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Agenda for a meeting of the Governance and Audit Committee to be held on Tuesday, 28 June 2016 at 11.00 am in Committee Room 1 - City Hall, Bradford

Members of the Committee – Councillors

CONSERVATIVE	LABOUR	LIBERAL DEMOCRAT
M Pollard	Johnson Thornton Swallow	J Sunderland

Alternates:

CONSERVATIVE	LABOUR	LIBERAL DEMOCRAT
Ellis	Farley Watson	Fear

Notes:

- This agenda can be made available in Braille, large print or tape format on request by contacting the Agenda contact shown below.
- The taking of photographs, filming and sound recording of the meeting is allowed except if Councillors vote to exclude the public to discuss confidential matters covered by Schedule 12A of the Local Government Act 1972. Recording activity should be respectful to the conduct of the meeting and behaviour that disrupts the meeting (such as oral commentary) will not be permitted. Anyone attending the meeting who wishes to record or film the meeting's proceedings is advised to liaise with the Agenda Contact who will provide guidance and ensure that any necessary arrangements are in place. Those present who are invited to make spoken contributions to the meeting should be aware that they may be filmed or sound recorded.
- If any further information is required about any item on this agenda, please contact the officer named at the foot of that agenda item.

From:

City Solicitor
Agenda Contact: Fatima Butt
Phone: 01274 432227
E-Mail: fatima71@hotmail.co.uk

To:



A. PROCEDURAL ITEMS

1. ALTERNATE MEMBERS (Standing Order 34)

The City Solicitor will report the names of alternate Members who are attending the meeting in place of appointed Members.

2. DISCLOSURES OF INTEREST

(Members Code of Conduct - Part 4A of the Constitution)

To receive disclosures of interests from members and co-opted members on matters to be considered at the meeting. The disclosure must include the nature of the interest.

An interest must also be disclosed in the meeting when it becomes apparent to the member during the meeting.

Notes:

- (1) Members may remain in the meeting and take part fully in discussion and voting unless the interest is a disclosable pecuniary interest or an interest which the Member feels would call into question their compliance with the wider principles set out in the Code of Conduct. Disclosable pecuniary interests relate to the Member concerned or their spouse/partner.
- (2) Members in arrears of Council Tax by more than two months must not vote in decisions on, or which might affect, budget calculations, and must disclose at the meeting that this restriction applies to them. A failure to comply with these requirements is a criminal offence under section 106 of the Local Government Finance Act 1992.
- (3) Members are also welcome to disclose interests which are not disclosable pecuniary interests but which they consider should be made in the interest of clarity.
- (4) Officers must disclose interests in accordance with Council Standing Order 44.



3. MINUTES

Recommended –

That the minutes of the meetings held on 26 February, 18 March and 15 April 2016 be signed as a correct record (previously circulated).

(Fatima Butt – 01274 432227)

4. INSPECTION OF REPORTS AND BACKGROUND PAPERS

(Access to Information Procedure Rules – Part 3B of the Constitution)

Reports and background papers for agenda items may be inspected by contacting the person shown after each agenda item. Certain reports and background papers may be restricted.

Any request to remove the restriction on a report or background paper should be made to the relevant Strategic Director or Assistant Director whose name is shown on the front page of the report.

If that request is refused, there is a right of appeal to this meeting.

Please contact the officer shown below in advance of the meeting if you wish to appeal.

(Fatima Butt - 01274 432227)

B. BUSINESS ITEMS

5. PROPOSED AMENDMENTS TO THE CONSTITUTION

1 - 10

Previous Reference: Council Minute 40 (2014/15)

At the meeting of Council on 21 October 2014 Council resolved to provide additional training sessions on child sexual exploitation (CSE) for elected members.

The City Solicitor will submit **Document “A”** which recommends an amendment to the Members’ Code of Conduct to require such training to be compulsory.



Recommended-

- (1) That the Committee consider the proposed amendment to the Members' Code of Conduct, which forms part of the Constitution, as set out in paragraph 3.2 of Document "A" and at Appendix 1 attached to the report, and consider whether such amendment should be recommended to Council for adoption and implementation.
- (2) That the City Solicitor reports any recommendation to Council and ensures any agreed amendments are implemented.
- (3) That the City Solicitor be granted delegated authority to make consequential amendments to the Constitution as a result of any recommendations approved by full Council.

(Parveen Akhtar – 01274 432496)

6. REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA) - POLICY, USE AND ENFORCEMENT ACTIVITY - ANNUAL REVIEW

11 - 40

Previous Reference: Minute 79 (2014/2015)

The City Solicitor will submit **Document "B"** which provides information relating to:-

- The legal framework and how the Council's officers may deploy covert surveillance techniques authorised and approved under RIPA to investigate serious crime and the implications of using social media in criminal investigations (Appendix I to Document "B").
- The OSC (Office of Surveillance Commissioners) inspections July 2013 and October 2016.
- The Council's use and outcomes of authorised and approved covert surveillance operations (where necessary and proportionate) for the last 3 years and overt enforcement activity.
- The role of the Council's Senior Responsible Officer (SRO), the Council RIPA Coordinator and Monitoring Officer and the annual review and internal audit May 2016
- The Council's continued compliance with RIPA, use of close circuit television (CCTV), body cameras and covert internet Investigations.
- The 2016/17 annual training programme for officers.
- Contribution to the Council's priorities.



Recommended-

- (1) That the duties placed on the Council under the Human Rights Act 1998 are considered in the context of this report.
- (2) That the Council's continued compliance with RIPA and the completion of OSC (Office of Surveillance Commissioners) recommended training following the inspection in July 2013 be noted.
- (3) That the OSC inspection scheduled for the 13th October 2016 be noted and a report relating to the outcome of the inspection be presented to the Committee in April 2017.
- (4) That the 2016 programme of training of Officers (in order to continue to raise awareness) and enforcement officers under RIPA be noted.
- (5) That the guidance at Appendix 3 attached to Document "B" (regarding Internet investigations and the communication to all Assistant Directors and Enforcement team Managers in order to raise awareness of the risks of such investigations) be approved as Council Policy.

(Richard Winter – 01274 434292)

7. ANNUAL GOVERNANCE STATEMENT 2015-16

41 - 62

The Director of Finance will submit **Document "C"** which sets out the requirement to conduct the annual review of the effectiveness of the Council's governance framework and system of internal control. It reports the conclusions of that review and produces the Annual Governance Statement for 2015-16 to accompany the Council's Statement of Accounts.

Recommended-

That the Leader of the Council and the Chief Executive be authorised to sign the Annual Governance Statement 2015-16 (Appendix 1 to Document "C"), on behalf of the Council, to accompany the Statement of Accounts 2015-16.

(Mark St Romaine – 01274 432888)



8. **EXTERNAL AUDIT PROGRESS REPORT FOR THE 2015-16
AUDITS OF CBMDC AND WYPF**

63 - 78

The External Auditor will submit **Document “D”** which reports on the progress with the 2015/16 audits and highlights key emerging national issues which may be of interest to the Committee.

Recommended-

That the External Audit progress report be considered.

(Steve Appleton – 07881 283340)

9. **MINUTES OF WEST YORKSHIRE PENSION FUND (WYPF)
PENSION BOARD HELD ON 16 MARCH 2016**

79 - 88

The Council’s Financial Regulations require the minutes of meetings of the WYPF be submitted to this Committee.

In accordance with the above the Director of West Yorkshire Pension Fund will submit **Document “E”** which reports on the minutes of the meeting of the WYPF Pension Board held on 16 March 2016.

Recommended-

That the minutes of the WYPF Pension Board held on 16 March 2016 be considered.

(Rodney Barton – 01274 432317)

10. **MINUTES OF WEST YORKSHIRE PENSION FUND (WYPF)
INVESTMENT ADVISORY PANEL MEETING HELD ON 28 APRIL
2016**

The Council’s Financial Regulations require the minutes of meetings of the WYPF be submitted to this Committee.

In accordance with this requirement, the Director of West Yorkshire Pension Fund will submit **Not for Publication Document “F”** which reports on the minutes of the meeting of the WYPF Investment Advisory Panel held on 28 April 2016.

Recommended –

That the minutes of the West Yorkshire Pension Fund Investment Advisory Panel held on 28 April 2016 be considered.

(Rodney Barton – 01274 432317)



THIS AGENDA AND ACCOMPANYING DOCUMENTS HAVE BEEN PRODUCED, WHEREVER POSSIBLE, ON RECYCLED PAPER



**City of Bradford
Metropolitan District Council**



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Report of the City Solicitor to the meeting of Governance and Audit Committee to be held on 28 June 2016.

A

Subject:

Proposed Amendment to the Constitution.

Summary statement:

At the meeting of Council on 21 October 2014 Council resolved to provide additional training sessions on child sexual exploitation (CSE) for elected members.

This Report recommends an amendment to the Members' Code of Conduct to require such training to be compulsory.

Parveen Akhtar
City Solicitor

Report Contact: Mandy Hill
Team Leader Education Employment
and Litigation Team
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E-mail: mandy.hill@bradford.gov.uk



1. SUMMARY

- 1.1 At the meeting of Council on 21 October 2014 Council resolved to provide additional training sessions on Child Sexual Exploitation (CSE) for Elected Members.

2. BACKGROUND

- 2.1 On 21 October 2014 Council considered a motion regarding Child Sexual Exploitation. The Council recognised the right of all children to be protected from all forms of exploitation, victimisation and abuse, including sexual abuse and exploitation, and to receive help as laid out in the United Nations Convention on the Rights of the Child. The Council resolved that it is committed to doing all that it can to protect and promote the rights of the children, particularly those in the Council's care. The Council also resolved to seek to ensure that the Council's understanding of the issues and of how to respond to, investigate and prevent child sexual exploitation continue to improve so that effective action to stop CSE is taken.

