
- However, **repeated visits** over time to the extent that you might be perceived as **monitoring** a website, may require authorisation.

Private information can remain private information even when posted on such a website and the European Convention on Human Rights has construed that the way a business is run can be private information. If you intend to monitor in this way therefore you may acquire private information and it is recommended that it is done in a **systematic** way with results recorded. Particularly note whether or not you happen to access private information. The fact that on previous visits a lack of private information is found could be good evidence that any subsequent acquisition was incidental and a RIPA authorisation is not required.

- There is unlikely to be **unfairness** (S78 PACE Act) in presenting the pages viewed as evidence. Pay attention to the requirements in Appendix B of the ACPO Good Practice Guide for Digital Evidence (in Chapter 2 of the D&S enforcement manual). If a test purchase is required, you may use a fictitious name and address without triggering the need for a CHIS (or Directed Surveillance) authorisation, provided no “relationship” is formed.
  - As above, the **use of a fictitious identity or “covert” account** is not necessarily the trigger for a need for a RIPA authorisation, be it Directed Surveillance, or the in the case of a test purchase, CHIS. More relevant is the likelihood of acquisition of private information, or how far a “relationship” is formed.
7. **Category 2** – Viewing postings on social networks **where the viewer has had to register a profile but there is not otherwise a restriction on access**. This would include Facebook where there is no need to be accepted as a “friend” to view. E.g.: Trader has a “shop window” on Facebook advertising a business and products.
- There are differences between this and Category 1. The person who posts information or runs such a website may reasonably expect viewers to work within the terms and conditions of the website.
  - Viewing should therefore normally be conducted in an overt manner i.e. via an account profile which uses your correct name, and email address (which should be a B&NES.gov.uk etc. address) or an officer’s Service Sanctioned profile. If this is done there can be no objection to a recording of the visit being made and presented in evidence.
  - If the posting or website contains no private information a viewing would not engage privacy issues and therefore a RIPA authorisation is not needed. However it is possible that a mixture of private and business material is displayed, and the ECHR has construed the way a business is run as being private information. The conditions regarding **repeat visits** in Level 1 are therefore relevant.
  - A “Covert” account at this level should only be used in the context of a RIPA authorisation.

8. **Category 3– Viewing postings on social networks which require a “friend” or similar status to view.**

- These are **highly** likely to involve viewing private information.
- Repeated viewings will constitute Surveillance and require a RIPA authorisation. This may apply whether or not a “covert” or “overt” account is used, though this is probably best obtained via a CHIS authorisation with the use of a covert profile and appropriate risk assessments.
- An “Overt” account which gains “friend” or similar status may **still require a RIPA authorisation**. It may be that such a status may be given by a default on the part of the person posting or website owner. The officer should be especially sure that their access is being granted as a representative of the Service. For example, on Facebook it is stated that only people who know the person who maintains a profile should send a “friend” request to that profile. A person accepting that friend request may believe the person requesting is an acquaintance that they simply do not recall or know by another name. They still have a justifiable expectation of privacy. While requesting access may not comply with a strict interpretation of Facebook terms and conditions, a clearly identifiable **Officer’s Service Sanctioned profile** is a way to deal with that expectation of privacy, rather than a more neutral officer based profile.
- A “Covert” account at this level should only be used in the context of a RIPA authorisation.

**Covert Facebook Accounts:**

9. The use of covert Facebook accounts to access postings need to be covered by a RIPA authorisation. Currently there does not seem to be a mechanism for a Service to operate these on Facebook within the company’s terms and conditions. Any evidence obtained via them can run a risk of being considered “unfair”. It is quite likely that the profiles used will become “blown” at some stage and users need to monitor them to ensure this is identified early. Considerable officer time is required to maintain a covert identity.
10. Obtaining a RIPA authorisation will also present an officer with a defence should there be an allegation that they have breached the Computer Misuse Act 1990 – it is an offence to deliberately access unauthorised material.

**Covert surveillance of Social Networking Sites (SNS)**

11. 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.

12. 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.**
13. 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).
14. **It is not unlawful for a member of a public authority to set up a false identity but it is not advisable for a member of a public authority to do so for a covert purpose without authorisation.** Using photographs of other persons without their permission to support the false identity infringes other laws.
15. 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 being 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).

## **Recording Information**

16. All information should be recorded on the appropriate form(s) should an authorisation be required.

## **Training**

17. Training should be made available to Officers undertaking any covert or directed surveillance when undertaking investigations.

