

Date: 5th January 2018

The Arc
High Street
Clowne
Derbyshire
S43 4JY

Dear Sir or Madam,

You are hereby summoned to attend a meeting of the Executive of Bolsover District Council to be held in the Council Chamber, The Arc, High Street, Clowne on **Monday 15th January 2018 at 1000 hours.**

Register of Members' Interests - Members are reminded that a Member must within 28 days of becoming aware of any changes to their Disclosable Pecuniary Interests provide written notification to the Authority's Monitoring Officer.

You will find the contents of the agenda itemised on pages 2 and 3.


Yours faithfully



Assistant Director – Governance & Solicitor to the Council & Monitoring Officer
To: Chair & Members of the Executive

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EXECUTIVE AGENDA

**Monday 15th January 2018 at 1000 hours in the
Council Chamber, The Arc, Clowne**

Item No.	PART 1 – OPEN ITEMS	Page No.(s)
1	Apologies for absence	
2	Urgent Items of Business To note any urgent items of business which the Chairman has consented to being considered under the provisions of Section 100(B) 4(b) of the Local Government Act 1972.	
3	Declarations of Interest Members should declare the existence and nature of any Disclosable Pecuniary Interest and Non Statutory Interest as defined by the Members' Code of Conduct in respect of: a) any business on the agenda b) any urgent additional items to be considered c) any matters arising out of those items and if appropriate, withdraw from the meeting at the relevant time.	
4	Minutes To approve the Minutes of a meeting of the Executive held on 4 th December 2017.	4 to 13
5	Items recommended by Scrutiny Committees None	
6	Policy and Budget Framework Items None	
7	Non Key Decisions	
	(A) Intervention issues	14 to 21
	<u>Recommendation on Page 18</u>	
	(B) Corporate Plan Targets Performance Update – July to September 2017 (Q2 – 2017/18)	22 to 37
	<u>Recommendation on Page 24</u>	
	(C) Disabled Facilities Grants – Executive Function and Delegation to Officers	38 to 40
	<u>Recommendation on Pages 39 to 40</u>	

(D)	Review of Joint RIPA Policy	41 to 70
	<u>Recommendation on Page 43</u>	
(E)	Creswell Leisure Centre – Future Options	71 to 75
	<u>Recommendation on Page 75</u>	
8	Key Decisions	
(A)	Alarm Monitoring Contract – Derbyshire County Council	76 to 78
	<u>Recommendation on Page 78</u>	
(B)	Commissioning Support for the Bolsover Partnership	79 to 86+++++
	<u>Recommendation on Page 83</u>	+++++

EXECUTIVE

Executive
5th January 2017
Agenda Item No. 4

Minutes of a meeting of the Executive of the Bolsover District Council held in the Council Chamber, The Arc, Clowne on Monday 4th December 2017 at 1000 hours.

PRESENT:-

Members:-

Councillor A.M. Syrett in the Chair

Councillors M.J. Dooley, S.W. Fritchley, B.R. Murray-Carr, K. Reid, M.J. Ritchie and B. Watson

Officers:-

D. Swaine (Chief Executive Officer), K. Hanson (Strategic Director), S. Sternberg (Assistant Director – Governance, Solicitor to the Council and Monitoring Officer), D. Clarke (Assistant Director – Finance and Revenues & Benefits), G. Galloway (Assistant Director – Property and Estates) (until Minute No. 0448), P. Brown (Chief Executives and Partnership Manager) (until Minute No. 0449), L. Khella (Consultant Programme Manager) (until Minute No. 0449), A. Bedford (Customer Standards and Complaints Officer) (until Minute No. 0446), N. Etches (Business Estates Manager) (until Minute No. 0447), L. Robinson (Finance Assistant) (Observing) and A. Brownsword (Senior Governance Officer)

0440. APOLOGIES

There were no apologies for absence.

0441. URGENT ITEMS OF BUSINESS

There were no urgent items of business.

0442. DECLARATIONS OF INTEREST

There were no declarations of interest.

EXECUTIVE

0443. MINUTES – 6TH NOVEMBER 2017

Moved by Councillor S.W. Fritchley and seconded by Councillor M.J. Dooley

RESOLVED that the minutes of a meeting of the Executive held on 6th November 2017 be approved as a true and correct record.

0444. ITEMS RECOMMENDED BY SCRUTINY COMMITTEES

There were no items recommended by Scrutiny Committees.

0445. POLICY AND BUDGET FRAMEWORK ITEMS

There were no Policy and Budget Framework items.

0446. NON KEY DECISION CUSTOMER SERVICE STANDARDS AND COMPLIMENTS, COMMENTS AND COMPLAINTS REPORT 2017/18 – 1ST APRIL 2017 TO 30TH SEPTEMBER 2017

The Customer Standards and Complaints Officer presented the report which provided information on the Council's performance in relation to its customer service standards. The report also gave information on the effective management of complaints and customer requests and gave information on the number of compliments, comments and complaints for the period 1st April 2017 to 30th September 2017.

It was noted that there had been some slippage against the corporate (excluding Contact Centre and Revenues & Benefits helpline) telephone answering target which was possibly due to the new telephony system and Officers' use of diverts when away from the office. This will be monitored by the Customer Standards and Complaints Officer further once the telephony system is fully embedded. There had also been slippage against the answering email target, but it was felt that this was due to the continued volume of e-mails received, which remains high.

Moved by Councillor K. Reid and seconded by Councillor B. Watson

RESOLVED that the Executive note the overall performance on customer service standards and compliments/comments and complaints

EXECUTIVE

REASON FOR DECISION: The report is to keep Elected Members informed of volumes and trends regarding customer service standards and compliments, comments, complaints and to remain compliant with the Customer Service Excellence standard.

OTHER OPTIONS CONSIDERED: Not applicable as the report is to keep Elected Members informed rather than to aid decision making.

(Customer Standards and Complaints Officer)

The Customer Standards and Complaints Officer left the meeting.

0447. NON KEY DECISION MINIMUM ENERGY EFFICIENCY STANDARDS (NON DOMESTIC)

The Business Estates Manager presented the report which outlined the impact of the Energy Efficiency (Private Rented Sector) (England and Wales) Regulations 2015 (Referred to as MEES). The MEES will make it unlawful from April 2018 to undertake new lets, residential or commercial properties, with an Energy Performance Certificate (EPC) rating of F or G.

It was noted that there were certain exemptions e.g listed buildings and this would apply to Pleasley Vale Mills and buildings used for industrial activities which were large open spaces e.g. the former depot site.

Moved by Councillor A.M. Syrett and seconded by Councillor M.J. Dooley

RESOLVED that the Executive acknowledge the report and agree this satisfies the corporate priority accordingly

REASON FOR DECISION: Based upon Officers reviewing the relevant legislation, attending conferences and seminars on the subject, seeking professional advice from Compliance 365 and consulting with DCLG, the exemptions explained in the report are Officer interpretation. DGLG state that it is for the landlord to make reasonable assumptions in determining any exemptions however, as the legislation is enforced and case law is established, the exemptions may need to be reviewed again.

OTHER OPTIONS CONSIDERED: (1) Executive could fail to agree with the interpretation of the legislation, particularly the application of exemptions. Officers would take into consideration such an objection and reassess the revenue impact accordingly.

EXECUTIVE

(2) Executive could take a zero risk approach to exemptions and insist that all properties let have an EPC rating of A to E, thus ensuring compliance. On assets such as Pleasley Vale Mills, this approach will be extremely costly and some interventions would carry significant planning risk.

(Assistant Director – Property and Estates)

The Business Estates Manager left the meeting.

0448. NON KEY DECISION LAND SALE – BOLSOVER

The Assistant Director – Property and Estates presented the report which sought approval for the surrender of the existing lease and disposal of land on Cotton Street, Bolsover to Old Bolsover Town Council for less than market value.

Old Bolsover Town Council (OBTC) had negotiated a price of £16,000 with the current leaseholder and wished to use the land for community events etc. To protect the Council from any future liabilities in relation to the site, it was proposed to dispose of the freehold title to OBTC for the value of £1, subject to terms.

Members felt that this was a positive way to help OBTC continue to provide community events and contributed to the Councils High Street Regeneration Programme.

Moved by Councillor S.W. Fritchley and seconded by Councillor A.M. Syrett
RESOLVED that (1) Executive agree to surrender the Holymoore Development Limited lease on the terms outlined in the report.

(2) Executive agree to dispose of the land on Cotton Street, as shown in Appendix A of the report, to OBTC for the value of £1, acknowledging the disposal is at less than best considerations.

REASON FOR DECISION: The surrender of Holymoore Development lease and disposal of the site to OBTC will secure the long term community use of the site to support the economic and social well being of the area, whilst protecting the Council from any future liabilities.

OTHER OPTIONS CONSIDERED: (1) Do nothing and let Holymoore Developments sell the lease.

EXECUTIVE

(2) Agree to let Holymoore Development surrender the lease and transfer the lease to OBTC. However, in order to buy the lease, OBTC will need to pay the lessee £16k and have asked that if the lease is transferred that it is done so on a peppercorn rent.

(Assistant Director – Property and Estates)

The Assistant Director – Property and Estates left the meeting.

0449. NON KEY DECISION BOLSOVER PARTNERSHIP FUNDING AND PERFORMANCE MONITORING - APRIL TO SEPTEMBER 2017

The Chief Executive's and Partnership Manager presented the report which gave details of key activities that the Partnership Team had been working on between April and September 2017.

The Consultant Programme Manager informed the meeting that unemployment figures were the lowest they had been in Bolsover District and long term unemployment was lower than average. Unemployment in young people had also reduced. However, out of work benefits were higher due to increases in disability and carers allowances.

The extension of the criteria for the Business Growth Fund had increased the number of enquiries received and through grants given, 11 jobs had been created.

The approach to measuring impact of social value of commissioned projects and services managed by the team was explained in more detail to Executive. This involved the use of a social value tool known as "HACT" and enabled a monetary value to be applied to less measurable issues such as wellbeing..

The Chief Executive's and Partnership Manager noted that the Controlling Migration Funding was now in place along with the full team for delivery of the "Building Resilience" programme in Shirebrook NG20 postcode areas. An official launch would take place on 14th December 2017 to coincide with a ministerial visit by Lord Nicholas Bourne, Parliamentary Under Secretary from the Department for Communities and Local Government.

Members congratulated the Partnership Team on the work carried out throughout the year and the Chief Executive Officer noted that although the Council did a lot of good work, it needed to be watchful of the situation with regard to Derbyshire County Council funding which was being reduced.

EXECUTIVE

Moved by Councillor A.M. Syrett and seconded by Councillor K. Reid

RESOLVED that (1) the report be received.

REASON FOR DECISION: To ensure that funding is targeted to best effect.

OTHER OPTIONS CONSIDERED: Not applicable as the report is to keep Elected Members informed rather than to aid decision making.

The Chief Executive's and Partnership Manager and the Consultant Programme Manager left the meeting.

0450. **NON KEY DECISION** **STRATEGIC RISK REGISTER AND PARTNERSHIP ARRANGEMENT**

The Assistant Director – Finance and Revenues & Benefits presented the report which updated the Executive on the current position regarding Risk Management and Partnership Arrangements and sought approval for the revised Strategic Risk Register as at 30th September 2017.

It was noted that the risks remained the same as previously although an additional item regarding HS2 had been added. A discussion took place regarding the Local Plan and the need for it to be added to future Risk Register.

Moved by Councillor K. Reid and seconded by Councillor M.J. Dooley

RESOLVED that the Executive approve the Strategic Risk Register as at 30 September 2017 as set out in Appendix 1 of the report.

REASON FOR DECISION: To enable Executive to consider the risks identified within the Strategic Risk Register / Partnership Arrangements in order to assist in maintaining effective governance arrangements, service and financial performance.

OTHER OPTIONS CONSIDERED: Under the relevant good practice and to facilitate the development of robust managerial arrangements the Council is required to prepare a Strategic Risk Register as part of its risk management framework. This report is in part intended for Members and Officers to consider whether the Council has adopted an appropriate approach to its management of risk and partnerships. Given that this report is part of the approach to help ensure the effective management of risk/partnerships there is not an alternative to the presentation of a formal report.

(Assistant Director – Finance and Revenues & Benefits)

EXECUTIVE

0452. NON KEY DECISION MEDIUM TERM FINANCIAL PLAN – REVISED BUDGETS 2017/18

The Assistant Director – Finance and Revenues & Benefits presented the report which sought approval of the 2017/18 revised budget for the General Fund Housing Revenue Account and Capital Programme. The revised budget showed that the Net Cost of Services had increased to £10.811m which was £0.0557m above the original budget figure. The original savings target of £0.170m had now been delivered. The Council was waiting to hear whether its application to be part of the Derbyshire Business Rates Pilot had been successful.

The Chief Executive Officer noted that the Council was in a healthy position, but that monies placed in reserves would be used to off-set the Council's equal pay liabilities. Moved by Councillor S.W. Fritchley and seconded by Councillor A.M. Syrett

RESOLVED that (1) the Executive approve the revised General Fund operational budget for 2017/18 as set out in Appendix 1 and detailed in Appendix 2 of the report,

(2) Executive approves the revised HRA budgets for 2017/18 as set out in Appendix 3 of the report,

(3) Executive approves the revised Capital Programme for 2017/18 as set out within Appendix 4 of the report.

REASON FOR DECISION: The purpose of this report is to set revised budgets as early as possible within the financial year for the General Fund and HRA which will ensure that identified budget savings are realised, that all budget managers are working to the revised budgets and to allow the planned changes in the HRA budgets to be delivered. The improved position on both the Council's main revenue budgets reflects a combination of favourable circumstances during the year, together with careful budget management and the ongoing policies of progressing the Growth and Transformation agenda in order to reduce the underlying level of expenditure in line with the ongoing reductions in the level of government grant. The savings achieved will be used to support service delivery to residents and tenants in future financial years.

OTHER OPTIONS CONSIDERED:

General Fund and HRA

The anticipated surplus on the Council's two main revenue accounts will result in an increase in financial reserves at the year-end which are available to protect services at a time of declining central government support. How these additional resources are

EXECUTIVE

utilised is a decision for Members which will be taken as part of the 2018/19 budget process.

Capital

There are no alternative options being considered with regard to the proposed allocations from the Capital Programme budget as it ensures the Council's assets meet health and safety requirements in that they are maintained in a fit for purpose state that ensures they remain fully operational.

(Assistant Director – Finance and Revenues & Benefits)

0453. KEY DECISION LOCAL DISCRETIONARY BUSINESS RATES RELIEF SCHEME

The Assistant Director – Finance and Revenues & Benefits presented the report which requested approval for the proposed Local Discretionary Rates Relief Scheme to support those small businesses that faced the steepest increases in their business rates bills as a result of the 2017 revaluation.

It was up to each local authority to approve its own scheme within the Government guidelines. There was no need to apply and each of the 300 qualifying businesses would be written to with an amended bill.

Moved by Councillor A.M. Syrett and seconded by Councillor M.J. Dooley

RESOLVED that the Executive approve the proposed Local Discretionary Business Rates Relief Scheme as set out in Appendix 1 of the report.

REASON FOR DECISION: The report seeks agreement to introduce the proposed Local Discretionary Business Rates Relief Scheme, in accordance with the Government's establishment of funding.

OTHER OPTIONS CONSIDERED: A scheme that is more generous than the one proposed would result in expenditure greater than the grant which we will receive and incur the Authority in additional expenditure. A scheme less generous would result in businesses having to pay more and an under spend and the Authority having to return the under spend to the Government.

(Assistant Director – Finance and Revenues & Benefits)

EXECUTIVE

0454. THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Moved by Councillor A.M. Syrett and seconded by Councillor M.J. Dooley

RESOLVED that under Section 100(A)(4) of the Local Government Act 1972 (as amended), the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in the stated Paragraph 3 of Part 1 of Schedule 12A of the Act and it is not in the public interest for that to be revealed.

0455. NON KEY DECISION

There were no exempt non key decision items to be discussed

0456. KEY DECISION ECONOMIC DEVELOPMENT STAFFING EXEMPT – PARAGRAPHS 1, 3 AND 4

The Chief Executive Officer presented the report which sought approval for one employee within the Economic Development team to take redundancy and to agree interim management arrangements prior to bringing back a further report on a wider Economic Development and Housing Strategy Review.