- 2.2 An online training course has been developed in partnership with Just Whistle (the training arm of Safe and Sound an organisation which works to keep children and young people safe and sound from sexual exploitation), Parents against Child Exploitation and Bradford Safeguarding Children Board, to provide up-to-date information on: -

- The National Action Plan for Tackling Child Sexual Exploitation.
- Human trafficking.
- The grooming process
- Missing children and young people.
- Child exploitation and online protection.
- Arrangements for referring and responding to concerns in the Bradford district.

- 2.3 The training also provides an overview of relevant legislation.

- 2.4 The approximate length of time for completing the online training is between 1 and 2 hours.

- 2.5 Work is underway with Member Support Services to develop flexible approaches as to how the training is accessed and completed.

3 PROPOSED AMENDMENT TO THE MEMBERS' CODE OF CONDUCT

- 3.1 It is recommended that all Elected Members and voting co-opted Members of the Council be required to complete a mandatory training course on CSE. It is proposed that the Members' Code of Conduct which forms part of the Council's Constitution stipulates that CSE training for Elected Members and voting co-opted Members is compulsory. To do so will act as a timely reminder for existing councillors to



undertake such training if they have not already done so and will of course ensure that all newly elected members also undertake the training. Elected Members will be required to repeat the training every three years, or earlier if the content of the training is significantly amended, for example as a result of changes to statutory guidance. By inserting a requirement in the Code the requirement will also ensure voting co-opted Members of the Council also undertake such training.

- 3.2 It is proposed that the following paragraph be inserted into the Members' Code of Conduct: -

Training

21A. It is a mandatory requirement that you complete a training course on Child Sexual Exploitation. You will be sent details by email of the course you are required to complete and the course must be completed within 3 months of you being sent such details. You will be required to repeat the training every three years, or earlier if the content of the training is significantly amended, for example as a result of changes to statutory guidance.

The Members' Code of Conduct is attached at Appendix 1 to this Report with the proposed amendment detailed in red.

4. FINANCIAL & RESOURCE APPRAISAL

The resources required to amend the Constitution can be met from existing provision.

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

By undertaking such training, Elected Members and co-opted Members will:

- have an awareness of the background to child sexual exploitation, including definitions, the key legislation and guidance and research findings.
- understand the risk assessment process, including which elements are used to create thorough assessment documents.
- know the categories of risk and what vulnerability factors that professionals consider when undertaking an assessment.
- have a basic knowledge of the responsibilities of the key agencies involved in helping children that are being, or at risk of being, sexually exploited.
- be able to identify the key and up to date contacts/stakeholders within their ward for progressing safeguarding concerns and issues

6. LEGAL APPRAISAL

- 6.1 Article 17 of the Constitution requires the Monitoring Officer to take steps to make herself aware of the strengths and weaknesses of the Constitution and make recommendations for improvement.



- 6.2 The training will enable Elected Members to have a better understanding of Child Sexual Exploitation to assist them in ensuring the Council meets its legal obligations to protect children in the Bradford District from this type of harm.

7. OTHER IMPLICATIONS

The training will contribute to ensuring the human rights of children are protected.

8. NOT FOR PUBLICATION DOCUMENTS

None.

9. RECOMMENDATIONS

- 9.1 That the Governance and Audit Committee consider the proposed amendment to the Members' Code of Conduct, which forms part of the Constitution, as set out in paragraph 3.2 above and at Appendix 1 attached to this Report, and consider whether such amendment should be recommended to Council for adoption and implementation.
- 9.2 That the City Solicitor reports any recommendation to Council and ensures any agreed amendments are implemented.
- 9.3 That the City Solicitor be granted delegated authority to make consequential amendments to the Constitution as a result of any recommendations approved by full Council.

10. APPENDICES

Appendix 1 – Proposed Amendment to the Members' Code of Conduct.

11. BACKGROUND DOCUMENTS

None



PART 4 CODES AND PROTOCOLS

PART 4A Members Code of Conduct

This Code applies to elected Members and voting co-opted Members of City of Bradford Metropolitan District Council in all aspects of their public life. This means that the Council expects Members to follow this Code when they are conducting the work of the Council, representing the Council on any external organisation, and otherwise acting in their official capacity. The Code of Conduct does not apply to what Members do in their purely private and personal lives.

Part One – Standards of Conduct

You must have regard to, and act in accordance with, the following standards of conduct:

1. **Selflessness**

You should serve only in the public interest, and should never improperly confer an advantage or disadvantage on any person, organisation or group, or any other third party.

2. **Honesty and Integrity**

You should not place yourself in situations where your honesty and integrity may reasonably be questioned, you should not behave improperly and should avoid the appearance of such behaviour.

3. **Objectivity**

You must make decisions based on the information before you, having had regard to any professional advice provided to you and in accordance with your view of the public interest.

You should make decisions on merit, this includes when making appointments, awarding contracts, or recommending individuals for awards or other recognition.

4. **Accountability**

You are accountable to the public for your decisions and actions and the manner in which you carry out your duties. You must co-operate fully and honestly with any scrutiny appropriate to your office.

You should not undertake any action which would bring the Council, your position, or the position of Members generally, into disrepute.

5. **Openness**

You must be as open as possible about your actions and those of the authority, and should be prepared to give reasons for those actions.

6. **Leadership**

You must promote and maintain high standards of conduct by supporting these principles by leadership and by example, and should act in a way that secures or preserves the confidence of others.

You must have due regard to the impartiality and integrity of the authority's statutory officers and its other employees.

Part Two – Registration and Disclosure of Interests

Registration of Interests

7. Within 28 days of your election or co-option, you must notify the Monitoring Officer of any 'disclosable pecuniary interests' which you have at that time
8. Where you are re-elected or re-appointed, notification is only required of any new disclosable pecuniary interests within 28 days of your election or co-option.
9. You must keep your Register of Interests entry up to date by notifying the Monitoring Officer of any changes to your disclosable pecuniary interests within 28 days of the change occurring, or you becoming aware of the change.
10. A 'disclosable pecuniary interest' is an interest defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 set out in the table below.

Subject	Prescribed description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by a member of a relevant authority in carrying out duties as a member, or towards the election expenses of a member of a relevant authority. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992 ⁽¹²⁾ .
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.

⁽¹²⁾ 1992 c. 52.

Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to the member of the relevant authority's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to the member of the relevant authority's knowledge) has a place of business or land in the area of the relevant authority; and (b) either— (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

11. A pecuniary interest is a 'disclosable pecuniary interest' in relation to you if it is of a type described above, and either:

- (a) it is an interest of yourself, or
- (b) it is an interest of –

- (i) your spouse or civil partner,
- (ii) a person with whom you are living as husband and wife, or
- (iii) a person with whom you are living as if they were civil partners, and you are aware that that other person has the interest.

12. You are also required to notify the Monitoring Officer of any gifts or hospitality with an estimated value of at least £50 which you receive in your role as a member of Council. You must inform the Monitoring Office of any such gifts of hospitality within 28 days of receiving them so that the details can be entered into the Register of Interests.

Sensitive Interests

- 13 If the nature of an interest is such that you and the Monitoring Officer consider that disclosure of the details of the interest could lead to you, or a person connected with you, being subject to violence or intimidation, the interest must not be included in any published version of the Register of Interests, or be entered into any copy of the register that is made available for public inspection.

Disclosure of Disclosable Pecuniary Interests at Meetings

- 14 The following provisions apply if you are present at a meeting of the authority or of any committee, sub-committee, joint committee or joint sub-committee of the authority, and you are aware that you have a disclosable pecuniary interest in a matter to be considered, or being considered, at the meeting.
- 15 If the interest is not entered in the authority's Register of Interests, you must disclose the interest to the meeting (unless the interest is a sensitive interest).
- 16 If the interest is not entered in the authority's Register of Interests and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest before the end of 28 days beginning with the date of the disclosure.
- 17 Where the interest does appear in the Register of Interests, you must bring the interest to the attention of the meeting (unless the interest is a sensitive interest).
- 18 You may not:
 - (a) participate, or participate further, in any discussion of the matter at the meeting,
 - (b) participate in any vote, or further vote, taken on the matter at the meeting (unless the Member has requested and been granted a relevant dispensation by the Standards and Conduct Committee), or
 - (c) remain in the room during the discussion or vote on the matter.
- 19 Where you have a disclosable pecuniary interest in a matter to be considered at a meeting, you may attend the meeting but only for the purposes of making representations, answering questions or giving evidence relating to the matter, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise. Once you have finished, or the meeting decides you have finished, you must leave the room and may not remain in the room during the discussion or vote on the matter.

Disclosure of other Interests at Meetings

- 20 Where you are present at a meeting of the authority, or any committee, sub-committee, joint committee or joint sub-committee of the authority, and identify any other interests which you feel should be declared in the public interest, such interests may be declared to the meeting.
- 21 In such circumstances you must consider whether your continued participation in the matter relating to your interest would be reasonable in the circumstances, particularly if the interest may give rise to a perception of a conflict of interests in the matter under discussion.

Training

- 21A It is a mandatory requirement that you complete a training course on Child Sexual Exploitation. You will be sent details by email of the course you are required to complete and the course must be completed within 3 months of you being sent such details. You will be required to repeat the training every three years, or earlier if the content of the training is significantly amended, for example as a result of changes to statutory guidance.