### **Related Documents**

18. Documents that should be referred to are:

- RIPA Policy
- Investigatory Powers Commissioners Codes
- Council Code of Conduct
- Council Email and Internet Policies

<b>Bath &amp; North East Somerset Council</b>		
MEETING:	<b>Council</b>	
MEETING DATE:	<b>15<sup>th</sup> September 2022</b>	
TITLE:	<b>Proportionality Review</b>	
WARD:	All	
<b>AN OPEN PUBLIC ITEM</b>		
<b>List of attachments to this report:</b>		
Revised proportionality table		

## **1 THE ISSUE**

1.1 There has been a change in political balance in the Council so, in line with the requirements of the Local Government & Housing Act 1989, this needs review.

## **2 RECOMMENDATION**

Council is asked to;

2.1 Note that Councillor Pritchard has agreed that Councillor Kumar will remain on the Climate Policy Development & Scrutiny Panel as a Conservative member; and

2.2 Approve the revised political proportionality table.

## **3 THE REPORT**

3.1 At Council on 21<sup>st</sup> July 2022, Councillor Kumar joined the Conservative group, which changes the political balance of the Council. This resulted in 1 further place for the Conservative group on the Climate Emergency & Sustainability Policy Development & Scrutiny Panel, (replacing the previous Panel place which had been allocated to Councillor Kumar as an unaligned Councillor). Councillor Vic Pritchard, as Leader of the Conservative Group, has allocated that extra Conservative place to Councillor Kumar so no further Panel membership change is required.

3.2 The revised proportionality table attached shows this.

#### **4 STATUTORY CONSIDERATIONS**

4.1 This report fulfils the necessary statutory requirements.

#### **5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)**

5.1 There are no direct financial implications of the proposals.

#### **6 RISK MANAGEMENT**

6.1 A risk assessment has not been undertaken.

#### **7 EQUALITIES**

7.1 There are no direct equalities implications of this issue.

#### **8 CLIMATE CHANGE**

8.1 There are no direct climate change implications of proposals.

#### **9 OTHER OPTIONS CONSIDERED**

9.1 None.

#### **10 CONSULTATION**

10.1 Political Group Leaders, Head of Legal & Democratic Services.

<b>Contact person</b>	<i>Jo Morrison, Democratic Services Manager</i>
<b>Background papers</b>	
<b>Please contact the report author if you need to access this report in an alternative format</b>	



## POLITICAL PROPORTIONALITY TABLE – REVISED SEPTEMBER 2022

Compulsory cumulative proportionality	Number on Committee	Liberal Democrat 59%	Conservative 19%	Independent 10%	Labour 8%	Green 2%		Ind (no party PM) 2%	Chair Allocation	Vice Chair Allocation	Co-opted members
Number of councillors		35	11	6	5	1		1			
Corporate PD&S	9	6	2	1	0	0		0	CON	LD	
Climate Emergency & Sustainability PD&S	9	5	2	1	1	0		0	IND	LD	
Children, Adults, Health & Wellbeing PD&S	9	5	2	0	1	1		0	CON	LD	4
Planning Committee	10	6	2	1	1	0		0	LD		
Corporate Audit Committee	5	3	0	1	0	0		1*	LD		1
Avon Pension Fund Committee	5	3	0	1	1	0		0	LD	LD	12 voting, 3 non voting
Employment Committee	3	2	1	0	0	0		0	LD		
Standards Committee	5	3	1	1	0	0		0	LD		6 non voting
<b>TOTALS</b>	<b>55</b>	<b>33</b>	<b>10</b>	<b>6</b>	<b>4</b>	<b>1</b>		<b>1</b>			

\* Cllr Myers has offered his Corporate Audit Cttee place to Conservative group (so Cllr Brian Simmons can retain his seat)

Compulsory individual proportionality	No. on Cttee	LD	Cons	Ind	Lab	Green	Ind (no party PM) 2%			
Licensing Sub-Committee	3	2	1	0	0			LD		
<b>Optional proportionality</b>										
Licensing Committee	11	6	3	1	1			LD		
<b>Fixed memberships</b>										
WECA Overview & Scrutiny Committee	2	2	0	0	0					
WECA Audit Committee	2	2	0	0	0					
Partnership Board Health & Wellbeing	2	2 (appropriate Cabinet Members)	1 (observer)	1 (observer)	1 (observer)			Shared between CM & CCG Chair		
Pensions Investment panel	<b>3 (Chair &amp; Vice of APF)</b>	2	0	0	1					4
Restructuring Implementation Committee	4	Group Leader	Group Leader	Group Leader	Group Leader					
Charitable Trust Board *	5	1 Cab Mem + 2	1*			1*				
Alice Park Trust *	5	3	1*			1*				2

- CTB - 5 councillors (to include Cabinet member responsible for Community Services) plus at least 1 Councillor who is not a member of controlling group but appointed by controlling group, plus 3 others). \*LD Group (June 2021) have offered that Cllr Wright can keep her CTB & APT places, and Cllr Davis keep hers.
- APT – 3 Councillors from the membership of the Charitable Trust Board (*excluding the Cab Member*) + the 2 Ward members for Lambridge as voting members + 2 co-opted non-voting members.