Moved by Councillor S.W. Fritchley and seconded by Councillor M.J. Dooley

RESOLVED that (1) Executive request the Chief Executive to exercise his delegated powers to make the post of Economic Development and Inward Investment Manager (REG004) redundant and to remove the post from the establishment,

(2) Executive approves funding the costs of £103,068.14 associated with the recommended changes in respect of the Economic Development team as detailed within this report from in year vacancy savings with any shortfall being met from the Transformation Reserve,

(3) the Housing Strategy and Growth Manager will be the interim manager for the Economic Development team and a further report will be brought back to Members regarding a wider Economic Development and Housing Strategy services review,

EXECUTIVE

(4) Executive consider the matter urgent and note that the Chairman of Customer Service and Transformation Scrutiny Committee has also agreed that the matter is urgent and it is reasonable in the circumstances for Call In not to apply

REASON FOR DECISION: The proposal outlined in the report will achieve ongoing savings of approximately £54,529. Officers are confident that the impact of making the post concerned redundant can be effectively managed, and will facilitate a wider review of the Economic Development and Housing Strategy services.

OTHER OPTIONS CONSIDERED: The option that has been recommended is considered the appropriate option as this secures financial benefits for the Council as well as facilitating a wider review of the Economic Development and Housing Strategy services

The meeting concluded at 1057 hours.

Bolsover District Council

Executive

15th January 2018

Intervention issues

**Report of the Leader and Portfolio Holder – Strategic Planning and
Regeneration**

This report is public

Purpose of the Report

- To make the Executive aware of the issues around the potential for Intervention in relation to our Plan making.
- To inform the Executive of the approach Officers are taking in relation to this issue.

1 Report Details

- 1.1. On the 16th November, Officers were made aware, by phone call and e-mail, as a courtesy, that the Secretary of State for Communities and Local Government (SoS) was about to name the Council in a Written Ministerial Statement, as a possible candidate for intervention in relation to the Local Plan making process.
- 1.2. Bolsover District Council were one of 15 named authorities (including North East Derbyshire District Council), that were subject to this action, and the leader received a formal letter confirming the potential for intervention on the 17th November 2017.
- 1.3. This decision was a surprise to the authority as it appeared that for a number of reasons we did not accord with the main characteristics that had previously been highlighted in the White Paper that denoted characteristics that would mark authorities as being at risk of intervention. Namely:
 - a. The least progress in plan-making has been made –
But we produced a Plan for Examination in 2014, and only through the exceptional circumstances of retrospective guidance being applied without transitional measures, did it fail to move forward to adoption.

- b. Policies in Plans have not been kept up to date –
But the difficult decisions the Council have made to allow for development contrary to the Adopted Plan, when we did not have a five year supply, means that under the NPPF guidance, our Plan policies should no longer be considered out of date.
- c. There was higher housing pressure –
But we do not, on a national basis appear to have a higher housing pressure. Our 'affordability ratio (a measure of average income against house prices) is 5.02, the East Midlands average is 6.46 and the English average is 7.02, showing that our area is one of the more affordable areas which indicates a lack of inflationary pressure.
- d. Intervention would have the greatest impact in accelerating Local Plan production –
But as we are aiming to be consulting on the Publication version of the plan by the end of February 2018, it is difficult to see how this time line can be advanced.

1.4. Also, based on the criteria set out in the 2017 White Paper, an independent assessment listed 21 authorities that were under threat and we did not feature in that list.

1.5. The SoS also pointed out his decisions on intervention will also be informed by the wider planning context in each area (specifically, the extent to which authorities are working cooperatively to put strategic plans in place, and the potential impact that not having a plan has on neighbourhood planning activity).

1.6. He requested that we outline any exceptional circumstances, by 31st January 2018, which, in our view, justified the failure of your Council to produce a Local Plan. In addition to this he explained that he would also like to hear of any measures that the authority has taken, or intends to take, to accelerate plan publication.

1.7. The Chief Executive Officer responded to the letter on 21st November 2017, setting out the basics of our position and asking for further details as to how we can best respond. (Copy of letter attached as Appendix A) A further e-mail from DCLG was received on 23rd November, confirming who the case officer would be and the fact that Bolsover had been selected because:

- 1) Bolsover have failed to adopt a post 2004 Act Local Plan.
- 2) You published your current Local Development Scheme (LDS) in October 2014
- 3) This LDS is out of date
- 4) The LDS stated you would publish (Regulation 19) your draft Local Plan in June 2017
- 5) You failed to meet this deadline and have not updated your LDS to reflect your current timetable

- 1.8. An extra concern for the Council was that at the time of the proposed intervention, the Planning Policy team were already in discussions with the Planning Inspectorate to arrange for a pre-publication visit, and a live update of the new LDS on our web site appeared to have been overlooked.
- 1.9. The pre-publication meeting with the Planning Inspectorate on the 13th December, was a useful and informative day. Whilst there were a number of issues discussed and a lot of advice taken on board, there were several specific issues that will help forming a robust plan for the future.
- 1.10. The Inspector made it clear, that whilst he had nothing to do with the DCLG consideration of Intervention, our aim to bring the Plan forward quickly should not be at the expense of doing the plan properly and ensuring that the evidence base is in place. The Inspector stressed that it was not in anyone's interest to publish or submit a Local Plan with key bits of evidence missing. Despite the pressure of intervention DCLG would not want to have a rushed plan with gaps in the evidence base. This could lead to the need to withdraw the plan at a later stage, which would generate further delays.
- 1.11. He made it clear, for example, that the Sustainability Appraisal should be fully completed before the Plan is agreed by Members for Publication. As without that document, Members cannot show that they have properly considered the Plan. Whilst this may result in short term delays, it will prevent longer term problems, and provided the delay is properly factored into a robust project plan, there can be no point in intervention if nothing can be moved forward any quicker.
- 1.12. The CEO has now had the opportunity to have further discussions with DCLG, and it is clear that the Council, regardless of what reasons it gives in relation to previous issues, needs to show a robust and properly managed project plan going forward. It also appears that, regardless of the concerns Council's may raise in relation to the uncertainties of the times and new guidance coming in, these will not be considered as acceptable reasons to delay production of a Plan.
- 1.13. The Officers are continuing to develop a response to the SoS based on two particular issues:
 - 1) what exceptional circumstances justify our current position in relation to the development of the Local Plan,
 - 2) what has and is being done to accelerate the production of the Plan.
- 1.14. It is considered that there are a number of extenuating circumstances in relation to the first issue, and that we can also show that acceleration had already commenced in relation to the production of the Local Plan prior to the notification to intervene.
- 1.15. Lastly, the Officers are developing a robust and detailed project management plan for the Local Plan now that discussions with the Planning Inspectorate have been held and issues that need to have been addressed have been

quantified. Linked to a more robust project management plan referred to above, it is considered that the Council can show that our intended approach and timetable would not benefit from any degree of intervention.

2 Conclusions and Reasons for Recommendation

2.1 It is considered surprising and unfortunate, that the SoS has decided to include this authority in his considerations on intervention. However, that is the case and it is important that the authority demonstrates that we have taken a serious and proactive approach to the delivery of the Local Plan.

2.2 Whilst work is continuing on making and improving our case in relation to the threat of intervention, work in relation to finalising a robust project plan is also ongoing. Considering that the submission to the SoS must be made by the end of January, it is recommended that the CEO in consultation with the Leader and the Chair of Planning, be authorised to respond to DCLG on behalf of the Council.

3 Consultation and Equality Impact

3.1 If intervention were to take place on the basis of the SoS decision, it would impact on local democracy as powers could be taken away from local representatives. This would create a democratic deficit and result in a reduction in democratic accountability. However, the intention of this report is to seek to prevent that from happening.

4 Alternative Options and Reasons for Rejection

4.1 The Council must react to the threat of intervention that we have been subjected to. Not to submit a strong case to support the Local Plan process is likely to lead to intervention occurring and the concerns raised in section 3 above to come to fruition.

5 Implications

5.1 Finance and Risk Implications

5.1.1 If our response to the threat of intervention were to be unsuccessful, the Council could be made responsible for the financial costs of various intervention options that the SoS may instigate. These are unquantifiable but significant financial risks.

5.2 Legal Implications including Data Protection

5.2.1 It is assumed that the approach of the SoS to intervention would not raise any concerns in relation to these considerations.

5.3 Human Resources Implications

5.3.1 If the SoS decided to intervene, a worst case scenario may see intervention having an impact on staffing levels within the planning policy team.

6 Recommendations

6.1 It is recommended that the CEO in consultation with the Leader and the Chair of Planning, be authorised to respond to DCLG on behalf of the Council.

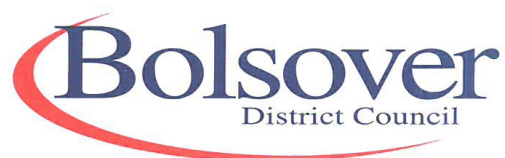
7 Decision Information

<p>Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: <i>BDC: Revenue - £75,000</i> <input type="checkbox"/> <i>Capital - £150,000</i> <input type="checkbox"/> <i>NEDDC: Revenue - £100,000</i> <input type="checkbox"/> <i>Capital - £250,000</i> <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i></p>	No
<p>Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)</p>	No
<p>District Wards Affected</p>	All
<p>Links to Corporate Plan priorities or Policy Framework</p>	All

8 Document Information

Appendix No	Title
<p>Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)</p>	
<p> </p>	
Report Author	Contact Number
R. Routledge – Interim Planning Policy Manager	x2299

Report Reference –



Your Ref:
Our Ref: DS/JG
Please Ask For: Mr. D. Swaine
Direct Line: 01246 242462
Email: chexbdc&neddc@ne-derbyshire.gov.uk
Date: 21st November 2017

The Arc
 High Street
 Clowne
 Derbyshire
 S43 4JY

Sarah Hunt
 Department for Communities and Local Government
 St Philips Place
 Birmingham

sarah.hunt@communities.gsi.gov.uk

Mr D Swaine
Chief Executive Officer

Dear Sarah

I refer to the Secretary of State's letter dated 16th November, regarding the Local Plan process for Bolsover District Council. In his letter the Secretary of State makes reference to Local Plan intervention and highlights that officials from DCLG will be contacting the Council in due course regarding the progression of our Plan.

In previous dialogue with DCLG you confirmed that the Government is committed to a plan led system and for Authorities without a plan to progress this to adoption at the earliest opportunity. As a consequence of this you will be aware that we have arranged a meeting with the Planning Inspectorate and this is taking place on the 13th December. You will also be aware of our continued dialogue with DCLG about the Local Plan timetable, revisions to this and progress to date.

Our previous LDS came into effect in October 2014, and apart from minor changes this was produced, met and maintained up until summer 2017. However uncertainties over the emerging evidence base, concerns over a new way to agree a housing figure and proposed changes to the NPPF then meant that we had no option but to step back and reconsider our position.

In terms of our last LDS, we made good progress and met the following deadlines:

- **Statutory Consultation (Regulation 18)** - October/November 2014
- **Non-Statutory consultation on Identified Strategic Options** - October/November 2015
- **Non-Statutory Consultation on Draft Plan** September/October 2016

Consequently our new LDS shows the following proposals. This timetable was agreed by the Council in October 2017:



Tel 01246 242424 **Fax** 01246 242423 **Minicom** 01246 242450
Email enquiries@bolsover.gov.uk **Web** www.bolsover.gov.uk



10 th Jan 2018	Publication Draft Local Plan to Local Plan Steering Group
7 th February 2018	Agree Publication Draft Local Plan at Planning Committee
Feb – April 2018	Consultation Period
April –May 2018	Consider responses
June 2018	Submit Local Plan for Examination
November 2018	Adopt

I believe the above table demonstrates a clear commitment by the Council to deliver a Local Plan despite difficulties we have encountered throughout the process.

In his letter the Secretary of State also indicates that any decision on intervention will be informed by a number of issues alongside the wider planning context in each area. The Secretary of State's letter provides an opportunity for further details of why the Council does not have a Local Plan in place and we will respond to this in due course.

In the meantime we wanted to set out clearly to you as our lead contact Officer at DCLG our continued commitment to delivery of the Local Plan and the wider planning context here at Bolsover and all that we have achieved.

You can be assured that the Council remains strongly committed to agreement and adoption of a sound Local Plan. Furthermore we remain committed to growth and are reviewing our Growth Strategy to ensure it reflects our aspirations for the districts future. It is also proposed that the review of the Growth Strategy will align to the LEPs future proposals for a revised Strategic Economic Plan for the Derbyshire and Nottinghamshire area. We believe that our Growth Strategy, together with our duty to co-operate evidences how we have worked with neighbouring Authorities to assist in delivery of growth across northern Derbyshire. Additionally we have worked with a number of Parish Councils in the preliminary development of Neighbourhood Plans and we see Neighbourhood Plans as an essential element of local planning to compliment and support delivery of a sound Local Plan.

As you will be fully aware in the last year we granted 64% of our major housing applications, 14 out of the 22 submitted and already this year after only 2 quarters, we have granted 8 out of 9 major housing applications submitted (71%).

In terms of our situation, I would also draw attention to:

- *Work now concluded on an updated Strategic Housing Market Assessment (SHMA) shows a requirement of 272, which overall since 2014 we have exceeded and we currently have almost an 8 year supply (within 5 years) and an overall supply of 5,790 units*
- The Council also has ambitious plans for employment and housing growth which will be reflective in our revised Growth Strategy and this will complement our future targets for housing growth across the district.
- Our affordability ratio is only 5.02, compared to an average of 6.46 across the East Midlands and 7.02 in England, showing that we are not suffering from higher housing pressures
- Also in terms of affordability, whilst average house prices in the UK stand at £243,945, in Bolsover in September 2017 it stood at almost half of that at £122,045, once again indicating a lack of housing pressures

- Our appeals information demonstrates that 0% of Appeals on Major applications were lost in the last two year period, and only 0.13% of Minors. In that respect it is difficult to suggest that the policies are not up to date in terms of meeting the needs of our communities

This does not reflect a Council suffering from high housing pressures and not seeking to meet the need

As the Secretary of State's letter of the 16th November stated that officials from DCLG would continue to engage with Council Officers to discuss progression of our Local Plan and they would write to us setting our further details and the next steps. We have sent this letter in order to inform this further dialogue and to re-iterate our continued commitment to delivery of the Local Plan and also the Councils pro-active approach to housing and economic growth. If it would be helpful to discuss the contents of this letter further please let me know and I will arrange the relevant telephone conversation.

Yours sincerely



Dan Swaine
Chief Executive Officer

Bolsover District Council

Executive

15th January 2018

**Corporate Plan Targets Performance Update – July – September 2017
(Q2 – 2017/18)**

Report of the Portfolio Holder – Neighbourhood Services

This report is public

Purpose of the Report

- To report the quarter 2 outturns for the Corporate Plan 2015-2019 targets.

1 Report Details

1.1 The attached contains the performance outturn as of 30th September 2017.
(Information compiled on 30/10/17)

1.2 A summary by corporate plan aim is provided below:

1.3 Unlocking our Growth Potential

- 14 targets in total (3 targets achieved previously – G02, G04 and G14)
- 10 targets on track
- 1 target overdue:
 - G06 *Undertake statutory public consultation on the Local Plan in line with the adopted Local Development Scheme timetable by July 2017 – Task – 65% complete. Revised timetable scheduled to be considered at Planning Committee in October 2017. A new end date will be requested by the target lead in the Q3 update.*

1.4 Providing our Customers with Excellent Service

- 16 targets in total (1 target previously withdrawn – C16)
- 15 targets on track.
 - C04 – *Promote the Council website and increase (unique) visitor numbers by 7% year on year. Agreed at quarterly Budget & Performance meeting held on 23rd October 2017 to recommend to Executive to withdraw this corporate plan target as the lead officer cannot measure unique visitor numbers accurately as noted on the appendix.*

1.5 **Supporting our Communities to be Healthier, Safer, Cleaner and Greener**

- 17 targets in total (4 target previously achieved – H06, H08, H13, H14)
- 13 targets on track
 - H05 – *Support 417 inactive 16+ individuals per year and increase their activity levels to more than 30 minutes of moderate intensity physical activity per week.* Agreed at quarterly Budget & Performance meeting held on 23rd October 2017 to recommend to Executive to monitor this target for information only as the funders have changed the criteria for this project which makes meaningful measurement against the original corporate plan target difficult (see appendix for further information).

1.6 **Transforming our Organisation**

- 14 targets in total (5 targets achieved previously – T02, T03, T05, T07 & T12 and 1 withdrawn previously - T01)
- 8 targets on track

2 Conclusions and Reasons for Recommendation

2.1 Out of the 61 targets 46 (75%) are on track, 12 (20%) have been achieved (previously), 1 (2%) is overdue and 2 (3%) have been withdrawn (previously).