Allegations of a Failure to Comply with Code of Conduct

- 22 All complaints alleging a failure to comply with this Code will be considered in accordance with a procedure agreed by full Council.

Incorporation of Protocols

- 23 The Protocol on Member-Officer Relations and the Protocol on Members' Use of Council Resources (including use of e-mail and the internet) set out in the Council's Constitution form part of this Code and any breach of the requirements of those Protocols by an elected member or voting co-opted member shall be treated as a breach of this Code.

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Report of the City Solicitor to the meeting of the Governance and Audit Committee to be held on 28th June 2016.

B

Subject: Regulation of Investigatory Powers Act 2000 (RIPA) – Policy, use and enforcement activity – Annual Review

Decision of the Governance and Audit Committee held on Friday 17th April 2015:

**REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA) –
POLICY, USE AND ENFORCEMENT ACTIVITY – ANNUAL REVIEW**

Resolved -

- (1) That the duties placed on the Council under the Human Rights Act 1998 were considered in the context of the report.**
- (2) That the Council's continued compliance with RIPA and the OSC (Office of the Surveillance Commissioner) inspection in July 2013 and the completed implementation of the RIPA training programme be noted.**
- (3) That the 2015 WYLAW (West Yorkshire Law) programme of training of Officers (in order to continue to raise awareness) and enforcement officers under RIPA be noted.**
- (4) That the authorisation of covert surveillance techniques under Human Rights Act 1998 open to a local authority in exceptional circumstances i.e. when the offending falls beneath the serious offence threshold or in a disciplinary context be disapproved.**
- (5) That the Assistant City Solicitor provides a report to the Committee on the RIPA implications of using social media in criminal investigations.**

ACTION: City Solicitor

(Richard Winter – Senior Lawyer – 01274 434292)

City Solicitor
Parveen Ahktar
Report Contact: R J Winter – Senior Lawyer
Interim Team Leader Property Commercial and
Development
RIPA Coordinator and Monitoring Officer ref RIPA
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Email: richard.winter@bradford.gov.uk



1. **Summary**

This report is prepared to provide information relating to:-

- The legal framework and how the Council's officers may deploy covert surveillance techniques authorised and approved under RIPA to investigate serious crime and the implications of using social media in criminal investigations (see Appendix I).
- The OSC inspections July 2013 and October 2016.
- The Council's use and outcomes of authorised and approved covert surveillance operations (where necessary and proportionate) for the last 3 years and overt enforcement activity.
- The role of the Council's Senior Responsible Officer (SRO), the Council RIPA Coordinator and Monitoring Officer and the annual review and internal audit May 2016
- The Council's continued compliance with RIPA, use of close circuit television (CCTV), body cameras and covert internet Investigations.
- The 2016/17 annual training programme for officers.
- Contribution to the Council's priorities.

NB Please see Glossary at APPENDIX 5

2. **The Legal Framework and how the Council's officers use RIPA.**

- 2.1 As members are aware RIPA provides a legal framework for the control and regulation of covert ("covert" is defined as being calculated in a manner to make sure that the person subject to the surveillance is not aware it is been carried on) surveillance and information gathering techniques.
- 2.2 Given the highly technical nature of the legislation, codes of practice and guidance a glossary of terms is set out at appendix 5 of this report to assist members and officers of the Council.
- 2.3 Covert surveillance techniques may be used by officers of public bodies (including officers of the Council when investigating "serious crime" (by definition offences which carry a term of imprisonment of six months or more) and where there are no overt means of obtaining the evidence.
- 2.4 The use of covert surveillance must always be necessary and proportionate to what it seeks to achieve. The Council's stated policy has for many years restricted covert surveillance to serious crime. The Councils historical stated policy of limiting the use of covert surveillance techniques to serious crime became mandatory by statute following amendments to RIPA which took effect from the 1st November 2012.



- 2.5 There are three types of covert techniques (with the objective of obtaining evidence to prove serious crime) available for use by the Council's investigating officers namely by definition "directed surveillance" (DS), "a covert human intelligence source" (CHIS) and "data communications" (DC) investigation.
- 2.6 Surveillance includes monitoring, observing or listening to persons, their movements, conversations or other activities and communications. It may be conducted with or without assistance of a surveillance device and includes the recording of any information.
- 2.7 A fourth covert surveillance technique defined as "intrusive surveillance"(IS) is surveillance that is carried out in relation to anything taking place on residential premises or in a private vehicle and involves the presence of a person or device in the premises or vehicle or the use of a surveillance device. NB This type of surveillance can only be undertaken by the Police and Intelligence Services and not local authority investigators.
- 2.8 Directed surveillance is covert, but not intrusive, surveillance that is conducted for the purposes of a specific investigation or operation that is likely to result in the obtaining of private information about a person and is conducted otherwise than as an immediate response to events or circumstances of such a nature that it would not be reasonably practicable for an authorisation to be sought.
- 2.9 A covert human intelligence source is someone who establishes or maintains a personal or other relationship with a person for the covert purpose of obtaining, disclosing or providing access to private information. This includes public informants who work for the Police and Security services the Council's criminal investigators who make test purchases or act as secret passengers in taxi investigations in certain limited circumstances.
- 2.10 Data Communications (DC) with the covert purpose of obtaining of private information can include the post, phone calls and text messages to and from a person. The obtaining of DC by an investigator can only include information regarding the 'who', 'when' and 'where' of a communication e.g. Letters from and to a named person, telephone numbers of calls made to and by a named person (subscriber) and text messages and emails made to and from a defined number of a subscriber. DC investigations can not include the 'what' (i.e. the content of what was said or written in a telephone call text message email or letter. RIPA groups DC into three types: 'traffic data' (which includes information about where the communications are made or received); 'service use information' (such as the type of communication, time sent and its duration); and 'subscriber information' (which includes billing information such as the name, address and bank details of the subscriber of telephone or internet services). This information can only be obtained via a service provider such as the Post Office, British Telecomm, Orange, AOL and Yahoo etc.



- 2.11 The need for regulatory control and careful control by RIPA arose following the enactment of the Human Rights Act 1998 (HRA) which embodied in English Law (amongst other rights) Article 6 (Right to a fair trial) and Article 8 (Right to respect for a private and family life) of the 1950 European Convention of Human Rights (ECHR1950). It was not specifically enacted to address terrorism although undoubtedly this forms part of its remit in the context of the investigation and detection of exceptionally serious crime by the Police and Security Forces.
- 2.12 If a Council investigator uses a covert investigation technique without proper authorisation then the Council is liable in damages to the person subject to the investigation for breach of their Human Right to a private and family life and can seek damages against the Council from the civil courts. Such action is contrary to the Council's policy on the use of covert surveillance and is a breach of its disciplinary code see Para 6.9 at appendix 1.
- 2.13 The Council has a number of teams of enforcement officers based in the Council's Environmental Health Service, the Housing Standards Service, the Planning and Building Control Service, the Corporate Fraud Team, the Licensing (liquor licensing and taxi licensing) service, the Council's Joint West Yorkshire Trading Standards Service (WYTSS), the antisocial behaviour team and Youth offending Team.
- 2.14 As stated above since November 2012 directed surveillance authorised by RIPA must relate to "serious offence" by definition i.e. carry a penalty of at least six months in prison. It is worthy of note "the serious offence test" is satisfied for example in respect of offences investigated under the Food Safety Act 1990, the Environmental Protection Act 1990, the Social Security Administration Act 1992, the Fraud Act 2006 and the Trade Marks Act 1968. Also the sale of alcohol (Licensing Act 2003) or cigarettes (Children's and Young Persons Act 1933) to a person under the age of 18 is also regarded as a serious offence even though the penalty is £5000.00 and £2500.00 respectively.
- 2.15 The Council's enforcement teams are very much more often than not able to gather sufficient evidence of the criminal offences which connect with the Council's investigatory powers by overt means.
- 2.16 In exceptional circumstances investigators may need to use a covert investigative technique mentioned above authorised and approved under RIPA to prove the offence under investigation.
- 2.17 Authorisations under RIPA when required must be sought by the Council's investigating officers from the Council's Chief Executive (or in her absence the nominated Strategic Director), the City Solicitor or the Assistant City Solicitor and are limited to the ground of the prevention or detection of serious crime.



- 2.18 If and when an authorisation is granted for covert surveillance before the authorisation can be acted upon the Court must be invited to scrutinise the authorisation and approve it.
- 2.19 Only where covert surveillance is considered to be necessary and proportionate can an authorisation be granted and approved by the Councils authorised officers and the Court respectively.
- 2.20 During covert investigations some private information about the suspect and non suspects e.g. members of the public visiting the suspect's home or work place could be potentially included in the covert evidence gathering. This evidence must not be recorded or used in respect of none suspects. Evidence not relevant to offences is destroyed or not recorded at all. This reduces what is described in RIPA as 'collateral intrusion'.
- 2.21 The investigating officer's approved authorisation is also limited by its duration. The evidence recorded is limited to evidence which can support the criminal offence being investigated.
- 2.22 RIPA also contemplates and defines confidential information which is information of a type which if obtained is more holds a greater level privacy than other " private information ".
- 2.23 Confidential information is defined as "medical or religious information". No such information has ever been authorised to be sought by the Council's enforcement officers, as it is highly unlikely to be relevant to the commission of any criminal offence investigated by a local authority. Care should be taken in the investigation of the breaches of local government regulatory law not to seek or record confidential information. If confidential information is to be sought then the authorisation can only be granted by the Council's Chief Executive as Head of the Council's Paid Service.
- 2.24 RIPA and associated Regulatory Codes of practice and guidance define Covert Human Intelligence Source (CHIS).
- 2.25 Since 2000 RIPA has not been used by the Council's officers to investigate none serious crime i.e. breaches of schools' admission policies, dog fouling or littering. Investigation of this type i.e. of less serious criminal offending has historically been widely criticised in the press and advised against by the Local Government Association. Indeed some years ago the Council's admissions policy has been amended to make it clear only overt investigations relating to such breaches of the policy are used by the Council.