**Bath and North East Somerset Council**

**Full Council meeting – 15<sup>th</sup> September 2022**

**Labour Group Motion on Local Government Pay: A fully funded, proper pay rise for Council and School Workers**

**To be proposed by Councillor Liz Hardman**

This council notes:

1. Local government has endured central government funding cuts of more than 50% since 2010. Between 2010 and 2020, councils lost 60p out of every £1 they have received from central government. UNISON research found that councils in England had to fill a combined funding gap of £3 billion when setting budgets for 2022/23.
  2. Over the last two years, councils have led the way in efforts against the Covid-19 pandemic, providing a huge range of services and support for our communities. Local government has shown more than ever how indispensable it is. But Covid has led to a massive increase in expenditure and loss of income, and as we emerge from the pandemic, local authorities and schools need far more support from Westminster.
  3. Council and school workers kept our communities safe through the pandemic, often putting themselves at considerable risk as they work to protect public health, provide quality housing, ensure our children continue to be educated, and look after older and vulnerable people.
  4. Since 2010, the local government workforce has endured years of pay restraint with the majority of pay points losing at least 25 per cent of their value since 2009/10. Staff are now facing the worst cost of living crisis in a generation, with inflation hitting 9% and many having to make impossible choices between food, heating and other essentials. This is a terrible situation for anyone to find themselves in.
  5. At the same time, workers have experienced ever-increasing workloads and persistent job insecurity. Across the UK, 900,000 jobs have been lost in local government since June 2010 – a reduction of more than 30 per cent. Local government has arguably been hit by more severe job losses than any other part of the public sector.
- *Unless where specifically set out in the statute, motions approved at Council do not bind the Executive (Cabinet) but may influence their future decisions.*
  - *Councillors are reminded of their public sector equality duty which requires the Council to consider or think about how their policies or decisions may affect people who are protected under the Equality Act.*

6. There has been a disproportionate impact on women, with women making up more than three-quarters of the local government workforce.
7. Recent research shows that if the Government were to fully fund the unions' 2022 pay claim, around half of the money would be recouped thanks to increased tax revenue, reduced expenditure on benefits and tax credits, and increased consumer spending in the local economy.

This Council believes;

8. Our workers are public service super-heroes. They keep our communities clean and safe, look after those in need and keep our towns and cities running.
9. Without the professionalism and dedication of our staff, the council services our residents rely on would not be deliverable.
10. Local government workers deserve a proper real-terms pay increase. The Government needs to take responsibility and fully fund this increase; it should not put the burden on local authorities whose funding has been cut to the bone and who were not offered adequate support through the Covid-19 pandemic.

**This council therefore resolves to:**

11. Support the pay claim submitted by UNISON, GMB and Unite on behalf of council and school workers, for an increase of £2,000 or the current RPI rate, whichever is the greater (along with the various conditions claims proposed).
12. Call on the Local Government Association to make urgent representations to central government to fund the NJC pay claim.
13. Write to the Chancellor and Secretary of State to call for a pay increase for local government workers to be funded with new money from central government.
14. Meet with local NJC union representatives to convey support for the pay claim and consider practical ways in which the council can support the campaign.
15. Encourage all local government workers to join a union.

- *Unless where specifically set out in the statute, motions approved at Council do not bind the Executive (Cabinet) but may influence their future decisions.*
- *Councillors are reminded of their public sector equality duty which requires the Council to consider or think about how their policies or decisions may affect people who are protected under the Equality Act.*

## **Bath and North East Somerset Council**

### **Full Council meeting 15 September 2022**

#### **Liberal Democrat Motion on Bus Service Cuts**

**To be proposed by Councillor Matt McCabe**

Council:

1. Notes with dismay the forthcoming cuts to essential, local bus routes in B&NES, including First bus service numbers 11, 12, 20, 22, 42, 82, 171 and 178, and the timetable and route changes affecting many other local bus services.
  2. Notes that some mitigations to these cuts have been proposed, including re-routing some services and a proposed new service operating between Bristol and Bath via Pensford, Clutton, Paulton, Midsomer Norton, Radstock and Peasedown.
  3. Notes that the West of England Combined Authority (WECA) is the regional transport authority responsible for planning bus services, in cooperation with local bus operators.
  4. Notes B&NES Council's Transport Levy contribution to WECA is £5,194,000 in 2022-23, of which £780,000 is a contribution to supported bus services.
  5. Notes that bus operating companies have been affected by falling passenger numbers, rising costs and driver shortages, and notes government financial support to bus companies was recently extended to March 2023.
  6. Notes with disappointment that communication and consultation around the future of local bus services has been inadequate and would welcome clarity in terms to the profitability or loss making of certain routes and the sharing of data to improve the general provision.
  7. Believes that a reliable, comprehensive and affordable bus service is essential to all B&NES residents to access shops, services, leisure, employment and education, and to help tackle air pollution, congestion and the Climate Emergency.
  8. Believes that bus service cuts will have an enormously negative impact on B&NES communities, particularly affecting rural and disadvantaged communities, residents who have no access to private transport, and anyone trying to reach key sites such as schools and the RUH.
  9. Believes that any gap in service provision will drive residents away from public transport permanently.
  10. Believes that the whole bus system is fundamentally broken and requires radical reform to make it fit for the future.
- *Unless where specifically set out in the statute, motions approved at Council do not bind the Executive (Cabinet) but may influence their future decisions.*
  - *Councillors are reminded of their public sector equality duty which requires the Council to consider or think about how their policies or decisions may affect people who are protected under the Equality Act.*

Council therefore:

11. Opposes cuts to essential bus services in B&NES.
12. Calls on the WECA Mayor to:
  - a. Continue negotiations with bus providers to save as many routes as possible and to prevent a gap in service provision.
  - b. Urgently bring forward new and innovative solutions, such as demand-responsive services, to supplement core routes.
  - c. Develop a co-ordinated, imaginative, long-term approach to public transport in our area, through bus franchising or equivalent across the West of England area.
13. Calls on the government to:
  - a. Overhaul public transport funding models and provide a sustainable, long-term funding deal to provide certainty and stability.
  - b. Take action to address the driver shortage with a national effort to recruit and train more drivers and measures to improve retention.
  - c. Restore transport authorities' ability to directly intervene in the public transport market and bring bus services back under public control.
14. Asks the Leader to communicate Council's views to the WECA Mayor, government and local MPs.

- *Unless where specifically set out in the statute, motions approved at Council do not bind the Executive (Cabinet) but may influence their future decisions.*
- *Councillors are reminded of their public sector equality duty which requires the Council to consider or think about how their policies or decisions may affect people who are protected under the Equality Act.*

## Bath and North East Somerset Council

### Full Council meeting 15 September 2022

#### **Green Party Motion on the impact of increasing taxation on the inhabitants of B&NES as a result of the Government's continued support and funding of nuclear power in preference to renewable energy generation.**

#### **To be proposed by Cllr Joanna Wright**

##### Council Notes:

1. The arguments for nuclear energy appear to be contentious and therefore decisions to continue to invest in expensive, long term nuclear projects require further scrutiny.
2. New research suggests that the assumption that nuclear energy is necessary to form a baseload of energy provision is no longer valid; neither is it valid to pursue the development of nuclear energy purely on economic grounds.
3. Nuclear energy is not a clean and safe technology and still has the potential to cause considerable harm.
4. The current planning policy that governs renewable energy infrastructure, and onshore wind turbines in particular, needs to be amended to encourage investment in this area.

##### Council therefore:

1. Calls on the Government to review approvals given for Sizewell C and for investment into nuclear energy in general.
2. Calls on the Government to back investment in renewable energy and provide financing for this.
3. Calls on the government to change the National Planning Policy on Solar Panels and Wind Turbines.
4. Requests that the Leader write to the Secretary of State at the Department of Business, Energy and Industrial Strategy and local MPs to inform them of the council's position.

#### **Background information to the Motion**

##### **Nuclear versus Renewable Energy**

The UK Government is continuing with its commitment to nuclear energy, giving the go ahead for the Sizewell C nuclear plant on 20<sup>th</sup> July 2022 with funding approved in August 2022.

The move has prompted the Claverton Energy Research Group (CERG (1), to publicly join the large and growing number of scientists, academics, energy professors and campaigners in opposing new nuclear development on purely economic grounds (2).