2.2 This is an information report to keep Members informed of progress against the corporate plan targets noting achievements and any areas of concern.

3 Consultation and Equality Impact

3.1 Not applicable to this report as consultation was carried out on the original Corporate Plan.

4 Alternative Options and Reasons for Rejection

4.1 Not applicable to this report as providing an overview of performance against agreed targets.

5 Implications

5.1 Finance and Risk Implications

No finance or risk implications within this performance report.

5.2 Legal Implications including Data Protection

No legal implications within this performance report.

5.3 Human Resources Implications

No human resource implications within this performance report.

6 Recommendations

- 6.1 That progress against the Corporate Plan 2015-2019 targets to be noted.
- 6.2 That C04 be withdrawn.

7 Decision Information

<p>Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: <i>BDC:</i> <i>Revenue - £75,000</i> <input type="checkbox"/> <i>Capital - £150,000</i> <input type="checkbox"/> <i>NEDDC:</i> <i>Revenue -</i> <i>£100,000</i> <input type="checkbox"/> <i>Capital - £250,000</i> <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i></p>	No
District Wards Affected	Not applicable
Links to Corporate Plan priorities or Policy Framework	Links to all Corporate Plan 2015-2019 aims and priorities

8 Document Information

Appendix No	Title
1.	Corporate Plan Performance Update – Q2 July to September 2017
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
All details on PERFORM system	
Report Author	Contact Number
Kath Drury, Information, Engagement and Performance Manager	01246 242280

Bolsover District Council
Corporate Plan Targets Update – Q2 July to September 2017

Aim – Unlocking our Growth Potential

Key Corporate Target	Directorate	Status	Progress	Target Date
G 01 - Through the use of Key Account Management develop a relationship with a minimum of 50 local businesses by March 2019.	Growth	On track	Q2 - 88 Businesses Engaged to date. The service has worked to support potential growth businesses including: Emily Franklin, Made4U by Millie Lou, Temple Mill Engineering, Telsshells, Infinity Care @ Home, Matrix Energy Systems, Victory Design Ltd, WM Engineering, Romley Plant Hire, Drill Store UK, UK Printing Co, Integrated Glass Technologies, Plastic Works, Mad Signs and Graphics, Solus Testing and Carlton Woodmill. We responded to 16 business enquiries including 2 Business Growth Fund/LEADER grant enquiries. Attended the regular Crossover Advisor Forum (SCR/D2) to share best practice and case studies, and update on programme activity, marketing and management information.	Sun-31-Mar-19
G 03 - Optimise business growth (as measured by gross NNDR) by £2.5m by March 2019	Growth Operations	On track	Q2 - Estimate of NNDR income for 31/3/18 is currently £25,221,014. (Baseline: £23,476,638 Gross NNDR for 2014/15)	Sun-31-Mar-19
G 05 - Through the Bolsover North East Derbyshire LEADER Approach collectively support the creation of 65 sustainable jobs in the combined programme area by December 2020.	Growth	On track	Q2: 10 of the 36 endorsed Expressions of Interest are from Bolsover District, and 3 of the 11 full applications currently in development. The LAG meeting held on 26th September 2017 approved a grant of £37,726.56 to Carlton Woodmill (Creswell), which will create 3 jobs. Three other projects in North East Derbyshire have been contracted to a total of £108,606, creating 5.5 jobs. Visits have been completed to	Thu-31-Dec-20

Key Corporate Target	Directorate	Status	Progress	Target Date
			eligible Industrial Estates and Business Parks across the area to share leaflets and have direct conversations and promotional businesses support events with D2N2 were held in Eckington and Doe Lea in late September. A recruitment process is currently underway to fill the vacant Programme Officer position.	
G 06 - Undertake statutory public consultation on the Local Plan (Strategic Policies and Site Allocations) in line with the adopted Local Development Scheme timetable by July 2017.	Growth	Overdue	Q2 – Revised timetable scheduled to be considered at Planning Committee in October 2017 – 65% complete. The JAD Planning and Environmental Health will be taking a report to the next Planning Committee re a revised schedule for the Local Plan. A new end date will be provided in the Q3 update.	Mon-31-Jul-17
G 07 - Submit Local Plan (Strategic Policies and Site Allocations) for examination by the Planning Inspectorate by November 2017.	Growth	On track	Q2 – Revised timetable scheduled to be considered at Planning Committee in October 2017 –55% complete. The JAD Planning and Environmental Health will be taking a report to the next Planning Committee re a revised schedule for the Local Plan. A new end date will be provided in the Q3 update.	Thu-30-Nov-17
G 08 - Process all major planning applications 10% better than the minimum for special measures per annum.	Growth	On track	Q2: 100% (5 out of 5) applications for major development determined within statutory deadline or agreed extension of time. Year to date: 100% (14 out of 14) (Target 2017/18: 60%, National Target 50%)	Sun-31-Mar-19
G 09 - Deliver a minimum of 100 new Council properties by March 2019.	Operations	On track	Q2 - Fir Close Shirebrook (8 units) work completed. Derwent Drive, Tibshelf (7 units) and Hilltop Avenue Shirebrook (37 units) work started. Future sites being considered. Blackwell Hotel site (6 units) and Rogers Avenue (7 units)	Sun-31-Mar-19

Key Corporate Target	Directorate	Status	Progress	Target Date
			completed previously. Total B @ Home properties in progress is 92 plus purchased one former RTB property. Also considering purchasing S.106 Units from developer.	
G 10 - Enable the development of at least 1,000 new residential properties within the district by March 2019.	Growth	On track	Q2: Completions are reported annually and we are currently on track to reach the target. (2016/17 293 completions)	Sun-31-Mar-19
G 11 - Through a programme of targeted refurbishment bring 15 empty private sector properties back into use per annum.	Growth	On track	Q2: Action Housing have now tenanted all 6 properties at Carr Vale with applicants from the local housing register, they are no longer classed as empty. Action Housing have now started work on The Station Hotel in Creswell. This will be converted into 14 (One bed) and 2 (Two bed) flats. Work is expected to be completed in April 2018. Action Housing are in the process of purchasing The Miners Welfare in Creswell which has laid empty for many years. The sale should be going through in October 2017, after this they will start work which will see it converted into 11 (One bed) flats. These will be completed towards the end of 2018. Action Housing are also in the process of negotiating with an owner of an empty property in Carr Vale with the view that this would be converted into 2/3 (One bed) flats. (Note: Action Housing is a Registered Provider of Social Housing undertaking an empty property scheme on behalf of BDC. This is a collaborative arrangement)	Sun-31-Mar-19

Key Corporate Target	Directorate	Status	Progress	Target Date
G 12 - Achieve an increase of £850,000 in additional New Homes Bonus from the government by March 2019.	Growth	On track	Q2: Additional bonus for 2017/18 is £191,202. This brings the corporate plan period cumulative to £734,023.	Sun-31-Mar-19
G 13 - Work with partners to deliver an average of 20 units of affordable homes each year.	Growth	On track	Q2 - None this quarter from private sites however the Station Hotel in Creswell is underway and will deliver 15 affordable units by the end of the financial year. 8 properties from B@Home have been completed in Q2 Fir Close Shirebrook Q2 – 8 properties in Shirebrook Q1 – 6 properties in Blackwell Year to date = 14 units	Sun-31-Mar-19

Aim – Providing our Customers with Excellent Service

Key Corporate Target	Directorate	Status	Progress	Target Date
C 01 - Retain Customer Service excellence accreditation year on year.	Transformation	On track	Q2: Work on the 2018 assessment to actively start in Q4 (January to March 2018). Onsite assessment to take place in April 2018.	Sun-31-Mar-19
C 02 - Achieve an overall biennial external satisfaction rate of 85% or above for services provided by the Contact Centres.	Transformation	On track	Q2 - 2017/18 - Survey scheduled for February 18.	Sun-31-Mar-19
C 03 - Achieve an overall annual satisfaction rate of 80% or above	Transformation	On track	Q2 - A full customer satisfaction survey of the Go Active facility will be undertaken during the latter part of October,	Sun-31-Mar-19

Key Corporate Target	Directorate	Status	Progress	Target Date
for leisure, recreation and cultural activities and services.			running for 3 weeks into November. Results will be published in the third quarter.	
C 04 - Promote the Council website and increase (unique) visitor numbers by 7% year on year.	Transformation	Withdraw	<p>Q2 - Internal audit has looked at the target and found that it is not fit for purpose. The increase cannot be measured accurately due to residents logging onto the website with multiple devices. One of the drivers for this target was to support online transactions - corporate plan target T13 is monitoring/measuring the increase in online self service transactions. As such the lead officer would like to withdraw this target.</p> <p>Agreed at quarterly Budget & Performance meeting (23/10/17) to recommend to Executive to withdraw this corporate plan target</p>	Sun-31-Mar-19
C 05 - Implement the new EU Regulations on Data Protection within the timescales stipulated by the Information Commissioners Office.	Transformation	On track	Q2 - Steady progress continues against the General Data Protection Regulation (GDPR) work plan. The first complete corporate round of desk top personal data audits has been completed. A review has taken place of the desktop questions to align with guidance now available for recording processing activities (one of the key accountability requirements for GDPR). Three year rolling programme of desk top audits to start again on refreshed template. Some preparatory work has started on some of the other actions - privacy notices and using processors. (GDPR to take effect from May 2018).	Sun-31-Mar-19
C 06 - Prevent homelessness for more than 50% of people who are facing homelessness each year.	Operations	On track	Q2 - 128 approaches of people seeking assistance, of which 73 cases were prevented from becoming homeless. 57% prevented cases.	Sun-31-Mar-19
C 07 - Install 150 new lifelines within the community each year.	Operations	On track	Q2 - 131 units of careline equipment installed.	Sun-31-Mar-19

Key Corporate Target	Directorate	Status	Progress	Target Date
C 08 - Process all new Housing Benefit and Council Tax Support claims within an average of 20 days.	Operations	On track	Q2 – 18.35 days (actual)	Sun-31-Mar-19
C 09 - Process changes to Housing Benefit and Council Tax Support within an average of 10 days.	Operations	On track	Q2 – 8.07 days (actual)	Sun-31-Mar-19
C 10 - Carry out 300 disability adaptations to Council houses each year.	Operations	On track	Q2 - 156 completed adaptations	Sun-31-Mar-19
C 11 - Fully deliver the equality objectives identified in the Single Equality Scheme by March 2019.	Transformation	On track	Q2. Work progressing on the Single Equality Scheme action plan - notable actions this quarter: A further two workshops on Hate Incident Reporting delivered to front line staff. Online reporting form launched and publicised internally and externally. Information also shared with partner agencies.	Sun-31-Mar-19
C 12 - Ensure a minimum of 50% of clients experiencing Domestic Violence each year are satisfied with the support they received.	Operations	On track	Q2: A total of 25 new referrals were received during Q2, 8 of which were high risk. A total of 2 did not engage with the service and a total of 3 have not yet completed the feedback form. Positive responses were received from 20 (100%) service users who were asked: <ul style="list-style-type: none"> • Did the service meet your needs? • Did the service make a difference? • How satisfied are you with the service you have been given? 	Sun-31-Mar-19
C 13 - Reduce average relet times of Council properties (not including sheltered	Operations	On track	Q2 The average relet time for the quarter is 31 days. No sheltered housing was let in this period, so the overall average is also 31 days.	Sun-31-Mar-19

Key Corporate Target	Directorate	Status	Progress	Target Date
accommodation) to 20 days by March 2019.			The figures all are skewed by a small number of properties for older people (flats and bungalows) that each have taken over 100 days to relet. A void working group of officers and members has been set up and are meeting fortnightly to investigate this and similar issues.	
C 14 - Attend 99% of repair emergencies within 6 working hours	Operations	On track	Q2 - 97.80% of Emergency call outs attended within 6hrs to the end of quarter 2.	Sun-31-Mar-19
C 15 - Ensure a minimum of 50% of clients receiving parenting support each year express a positive outcome.	Operations	On track	Q2 - The feedback from the course held in Q1 have now been evaluated of the 6 who completed the course they all expressed a positive outcome i.e. 100%. Next planned to start 30th October 2017	Sun-31-Mar-19

Aim – Supporting our Communities to be Healthier, Safer, Cleaner and Greener

Key Corporate Target	Directorate	Status	Progress	Target Date
H 01 - Deliver a minimum of 8000 hours of positive activity through community based culture and leisure engagement per year.	Transformation	On track	Q2 - At this stage of the year the target figure is 4000 hours, actual performance to date is 6024 - substantially exceeding target.	Sun-31-Mar-19
H 02 - Increase participation/attendances in leisure, sport, recreation, health, physical and cultural activity by 3,000 per year.	Transformation	On track	Q2 - Target for year to date is 150,000 attendances. Actual to date is 179,900 - well ahead in quarter 2 exceeding expectations.	Sun-31-Mar-19

Key Corporate Target	Directorate	Status	Progress	Target Date
H 03 - Deliver a health intervention programme which provides 900 adults per year with a personal exercise plan via the exercise referral scheme.	Transformation	On track	<p>Q2 - To the end of September 2017 we have seen 542 clients at a number of different locations including Go Active @ The Arc, Shirebrook Leisure Centre and Welbeck Road Doctors Surgery.</p> <p>BDC is commissioned to deliver a health intervention programme by County Public Health. The scheme covers two programmes, the Derbyshire Integrated Wellbeing Approach and Bolsover Wellness Plus. A combined figure of 1000 referrals has been set from these two programmes.</p>	Sun-31-Mar-19
H 04 - Tackle childhood obesity through the delivery of a child focused health intervention programme to all Key Stage 2 year groups by the end of each academic year.	Transformation	On track	<p>Q2. Quarter 2 of the current financial year sees the Five:60 programme's first term of the new academic year with a new tranche of pupils. The programme will be delivered to all key stage 2 pupils within the 28 schools in the Bolsover Schools Sports Partnership</p>	Sun-31-Mar-19
H 05 - Support 417 inactive 16+ individuals per year & increase their activity levels to more than 30 minutes of moderate intensity physical activity per week.	Transformation	On track	<p>This project runs for a different period to the corporate plan period. The project update position (year 3 Q3: 820 individuals 'engaged' during the project period (Dec 2014 to September 2017). 'Engaged' refers to individuals who officer has consulted with, signposted to activities or who have tried activities.</p> <p>Additional outcome targets have been set for the stages 2 and 3 of the project. (No outturn target has been set for year 3 of the project). These are:</p> <ol style="list-style-type: none"> 1. Establish a community group that identifies and controls ownership of a local health issue. 2. Create a shared vision for the identified health issue 3. Facilitate the group to mobilise positive change of the 	Sun-31-Mar-19

Key Corporate Target	Directorate	Status	Progress	Target Date
			<p>health issue Current groups include:</p> <ul style="list-style-type: none"> - Creswell Boxing Fitness - Community owned fitness class. - Nature Explorers - Voluntary led family walking group. - Community Fishing - voluntary led initiative to enable people to take up fishing independently. - Whitwell FC - Working with club to work with the community in order to grow members and volunteers based on what is important to them. - Community Allotment - Enabling local people with a passion for growing and gardening to utilise the allotment space donated to the community. <p>As funders have changed this project during the course of the corporate plan period and it no longer reflects the original corporate plan target – it was agreed at the Budget and Performance meeting on 23/10/17 to recommend to Executive that this target be monitored for information only.</p>	
H 07 - Assist partners in reducing crime by delivering 12 Crime Cracking events in the community each year.	Operations	On track	<p>Q2 - 5 Crime Cracking events held this quarter engaging with approximately 250 people:</p> <p>13.07.17 - CVP Eats and Treats event at the Post Mill Centre, South Normanton 15.07.17 - Friends of New Bolsover Big Lunch Picnic at Carr Vale Park 12.08.17 - Emergency Services Day at the Post Mill Centre, South Normanton 08.09.17 - Public Health SHIP event on Shirebrook</p>	Sun-31-Mar-19