- 2.26 The Council other than through the West Yorkshire Trading Standards Joint Service (WYTSJS) has not needed to obtain evidence of criminal offences by the acquisition of ' Data communications ' under RIPA i.e. interception of mail, details of the use of telephone either mobile or land lines or use of the internet.
- 2.27 The Council is periodically audited by an appointed inspector of the Office of the Surveillance Commissioner (OSC). The OSC audited the Council compliance with RIPA in 2002, 2004, 2006, 2010 and 2013 and commendations and recommendations followed each inspection.
- 2.28 The next inspection by the OSC is scheduled for the 13th October 2016.
- 2.29 The Council is also externally audited by the Office of the Interception of Communications Commissioner. (OICC) An inspection was undertaken by the inspector of the OICC in September 2012 and the report was entirely satisfactory.
- 2.30 The Council was recommended to use officers of the local government national anti fraud network (NAFN) if data communication authorisation is required. Those officers are based at Tameside and Brighton Councils. To date no such authorisation has been required.

3. External inspection by the OSC July 2013.

- 3.1 In July 2013 the Council was inspected by a deputy Surveillance Commissioner from the Office of the Surveillance Commissioner. The recommendations and actions can be seen below.
- 3.2 Recommendations (and actions)
- a) *Embrace the CEO and whoever may deputise for him in his absence, within the RIPA training programme and ensure they receive training to enable them to authorise in the event of being required to do so (completed).*
 - b) *Officers should be trained to manage CHIS (to be completed 12th 13th 14th April 2015).*
 - c) *Amend the Policy Guidance and Procedure (Completed).*
 - d) *West Yorkshire Trading Standards Service - Ensure that officers are equipped to undertake and manage Social Networking Site investigations in accordance with RIPA requirements if and when authorisation for such is obtained (to be completed 12th , 13th and 14th April 2015).*



4. The Council's use and outcomes of authorised and approved covert surveillance operations for the last 3 years and overt enforcement activity generally.

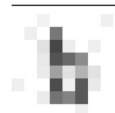
4.1 The figures for authorisations for the last 3 years are set out below. The figures relate to each department that could have used covert surveillance authorised under RIPA prior to November 2012 i.e. Environmental Health Service (EHS), Corporate Fraud Team (CFT), Planning and Building control service, Hackney Carriages and Private Hire (Taxi Licensing) service, Liquor Licensing service, the Housing standards service, the Antisocial behaviour team (ASBT), the West Yorkshire Trading Standards service (WYTSS) and the Youth offending team (YOT). Since November 2012 there are no longer any offences which meet the definition of the "serious offence test" which are investigated by the Council's Housing Standards service, the ASBT, the YOT, the Planning and Building Control service and the Councils Licensing services. This gives in an explanation as to why the numbers of authorisations appear as "not applicable" for each of the last 3 years in those enforcement services. In any event in the author's opinion the investigation of the types of offences in those service areas (see below) do not require the use of a covert investigative technique.

Year	EHS	WYTSS	CFT	Planning Service & Building Control	Housing Standard service	ASBT and YOT	Licensing Services	Refusals	Authorisations/Approvals
2013/14	1	0	1	n/a	n/a	n/a	n/a	1	1
2014/15	0	0	0	n/a	n/a	n/a	n/a	0	0
2015/16	0	0	1	n/a	n/a	n/a	n/a	1	0

4.2 It can be seen from the above list in those service areas which can still seek authorisation of directed covert surveillance under RIPA i.e. investigate offences which carry a term of imprisonment of six months or more, by comparison of the last 3 years the number of authorisations is almost a NIL as overt means of obtaining evidence have been found e.g. data sharing by public bodies e.g. between the CFT and the DWP and additional powers to obtain information for example from banks and interview techniques bring a greater focus on overt means. In the last year the authorisations have fallen to zero across all departments as overt means have been used to investigate all criminal offending investigated by the Council and one application was refused on the basis of R v Police 2006.

4.2 Set out below is the number of prosecutions for each of the last 3 years which gives an indication of the number of investigations which led to convictions and which relied on overt means of obtaining the evidence.

Year	EHS	WYJS	CFT	Planning Service & Building control	Housing standard service	Liquor Lic. Service	Hackney Carriage & Private Hire Licensing Service	ASBO & YOT
2013/14	53	6	73	14	18	4	13	29
2014/15	58	12	65	11	8	2	10	16
2015/16	46	8	17	7	5	0	4	9



4.4 **The Environmental Health Service (EHS).**

Members may be interested to know the type of offences the Council's EHS investigate. The services investigates offences of food safety, food hygiene, and fly tipping of controlled waste, prohibition of smoking in public places, littering and dog fouling amongst others. The offences arise under the Environmental Protection Act 1990, the Food Safety Act 1990, the Food Hygiene Regulations 2013, the Health Act 2006 and the Council's Dog control orders made under the Clean Neighbourhoods and Environment Act 2005.

4.5 **The Council's West Yorkshire Trading Standards Service (WYTSS)**

The WYJS investigates many consumer protection offences for example trade marks offences relating to counterfeit good, sale of cigarettes and alcohol to children, and weights and measures offences. These offences are all serious offences under the Consumer Protection Act 1998, the Trade Marks Act 1998, The Licensing Act 2003 and the Children's and Young Persons Act. The investigation of these offences could where necessary and proportionate be carried out covertly and be authorised under RIPA.

4.6 **The Council's Counter Fraud Team (Finance) (CFT)**

The CFT role in investigating benefit fraud along side the Department of Work and Pensions (DWP's) investigators under the Social Security Administration Act 1992 has recently changed and these matters are now prosecuted by the DWP's solicitors alone. The CFT continues to investigate serious criminal offences of internal fraud (e.g. social care direct payments) under the Fraud Act 2006; the Proceeds of Crime Act 2002 (money laundering) related mortgage fraud and fraud by abuse of position. All fraud offences are serious by definition and carry terms of imprisonment of six months or more and could use covert surveillance if necessary and proportionate and be authorised and approved under RIPA. The team also investigates less serious summary offences of misuse of blue badges.

4.7 **The Council's Planning and Building Control Service.**

This service investigate breaches of planning development control under the Town and Country Planning Act 1990 breaches of building regulations under the Building Regulations 2010, and listing building offences under the Town and Country Planning (Listed Buildings and conservation Areas) Act 1990. None of the offences investigated can be authorised as covert under RIPA as they carry penalties of less than six months in prison

4.8 **The Council's licensing services (Liquor and Taxis)**

These services investigate criminal offences under the Licensing Act 2003 and the Local Government (Misc. Provisions) Act 1976. The taxi licensing service is currently closely involved with the Police in investigating and disrupting issues of Child sexual exploitation.

The hackney carriage and private hire licensing service has in the past used covert means to investigate plying for hire but the offences do not carry penalties of more than six months in prison and thus cannot since November 2012 be authorised under RIPA.

4.9 **The Council's Housing Standards Service.**

This service investigates breach of standards of residential housing in the private sector and criminal offences arise under the Housing Act 2004. All the offences are summary offences which do not carry a sentence of six months or more in prison. This team has never found it necessary or proportionate to investigate the offences covertly.



4.10 **The Council's Anti-Social Behaviour Team (ASBT) and Youth offending team (YOT).**

The ASBT investigates matters of anti-social behaviour and seek injunctions to stop it under the Anti-Social Behaviour Crime and Policing Act 2014.

The Youth Offending team provided the supervision of young persons who have committed criminal offences. Those young people are under the age of 18 and will have been prosecuted by the Police for serious offences and then for example for breaches of supervision orders or Youth rehabilitation orders. Neither team has ever used covert surveillance for such investigations as it is not necessary or proportionate.

5. **Year on Year Compliance with RIPA**

- 5.1 Before officers consider deploying any of the 3 investigative techniques e.g. DS CHIS or DC officers must comply with RIPA or leave the Council open to criticism from the OSC and sanctions imposed by the Courts.
- 5.2 Compliance with RIPA and properly authorised and approved covert surveillance investigations give the Council an absolute defence under s 27 RIPA to a claim of damages for breach of the Human Rights Act through the use of covert surveillance i.e. breaching a person's right to privacy under the Human Rights Act 1998.
- 5.3 Compliance with RIPA by the granting of duly authorised and approved covert investigations avoid the exclusion of evidence before the Court/tribunal should a criminal prosecution or an employee disciplinary sanction follows the covert investigation.
- 5.4 The Council has the option to allow its authorised officers to be any director, head of service, service manager or equivalent.
- 5.5 However following a resolution of the Executive from the 1st September 2011 all authorisations are granted by either the Council's Chief Executive, or its City Solicitor (or in absence their nominated deputies) in consultation with the Leader of the Council. Each application for authorisation is also subject to legal advice from the Council's RIPA coordinator and monitoring officer. Prior to that time all Strategic Directors and their Assistant Directors were authorised officers.
- 5.6 Until the 1st November 2012 local authorities had the option to authorise covert investigation of less serious crime e.g. littering dog fouling and schools admissions. This power has now been removed by the "serious offence test" which states directed surveillance can only be used for offences which are subject to imprisonment of six months or more.
- 5.7 Consideration has been given by the Council's SRO and RIPA coordinator and Monitoring officer as to whether or not covert surveillance outside the authorisation and approval mechanism of RIPA be approved by the Council's policy and such a course of action for refused by C&AC in 2015.
- 5.8 **The Council's CCTV system and use of it for covert surveillance by the Police.**
- a) The Council owns a substantial CCTV system which assists in the prevention and detection of crime within the City Centre.