- *Unless where specifically set out in the statute, motions approved at Council do not bind the Executive (Cabinet) but may influence their future decisions.*
- *Councillors are reminded of their public sector equality duty which requires the Council to consider or think about how their policies or decisions may affect people who are protected under the Equality Act.*

Available on the CERG website is research by Professor Mark Barratt at University College London (UCL) (2) which shows that “baseload generators” such as nuclear power plants are not needed in an all-renewable future and their use will almost certainly increase the cost of energy to consumers. Professor Barratt’s research modelled the comparative costs and performance of nuclear and renewable power using hour by hour wind and solar data and 35 years of weather data. The research simulated the entire power demand needed to sustain the UK, including meeting the demand for electric vehicles, shipping fuel, and heating buildings.

The modelling showed that

- the total cost of renewable generation would be less than nuclear, and would be just as able to provide continuous power even with wind and solar droughts.
- The continuing fall in wind and solar energy costs, along with cheaper storage of heat and power means that an entirely renewable and highly reliable power supply as a replacement for fossil fuels is available for the UK at a lower cost than any alternative.
- 7 GW of wind will generate about 40% more electricity than Hinkley at 30 – 50% of the cost per kWh and will be built in half the time.
- Under no scenario did nuclear add value to the mix.

### **Long term effects of Nuclear Energy**

Dr Paul Dorfman, Chair of the Nuclear Consulting Group and Associate Fellow, Science Policy Research Unit, University of Sussex states that the idea that the new generation of nuclear will be safe and clean is a fiction (3). “The reality is nuclear is an extremely costly and inflexible technology with the potential to cause significant harm. Not forgetting that coastal nuclear is at ramping risk from climate-driven sea level, storm surge and flooding – with the nuclear industry and regulatory mitigation efforts becoming increasingly obsolete.”

The CERG also notes that safe solutions for the disposal of nuclear waste still need to be found also as outlined by Greenpeace (The Global Crisis of Nuclear Waste – Greenpeace France November 2018) (4).

The CERG also notes that nuclear in the UK and Europe has proved to be unreliable with French nuclear currently only 50% available.

### **National Planning policies**

#### **Wind turbines**

As attention continues to grow on the role that renewable energy plays in improving our energy security, new research from UWE Bristol (5) has revealed the impact of current policy on restricting onshore wind farm development in England. The combined impact of a removal of financial subsidies and policy change has led to a 97% decrease in the number of onshore wind turbines that have been granted planning permission in the period 2016-2021 compared to the period 2009-2014. While financial subsidies have now returned, there is a clearly need to address the planning policy.

#### **Solar Energy**

Solar energy applications have been rejected in unprecedented numbers (6). Planning permission for 23 solar farms was refused across England, Wales and Scotland between January 2021 and July 2022, which could have produced enough renewable energy to power an estimated 147,000 homes

- *Unless where specifically set out in the statute, motions approved at Council do not bind the Executive (Cabinet) but may influence their future decisions.*
- *Councillors are reminded of their public sector equality duty which requires the Council to consider or think about how their policies or decisions may affect people who are protected under the Equality Act.*



annually, according to analysis of government figures by the planning and development consultancy Turley.

The refusals have jumped significantly since the start of 2021 – the research found only four projects were refused planning permission during 2017, 2018, 2019 and 2020 combined.

Carbon Brief, a UK-based website covering the latest developments in climate science, climate policy and energy policy states that solar not being a threat to prime agricultural land, as it currently occupies only 0.1% of UK land area – less than half that occupied by golf courses – and will rise to only 0.3% if the government meets its net zero pledge (7).

#### Notes

- (1) <https://claverton-energy.com/energy-experts-online>
- (2) <https://claverton-energy.com/baseload-power-generators-such-as-nuclear-power-plant-are-not-needed-in-an-all-renewable-future-and-their-use-would-simply-increase-costs.html>
- (3) <https://committees.parliament.uk/writtenevidence/108306/pdf/>
- (4) <https://www.greenpeace.org/static/planet4-belgium-stateless/2019/03/f7da075b-18.11.gp-report-global-crisis-of-nuclear-waste.pdf>
- (5) <https://info.uwe.ac.uk/news/uwenews/news.aspx?id=4220>
- (6) <https://www.theguardian.com/environment/2022/aug/25/solar-farm-plans-refused-highest-rate-five-years-great-britain>
- (7) <https://www.carbonbrief.org/factcheck-is-solar-power-a-threat-to-uk-farmland/>

- *Unless where specifically set out in the statute, motions approved at Council do not bind the Executive (Cabinet) but may influence their future decisions.*
- *Councillors are reminded of their public sector equality duty which requires the Council to consider or think about how their policies or decisions may affect people who are protected under the Equality Act.*

This page is intentionally left blank