Key Corporate Target	Directorate	Status	Progress	Target Date
			Market Place 27.09.17 - Residents reassurance/awareness event at St Michael's Drive, South Normanton Year to date: 6 events held	
H 09 - Achieve a combined recycling and composting rate of 49% by March 2019.	Operations	On track	Q2 - It is estimated 4,113tonnes of recyclable\compostable waste will be collected between July to September 2017 yielding a combined recycling rate of 48.1% (estimated based on 2016 data). The information will be updated when qualified WDF data is available at ending December 2017 Q 1 Actual - 4,335tonnes of recyclable\compostable waste was collected between April to June 2017 yielding a combined recycling rate of 46.9%.	Sun-31-Mar-19
H 10 - Sustain standards of litter cleanliness to ensure 96% of streets each year meet an acceptable level as assessed by Local Environment Quality Surveys (LEQS).	Operations	On track	Q2 - LEQS's established 3% of streets and relevant land surveyed for litter fell below grade B cleanliness standards resulting in 97% meeting the target standard. Combined Q1 & Q2 figures indicate that 1.5% have fallen below the required standard resulting in 98.5% meeting the standard and achieving the 96% overall target.	Sun-31-Mar-19
H 11 - Sustain standards of dog fouling cleanliness to ensure 98% of streets each year meet an acceptable level as assessed by Local Environment Quality Surveys (LEQS).	Operations	On track	Q2 - LEQS's established 0% of streets and relevant land surveyed for dog fouling fell below grade B cleanliness standards resulting in 100% meeting the target standard. Combined results for Q1 & Q2 have resulted in a combined 100% meeting the target over this period.	Sun-31-Mar-19
H 12 - Annually undertake 10 local environmental enforcement and educational initiatives in targeted areas to	Growth	On track	Q2 - Seven enforcement/educational initiatives were delivered during the second quarter. one at Creswell,	Sun-31-Mar-19

Key Corporate Target	Directorate	Status	Progress	Target Date
deal with dog fouling, littering or fly tipping.			one at Carr Vale, one at Langwith, one at Bolsover, two at Shirebrook and one at Barborough Year to date - 11 initiatives undertaken.	
H 15 - Reduce energy use in sheltered housing schemes by 10% by March 2019.	Operations	On track	Q2 - Work at Victoria House is underway. An Open Day for residents and local councillors went well and showcased the development. Architects are surveying future schemes. 2016/17 Baseline for annual gas usage for 1 year is 3.9 million Kwh	Sun-31-Mar-19
H 16 - Replace each year 200 gas fired back boilers in our Council houses with more efficient 'A' rated combi boilers.	Operations	On track	Q2 Fitted the following numbers of boilers 49 fitted by BDC operatives 104 fitted by contractor Year to date:153	Sun-31-Mar-19
H 17 - To deliver the Building Resilience Programme by September 2019	Growth	On Track	Q2 Two members of the programme team have been recruited with the final post at interview stage. The seven strands of activity are progressing with internal and external delivery partners and the evaluation process has been finalised.	Mon-30-Sept-19

Aim – Transforming our Organisation

Key Corporate Target	Directorate	Status	Progress	Target Date
T 04 - Access the potential revenue impact and develop an action plan to address issues arising from the implementation of the Minimum Energy	Operations	On track	Q2 - On track - All investigation work complete and a report is being drafted to present the findings to Executive.	Mon-30-Apr-18

Key Corporate Target	Directorate	Status	Progress	Target Date
Standards on commercial properties by April 2018.				
T 06 - Introduce alternative uses to 20% of garage sites owned by the Council by March 2019.	Operations	On track	Q2 - All sites surveyed during the year some brought forward for BDC development. Some sites identified as future B@Home sites detailed report to members in Q3. (Baseline data - 152 sites of which 20% = 30 sites)	Sun-31-Mar-19
T 08 - Fully deliver the electoral changes to District and Parish wards as a result of the Local Government Boundary Commission for England's electoral review by 1 December 2018.	Growth	On track	Q2 - A report is being prepared for December Council. Work to start in January 2018.	Sat-1-Dec-18
T 09 - Reduce the percentage of rent arrears by 10% through early invention and effective monitoring by 2019.	Operations	On track	<p>Q2 - The baseline figure (April 2015) is £562,328 (2.7% of the annual rent roll) and a reduction in Council Housing Tenants arrears by 10% by March 2019. If 10% reduction the figures will be £506,095. At the end of Quarter 2 2017 the figure stands at 2.9% (£607,469) which is an increase of 7%, although this is an increase the corporate plan target was met at the year end 2017. To continue to monitor this target until March 2019.</p> <p>Members should be aware that rent arrears are likely to rise in the first nine months of the year, but reduce in the last quarter which has been the pattern for several years.</p> <p>Members should also be aware that the impact of Government policies on welfare reform, are likely to make maintaining rent arrears at this level challenging.</p> <p>(Note: this target is a reduction in the percentage rather than the monetary value - this is common in measuring</p>	Sun-31-Mar-19

Key Corporate Target	Directorate	Status	Progress	Target Date
			rent arrears and allows comparisons with other, and over time. A reduction from 2.8% to 2.6% is measured as $((2.8 - 2.6) / 2.8) \times 100 = 8\%$.	
T 10 - Reduce the level of Former Tenants Arrears by 10% through early intervention and effective monitoring by 2019.	Operations	On track	Q2 - The baseline figure is £570,254 and a reduction in former Council housing tenants' arrears by 10% by March 2019 if 10% is collected then that will be £513,227. At the end of Quarter 2 the figure was £654,542 which is an increase of 13% - the majority of these are newly arising (i.e. people being evicted or leaving their tenancy with debt). Write off Report to Members during Q3. Since the start of the Corporate Target £138,316.41 former tenancy arrears has been collected and £186,411.30 written off which has been a reduction of £324,727.71	Sun-31-Mar-19
T 11 - Through successful delivery of projects within the Transformation programme achieve total income/savings of £600,000 by March 2019.	Transformation	On track	Q2 - As a result of the current Transformation Programme, a total of £515k has been achieved across both Councils, with £260k attributable to Bolsover. Items within the plan that have potential for budget savings have been completed and these savings built into base budgets. A review of the plan is being undertaken by the director.	Sun-31-Mar-19
T 13 - Increase on-line self service transactions dealt with by the Contact Centre by 20% each year.	Transformation	On track	Q2 2017/18 - On line transactions = 481 transactions and 210 new SELF accounts created. (YTD – 993 transactions and 525 accounts) Target for on-line transactions for 2017/18 is 1100.	Sun-31-Mar-19
T 14 - Achieve the Member Development Charter by December 2018.	Growth	On track	Q2 - Requirements for the Charter revised by EMC, MDWG reviewing the requirements and how to proceed.	Mon-31-Dec-18

Bolsover District Council

Executive

15th January 2018

Disabled Facilities Grants – Executive Function and Delegation to Officers

Report of Councillor Brian Murray-Carr, Portfolio Holder for Community Safety & Street Services

This report is public

Purpose of the Report

- To ask Members to consider the proposal to revise the list of Executive Functions in the Constitution, to include decisions in respect of Disabled Facilities Grants, and to amend the terms of reference for Licensing Committee.

1 Report Details

- 1.1 It is a long-standing practice at the Council that all applications for Disabled Facilities Grants (“DFGs”) are approved by Licensing Committee. The majority of these are applications for mandatory grants, which the Council has no legal basis to refuse.
- 1.2 Opinion across local government, both legal and procedural, has crystallised behind the view that DFGs must be considered an Executive function. There are no grounds to treat such grants as a function to be exercised by Council or, in the case of Bolsover, by a committee of Council.
- 1.3 Accordingly it is appropriate that the Council updates the Constitution to recognise that the approval of all DFGs is an Executive function, not the responsibility of Licensing Committee. This is a legal requirement and to leave the responsibility for DFGs within the terms of reference for Licensing would lead to potentially unlawful decisions.
- 1.4 It is therefore proposed that item 4 in the Licensing Committee terms of reference relating to grants pursuant to the Housing Acts be removed.
- 1.5 A corresponding provision will need adding to the Executive Functions in Section 3.4 of the Constitution. The following wording is proposed for clarification:

“All functions pursuant to the Housing Grants, Construction and Regeneration Act 1996, the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 and related legislation.”

- 1.6 It is then proposed that a specific delegation of that power is made to the Joint Assistant Director – Planning & Environmental Health to determine all applications for mandatory DFGs. The named officer may alter following the SAMT restructure. Applications for discretionary grants, which are extremely rare, will remain a matter for Executive to determine.
- 1.7 The proposed amendments to the Constitution would be submitted to Council for approval, subject to comments made by the Executive, Licensing Committee and Standards Committee, which is responsible for the Constitution Review.

2 Conclusions and Reasons for Recommendation

- 2.1 The changes set out will enable the Council to fulfil its obligation to ensure decision making takes place properly and lawfully.

3 Consultation and Equality Impact

- 3.1 This proposal will be reported to Licensing Committee, and will be further considered by Standards Committee, prior to the recommendations being considered for approval at Council.

4 Alternative Options and Reasons for Rejection

- 4.1 The function could remain with Licensing Committee but this would be potentially unlawful and leave decisions open to challenge.

5 Implications

5.1 Finance and Risk Implications

- 5.1.1 There is a potential financial risk to the authority of costs associated with legal challenges to the current framework if left unchanged.

5.2 Legal Implications including Data Protection

- 5.2.1 Decisions made under the current framework are potentially open to legal challenge as they will have been made without the proper lawful authority.

5.3 Human Resources Implications

- 5.3.1 None.

6 Recommendations

- 6.1 That Members consider the report and support the recommendation to Council that the Constitution is amended to:
- (i) Remove item 4 from the Licensing Committee terms of reference; and
 - (ii) Add to the Executive Functions in Section 3.4 the following item:

“All functions pursuant to the Housing Grants, Construction and Regeneration Act 1996, the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 and related legislation.”; and

- (iii) That a paragraph is inserted into the Scheme of Delegation to Officers granting the Joint Assistant Director – Planning & Environmental Health authority to determine mandatory Disabled Facilities Grants applications.

7 Decision Information

<p>Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: <i>BDC: Revenue - £75,000</i> <input type="checkbox"/> <i>Capital - £150,000</i> <input type="checkbox"/> <i>NEDDC: Revenue - £100,000</i> <input type="checkbox"/> <i>Capital - £250,000</i> <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i></p>	No
<p>Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)</p>	No
<p>District Wards Affected</p>	All
<p>Links to Corporate Plan priorities or Policy Framework</p>	All

8 Document Information

Appendix No	Title
<p>Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)</p>	
Report Author	Contact Number
Kevin Shillitto, Solicitor, Legal Services	01246 242507

Bolsover District Council

Executive

15 January 2018

Review of Joint RIPA Policy

Report of Councillor Karl Reid, Portfolio Holder for Corporate Services

This report is public

Purpose of the Report

- To advise Executive of a review of the joint policy and procedures covering the Council's activities under the Regulation of Investigatory Powers Act 2000 (RIPA).
- To seek approval for the minor amendments proposed to the Joint RIPA Corporate Policy and Procedures.

1 Report Details

- 1.1 The Regulation of Investigatory Powers Act (RIPA) enables the Council to use covert surveillance, covert human intelligence sources (CHIS) and the acquisition of service use or subscriber information in relation to communications data in a manner that is compatible with Article 8 of the European Convention on Human Rights governing an individual's right to respect for their private and family life, home and correspondence. There are various criteria which must be met, including a 'seriousness threshold' for the use of directed surveillance, and any requests by the Council to use the RIPA powers must be approved by a Magistrate.
- 1.2 Local authorities are sparing users of RIPA legislation and Bolsover District Council has not used them in the last four years. Officers within the Benefits section have previously assisted the Department of Work and Pensions - who are not required to obtain judicial approval - on applications and investigations.
- 1.3 The Council's use of RIPA is currently subject to inspection by the Surveillance Commissioner. The last inspection that was carried out by the Assistant Surveillance Commission, took place in November 2015. The Assistant Commissioner concluded that although the powers had not been used since the previous inspection, the procedures and the level of awareness in place were sufficient to ensure future applications would be compliant with the Act. The limited recommendations that were made included minor amendments to the policy, including reference to social media (para 4.7) and the current Joint Policy and Procedures document was amended in 2015/16 in line with these recommendations. A further recommendation focused on ensuring a good level of awareness of the policy across Councillors through regular reporting.

- 1.4 This report serves to provide Members with an update on the usage of the RIPA powers and to allow the opportunity for Members to have oversight of the policy and procedures. As mentioned above, the RIPA powers have not been used since the last report to Executive in February 2016.
- 1.5 There have been no changes in the regulations since the last review and the previous Code of Practice issued in 2014 is still current. Reports on recent inspections of other local authorities have been considered, as well as recent rulings of the Investigatory Powers Tribunal.
- 1.6 No significant changes are proposed following this review of the Joint Policy and Procedures, however the changes in the Strategic Alliance Management Team structure has required that alternative arrangements be made to the 'authorising officers' and 'designated persons' named within the policy. As the Councils' Senior Responsible Officer, responsible for appointing 'authorising officers' and 'designated persons', the Monitoring Officer has proposed appointing both Strategic Directors and the Assistant Director – Finance and Revenues and Benefits, having removed the Executive Director – Operations and the Executive Director – Transformation from the policy.
- 1.7 Further changes may be made to these appointments following the Senior Management Team Restructure. It is proposed that the policy be updated by the Monitoring Officer to reflect these appointments made from time to time, without requiring the document to be brought back through Committee processes for approval. An annual report would still be brought to Standards Committee with an update on the usage of the RIPA powers and on any changes to appointments to persons as 'authorising officers' and 'designated persons'.
- 1.8 The Council previously had a protocol attached to the policy for working with the local Magistrates Court on the processing of applications under RIPA. This has been removed from the Policy as the protocol included information on the workings of the Magistrates Court that needs to be controlled, however the arrangements for working efficiently with the Court remain in place. The protocol is held by the Governance Team who will provide a copy to any applicant and authorising officer seeking approval from the Magistrates Court.
- 1.9 The only other amendments to the policy are intended to reflect staffing changes and minor clarifications.
- 1.10 The Standards Committees at both Bolsover District Council and North East Derbyshire District Council, and Strategic Alliance Joint Committee have considered this report and supported the recommendations, subject to an amendment to the flowchart to show the process if judicial approval is refused, which has now been included. The appointment of the Strategic Directors as 'authorising officers' and 'designated persons' has occurred since the policy was taken to the Standards Committees and Strategic Alliance Joint Committee however they were advised that this was likely to occur.
- 1.11 To ensure that the Council is undertaking investigatory activity in compliance with the law and this policy, refresher training is provided regularly for all relevant officers. Further training will be provided in 2018 and will be available for officers to refer to on the Council's intranet sites.

- 1.12 It is anticipated that the policy will require a more in-depth review prior to the bringing into force of the relevant provisions of the Investigatory Powers Act 2016, during 2018.

2 Conclusions and Reasons for Recommendation

- 2.1 No changes have been made in the relevant legislation that are yet in force and codes of practice have not been revised therefore the purpose of the amendments are to ensure the policy remains accurate and up-to-date.

3 Consultation and Equality Impact

- 3.1 An Equality Impact Assessment has been completed, which concluded that there were no concerns raised and no actions to take.

4 Alternative Options and Reasons for Rejection

- 4.1 The Council is recommended to review and update its RIPA policy regularly as failure to do so could result in the policy failing to comply with legislative changes and lead to unlawful investigatory actions taking place.

5 Implications

5.1 Finance and Risk Implications

- 5.1.1 Failure of the Council to adhere to the legal requirements of RIPA could lead to unlawful investigatory activity being undertaken, making the Council vulnerable to complaints, legal challenge and reputational damage. It is important therefore that the policy is regularly reviewed and that officers receive sufficient training which will mitigate the likelihood of this risk occurring.

5.2 Legal Implications including Data Protection

- 5.2.1 The legal implications are addressed within the policy.

5.3 Human Resources Implications

- 5.3.1 None arising from this policy.

6 Recommendations

- 6.1 That Executive:-

- (1) Notes the update provided on the use of the policy.
- (2) Approves the revised Joint RIPA Policy and Procedure document.
- (4) Agrees that the Joint RIPA Policy and Procedures document be updated by the Monitoring Officer to reflect the appointment of Authorised Officers and Designated Persons, made by the Monitoring Officer at any future time.