- b) From time to time the Council is asked to direct the use of its cameras specifically for the surveillance of criminal activities. This requires authorisation under RIPA and such authorisation is provided by the Police to the Council's CCTV manager Mr Philip Holmes.
- c) The Council's CCTV system has been considered in past inspections by the OSC. The inspector stated on 2013 " The Council manages a public place overt CCTV system within Bradford. It remains, as at the time of the last inspection, managed by Mr. Philip Holmes a highly experienced and robust officer. He maintains a careful control on the usage of the system by the police for the purposes of covert surveillance requiring a sight of any authorisation or at least details of it sufficient to enable him and his officers to be satisfied that the system is being used in accordance with the authorisation. This authorisation is maintained on a file within the Control Centre.
- d) This arrangement continues to be managed by Mr. Holmes and over the last year the Council has permitted the use of the Council's CCTV system for covert surveillance on 23 Occasions spread over 8 Separate operations. Of those 22 came from the police and one from the DWP. None were requested by the Council's investigative services.
- e) The table below shows comparative figures for the last 2 years

Year	Police	Department of work and Pensions	Refusals	Accepted	Total Operations
2014/15	26	1	2	27	12
2015/16	22	1	0	23	8

5.9 The Council's warden service and the use of body cameras.

- a) Body worn cameras are deployed the Council as an overt tool for frontline uniformed Council Wardens. Any video recordings and images captured by the cameras are the property the Council and will be retained in accordance with this policy.
- b) In accordance with Section 29 of the Data Protection Act 1998 the Council share any recordings with the Police to support ongoing Police investigations into offences committed against Council Wardens. The Council has a "Retention Policy relating to body worn camera footage set out at Appendix 2 of this report.
- c) The Council's warden service have been advised that if the body cameras were to be used in a covert way then authorisation and court approval should be carefully considered.

5.10 The monitoring of social media websites for evidence of criminal activities.

- (a) It was noted at the last OSC inspection in 2013 that the WYTSS uses internet monitoring to obtain evidence of the sale of counterfeit goods. However the WYTSS only examines public page sites and uses information gained as a basis for investigation. The WYTSS does not have a ghost website or a covert Face book account. It does have an overt Face book account and information gleaned from it or from websites normally stimulates a warning letter being sent to the account holder. Any information requiring a deeper investigation would be reported to the Regional Trading Standards Service. WYTSS staff are aware of the pitfalls involved in the investigation of Social Network Sites (SNS) covertly and having entered pages through



privacy controls.

- (b) However all Council staff need to be aware that covert investigation on public social media websites and the creation of covert relationships with members of the public in their investigations would require approval under RIPA.
- (c) The Council's RIPA coordinator and Monitoring officer and the Council's SRO have a concern as to whether there is a full appreciation by enforcement officers and their managers of the use of internet investigations and the approval required under RIPA. Thus specific training was provided In April 2015 to deal with Internet investigation even though not obviously covert (entry through privacy controls) may in any event require a *directed surveillance* authorisation AND where covert relationships are formed a *CHIS* authorisation is granted then the *CHIS* will need to be managed in accordance with *RIPA* requirements, namely by a controller and a handler with a full record being maintained.
- (d) Appendix 3 to this report sets out the policy a document which has been circulated by the Council RiCMO and the committee is invited to adopt the policy and RiCMO will inform officers that the guidance is now policy..

6. The role of the Councils Senior Responsible Officer and the annual review and training programme.

- 6.1 The Council's Senior Responsible Officer (SRO) role is an internal auditing role with regard to the Council's departmental use and compliance with RIPA in accordance with the relevant regulations, codes of practice and guidance.
- 6.2 The SRO undertakes an audit of the Council's compliance with RIPA each year and a reference to that audit is referred to at APPENDIX 4 of this report.
- 6.3 The recommendations are to implement the OSC inspectors' recommendations and the Council's RIPA Coordinator and Monitoring Officer to continue to monitor comply with RIPA and continue annual training.
- 6.4 Annual training for authorising officers and investigators has been arranged for September 2016

7. FINANCIAL & RESOURCE APPRAISAL

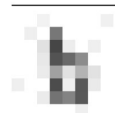
There are no financial implications arising from a resolution adopting the recommendations of this report. The training planned for September 2016 is to be provided by the Councils RiCMO.

8. RISK MANAGEMENT AND GOVERNANCE ISSUES

Recommendation 5 is intended to avoid risks of unauthorised covert surveillance by officers of the Council using internet investigation which authorisation would be unlawful.

9. EQUALITY & DIVERSITY

There are no equality impact or diversity implications as a result of a resolution adopting the recommendations of this report



10. SUSTAINABILITY IMPLICATIONS

There are no sustainability implications as a result of a resolution adopting the recommendations of this report.

11. GREENHOUSE GAS EMISSIONS IMPACTS

There are no greenhouse gas emission impacts as a result of a resolution adopting the recommendations of this report

12. COMMUNITY SAFETY IMPLICATIONS

There is no community safety implications as a result of a resolution adopting the recommendations of this report as investigation into crime in the Councils district will continue by the police. The Councils Enforcement teams will continue to undertake investigations of criminal offences overtly.

13. TRADE UNION

There are no trade union implications as a result of a resolution adopting the recommendations of this report

14. WARD IMPLICATIONS

There are no ward implications as a result of a resolution adopting the recommendations of this report

15. RECOMMENDATIONS

15.1.1 The duties placed on the Council under the Human Rights Act 1998 are considered in the context of this report.

15.1.2 The Council's continued compliance with RIPA and the completion of OSC recommended training following the inspection in July 2013 is noted.

15.1.3 The OSC inspection scheduled for the 13th October 2016 is noted and a report relating to the outcome of the inspection to be presented in April 2017.

15.1.4 The 2016 programme of training of Officers (in order to continue to raise awareness) and enforcement officers under RIPA is noted.

15.1.5 The inclusion as Council policy the guidance at Appendix 3 regarding Internet investigations and the communication to all Assistant Directors and Enforcement team Managers in order to raise awareness of the risks of such investigations.

16. Background documents

16.1.1 The Council's RIPA guidance document was last updated January 2016 (approx 120 pages) and is available on request from the author of the report and has been circulated to all enforcement managers.

16.1.2 The December 2015 updated RIPA Codes of Practice and Guidance on RIPA from the OSC.



17. Not for publication documents (held by the Council's RIPA coordinator and Monitoring Officer)

17.1.1 The RIPA applications, authorisations and court approval documents and the central register of authorisations held by the City Solicitors office.

17.2 The OSC inspection report dated the 17th July 2013.



APPENDIX 1 the Council's policy on RIPA (implemented 2002).

Policy statement

1. **Purpose** – The Council's officers in the course of investigating frauds, breaches of legislation or regulation and in the interest of the safety and well being of the district may be required to undertake covert monitoring operations to gather evidence to present to a court. In doing so those Officers must comply with the relevant legislation i.e. RIPA and the associated regulations and codes of practice. Evidence collected without complying with the statutory procedures may become inadmissible before the Courts and prejudice the outcome of an investigation.
2. **Scope** – The policy covers the use of covert CCTV, monitoring equipment such as audio recording, cameras, video cameras, binoculars and covert human intelligence sources (CHIS). RIPA also covers the monitoring of Internet use, telephone use, or postal use where the individual whose actions are being monitored is unaware of the operation. The Council's policy does not contemplate the monitoring of Internet use, telephone use or postal use other than in exceptional circumstances as this is unlikely to be unnecessary and disproportionate in most if not all local authority criminal investigations.
3. **Exclusions** – City centre CCTV operating within defined boundaries and brought to the attention of the public by the use of signs is not covered by this policy.
4. **The procedure** – when a Council officer considers that covert operations are the only method of collecting the evidence required s/he should obtain authorisation and court approval for such activity in advance and follow the guidance in the Council's RIPA guidance document as issued by the Council's RIPA coordinator and monitoring officer. The Council's RIPA coordinator is available to advise on procedure and maintains a central register of all authorisations.
5. **Review of the policy** - the policy and guidance document is reviewed annually by the Corporate Governance and Audits Committee through changes where required by the Council's RIPA Coordinator.
6. **Guiding Principles**
 - 6.1 Surveillance is an intrusion into the privacy of the citizen. The Council's officers will not undertake surveillance unless it is necessary and proportionate to the alleged offence and properly authorised and approved. Where there is an alternative legal means of obtaining the information that is less intrusive on the rights of the citizen, the Council will always take that alternative course rather than undertake surveillance.
 - 6.2 Surveillance by covert human intelligence source (CHIS) will not be authorised by the Council other than in exceptional cases due to the adverse risk to the health and safety of the officers and such will usually only be authorised when working alongside the police and after a risk assessment has been approved by the City solicitor.
 - 6.3 Covert surveillance will be conducted within the constraints of the authorisation. It will cease when the evidence sought has been obtained or when it becomes clear that the evidence is not going to be obtained by further surveillance. At that point the authorisation should be cancelled.
 - 6.4 In every instance where surveillance is authorised the officer who conducts surveillance will consider and make plans to reduce the level of collateral intrusion into the privacy of third



parties.

- 6.5 All outstanding surveillance authorisations should be reviewed at least monthly and cancelled where there is no further need for surveillance.
- 6.6 All officers involved in applying for, authorising or undertaking surveillance will understand the legal requirements set out in RIPA and the codes of practice. They will personally take responsibility for ensuring the propriety of their involvement.
- 6.7 All authorisations, notebooks, surveillance logs and other ancillary documentation that relates to surveillance will be maintained to the required standards and retained for **three years**. All documentation will be volunteered for any management or regulatory inspection on demand.
- 6.8 Any failure of any part of the process will be brought to the attention of the investigation manager. S/he will consult the Council's RIPA coordinator to determine what action should be taken.
- 6.9 Wilful disregard of any part of RIPA, codes of practice or of internal procedures shall be a breach of discipline and subject to the Council's disciplinary code.
- 6.10 **Surveillance equipment.**
- (i) The Council have a considerable amount of technical equipment which can carry out covert surveillance of operations e.g. Cameras, video cameras , binoculars, zoom lenses CCTV and noise tape recording equipment.
 - (ii) Bearing in mind that such equipment can be used by officers without supervision once authorisation has been granted continued monitoring and thus a record of the use of such equipment requires to be maintained i.e. its return to storage immediately once the covert surveillance has been undertaken.
 - (iii) Schedules of equipment are kept and updated by authorized officers for each Council department which undertakes surveillance either covert or otherwise. This is reviewed annually by the Council's RIPA coordinator and Monitoring Officer.
 - (iv) In order to effectively monitor the use of the equipment each separate piece of equipment is listed with its reference/serial number and its whereabouts.
 - (v) The responsibility to monitor the day to day use of such equipment by Council Enforcement officers is primarily that of each and every authorised officer (AO's) of the relevant Council Department. See schedule of AO's below
 - (vi) Included in this guidance are those departments that use surveillance equipment but such surveillance is deemed to be an exception to RIPA2000 e.g. Environmental services (noise monitoring where the person investigated is on written notice the noise is to be monitored and parks and landscapes who use of publicised motor bike mounted video camera for surveillance over general hot spots for crime rather than individual known suspects.
- 6.11 Wilful disregard of any part of RIPA, codes of practice or of internal procedures shall be a breach of discipline and subject to the Council's disciplinary codes.



7. Serious crime restrictions and magistrates court approval (1st November 2012)

- a) It is noted from the 1st November 2012 due to statutory regulation all authorisations under RIPA 2000 for Directed Surveillance and Communications Data may only be granted in respect of "serious crime" as defined i.e. carrying a penalty of 6 months or more imprisonment.
- b) Also from the 1st November 2012 all authorisations granted by the Council's authorised and designated officers of which are the Council's Chief Executive and the Council's City Solicitor (in consultation with the Leader of the Council) do not take effect until they have been approved by a magistrates upon application by the Council.
- c) The procedure to be followed is similar to applying for a warrant to enter premises under relevant statutory powers.
- d) The application to the Magistrates Court will be made in person usually by a Council solicitor advocate together with the applicant for the authorisation.
- e) The existing authorisation for which approval is required will be submitted to the court in writing and with the approval application form completed under cover of a letter before the application for approval is heard formally before the court.
- f) This statutory restriction was effectively part of the Council's existing policy in the context of making use of RIPA.
- g) The policy already acknowledges RIPA is not to be used for none serious crime e.g. dog fouling , schools admissions and littering offences as has been so severely criticised in the press and by the court



APPENDIX 2

Retention Policy relating to body worn camera footage

Body worn cameras are deployed by Bradford Council as an overt tool for frontline uniformed Council Wardens. Any video recordings and images captured by the cameras are the property of Bradford Council and will be retained in accordance with this policy.

In accordance with Section 29 of the Data Protection Act 1998 Bradford Council will share any recordings with the Police to support ongoing Police investigations into offences committed against Council Wardens.

All footage shall be reviewed and deleted within 24 hours of recording. The only exception to this is where the footage is being used as evidence in an ongoing Police investigation. Accordingly, any footage forming part of an ongoing Police investigation would only be disclosed by the Police as part of their investigation. Bradford Council would not be able to provide a copy on these occasions.

Any person who has been recorded on a body camera can make a request for a copy of the footage provided the request has been made within 24 hours of the recording. Proof of identity must be verified for such requests.

Requests for footage that is not in the public arena and contains recording of other individuals will be sent to a specialist contractor so that the identities of those individuals captured on the footage can be disguised prior to despatch.

Subject Access Rights

In accordance with the Data Protection Act 1998 if a recording of a member of the public has been made on a body camera that person is entitled to a copy of the recording provided the request has been made within 24 hours of the recording. The exception to this is where the recording is part of an on-going Police investigation.

In accordance with the Retention Policy

Delete as appropriate:

* As the footage requested occurred on (input date) this footage has been deleted and no longer exists.

* The footage forms part of an ongoing Police investigation and the Council will not be providing copies.

* The footage exists and a copy will be provided once it has proof of the person's identity so that the Council can satisfactorily establish the subject access rights. The person will need to provide a copy of any one of the following documents preferably by email to (name.name@bradford.gov.uk) or by post to: (input full office address)

- Your Council Tax reference number
- Copy of current passport
- Copy of a current benefits payment book
- Copy of current driving licence

Any copy of footage provided can be collected personally upon production of proof of identity, or, delivered securely to an address nominated by the subject.



The Use of Social Networks in Investigations

1. Use of this Guidance

This document provides guidance to Council officers who use “open source” social networks to gather information about individuals or groups of individuals in support of any investigation carried out on behalf of the Council, including criminal, civil, child protection and employment investigations. “Open source” means that the information available is not protected by privacy settings and is openly available to anyone that wishes to view it. This guidance does not facilitate the viewing or gathering of information from sources or profiles that are not “open source” and are protected by privacy settings. For example, a Face book profile where a friend request must be accepted before a profile can be viewed would not be an “open source” profile. Access to such information and the gathering of such information requires particular consideration under the Data Protection Act (DPA) 1998, Human Rights Act (HRA) 1998 and the Regulation of Investigatory Powers Act (RIPA) 2000. If such activity is proposed legal advice should always be sought in advance. The guidance supplements the Council’s Data Protection Policy which supports the delivery of the Information Governance Framework. The guidance should be read alongside the Council’s RIPA Policy Guidance and Procedure.

2. Use of “Open Source” Social Networks

“Open source” social networks have become a large accessible source of information about individuals. The information placed on these networks has the potential to be accessed, acquired, used and retained by council officers on behalf of the Council, in particular by investigators seeking evidence to support criminal and civil investigations, defend actions brought against the Council, assist in child protection matters or support employee disciplinary matters.

In his latest annual report the Chief Surveillance Commissioner has stated his view that just because such material is out in the open, does not render it fair game. The Surveillance Commissioners have provided guidance that certain activities will require authorisation under RIPA.

Whilst the viewing only of publicly available information, without gathering, storing or processing material or establishing a relationship with the individual is unlikely to engage an individual’s right to privacy under the European Convention on Human Rights , where activities involve officers creating a record of personal data or private information, this activity must be justified with reference to the DPA and HRA to ensure that the rights of the individual have been respected and to ensure that ensuing proceedings are based upon admissible evidence.

3. RIPA, Covert Human Intelligence Sources & Directed Surveillance

3.1 Covert Human Intelligence Source (CHIS)

There may be circumstances where activity on social networking sites amounts to the use



of a CHIS which would require an authorisation under RIPA. The term CHIS is used to describe people who are more commonly known as informants. The use or conduct of a CHIS would include work by officers working “undercover” whereby a covert relationship is established with another person. Such activity may arise if investigators are seeking to form covert relationships on social networking sites to circumvent privacy settings that have been put in place.

Many sources volunteer or provide information that is within their personal knowledge, without being induced, asked, or tasked by the council. For example a member of the public volunteering information about something they have viewed on a social network, where a relationship will not have been established or maintained for a covert purpose, will not amount to CHIS activity. This information may be processed by the Council in accordance with the DPA.

Further information about the use of CHIS can be found in the Council’s RIPA Policy, Guidance and Procedure. If officers believe that proposed use of social networks may involve the use of a CHIS, legal advice should be sought and any CHIS activity must be authorised in accordance with the Council’s RIPA policy.

3.2 Directed Surveillance

The Chief Surveillance Commissioner has expressed the view that the repeated viewing of open source sites for the purpose of intelligence gathering and data collation or a single trawl through large amounts of data (“data mining”) could amount to activity for which a RIPA authorisation for Directed Surveillance should be sought, where the serious crime threshold is met.

Where private information is being gathered by officers from social networks to support a criminal investigation for an offence that attracts a maximum sentence of 6 months or more and the proposed use of the social network meets the definition of Directed Surveillance, authorisation must be sought in accordance with the Council’s RIPA policy. Officers are advised to seek legal advice on such proposed activity.

Where information is gathered by officers from open source sites that would require a RIPA Authorisation for Direction Surveillance if it were not for the serious crime threshold then a Human Rights Audit should be completed in accordance with the Council’s RIPA Policy, Guidance and Procedure.

Where individuals volunteer or provide information that is within their personal knowledge, without being induced, asked, or tasked by the council, this activity will not amount to Directed Surveillance and the information may be processed by the council in accordance with the DPA.

3.3 Surveillance of Employees

Covert surveillance of an employee as part of a disciplinary process does not amount to Directed Surveillance for the purposes of RIPA as this is an “ordinary function” of the council rather than a “specific public function”.

Where online covert surveillance involves employees then the [Information Commissioner’s Office’s \(ICO\) Employment Practices Code \(part 3\)](#) will apply. This requires an impact assessment to be done before the surveillance is undertaken to consider, amongst other things, necessity, proportionality and collateral intrusion. Whilst the code is not law, it will be taken into account by the ICO and the courts when deciding whether the DPA has been complied with (see section 3 below).