7 Decision Information

<p>Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: <i>BDC: Revenue - £75,000</i> <input type="checkbox"/> <i>Capital - £150,000</i> <input type="checkbox"/> <i>NEDDC: Revenue - £100,000</i> <input type="checkbox"/> <i>Capital - £250,000</i> <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i></p>	No
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8 Document Information

Appendix No	Title
1	Joint RIPA Policy and Procedures
<p>Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)</p>	
Report Author	Contact Number
Donna Cairns, Governance Manager (Acting)	01246 217753

REGULATION OF INVESTIGATORY POWERS ACT 2000 (“RIPA”)

CORPORATE POLICY AND PROCEDURES

**CONTROL SHEET FOR REGULATION OF INVESTIGATORY POWERS ACT 2000
("RIPA") – CORPORATE POLICY AND PROCEDURES**

Policy Details	Comments / Confirmation (To be updated as the document progresses)
Policy title	RIPA Corporate Policy and Procedures
Current status – i.e. first draft, version 2 or final version	First draft
Policy author	Governance Manager
Location of policy – i.e. L-drive, shared drive	L-S Drive
Member route for approval	Strategic Alliance Joint Committee and Standards
Cabinet Member (if applicable)	Cllrs K Reid and N Barker
Equality Impact Assessment approval date	July 2017 N/A
Partnership involvement (if applicable)	N/A
Final policy approval route i.e. Executive/ Council /Planning Committee	Cabinet / Executive
Date policy approved	
Date policy due for review (maximum three years)	Autumn 2018
Date policy forwarded to Strategy and Performance (to include on Intranet and Internet if applicable to the public)	

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1. Abbreviations

CCTV	Closed Circuit Television
CSP	Communications service provider
Council	Bolsover/North East Derbyshire District Council
CHIS	Covert Human Intelligence Sources
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedom agreed on 2 November 1950
HRA	Human Rights Act 1998
ICCO	The Interception of Communications Commissioner's Office
NAFN	The National Anti Fraud Network
OSC	Office of Surveillance Commissioners
PFA	Protection of Freedoms Act 2012
RIPA	Regulation of Investigatory Powers Act 2000
SPoC's	Single Points of Contact for Acquisition and Disclosure of Communications Data

Introduction

This Corporate Policy and Procedures document is based upon the requirements of the Regulation of Investigatory Powers Act 2000 and the Home Office's Codes of Practice on Covert Surveillance and Property Interference, Covert Human Intelligence Sources and Acquisition and Disclosure of Communications Data.

The use of covert surveillance, covert human intelligence sources and the acquisition of service use or subscriber information in relation to communications data is sometimes necessary to ensure effective investigation and enforcement of the law. However, they should be used only rarely and in exceptional circumstances. RIPA requires that public authorities follow a clear authorisation process prior to using these powers. Authorisations granted under Part II of RIPA are subject to all the existing safeguards considered necessary by Parliament to ensure that investigatory powers are exercised compatibly with the ECHR.

Any potential use of RIPA should be referred to the Monitoring Officer, Sarah Sternberg, for preliminary advice at the earliest possible opportunity. Her telephone number is 01246 217058/242414. In her absence, advice should be sought from her deputies Adele Wylie (BDC) and Matthew Kane (BDC/NEDDC the Governance Team on 01246 217753). Their phone numbers are 01246 242477 (AW) and 01246 217753/242505/0799 9924276 (MK).

Consequences of Failing to Comply with this Policy

Where there is interference with Article 8 of the ECHR, and where there is no other source of lawful authority for the interference, the consequences of not following the correct authorisation procedure set out under RIPA and this Policy may result in the Council's actions being deemed unlawful by the Courts under Section 6 of the HRA or by the Investigatory Powers Tribunal, opening up the Council to claims for compensation and loss of reputation. Additionally, any information obtained that could be of help in a prosecution will be inadmissible.

2. Background

On 2 October 2000 the Human Rights Act 1998 (“HRA”) made it unlawful for a local authority to breach any article of the ECHR. An allegation that the Council or someone acting on behalf of the Council has infringed the ECHR is dealt with by the domestic courts rather than the European Court of Justice.

The ECHR states:-

- (a) individuals have the right to respect for their private and family life, home and correspondence (Article 8 ECHR); and
- (b) there shall be no interference by a public authority with the exercise of this right unless that interference is:-

- **in accordance with the law;**
- **necessary; and**
- **proportionate**

RIPA, which came into force on 25 September 2000, provides a lawful basis for three types of covert investigatory activity to be carried out by local authorities which might otherwise breach the ECHR. These activities are:-

- covert directed surveillance;
- covert human intelligence sources (“CHIS”); and
- acquisition and disclosure of communications data

RIPA sets out procedures that must be followed to ensure the investigatory activity is lawful. Where properly authorised under RIPA the activity will be a justifiable interference with an individual’s rights under the ECHR. If the interference is not properly authorised an action for breach of the HRA could be taken against the Council, a complaint of maladministration made to the Local Government Ombudsman or a complaint made to the Investigatory Powers Tribunal. In addition, if the procedures are not followed any evidence collected may be disallowed by the courts. RIPA seeks to balance the rights of individuals against the public interest in the Council being able to carry out its statutory duties.

A flow chart attached at **Appendix A** to this policy sets out the process in pictorial form.

What RIPA Does and Does Not Do

RIPA does:-

- require prior authorisation of covert directed surveillance;
- prohibit the Council from carrying out intrusive surveillance;
- compel disclosure of communications data from telecom and postal service providers;
- permit the Council to obtain communications records from communications service providers;
- require authorisation of the conduct and use of CHIS;
- require safeguards for the conduct of the use of a CHIS.

RIPA does not:-

- make unlawful conduct which is otherwise lawful;
- prejudice any existing power to obtain information by any means not involving conduct that may be authorised under RIPA. For example, it does not affect the Council's current powers to obtain information via the DVLA or to obtain information from the Land Registry as to the owner of a property;
- apply to activities outside the scope of Part II of RIPA. A public authority will only engage RIPA when in performance of its "core functions" – i.e. the functions specific to that authority as distinct from all public authorities.
- cover overt surveillance activity.

Under no circumstances can local authorities be authorised to obtain communications traffic data under RIPA. Local authorities are not permitted to intercept the content of any person's communications and it is an offence to do so without lawful authority.

3. Policy Statement

The Council is determined to act responsibly and in accordance with the law. To ensure that the Council's RIPA activity is carried out lawfully and subject to the appropriate safeguards against abuse, Bolsover and North East Derbyshire District Council adopted separate RIPA Policies in 2013, which have subsequently been combined into a single Corporate Policy and Procedures document as detailed below.

All staff who are considering undertaking RIPA activity should be aware that where that activity may involve handling confidential information or the use of vulnerable or juvenile persons as sources of information, a higher level of authorisation is required. Please see paragraphs 4.6 (in respect of handling confidential information) and 5.2 (in respect of using information sources who are vulnerable or juvenile persons) below.

The following documents are available on the Council's intranet:-

- 2014/15 Home Office Statutory Codes of Practice on:-
 - Covert Surveillance and Property Interference
 - Covert Human Intelligence Sources
 - Acquisition and Disclosure of Communications Data
- Office of the Surveillance Commissioners' Guidance Procedures
- Home Office Guidance on Protection of Freedoms Act 2012 – changes to RIPA;
- RIPA forms for covert surveillance; CHIS and acquisition and disclosure of communications data;
- Application for Judicial approval and Order made for Judicial approval;
- Surveillance camera training;
- Corporate RIPA Training.

The Monitoring Officer is the Council's Senior Responsible Officer (SRO) and is responsible for the following roles:-

- Appointing Authorising Officers (see 8.1[a]);

- Appointing Designated Persons (see 8.1[a]);
- Maintaining a central record for all RIPA authorisations;
- Arranging training to individuals appointed as Authorising Officers and Designated Persons, and
- Carrying out an overall monitoring function as the SRO for the Council's use of RIPA powers.

Any officers who are unsure about any RIPA activity should contact the Monitoring Officer for advice and assistance.

4. Types of Surveillance

Surveillance can be overt or covert and includes:-

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

4.1 Overt Surveillance

The majority of the Council's surveillance activity will be overt surveillance, i.e. will be carried out openly. For example (i) where the Council performs regulatory checks on licensees to ensure they are complying with the terms of any licence granted; and (ii) where the Council advises a tenant that their activities will be monitored as a result of neighbour nuisance allegations. This type of overt surveillance is normal Council business and is not regulated by RIPA.

4.2 Covert Surveillance

This is where surveillance is carried out in a manner calculated to ensure that the person subject to the surveillance is unaware it is taking place. Covert surveillance can be intrusive or directed. **The Council is not permitted to carry out covert intrusive surveillance.** Para 4.3 below explains when covert surveillance is intrusive and therefore not permitted. The Council is permitted to carry out covert directed surveillance subject to strict compliance with RIPA. Paragraph 4.4 below explains when covert surveillance is directed.

4.3 Covert intrusive Surveillance

Covert intrusive surveillance takes place when covert surveillance is carried out in relation to anything taking place on residential premises or in a private vehicle and which involves the presence of an individual or surveillance device on the premises or in the vehicle, or which uses a device placed outside the premises or vehicle which consistently provides information of the same quality and detail as expected of a device placed inside.

Additionally, the Regulation of Investigatory Powers (Extension of Authorisations Provisions: Legal Consultations) Order 2010 states that covert surveillance carried out in relation to anything taking place in certain specified premises is intrusive when they are being used for legal consultation.

4.4 Covert Directed Surveillance

This is surveillance that is:-

- Covert;
- Not intrusive;
- For the purposes of a specific investigation or operation;
- Likely to obtain private information* about a person (whether or not that person was the target of the investigation or operation); and
- Not carried out as an immediate response to events or circumstances which could not have been foreseen prior to the surveillance taking place.

[* Private information includes any information relating to a person's private and family life, home and correspondence \(whether at home, in a public place or in the work place\).](#)

4.5 Directed Surveillance Crime Threshold

Following the changes to RIPA introduced by the Protection of Freedoms Act 2012, a crime threshold applies to the authorisation of covert directed surveillance by local authorities.

Local Authority Authorising Officers may not authorise covert directed surveillance unless it is for the purpose of preventing or detecting a criminal offence **and** meets the following test:-

- The criminal offence is punishable by a maximum term **of at least six months imprisonment**, or
- It would constitute an offence under Sections 146, 147A of the Licensing Act 2003 or Section 7 of the Children and Young Persons Act 1993 (**offences involving sale of tobacco and alcohol to underage children**) regardless of length of prison term.

The crime threshold **only** applies to covert directed surveillance, not to CHIS or Communications Data.

The Home Office Statutory Covert Surveillance and Property Interference Code of Practice can be found on the Home Office website and on the intranet.

4.6 Confidential Information

A higher level of authorisation to apply to the Magistrates Court is required in relation to RIPA activity when the subject of the investigation might reasonably expect a high degree

of privacy, or where “confidential information” might be obtained. For the purpose of RIPA this includes:-

- Communications subject to legal privilege (see below);
- Communications between a member of parliament and another person on constituency matters;
- Confidential personal information (see below); and
- Confidential journalistic material (see below).

The authorising officer and the person carrying out the surveillance must understand that such information is confidential and is subject to a stringent authorisation procedure. **Authorisation can only be granted by the Chief Executive or in their absence by an officer acting as Head of Paid Service.**

Legal privilege is defined in Section 98 of the Police Act 1997 as:-

- communications between a professional legal adviser and his client, or any person representing his client which are made in connection with the giving of legal advice to the client.
- communications between a professional legal adviser and his client or any person representing his client, or between a professional legal adviser or his client or any such representative and any other person which are made in connection with or in contemplation of legal proceedings and for the purposes of such proceedings.
- items enclosed with or referred to in communications of the kind mentioned above and made in connection with the giving of legal advice, or in connection with or in contemplation of legal proceedings and for the purposes of such proceedings.

Communications and items are not matters subject to legal privilege when they are in the possession of a person who is not entitled to possession of them, and communications and items held, or oral communications made, with the intention of furthering a criminal purpose are not matters subject to legal privilege.

If advice is required on this point, officers should contact the Monitoring Officer.

Confidential personal information is described at paragraph 4.28 of the Home Office Covert Surveillance and Property Interference Code of Practice.

Confidential journalistic material is described at paragraph 3.40 of the Home Office Covert Surveillance and Property Interference Code of Practice.

Any officer contemplating RIPA activity where the above circumstances may apply must seek advice from the Monitoring Officer prior to making any application.

4.7 Social Media

The use of the internet may be required to gather information prior to and/or during an operation, which may amount to directed surveillance. Whenever a public authority intends to use the internet as part of an investigation, they must first consider whether the

proposed activity is likely to interfere with a person's Article 8 rights, including the effect of any collateral intrusion. Advice should be sought.

Any activity likely to interfere with an individual's Article 8 rights should only be used when necessary and proportionate to meet the objectives of a specific case. Where it is considered that private information is likely to be obtained, an authorisation (combined or separate) must be sought as set out elsewhere in this code. Where an investigator may need to communicate covertly online, for example, contacting individuals using social media websites, a CHIS authorisation should be considered.

5. Covert Human Intelligence Sources (“CHIS”)

5.1 CHIS

The Council is permitted to use CHIS subject to strict compliance with RIPA.

A CHIS is a person who establishes or maintains a personal or other relationship with a person for the covert purposes of facilitating:-

- (a) covertly using the relationship to obtain information or provide access to information to another person, or
- (b) covertly disclosing information obtained by the use of the relationship or as a consequence of the existence of such a relationship.

A RIPA authorisation and order from a magistrate is required for the above activity and should be obtained whether the CHIS is a Council officer or another person who is asked to be a CHIS on the Council's behalf. Authorisation for CHIS can only be granted if it is for the purposes of “preventing or detecting crime or of preventing disorder”.

Members of the public who volunteer information to the Council and those engaged by the Council to carry out test purchases in the ordinary course of business (i.e. they do not develop a relationship with the shop attendance and do not use covert recording devices) are not CHIS and do not require RIPA authorisation.

However, by virtue of Section 26(8) of RIPA, there may be instances where an individual, covertly discloses information obtained by the use of such a relationship, or as a consequence of the existence of such a relationship. In such circumstances where a member of the public, though not asked to do so, gives information (or repeated information) about a suspect, then serious consideration should be given to designating the individual as a CHIS, particularly if the Council intends to act upon the information received. It is recommended that legal advice is sought in any such circumstances.

The Home Office Statutory CHIS Code of Practice can be found on the Home Office website and on the intranet.

5.2 Vulnerable Individuals/Juvenile CHIS

A vulnerable individual is a person who by reason of mental disorder or vulnerability, other disability, age or illness, is or may be unable to take care of themselves or protect themselves against significant harm or exploitation.

Additional requirements apply to the use of a vulnerable adult or a person under the age of 18 as a CHIS. In both cases **authorisation for an application to the Magistrates Court can only be granted by the Chief Executive or in their absence by an officer acting as Head of Paid Service. Any officer contemplating the use of a juvenile or a vulnerable person as a CHIS must seek advice from the Monitoring Officer prior to making the application.**

The use or conduct of a CHIS under 16 years of age **must not** be authorised to give information against their parents or any person who has parental responsibility for them.

In other cases authorisations should not be granted unless the special provisions contained in The Regulation of Investigatory Powers (Juveniles) Order 2000 are satisfied. This set out rules about parental consent, meetings, risk assessments and the duration of the authorisation.

6. CCTV

The installation and use of unconcealed CCTV cameras for the purpose of generally observing activity in a particular area is not surveillance requiring RIPA authorisation. There are specific provisions relating the use of CCTV cameras in public places and buildings. However, if CCTV cameras are being used in such a way that the definition of covert directed surveillance is satisfied, RIPA authorisation should be obtained.

For instance the use of town centre CCTV systems to identify those responsible for a criminal act immediately after it happens will not require RIPA authorisation. However, the use of the same CCTV system to conduct planned surveillance of an individual and record their movements is likely to require authorisation.

Protocols should be agreed with any external agencies requesting the use of the Council's CCTV system. The protocols should ensure that the Council is satisfied that authorisations have been validly granted prior to agreeing that the CCTV system may be used for directed surveillance.

CCTV systems cannot be used without prior production of an authorisation and such authorisations must be retained.

7. Acquisition and Disclosure of Communications Data

7.1 Communication Service Providers ("CSPs")

CSPs are organisations that are involved in the provision, delivery and maintenance of communications such as postal, telecommunication and internet service providers but also, for example, hotel or library staff involved in providing and maintaining email access to customers. The Council must obtain communications data from CSPs in strict compliance with RIPA.

7.2 Types of Communications Data

Communications data is the “who”, “where”, “when” and “how” of a communication such as a letter, phone call or email but not the content, not what was said or written. The Council is not able to use RIPA to authorise the interception or acquisition of the content of communications. There are three types of communication data:-

Service Use Information

This is data relating to the use made by any person of a postal or telecommunications, internet service, or any part of it. For example itemised telephone call records, itemised records of connection to internet services, itemised timing and duration of calls, connection/disconnection/reconnection data, use of forwarding or re-direction services, additional telecom services and records of postal items.

Subscriber information

This is information held or obtained by the CSP about persons to whom the CSP provides or has provided a communications service. For instance, subscribers of email and telephone accounts, account information including payment details, address for installing and billing, abstract personal records and sign up data.

Traffic Information

This is data that is comprised in or attached to a communication for the purpose of transmitting it and which identifies a person or location to or from which it is transmitted. **The Council is not permitted to access traffic data.**

7.3 Authorisation and Notices

RIPA provides for acquisition and disclosure of communications data by two alternative means:-

- authorisation of a person within the Council to engage in specific conduct, in order to obtain communications data (a section 22(3) RIPA authorisation); and
- a notice issued to a CSP requiring them to collect or retrieve and then provide the communications data (a section 22(4) RIPA notice).

A Section 22(3) RIPA authorisation is appropriate where (for instance) there is an agreement in place between the Council and the relevant CSP regarding the disclosure of communications data which means a notice is not necessary (currently the Council does not have any such agreements in place); or the Council needs to identify an individual to whom communication services are provided but the relevant CSP is not yet known to the Council, making it impossible to issue a notice.

A Section 22(4) RIPA notice is appropriate where the Council receives specific communications data from a known CSP. A notice may require a CSP to obtain any communications data, if that data is not already in its possession. However, a notice must not place a CSP under a duty to do anything which is not reasonably practicable for the CSP to do.

As a local authority the Council must fulfil two additional requirements when acquiring communications data. Firstly, the request must be made through a SPoC at NAFA (see more about NAFA at 8.3(b) and 8.4). Secondly, the request must receive prior judicial approval.

Under Sections 23A and 23B of RIPA the Council must also obtain judicial approval for all requests for communications data. Judicial approval must be requested once all the Council's internal authorisation processes have been completed, including consultation with a NAFN SPoC, but before the SPoC requests the data from the CSP. The authorisation must be provided by a magistrate.

The Home Office Acquisition and Disclosure of Communications Data Code of Practice can be found on the Home Office website and on the intranet.

8 Authorisation Procedures

[Authorisations given by Authorising Officers and Designated Persons are subject to approval by the Magistrates Court \(See para 8.3 below\)](#)

8.1 (a) Authorising Officers/Designated Persons be directed surveillance and CHIS

Authorising Officers are responsible for assessing and authorising covert directed surveillance and the use of a CHIS.

Designated Persons fulfil a similar role in relation to applications to obtaining communications data, assessing and approving authorisations and notices.

It is the responsibility of Authorising Officers and Designated Persons to ensure that when applying for authorisation the principles of necessity and proportionality (see 8.2 below) are adequately considered and evidenced; and that reviews and cancellations of authorisations are carried out as required under this Policy (8.8 – 8.10 below).

Lists of authorising officers and designated persons are set out below. Any requests for amendments to the lists must be sent to the Monitoring Officer.

The authorising officers and designated persons for Bolsover and North East Derbyshire District Councils are as follows:

Chief Executive – Dan Swaine (01246 242401/217155)

Strategic Director – Lee Hickin (01246 217218)

Strategic Director – Karen Hanson (01246 217053)

~~Assistant Director – Finance and Revenues and Benefits – Dawn Clark (01246 217658)~~

~~Executive Director – Operations – Bryan Mason (01246 242431/217053)~~

~~Executive Director – Transformation – Paul Hackett (01246 242566/217543)~~

Schedule 1 of statutory instrument No 521 (2010) prescribes the rank or position of authorising officers for the purposes of Section 30(1) of RIPA (covert surveillance and CHIS). Schedule 2 of statutory instrument No 480 (2010) prescribes the rank or position of designated person for the purposes of Section 25(2) of RIPA (access to

communications data). For Local Authorities they prescribe a “Director, Head of Service, Service Manager or equivalent”.

The Monitoring Officer designates which officers can be authorising officers or designated persons. Only these officers can authorise directed surveillance, the use of CHIS and acquisition and disclosure of Communications data. **All authorisations must follow the procedures set out in the Policy.** Authorising officers/designated persons are responsible for ensuring that they have received RIPA training prior to authorising RIPA activity. When applying for or authorising RIPA activity under the Policy, officers must also take into account the corporate training and any other guidance issued from time to time by the Monitoring Officer.

8.1(b) Single Point of Contact (SPoC)

SPoCs are responsible for advising officers within the Council on how best to go about obtaining communications data, for liaising with CSPs, and advising whether applications and notices are lawful. As required under the latest Acquisition and Disclosure of Communications Data Code of Practice, the Council has engaged the National Anti-Fraud Network (NAFN). NAFN’s SPoC services relate only to communications data. For information on using NAFA, see 8.4 below.

8.2 Authorisation of Covert Directed Surveillance and Use of a CHIS

RIPA applies to all covert directed surveillance, use of CHIS and acquisition and disclosure of communications data whether by Council employees or external agencies engaged by the Council. Council officers wishing to undertake covert directed surveillance or use of a CHIS must complete the relevant application form and forward it to the relevant (see para 8.6) authorising officer. Authorisations or notices in relation to communications data should be referred to NAFN.

Any potential use of RIPA should be referred to the Monitoring Officer for preliminary advice.

Covert directed surveillance, use of a CHIS and acquisition and disclosure of communications data can only be authorised if the authorising officer/designated person is satisfied that the activity is:-

- (a) **in accordance with the law** i.e. it must be in relation to matters that are statutory or administrative functions of the Council. As such the Council is unable to access communications data for disciplinary matters.
- (b) **necessary** for the purpose of preventing or detecting crime or preventing disorder. This is the only ground available to the Council for authorising RIPA activity and there is a crime threshold for directed surveillance as described in paragraph 4.5 above; and
- (c) **proportionate** to what it seeks to achieve. This involves balancing the seriousness of the intrusion into the privacy of the subject of the operation (or any other person as may be affected) against the need for the activity in investigative operational terms. Any conduct that is excessive as to the interference and the aim of the conduct, or is

in any way arbitrary will not be proportionate. Serious consideration must be given to identifying the least intrusive method of obtaining the information required.

Applicants should ask the following types of questions to help determine whether the use of RIPA is necessary and proportionate:-

- why it is believed the proposed conduct and use is necessary for the prevention of crime or the prevention of disorder (as appropriate);
- how the activity to be authorised is expected to bring a benefit to the investigation;
- how and why the proposed conduct and use is proportionate to the intelligence dividend it hopes to achieve, having regard to the gravity and extent of the activity under investigation;
- how and why the methods to be adopted will cause the least possible intrusion to the subject/s i.e. interfere with their rights under the ECHR;
- what other reasonable methods of obtaining information have been considered and why they have been discounted.

Authorising officers/designated persons should not be responsible for authorising their own activities, i.e. those operations/investigations in which they are directly involved. However, it is recognised that in exceptional circumstances this may sometimes be unavoidable. The Monitoring Officer should be informed in such cases.

Particular consideration should be given to **collateral intrusion on or interference with the privacy of persons who are not the subject(s) of the investigation**. Collateral intrusion occurs when an officer undertaking covert surveillance on a subject observes or gains information relating to a person who is not the subject of the investigation. An application for an authorisation must include an assessment of the risk of any collateral intrusion or interference and measures must be taken to avoid or minimise it. This must be taken into account by the authorising officer/designated person, particularly when considering the proportionality of the surveillance.

Particular care must be taken in cases where **confidential information** is involved e.g. matters subject legal privilege, confidential personal information, confidential journalistic material, confidential medical information, and matters relating to religious leaders and their followers. In cases where it is likely that confidential information will be acquired, officers must specifically refer this to the Monitoring Officer for advice.

The activity must be authorised, [including approval by the Magistrates Court](#) before it takes place.

At the time of authorisation the authorising officer/designated person must set a date for review of the authorisation and review it on that date (see 8.8), [prior to authorisation lapsing as it must not be allowed to lapse](#).

The original completed application and authorisation form must be forwarded to the Monitoring Officer as soon as possible. In the case of a section 22(4) RIPA notice requiring disclosure of communications data a copy of the notice must be attached to the application form. The Monitoring Officer will maintain a central register of the Council's RIPA activity and a unique reference number will be allocated to each application.

8.3 Approval by Magistrates Court

Following changes under the Protection of Freedoms Act 2012, there is now an additional stage in the process for all three investigatory activities (covert directed surveillance, CHIS and Communications Data). After the authorisation form has been countersigned by the authorising officer/designated person, the Council is required to obtain judicial approval for either the authorisation or a renewal of an authorisation.

The Council has a protocol for the Magistrates' approval process, [which is held by the Governance Team. attached as Appendix B.](#)

The magistrate will have to decide whether the Council's application to grant or renew an authorisation to use RIPA should be approved and it will not come into effect unless and until it is approved by the Magistrates Court.

A separate application should be completed when the Council is requesting judicial approval for the use of more than one of the surveillance techniques (i.e. Directed Surveillance, CHIS and Communications Data) at the same time.

It should be noted that only the initial application and any renewal of the application require magistrates' approval.

There is no requirement for officers presenting authorisations to the Magistrates Court to be legally qualified but they do need to be authorised by the Council to represent it in court. **Generally the applicant should be accompanied to Court by the authorising officer and a member of the legal team.**

The Role of the Magistrates Court

The role of the Magistrates Court is set out in Section 23A RIPA (for communications data) and Section 32A RIPA (for directed surveillance and CHIS).

These sections provide that the authorisation, or in the case of Communications Data, the notice, shall not take effect until the Magistrates Court has made an order approving such authorisation or notice. The matters on which the Magistrates Court needs to be satisfied before giving judicial approval are that:-

- There were reasonable grounds for the local authority to believe that the authorisation or notice was necessary and proportionate;
- In the case of a CHIS authorisation, that there were reasonable grounds for the local authority to believe that:
 - arrangements exist for the safety and welfare of the source that satisfy Section 29(5) RIPA;
 - the requirements imposed by Regulation of Investigatory Powers (Juveniles) Order 2000 were satisfied;
- The local authority application has been authorised by an authorising officer or designated person (as appropriate);

- The grant of the authorisation or, in the case of communications data, notice was not in breach of any restriction imposed by virtue of an order made under the following sections of RIPA:
 - 25(3) (for communications data),
 - 29(7)(a) (for CHIS),
 - 30(3) (for directed surveillance and CHIS).

The procedure for applying for covert directed surveillance or use of a CHIS is:

- Applicant obtains preliminary legal advice from Monitoring Officer;
- Applicant completes an application;
- Monitoring Officer quality checks the completed application before organising it to go to the Authorising Officer;
- Approval is sought from the Authorising Officer;
- Authorising Officer completes authorisation form in long-hand;
- Monitoring Officer organises paperwork for court and [the applicant, the Authorising Officer proceeds to court, accompanied by a member of the legal team wherever possible;](#)
- If approval given, applicant organises the covert directed surveillance or use of a CHIS to take place;
- Original copy of application lodged with Governance Team.

8.34 Additional Requirements for Authorisation of a CHIS

A CHIS must only be authorised if the following arrangements are in place:-

- There is a Council officer with day-to-day responsibility for dealing with the CHIS and a senior Council officer with oversight of the use made of the CHIS;
- A risk assessment has been undertaken to take account of the CHIS security and welfare;
- A Council officer is responsible for maintaining a record of the use made of the CHIS;
- Any adverse impact on community confidence or safety regarding the use of a CHIS has been considered taking account of any particular sensitivities in the local community where the CHIS is operating; and
- Records containing the identity of the CHIS will be maintained in such a way as to preserve the confidentiality or prevent disclosure of the identity of the CHIS.

8.45 Authorisation of Acquisition and Disclosure of Communications Data

The rules on the granting of authorisations for the acquisition of communications data are slightly different from directed surveillance and CHIS authorisations and involve three roles within the Council. The roles are:-

- Applicant
- Designated Person
- Single Point of Contact

Applicant

This is the officer involved in conducting an investigation or operation who makes an application in writing for the acquisition of communications data. The application form must:-

- Set out the legislation under the operation or investigation is being conducted. This must be a statutory function of the Council for the prevention or detection of crime or preventing disorder;
- Describe the communications data required i.e. the telephone number, email address, the specific date or period of the data and the type of data required. If the data will or may be generated in the future, the future period is restricted to no more than one month from the date on which the authorisation is granted.
- Explain why the conduct is necessary and proportionate.
- Consider and describe any meaningful collateral intrusion. For example, where access is for “outgoing calls” from a “home telephone” collateral intrusion may be applicable to calls made by family members who are outside the scope of the investigation. The applicant therefore needs to consider what the impact is on third parties and try to minimise it.

Designated Person

This is the person who considers the application. A designated person’s role is the same as an authorising officer’s role in relation to directed surveillance and CHIS authorisations. The designated person assesses the necessity for any conduct to obtain communications data taking account of any advice provided by the single point of contact (SPoC). If the designated person believes it is necessary and proportionate in the specific circumstances, an authorisation is granted or a notice is given.

Single Point of Contract (SPoC)

The accredited SPoCs at NAFN scrutinise the applications independently, and provide advice to applicant officers and designated persons ensuring the Council acts in an informed and lawful manner.

The procedure for applying for acquisition of communications data:

- Applicant obtains preliminary legal advice from Monitoring Officer;
- Applicant officer creates an application using the Cycomms Web Viewer on the NAFN website;
- SPoC Officer at NAFA triages and accepts the application into the Cyclops system;
- SPoC Officer uses Cyclops to update the application details and completes the SPoC report;
- Approval is sought from the Designated Person (DP);
- If approval given, Monitoring Officer organises paperwork for court and [the applicant and the DP proceeds to court, accompanied by a member of the legal team wherever possible;](#)
- SPoC receives signed court documents and sends requests to Communications Service Provider (CSP);
- SPoC receives results back from CSP and returns results to Applicant;
- Applicant accesses the Web Viewer and downloads results;
- Original copy of application lodged with Governance Team.

8.56 Urgent Authorisations

By virtue of the fact that an authorisation under RIPA is not approved until signed off by a Magistrates Court, urgent oral authorisations are not available.

8.67 Application Forms

Only the RIPA Forms listed below can be used by officers applying for RIPA authorisation.

(a) Directed Surveillance

- Application for Authority for Directed Surveillance
- Review of Directed Surveillance Authority
- Cancellation of Directed Surveillance
- Renewal of Directed Surveillance Authority

(b) CHIS

- Application for Authority for Conduct and Use of a CHIS
- Review of Conduct and Use of a CHIS
- Cancellation of Conduct and Use of a CHIS
- Renewal of Conduct and Use of a CHS

(c) Acquisition and Disclosure of Communications Data

- Application for a Section 22(4) RIPA Notice
- Notice under Section 22(4) RIPA requiring Communications Data to be Obtained and Disclosed

8.7-8 Duration of the Authorisation

Authorisation/notice durations are:-

- for covert directed surveillance the authorisation remains valid for three months after the date of authorisation;
- for a CHIS the authorisation remains value for 12 months after the date of authorisation (or after one month if a juvenile CHIS is issued);
- a communications data notice remains valid for a maximum of one month.

Authorisations should not be permitted to expire, they must be either renewed or cancelled when the activity authorised has been completed or is no longer necessary or proportionate in achieving the aim for which it was originally authorised. This is a statutory requirement which means that all authorisations must be reviewed to decide whether to cancel or renew them.

8.89 Review of Authorisations

As referred to at 8.2 authorising officers/designated persons must make arrangements to periodically review any authorised RIPA activity. Officers carrying out RIPA activity, or external agencies engaged by the Council to carry out RIPA activity, must periodically review it and report back to the authorising officer/designated person if there is any doubt as to whether it should continue. Reviews should be recorded on the appropriate Home Office Form (see 8.6).

A copy of the Council's notice of review of an authorisation must be sent to the Monitoring Officer as soon as possible to enable the central record on RIPA to be authorised.

8.910 Renewal of Authorisations

If the authorising officer/designated person considers it necessary for an authorisation to continue they may renew it for a further period, beginning with the day when the authorisation would have expired but for the renewal. They must consider the matter again taking into account the content and value of the investigation and the information so far obtained. Renewed authorisations will normally be for a period of up to three months for covert directed surveillance, 12 months in the case of CHIS, one month in the case of juvenile CHIS and one month in the case of a communications data authorisation or notice. Authorisations may be renewed more than once, provided they are considered again and continue to meet the criteria for authorisation. Applications for the renewal of an authorisation for covert directed surveillance or CHIS authorisation must be made on the appropriate form (see 8.6). The reasoning for seeking renewal of a communications data authorisation or RIPA notice should be set out by the applicant in an addendum to the application form which granted the initial authorisation.

All renewals will require an order of the Magistrates Court in accordance with the requirements in para 8.2 above.

A copy of the Council's notice of renewal of an authorisation must be considered by the Monitoring Officer before it is made and all original copies lodged with the Governance Team together with a copy of the Magistrates Court order renewing the authorisation to enable the central record on RIPA to be updated.