Where individuals volunteer or provide information that is within their personal knowledge, without being induced, asked, or tasked by the council, this activity will not amount to covert surveillance and the information may be processed by the council in accordance with DPA.

4. Data Protection Act 1998

The provisions of the DPA apply to all personal data processed by the Council, including personal data acquired from open source social network sites. Personal data must only be processed in accordance with the DPA and the Council's DP policy.

All personal data must be processed fairly and lawfully and the processing of personal and sensitive personal data must be justified under one or more of the fair processing conditions set out in Schedules 2 and 3 of the DPA.

The Council strives to adopt the least intrusive approach to the delivery of council services and any processing must be necessary and proportionate in order to be justified under one of the fair processing conditions. "Necessary" means more than simply convenient or desirable for the Council, where processing corresponds to a "pressing social need".

"Proportionate" means that the Council needs to try and strike a fair balance between the rights of the data subjects, and the legitimate aims of the Council. This means the data collected to support investigations must not be excessive and must take account of the particular circumstances of the data subject.

Officers must also consider whether the use of open source social networks as part of an investigation is likely to result in collateral intrusion and the personal data of uninvolved third parties being processed by the Council. The processing of third party data must also be justified under the DPA with reference to the fair processing conditions.

If officers are unsure as to whether processing is justified under the DPA, advice can be sought from the Directorate Data Practitioner, the Corporate Information Governance Team or Legal Services.

5. Human Rights Act 1998

Article 8 of the European Convention on Human Rights (ECHR) which was brought into force by the HRA provides that an individual's rights to family and private life may only be interfered with where the interference is in accordance with the law and necessary for one of a number of legitimate purposes including public safety, the prevention of crime or disorder, the protection of health and morals, or the protection of the rights and freedoms of others. In order to meet the requirement of necessity the interference must be proportionate to the legitimate purpose.

The case law recognises that the concept of "private life" is wide ranging. The test to be applied in determining whether Article 8 rights are engaged is whether there is a "reasonable expectation of privacy". This is a broad question that must take into account all the circumstances of the case. The creation of a permanent record from information currently in the public domain or the systematic retention of information may engage an individual's Article 8 rights. The Supreme Court has now confirmed that the state's systematic collection and storage in retrievable form even of "public" information about an individual is an interference with private life. Therefore the requirements of lawfulness,



necessity and proportionality should be considered by officers whenever information about individuals from social networks is acquired, used, or retained.

Given the need to consider issues of lawfulness, necessity and proportionality in order to justify the processing of personal data under the DPA, where the processing of personal data from open source social networks is justified under the DPA, any interference with the individual's right to privacy under Article 8 through the processing of that data will also be justified.

In order to comply with Article 8 consideration must also be given to any collateral intrusion that might occur and result in private information being obtained about uninvolved third parties, whether this intrusion is lawful, necessary and proportionate and how it can be avoided, minimised or mitigated.

6. Use of Corporate Accounts

Investigations using social networks should only be conducted using Corporate Accounts created for the purpose of carrying out such investigations. Accounts must be approved by your line manager and by your service area digital champion. You can find out who your digital champion is in the related documents section and more about the process of applying for an account in the 'general' toolkit guidance.

7. Case Study Examples

Case Study No.1

An officer in Children's Services wish to search Facebook to try and locate a child who is missing from care; the search is only carried out for the purpose of trying to locate the child when other investigative methods have failed.

Yes –Children's Services have a statutory duty to safeguard and promote the welfare of children, providing the use made of Facebook and any information retained by Children's Service is necessary and proportionate in the circumstances. This use of social Facebook in these circumstances is likely to be lawful however care should be taken not to gather information on third parties unless this is justified in the circumstances.

Case Study No. 2

Environment and Housing receive reports from a neighbour that a tenant has abandoned their property. The housing officer believes it would be quicker to search Facebook to find evidence of the tenant living elsewhere than it would to visit the property and make enquiries with the neighbours and family members.

No – the use of Facebook and subsequent gathering of evidence would not be necessary or proportionate in these circumstances. Online investigations should not replace traditional less intrusive investigative methods simply because it is convenient to do so. This use of Facebook information is likely to breach both the DPA and Article 8 ECHR.

Case Study No.3

A manager has suspicions that members of the team are abusing the sickness absence policy and routinely carries out checks on Facebook to monitor the activities of staff that



are off work on sick leave, gathering evidence that they believe demonstrates abuse of the policy.

No – routinely using Facebook to monitor staff absences and gather information about staff members would not be necessary or proportionate and is likely to breach both the DPA and Article 8 ECHR.

Case Study No.4

Enforcement Officers believe that an individual suspected of fly-tipping is advertising his services to friends through Facebook. Privacy settings prevent the Enforcement Officers from accessing his Facebook profile and they want to create a fake profile to befriend him to gain access to his posts.

No - using Facebook to establish a relationship with somebody to covertly gather information about them would be the use of Covert Human Intelligence source (CHIS) which requires authorisation under RIPA. This use of Facebook is likely to breach Article 8 ECHR

Case Study No 5.

Council officers investigating a tenancy fraud want to monitor a tenant's Facebook page constantly for a week to see if the tenant posts any information that could be used to support the investigation. They intend to take screen shots of posts as they are made to preserve the evidence in case the tenant later deletes the posts.

No - the monitoring in real time of a person's Facebook profile to try and obtain evidence to support a prosecution is likely to amount to Directed Surveillance and require authorisation under RIPA. This use of Facebook is likely to breach Article 8 ECHR.

Case Study No.6

A member of the public makes a complaint that an employee of Leeds City Council has been stealing council equipment and selling it on Facebook, they voluntarily provide a screen shot of the employee's Facebook page showing council equipment for sale.

Yes – a member of public volunteering information that is accessible to them does not amount to CHIS activity and use of the evidence provided would be necessary in order for the council to investigate and address the allegations made. However the complainant should not be asked to continue to covertly gather information on behalf of the council as this would be intrusive and likely to breach Article 8 ECHR. The information should be retained in accordance with the council's retention rules.



APPENDIX 4

26th May 2016

**Internal audit undertaken by the Council's Senior Responsible Officer
Stuart McKinnon- Evans (SRO & CFO) with Richard Winter RIPA coordinator and monitoring officer.
(Period 1st April 2015- 31st March 2016)
The Bradford Councils use of covert surveillance techniques e.g. directed surveillance and covert
human intelligence sources**

Audit check	Yes/No/Not applicable
Authorised officers	
<ul style="list-style-type: none"> a) The nominated authorised officer for obtaining 'private information' covertly. b) The nominated deputy authorised officer for the obtaining of 'private information' covertly. c) The nominated authorised officer for obtaining 'confidential information' covertly d) The deputy nominated authorised officer for obtaining 'confidential information' covertly e) The Councils RIPA coordinator and monitoring officer (RiCMO) 	<ul style="list-style-type: none"> a) City Solicitor b) Assistant City solicitor. c) The Chief Executive (CEX) (Head of the paid service) d) The nominated Strategic Director authorised by the CEX to deputise in her/his absence. e) Richard Winter solicitor (with expertise of criminal investigations and prosecutions)
Necessity and proportionality	
(i) Where the Council has authorised the use of covert surveillance are those authorisations necessary and proportionate?	Not applicable- all investigations have been undertaken overtly without the use of covert surveillance
Approval by a Justice of the Peace	
(ii) Were all authorisations approved by a justice of the Peace? If not why not and what can be learnt from this?	Not applicable- all investigations have been undertaken overtly without the use of covert surveillance.
Refusal of authorisation/approval	
(iii) Have any applications for authorisation/approval been refused/put on hold? If so why?	There have been no covert surveillance either directed surveillance or CHIS authorised by the Council since 2013 However there has been one application for directed covert surveillance in 2015/16. The application was made towards the end of 2015 carrying RIOA unique Reference number URN CFT No 1 of 2015/16.



Audit check	Yes/No/Not applicable
Central Register of authorisations	
(iv) Is the management and upkeep of the Council's central record and register of authorisations satisfactory and in accordance with current legislation, Home Office and OSC guidance and recommendations arising from past inspections?	<p>Yes I believe so.</p> <p>I have had sight of the 4 parts of the register which all show a NIL return. The register is made up of separate parts for the Council's services e.g. Environmental Health Service, Corporate Fraud Team, The Planning Service, The Licensing services (taxis and liquor licensing) and the Housing standards service.</p> <p>The WY Trading standards service keeps its own central register.</p>
The quality of the completed applications and authorisations	
(v) Is the quality of the completed application and authorisations, reviews, renewals and cancellations documentation satisfactory?	<p>Not applicable- all investigations have been undertaken overtly without the use of covert surveillance</p> <p>NB I am informed by RiCMO the application refused was of an acceptable quality (see below)</p>
Review of the continuation and implementation of the Conclusions and Recommendations of the OSC Inspection July 2013	
<p>Deputy Surveillance Commissioner HH Judge Norman Jones QC 2nd July 2013</p> <p><i>Conclusions</i></p> <p>3.1 The City of Bradford MDC has continued the reduction in its use of RIPA and covert surveillance which was remarked upon at the time of the last inspection. It may now be regarded as a limited user, especially in the light of the single authorisation since November 2012. This has been largely as a result of a determination by the Council, both its Elected Members and its officers, to effect overt investigations whenever possible.</p> <p>3.2 The restriction of the role of Authorising Officer is to be commended and the high quality of her authorisations was apparent. However this restriction is probably too severe taking into account the requirements for covering the usual contingencies. This has been appreciated and steps are afoot to address the issue.</p> <p>3.3 Mr. Winter continues to be the dominant force in the day to day management of RIPA. His long and wide experience in the</p>	<p>Noted</p>