8.4011 Cancellation of Authorisations

The person who granted or last renewed the authorisation must cancel it when they are satisfied that the covert directed surveillance, CHIS or communications data authorisation or notice no longer meets the criteria for authorisation. Cancellations must be made on the appropriate Home Office Form (see 8.6). In relation to a Section 22(4) notice to a CSP, the cancellation must be reported to the CSP by the designated person directly or by the SPoC on that person's behalf.

A copy of the Council's notice of cancellation of an authorisation must be sent to the Monitoring Officer within one week of the cancellation to enable the central record on RIPA to be updated.

8.4112 What happens if the surveillance has unexpected results?

Those carrying out the covert surveillance should inform the authorising officer if the investigation unexpectedly interferes with the privacy of individuals who are not the original subjects of the investigation or covered by the authorisation. In some cases the original authorisation may not be sufficient to cover the activity required or information likely to be gathered and in such cases, consideration should be given as to whether a separate authorisation is required.

9. Records and Documentation

9.1 Departmental Records

Applications, renewals, cancellations, reviews and copies of notices must be retained by the Council in written or electronic form, and physically attached or cross-referenced where they are associated with each other. These records will be confidential and should be retained for a period of at least five years from the ending of the authorisation. Where it is believed that the records could be relevant to pending or future court proceedings, they should be retained and then destroyed five years after last use.

In relation to communications data, records must be held centrally by the SPoC. These records must be available for inspection by ICCP and retained to allow the Investigatory Powers Tribunal, established under Part IV of the Act, to carry out its functions.

9.2 Central Record of Authorisations, Renewals, Reviews and Cancellations

A joint central record of directed surveillance, CHIS and access to communications data authorisations is maintained by the Monitoring Officer at the District Council Offices, Mill Lane, Wingerworth for both Bolsover and North East Derbyshire District Councils.

The central record is maintained in accordance with the requirements set out in the Home Office Codes of Practice. In order to keep the central record up-to-date authorising officers/designated persons must, in addition to sending through the Home Office application, authorisation form and Magistrates Court order as soon as possible following the authorisation being approved by the Magistrates Court (see 8.2) send notification of every renewal, cancellation and review on the Council's notification forms (see 8.9 – 8.11).

Using the information on the central record the Monitoring Officer will:-

- remind authorising officers/designated persons in advance of the expiry of authorisations;
- remind authorising officers of the need to ensure surveillance does not continue beyond the authorised period;
- remind authorising officers/designated persons to regularly review current authorisations;
- on the anniversary of each authorisation, remind authorising officers/delegated persons to consider the destruction of the results of surveillance operations.

9.3 Surveillance products and communications data

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

Particular attention is drawn to the requirements of the Code of Practice issued under the Criminal Procedure and Investigations Act 1996. This requires that material which is obtained in the course of a criminal investigation and which may be relevant to the investigation must be recorded and retained.

There is nothing in RIPA which prevents material obtained from properly authorised surveillance from being used in other investigations. The Council will ensure that adequate arrangements are in place for the handling and storage of material obtained through the use of covert surveillance to facilitate its use in other investigations.

Material obtained through the use of directed surveillance, CHIS or acquisition of communications data containing personal information will be protected by the Data Protection Act 1998 (DPA) and in addition to the considerations above must be used, stored and destroyed in compliance with the appropriate requirements of the DPA and the Council's Data Protection, Information Security and Records Management Policies.

10. Training & Advice and Departmental Policies, Procedures and Codes of Conduct

10.1 Training & Advice

The Monitoring Officer will arrange regular training on RIPA. All authorising officers, designated persons and investigating officers should attend at least one session every two years and further sessions as and when required.

Training can be arranged on request and requests should be made to the Governance Team. In particular training should be requested for new starters within the Council who may be involved in relevant activities.

If officers have any concerns, they should seek advice ~~from~~ [about](#) RIPA from the Monitoring Officer.

10.2 Departmental Policies, Procedures and Codes of Conduct

Where in practice, departments have any policy, procedures or codes of practice in relation to RIPA that are different from or in addition to this Code, they must immediately seek advice from the Monitoring Officer.

11. Complaints

Any person who believes they have been adversely affected by surveillance activity by or on behalf of the Council may complain to the authority.

They may also complain to the Investigatory Powers Tribunal at:-

Investigatory Powers Tribunal
PO Box 33220
London
SW1H 9ZQ

12. Monitoring of Authorisations

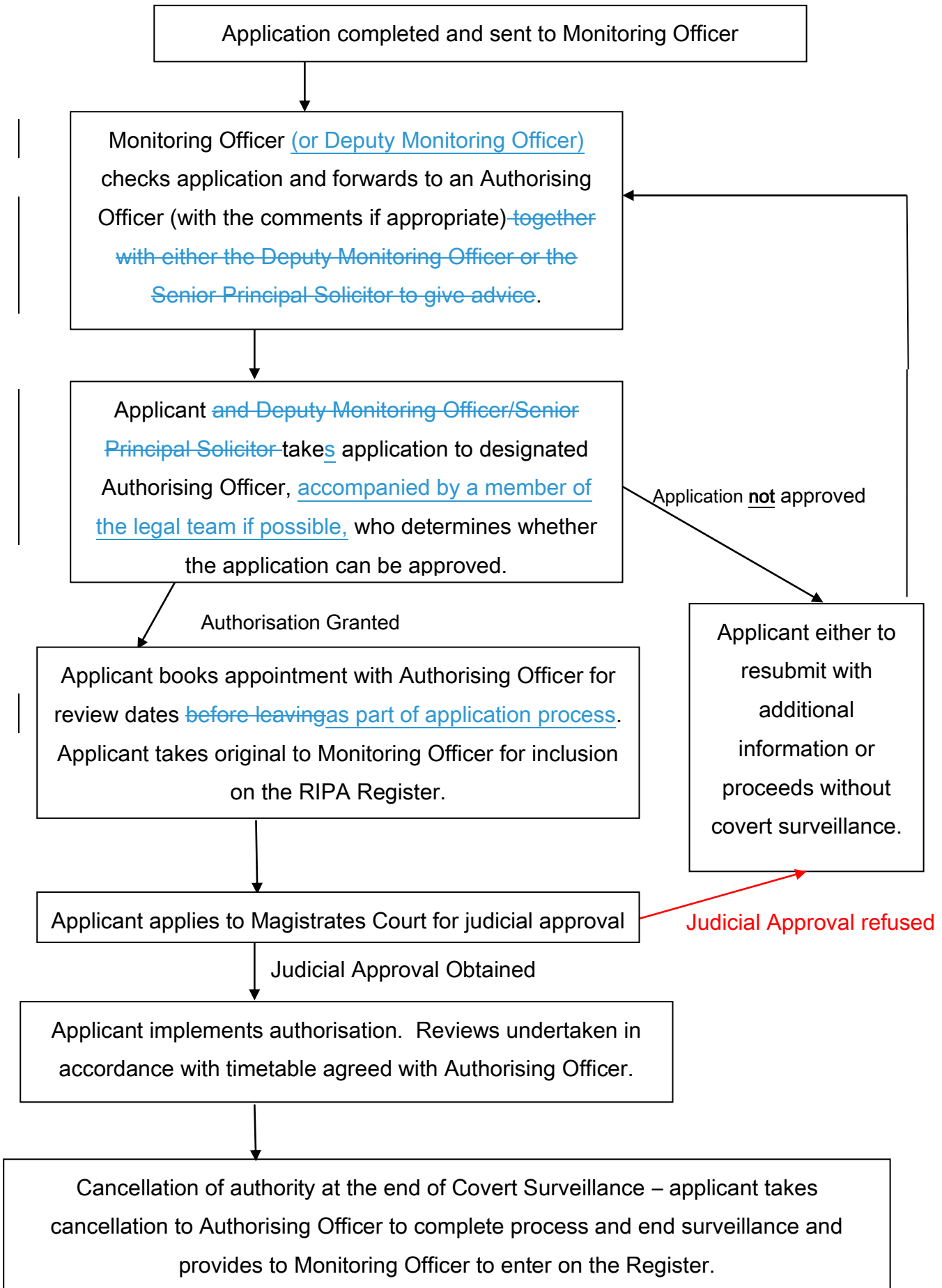
The Monitoring Officer, Sarah Sternberg, is the senior responsible officer in relation to RIPA and is responsible for:-

- The integrity of the process in place to authorise directed surveillance, the use of CHIS and the acquisition and disclosure of communications data;
- Compliance with Part II of RIPA and this Policy;
- Engagement with the Commissioners of the OSC and ICCO when they conduct inspections; and
- Where necessary, overseeing the implementation of any post-inspection plans recommended or approved by a Commissioner.

The Monitoring Officer is also required by law to ensure that the Council does not act unlawfully and will undertake audits of files to ensure that RIPA is being complied with and will provide feedback to the authorising officer/designated person where deficiencies in the RIPA process are noted.

The Monitoring Officer will invite the Standards Committee to review the Council's RIPA Policy on an annual basis and to recommend any changes to the Council's Policy or Procedures and will also provide members with an annual update on use.

APPENDIX A - RIPA PROCESS



Bolsover District Council

Executive

15th January 2018

Creswell Leisure Centre Future Options

Report of the Portfolio Holder – Leisure and Social Enterprise

This report is public

Purpose of the Report

- To consider the future options for Creswell Leisure Centre following the cessation of the site as a swimming facility.

1 Report Details

1.1 At the meeting of Executive held on 1st February 2016, it was resolved that;

(1) Formation of a steering group and the proposed membership to explore the future options for Creswell Leisure Centre be approved.

(2) The steering group develop an appropriate business case for future usage of Creswell Leisure Centre for Executive to consider by October 2016.

1.2 A steering group was subsequently formed made up of BDC officers and elected members, Elmtown with Creswell and Hodthorpe 'Big Local' (ECHBL) group, Elmtown with Creswell Parish Council and Creswell History Group. The group developed a proposal and 5 year indicative business plan for what would become the 'Creswell Heritage and Wellbeing Centre'.

1.3 The 5 year detailed business plan included a 'fit out' and 'alterations' budget of £0.51m made up of the following;

- £0.35m - Elmtown with Creswell and Hodthorpe 'Big Local' group
- £0.1m - BDC from existing budgets
- £0.05m – DCC Community Priorities Grant
- £0.01m – Public Health partners

1.4 At the meeting of Executive held on 3rd October 2016, it was resolved that;

(1) Executive supports the new facility redesign proposal and whilst remaining trustees make an application to the Charities Commission to amend the existing scheme to include new trustees from the local

community, including the wider community, volunteers and organisations more local to the facility lead by the Elmtton with Creswell 'Big Local' group and including; Elmtton with Creswell Parish Council, Creswell History Group with the potential for others,

(2) subject to all other partner funding being confirmed, £0.1m be allocated to the project as the Council's contribution; this to be met from existing capital and revenue budgets for Creswell Leisure Centre for 2016/17,

(3) the ceasing of current operations at Creswell Leisure Centre on 2nd December 2016 be approved.

- 1.5 £0.16m of the projected budget was secured. Although the Elmtton, Creswell and Hodthorpe Big Local (ECHBL) group were also in agreement and supportive of the scheme 'in principle', they would be unable to confirm the £0.35m funding until they could reassure themselves that their investment would be secure with regard to the business case proposal and that the building was in a condition that would not compromise the business case.
- 1.6 As a result, ECHBL commissioned *Sherwood Surveyors and Property Consultants* to conduct an asset condition survey. Following the production of this, BDC Property and Estates Team provided some cost estimates to carrying out those items of work identified to be most urgent and more fundamental, with a view to addressing others in line with a planned asset management approach which might span the next few years.
- 1.7 The exercise revealed that the cost of repairs categorised as 'extreme risk' or 'high risk' which required remediation either 'immediately' or 'within one year' totalled approximately **£0.265m**.
- 1.8 Also of note, both the survey authors and the Property and Estates Team highlighted the recommendation to ECHBL that further investigations are undertaken into 26 areas of the building prior to taking on the property. Such investigations have the potential to increase the 'extreme risk' or 'high risk' items and the above imminent remediation costs considerably.
- 1.9 In parallel to this survey work, a 'Community Benefit' organisation was established in Creswell made up of members of ECHBL and local individuals. The governance structure of which will allow the organisation to apply for grant funding towards the '*Creswell Heritage and Wellbeing Centre*' project, amongst other things. Although a number of possible funding sources have been identified and the group are planning to make applications imminently, there has been no further funding secured to date.
- 1.10 At a recent meeting of the 'Future of Creswell Steering Group', the consensus was that the scheme is no longer viable due to the considerable remediation costs which when added to the refurbishment sum is likely to be in the region of £0.76m-£1m.

- 1.11 The Steering Group determined that although the '*Creswell Heritage and Wellbeing Centre*' proposal at the former Creswell Leisure Centre was no longer thought to be viable, they did wish to pursue the possibility of a 'new build' proposal for the scheme elsewhere in the village.
- 1.12 The Council currently hold the Creswell Leisure Centre as trustees pursuant to a charitable scheme dated 23rd July 1954. The scheme requires the Council to "hold the said property upon trust for use as public swimming baths for the benefit of the inhabitants of the Rural District Council of Clowne and the neighbourhood".
- 1.13 In order to use the property for another purpose the Council would need to apply to the Charity Commission and the Coalfield Social Welfare Organisation (CISWO) to amend the scheme. In doing so the Council would need to identify a suitable alternative charitable purpose for the building.
- 1.14 Dialogue with the Charities Commission and Coalfield Social Welfare Organisation has been ongoing since the original idea was formed. Recent discussions have highlighted the findings detailed previously with a view to ascertaining the Council's position should an alternative purpose fail to be identified.
- 1.15 Although not tested at this stage, it appears unlikely that the existing facility would be an attractive proposition on the open market 'as is' due to both the unique nature of the building and the costs of remediation and refurbishment highlighted previously. Therefore demolition of the building and a 'clear site' for development may become an option.
- 1.16 Giving a market valuation of the building itself is very difficult as this type of building very rarely comes to the market and when they do it is usually as a going concern as an investment. However, a valuation of £0.100m has been established for the site as a cleared site for residential development.
- 1.17 Officers have obtained one quote, albeit not under a competitive tender process, for the possible demolition works of the building which is circa £0.110m.

2 Conclusions and Reasons for Recommendation

- 2.1. At present the facility presents a liability for the council as it stands empty at the risk of falling deeper into disrepair, its vulnerability to vandalism and ongoing building costs including but not limited to; background heating, security and responsive repairs.
- 2.2 The source of funding of the approximated remediation costs of £0.265m is not identified at present. ECHBL have confirmed that they will not fund these works. Without the remediation works, the project will not proceed.
- 2.3 The creation of the Community Benefit Organisation may be successful in due course with external funding applications for this purpose, however there is no level of certainty with regard to this.
- 2.4 The identified 'fit out' and 'alterations' budget (secured and unsecured) amounts to £0.51m, combined with the remediation estimate for urgent repairs takes this figure

to approximately £0.76m with a potential to rise much higher given the further investigations required and further works these will potentially identify.

- 2.5 With a potential budget climbing towards £1m, a balanced view of the heritage value of the building and its age of 90+ years has to be taken.
- 2.6 Rather than using the building for alternative purposes the Council could look at ending the charitable scheme and selling the premises. This would require the consent of the Charity Commission and the Coal Industry Social Welfare Organisation (CISWO). If the property was sold then the proceeds must be held on trust and used “in connection with the social wellbeing, recreation and condition of living workers in and about coal mines as the Charity Commission may approve”.
- 2.7 BDC officers are in dialogue with the CEO and officers of CISWO along with the Charities Commission with regard to both the proposal for re-use and the possible eventuality that the facility remains surplus to requirements. With regard to the latter BDC officers aim to establish the liability upon the council at present and the process which may have to be followed with regard to the existing charitable scheme and a potential ‘no longer viable’ facility/asset.

3 Consultation and Equality Impact

- 3.1 A District wide consultation upon the decision to cease the current operation at the Creswell facility was undertaken previously. In addition, a community consultation event was held on 7th April 2016 to discuss the proposals for the ‘Creswell Heritage and Wellbeing Centre. 73% of those who completed a feedback form said they approved the proposals.
- 3.2 An EIA has been previously completed for the Clowne enhanced facilities proposal which included ceasing the previous operation of Creswell Leisure Centre.
- 3.3 A communication plan will be developed in response to the resolution of Executive.

4 Alternative Options and Reasons for Rejection

- 4.1 BDC to continue to pursue with the ‘Future of Creswell Steering Group’, the proposal to refurbish the former swimming pool facility into the ‘Creswell Heritage and Wellbeing Centre’ – **rejected at this stage** due to the cost to remediate and the impact of this in conjunction with the refurbishment costs upon the business case.

5 Implications

5.1 Finance and Risk Implications

- 5.1.1 As detailed within the report.

5.2 Legal Implications including Data Protection

- 5.2.1 As detailed within the report.

5.3 Human Resources Implications

5.3.1 None.

6 Recommendations

That Executive approve;

- 6.1 Officers to pursue with CISWO and Charities Commission termination of the existing charitable scheme on the basis of a 'no longer viable' facility/asset.
- 6.2 A further report to Executive following the above activity, detailing the options available to the Council.

7 Decision Information

Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: <i>BDC: Revenue - £75,000</i> <input type="checkbox"/> <i>Capital - £150,000</i> <input type="checkbox"/> <i>NEDDC: Revenue - £100,000</i> <input type="checkbox"/> <i>Capital - £250,000</i> <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
District Wards Affected	All
Links to Corporate Plan priorities or Policy Framework	All

8 Document Information

Appendix No	Title
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
Report Author	Contact Number
Lee Hickin – Strategic Director	7218

Bolsover District Council

Executive

15th January 2018

Alarm Monitoring Contract – Derbyshire County Council

Report of the Deputy Leader, Portfolio Holder for People and Place

This report is public

Purpose of the Report

- To inform members of an offer of an extension of contract from Derbyshire County Council (DCC) to provide an alarm monitoring service to older people, and to decide if this offer should be accepted.

1 Report Details

- 1.1 The District Council has operated an alarm monitoring service, through Central Control to vulnerable people within the District for many years
- 1.2 The Service is offered to a mix of tenants and private customers. Although the majority of people pay for the service from their own resources, the contract with DCC provides the service for people who are in low income.
- 1.3 As of 31 December 2017, the Service has 3165 users and the funding from DCC covers 881 (28%) of customers.
- 1.4 Of the 3165 users, the majority of users are Council tenants (2344, or 74%), with 821 (26%) of customers coming from other tenures. Of the 821 other users, just over a half (54%, 443) have the gold service which include the warden response, and 24% (196) opt for the alarm monitoring only.
- 1.5 Smaller numbers opt for:
 - ‘M’ Care (access via a mobile phone without the need for specialist equipment) (64),
 - ‘Telecare’ including other sensors such as bed sensors, temperature monitors etc. (56)
 - Fall Recovery, also funded by DCC but under a separate contract. (62)
- 1.6 The Council, together with Chesterfield Borough Council and South Derbyshire District Council had been in negotiation with DCC to offer a countywide service, however DCC withdrew their offer. Since this time DCC have offered a series of one year extensions to the existing contract. This will be the third extension.

- 1.7 DCC have now offered the Council a contract extension until March 2019 – i.e. an additional extension of one year.

2 Conclusions and Reasons for Recommendation

- 2.1 The service is well regarded by residents, and Bolsover District Council are a trusted provider
- 2.2 Accepting the offer of a contract extension is positive outcome for customers and for the Council.
- 2.3 The Council continues to extend the service and attract more customers, the majority of whom self fund. This is part of a strategy to ensure that the Council are not dependent on DCC funding to operate the service, but would be self sufficient if we were not successful in winning future tenders.
- 2.4 The offer of a contract extension offers certainty for an additional year and should be accepted.
- 2.5 There may be an opportunity to use some of this income on marketing activities to ensure the service is self sufficient if future contracts are not offered, or if the contract is provided to another provider. This will be subject to a future report.

3 Consultation and Equality Impact

- 3.1 None

4 Alternative Options and Reasons for Rejection

- 4.1 Not to accept the contract extension. Rejected as this would have a detrimental impact on vulnerable customers.

5 Implications

5.1 Finance and Risk Implications

- 5.1.1 Existing budgets had assumed no income from 2018. It is estimated that the contract extension will bring in an additional income of £100,000.
- 5.1.2 Not accepting the contract extension would in effect invite an alternative provider into the District who may also compete for other services against the District Council.

5.2 Legal Implications including Data Protection

- 5.2.1 Not specifically, this is an extension to an existing contracts

5.3 Human Resources Implications

- 5.3.1 Not specifically.

6 Recommendations

- 6.1 That the Council accept the offer of a one year contract extension to continue to provide an alarm monitoring service to people within the District,
- 6.2 That officers prepare for future tender opportunities to provide similar services within the District
- 6.3 That officers prepare a future report to consider marketing the service to attract more users.

7 Decision Information

<p>Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: BDC: Revenue - £75,000 <input checked="" type="checkbox"/> Capital - £150,000 <input type="checkbox"/> NEDDC: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/> <input checked="" type="checkbox"/> Please indicate which threshold applies</p>	Yes
<p>Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)</p>	Yes
<p>District Wards Affected</p>	All
<p>Links to Corporate Plan priorities or Policy Framework</p>	Install 150 new lifelines within the community each year.

8 Document Information

Appendix No	Title
<p>Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)</p>	
Report Author	Contact Number
Peter Campbell	x3038

Bolsover District Council**Executive****15th January 2018****Commissioning Support for the Bolsover Partnership****Report of the Leader and Portfolio Holder – Strategic Planning and Regeneration**

This report is public

Purpose of the Report

The contract for the provision of commissioning support provided to the Bolsover Partnership by an external independent provider is due to come to an end in March 2018. The aim of this report is to review the options available to continue to provide appropriate commissioning and procurement activity within the Partnership Team on behalf of Bolsover Partnership.

1 Report Details

1.1 The role of the Partnership Team has proved valuable in terms of leveraging in additional resources and working with partners to contribute towards improving the profile of the District and contribution to the Council's corporate aims. Over the years, the team's structure has also evolved with wider public sector involvement together with the diverse and bespoke skills base within it.

1.2 Why is the service externally provided?

The role of commissioning within the Partnership Team is currently externally provided to ensure independence regarding partnership spending in accordance with and alongside Bolsover's Sustainable Community Strategy. This is a partnership strategy which brings partners together to jointly drive activity to achieve agreed outcomes.

1.3 The management of commissioning, together with the administration of external funding opportunities and internal budgets is a key role of the Partnership, ensuring the independent oversight of formal financial processes. Details of the prioritisation of this work are provided in Appendix 1 of this report.

1.4 Over the years, the Partnership Team has administered a number of significant funding streams, including Single Regeneration Fund (£10m), Neighbourhood Renewal Fund (£9.5m) and Working Neighbourhoods Fund (£7m). In times of diminishing resources, the Partnership has levered resources to maximise funds and to ensure positive impact in local communities. A good example of this was the

Community Cohesion project where funding was secured from a range of partners including Derbyshire Constabulary, Derbyshire County Council, Public Health, Community Safety Partnership and Hardwick Clinical Commissioning Group. Following this work, and the work of the NG20 Partnership, £1.26m was secured from the Controlling Migration Fund (Department of Communities and Local Government).

- 1.5 Page 5 of the Partnership’s bi-annual report presented to Executive on 4th December 2017, outlines the range of funding streams used to deliver priorities within the Sustainable Community Strategy over the period April to September 2017 as follows:

Funding	Amount/Timescales
Public Health	£269,000 in 2017/18. Future years likely to be reduced on a tapering basis.
BIG Lottery Talent Match	£42,000 income per annum for local co-ordination (until December 2018) but the overall budget for TM in Bolsover, Bassetlaw, Chesterfield and NED is around £1.047m over 5 years
Raising Aspirations	£184,000 in 2017/18 – BDC leads the procurement and manages funding on behalf of 7 Derbyshire Public Health localities. Anticipate a contract of a similar value in 2018/19
Residual Working Neighbourhoods Fund	£81,647 – allocated to the Council’s Apprenticeship programme and underwriting of I-Venture 2019
Business Growth Fund	£200,000 over 2 years. £71,200 spent to date
Controlling Migration Fund	£1,264,000 to September 2019.
Grants to Voluntary Organisations	£115,000 per annum
Partnership Funding for Health Priorities	Reserves of circa £374,000
Accrued Partnership income	Reserves of circa £70,568
LEP Funding	Working with SCR to secure £5m devolution monies for an early intervention employment pilot. To be matched with £6m ESF creating an £11m fund across the SCR
Prime Minister’s Challenge Fund	£50,000 (£11,740 remaining for 2017/18)

- 1.6 The contract for the provision of commissioning support to the Partnership Team was last tendered in April 2015. At that time, there was little interest with 2 submissions received. Taking this into account, and the current adequate provision, it is deemed appropriate to extend the existing contract for the reasons outlined below:

- Seeking tenders would cause a period of uncertainty with Partners and Stakeholders
- Excellent track record to date of current provider

- Loss of well established relationships which would be broken bringing in another company
- Potential loss of good working practices
- Current provider has excellent knowledge and experience of the District
- Current provider has demonstrated innovative benefits e.g. developing commissioning approaches and embedding social return on investment tools
- Loss of links with outside key agencies where this company has managed funding on their behalf leveraging in resources for the Partnership

1.7 With regard to arrangements to end the contract, the contract allows for the termination at the point of there being no funding to administer or commission. There is also provision in the current contract that should the individual currently providing the support be unable to perform, that the services are still provided by the company to ensure provision continues.

2 Options and Reasons for Recommendation

2.1 Options for consideration:

- Do nothing - let the contract cease on the 31 March 2018
 - In terms of the risk there would be:
 - A disruption to service
 - An increased risk in terms of contract and budgetary control
 - The loss of specialist expertise
 - Missed opportunities in relation to other funding/service delivery opportunities
 - Contractually obliged to deliver some areas of work so additional/existing capacity will need to be identified to pick up those areas of work
 - Costs
No financial costs, however, risk of non-compliance of funding requirements.
- Extend the current contract for 3 years to 2021 (to be reviewed annually)
 - Strengths
 - Continuation of service provision.
 - Overcomes requirement to undergo full tender process which can be costly and time consuming
 - Reduces risk of service disruption
 - Lack of in house expertise, particularly in respect of commissioning/procurement opportunities to add value to existing activity in terms of social value outcomes
 - Independence and transparency
 - Risks
 - Need to ensure the Council's Procurement Rules are adhered to
 - Costs
 - Circa £47,671 per annum (£143,013 over the 3 year extension)

- Exercise a full tender process on the open market
 - Strengths
 - Opens up competition and ensures best value
 - Secures added value and best practice
 - Provides Council/Partnership option to choose best provider
 - Encourages innovation
 - Risks
 - Disruption to service if awarded to another provider
 - Time consuming and costly
 - Costs
 - Depending on the scope of the works to be commissioned, likely to be in the range of between £45k to £50k per annum

- Create an Establishment Post within the Council
 - Strengths
 - Recognition of the importance of such a role
 - Longevity of service
 - Reduces requirement to undergo a procurement process
 - Risks
 - Risk of losing existing expertise and established relationships
 - Loss of independent service and possible compromising of transparency with partner organisations (i.e. everyone knows and trusts the service currently)
 - Longer term financial commitment for the Council versus a role currently funded via Partnership resources

3 Consultation and Equality Impact

- 3.1 Consultation has been undertaken with the Council's Chief Executive Officer, Cabinet and Chair of Bolsover Partnership.

4 Alternative Options and Reasons for Rejection

- 4.1 Alternative options are outlined in paragraph 2 above together with their respective strengths and weaknesses.

5 Implications

5.1 Finance and Risk Implications

Any extension to the current contract must ensure compliance with the Council's Procurement Rules and IR35 obligations.

5.2 Legal Implications including Data Protection

- 5.3 The proposed contract is below the OJEU limit for Public Services Contracts and so is governed by the Council's Procurement Rules within the Constitution. Under 4.8.4 (i) of these Rules, there are a number of exceptions to the requirement to tender. One of these (c) is appropriate where 'the work to be executed or the goods or

services to be supplied constitute an extension to an existing contract and it is the view of the Senior Officer that it would not be in the interests of the service or the Council to tender the contract. The Senior Officer must ensure that a record of this is made on the project file'. In this case, the Senior Officer is of the view that it would not be in the interests of the Council or Partnership to tender and the reasons for this decision are detailed in section 2 of this report.

5.4 The existing contract is due to come to an end in March 2018 giving insufficient time to tender. In addition, it is important to ensure that there is no gap in service provision.

5.5 **Human Resources Implications**

5.6 IR35 legislation came into effect on 1st April 2017 and aims to address tax and NICs issues through the use of intermediaries and limited companies. Compliance with the legislation seeks to ensure that individuals, who provide services through their own limited company where they would otherwise have an employment relationship, pay broadly the same amount of tax and NICs as other employees.

5.7 Under the regulations, the Employer is responsible and held accountable for deciding if off-payroll working rules apply. If the rules apply, the Employer, must deduct employment tax and Class 1 NICs and pay and report them to HM Revenue and Customs (HMRC). Employers can be charged interest and penalties on any Income Tax or NICs owed for failing to apply the off-payroll working rules. If circumstances show that an Employer did not exercise reasonable care in completing tax and National Insurance contributions this may also result in a penalty.

5.8 The Council's Partnership Manager has confirmed that the current contractor has indicated that they are compliant with the requirements of IR35.

6 **Recommendations**

6.1 In accordance with 4.8.4 of the Council's Procurement Rules, it is recommended that the current contract with Phoenix Regeneration Ltd be extended for a further 3 years (to be reviewed annually).

7 **Decision Information**

<p>Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:</p> <p><i>BDC:</i> <i>Revenue - £75,000</i> <input checked="" type="checkbox"/> <i>Capital - £150,000</i> <input type="checkbox"/></p> <p><i>NEDDC:</i> <i>Revenue - £100,000</i> <input type="checkbox"/> <i>Capital - £250,000</i> <input type="checkbox"/></p>	<p>Yes</p>
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<input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	
District Wards Affected	All
Links to Corporate Plan priorities or Policy Framework	All through the Sustainable Community Strategy aims and objectives with partners

8 Document Information

Appendix No	Title
1	Prioritisation of Work Areas
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
Report Author	Contact Number
Pam Brown, Partnership Manager BDC Karen Hanson, Joint Strategic Director	Extension 2499 Extension 7053

Prioritisation of Work Areas

Appendix 1

Work area	Importance/ added value	Skills/capacity within team and/or practicality of delegating	Ranking	Timescales
<p>Manage external funding and commissioning activity:- Public Health £269,000 Raising Aspirations £184,000 I-Venture £85,000 CMF £568,000 BGF £100,000 Residual WNF Talent Match £42,000 Total £1.248m</p>	<p>High – significant budgets and ongoing requirements to manage through Partnership</p>	<p>Limited. Ongoing requirement expected for this work</p>	1	Ongoing
<p>Contract development and management:- 17 Contracts being managed currently</p>	<p>High – to meet priorities within SCS</p>	<p>Availability of some skills and capacity offering potential to delegate some, but not all, activities</p>	1	Ongoing
<p>Talent Match co-ordination:- £42,000 income per annum for local co-ordination but the overall budget for TM in BDC/NED is around £1.047m over 5 years</p>	<p>Medium – but obligation to fulfil through local co-ordination role until December 2018</p>	<p>Limited – strategic input increasing as programmes seeks sustainable future. Operational elements already well resourced</p>	3	Contractually committed until December 2018
<p>SCR / D2N2 representation:- Operational Lead for Bolsover for the Employment Pilot, plus attendance at SCR LA Officers meetings.</p>	<p>High – opportunities for collaboration through LEPs; funding opportunities and changes ahead with Brexit</p>	<p>Economic Development involved with D2N2 already. Possible scope for ED to become involved with SCR</p>	2	Currently ongoing for the foreseeable but future of SCR uncertain

Attendance at D2N2 Employment and Skills meetings		skills/employment activity		
Mobilising the Local Integration Board and supporting delivery of SCR employment pilot	Medium – possible closer collaboration with NEDDC required depending on who is successful at tender	After March 2018, this could be an area of work that is picked up by ED, particularly if NEDDC successful with tender	3	Ongoing for 4+ years although work should be less intensive after March 18
Supporting relevant pillars of the government's Industrial strategy – particularly skills and procurement	Medium/High – opportunities for increasing social value outcomes from: 1. Procurement activities across Council departments 2. Skills/jobs opportunities from planning	New area of work but greatest scope for adding value. Skills within CEPT and ED to support this activity	1	Ongoing
Bi-annual reporting	Medium/high – raising awareness amongst partners of activities	Implement new reporting structure and delegate tasks to Lucy/Rhi	3	Ongoing