Audit check	Yes/No/Not applicable
<p><i>field is of great value to the Council. The appointment of Mr. McKinnon-Evans as SRO adds further weight and enthusiasm to the RIPA process.</i></p> <p>3.4 It was most encouraging to note that the Council had discharged almost all of the recommendations of the previous report. Overall the Council continues to be a responsible and able user of RIPA and applies a training programme coupled with good management and systems to the authorisation process. This results in a Council which consistently acts in compliance with the requirements of RIPA.</p> <p>3.5 The WYTSS has now adopted practices which will ensure that its authorisations in the future are compliant with RIPA. It is unfortunate that this took so long to accomplish and fortunate that no serious challenge was mounted in the meantime.</p> <p>3.6 However the quality of the "authorisation" reviewed was much better than that seen at the time of the last visit. Training in the meantime has undoubtedly assisted an already perceived improvement only a few months after the last inspection. The requirement to obtain authorisation from Council Authorising Officers coupled with the requirements of Magistrates' approval, will serve to ensure that the improvement is maintained. In that regard Mr. Mullins impressed with his determination that his Service maintained the highest standards of compliance. Recommendations</p> <p>I. Embrace the CEO, and whoever may deputise for him in his absence, within the RIPA training programme and ensure they receive training to enable them to authorise in the event of being required to do so.</p> <p>II. Officers should be trained to manage CHIS.</p> <p>III. Amend the Policy Guidance and Procedure.</p> <p>IV West Yorkshire Trading Standards Service - Ensure that officers are equipped to undertake and manage Social Networking Site investigations in accordance with RIPA requirements if and when authorisation for such</p>	<p>I – The current CEX have been in post since September 2015 and was trained in April 2016. Further training of the Councils Strategic Directors (namely Mike Cowlam , Steve Hartley, and the City Solicitor Parveen Ahktar will be arranged by the RiCMO before the next inspection on 13th October 2016</p> <p>II – Relevant managers were trained on CHIS and internet investigation by the West Yorkshire Police in April and June 2015.</p> <p>III- The policy Guidance Procedure has been amended by the RiCMO and makes reference to internet investigations</p> <p>IV Officers of the WYTSS attended the WYP training in April and June 2015 and hold counsels advice on this issue.</p>
<p>The Annual review of the Council's Policy and guidance document</p>	
<p>(vi) Is the Council's stated policy and guidance</p>	<p>Yes last updated January 2016 by RiCMO</p>



Audit check	Yes/No/Not applicable
<p>document for officers up to date bearing in mind current OSC guidance (last updated December 2014) Home office Codes of Practice (Last revised December 2014) and current legislation?</p> <p>(vii) Is the Councils current in house training material up to date?</p>	<p>Next update Jan 2017 unless legislative changes are made before then.</p> <p>I have had sight of the updated document.</p> <p>Yes last updated January 2016 by the Councils RiCMO</p>
Annual training programme	
<p>(viii) Has the required annual training of all relevant officers been completed and a next years programme arranged?</p>	<p>I am satisfied as to the level of training provided in 2015 by the WYP.</p> <p>I am aware of the training recommendations made by the OSC in July 2013 which were implemented by the WYP in April 2015 and later in June 2015 to relevant Council officers i.e. enforcement team managers of serious offences and senior investigators and the Councils RiCMO.</p> <p>I and the CEX of the Council has been trained by the RiCMO at a one to one training seminar on the 21st April 2016</p> <p>RIPA training for Assistant Directors 4th tier managers enforcement team managers and senior investigators will be arranged for September 2016 by RiCMO</p> <p>To attend the training to include reference to policy document on restriction on internet investigations.</p>
<p>(viii) CCTV use and authorised under RIPA for covert surveillance by the police and DWP.(obtained from Councils CCTV manager)</p>	<p>(viii) Evidence of RIPA authorisations granted by the external investigative agencies e.g. the WYP and the DWP (see email from Phil Homes and attached authorisations). Yes</p>
<p>Conclusions & Recommendations by SRO</p>	<ol style="list-style-type: none"> 1. Arrange September 2016 training as above. 2. Continue to make sure the Council's officers comply with RIPA and raise awareness. 3. Continue disapproval of the use of covert surveillance when not authorised and approved under RIPA. 4. Notify all Enforcement team managers of the RIPA inspection by OSC HH Judge Norman Jones QC on the 13th October 2016 5. RiCMO to make reference to the Appendix added to the Councils policy and procedure document added in January 2016 relating to internet investigation in the report to Corporate Governance and Audit Committee 28th June 2016 and communicate it to relevant managers.



Audit check	Yes/No/Not applicable
	6. RiCMO seek further guidance from the Deputy OSC commissioner at the October 2016 inspection re Rv Police 2006.

Prepared by Richard Winter RiCMO

Dated 26th May 2016

Signed by Stuart McKinnon Evans SRO

Dated 26th May 2016

G:\Legal Services\Property Commercial & Development Law\Richard Winter (RJW) PCD\Local Government advice files\RIPA2000 coordination\Senior Responsible officer\Internalaudit260516smcrw amended040616rw.doc

APPENDIX 5 Glossary of terms and abbreviations (in the order they appear in the report)

Abbreviation	title/term	Background/definition
RIPA 2000	Regulation of Investigatory Powers Act	Regulates the use of covert surveillance and data communication in respect of private persons.
SRO	Senior Responsible officer	Required to take an overview of the Councils use of covert surveillance and compliance with RIPA
CCTV	Close circuit television	Used for safety and security purposes within Council buildings and the city centre
CS	Covert surveillance	Surveillance which is carried out in a manner calculated to ensure that the persons subject to the surveillance are unaware that it is or may be taking place.
DS	Directed surveillance	<p>Surveillance which is covert, but not intrusive, and undertaken:</p> <ul style="list-style-type: none"> a) for the purpose of a specific investigation or operation; b) in such a manner as is likely to result in the obtaining of private information about a person (whether or not that person is the target of the investigation or operation); and c) In a planned manner and not by way of an immediate response whereby it would not be reasonably practicable to obtain an authorisation prior to the surveillance being carried out.
CHIS	Covert human intelligence source	<p>A person is a CHIS if:</p> <ul style="list-style-type: none"> (a) s/he establishes or maintains a personal or other relationship with a person for the covert purpose of facilitating the doing of anything falling within paragraph (b) or (c);



		<p>(b) s/he covertly uses such a relationship to obtain information or to provide access to any information to another person; or</p> <p>(c) S/he covertly discloses information obtained by the use of such a relationship, or as a consequence of the existence of such a relationship.</p>
IS	Intrusive surveillance	<p>Intrusive surveillance is defined as covert surveillance that:</p> <p>a) is carried out in relation to anything taking place on any residential premises or in any private vehicle; and</p> <p>b) Involves the presence of any individual on the premises or in the vehicle or is carried out by means of a surveillance device.</p> <p>If the device is not located on the premises or in the vehicle, it is not intrusive surveillance unless the device consistently provides information of the same quality and detail as could be expected to be obtained from a device actually present on the premises or in the vehicle.</p>
	Private information	<p>Includes any information relating to a person's private or family life.</p> <p>Private life also includes activities of a professional or business nature (<i>Amann v Switzerland</i> (2000) 30 ECHR 843).</p> <p>"Person" also includes any organisation and any association or combination of persons.</p>
	Confidential material	<p><i>Includes:</i></p> <ul style="list-style-type: none"> ▪ matters subject to legal privilege; ▪ confidential personal information; or <p>Confidential journalistic material.</p>
HRA 1998	Human Rights Act	Enacts ECHR into English Law i.e. absolute and conditional human rights
ECHR 1950	European Convention of Human Rights	Sets out absolute and conditional Human Rights across Europe
OSC	Office of the surveillance commissioner	Appointed by the government to oversee the police and other public bodies use of covert surveillance techniques.
OICC	Office of the Interception of Communications commissioner	Appointed by the government to oversee the police and other public bodies interception of data communications
NAFN	National antifraud Network	Joint local authority network for dealing with fraud of which the Council is a member



RiCMO	RIPA Coordinator and Monitoring Officer	Lead Officer on RIPA - Advises enforcement managers and officers of the RIPA process and procedure. Annually reviews and updates all relevant Policy and Guidance material and reports to CGAC
SNS	Social network sites	E.g. Facebook and Twitter



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Report of the Director of Finance to the meeting of Governance and Audit Committee to be held on 28 June 2016.

Subject:

C

Annual Governance Statement 2015-16

Summary statement:

This report sets out the requirement to conduct the annual review of the effectiveness of the Council's governance framework and system of internal control. It reports the conclusions of that review and produces the Annual Governance Statement for 2015-16 to accompany the Council's Statement of Accounts.

Stuart McKinnon-Evans
Director of Finance

Portfolio:

Leader of Council and Corporate

Report Contact: Mark St Romaine
Head of Internal Audit, Risk,
Insurance and Information
Governance
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Overview & Scrutiny Area:

Corporate



1.0 Summary

- 1.1 This report sets out the requirement to conduct the annual review of the effectiveness of the Council's governance framework and system of internal control. It reports the conclusions of that review and produces the Annual Governance Statement for 2015-16 to accompany the Council's Statement of Accounts.

2.0 Background

- 2.1 In order to meet the statutory requirements set out in the Accounts and Audit Regulations 2015 the Council must prepare an annual governance statement which must be approved either by a committee or by members of the authority meeting as a whole. In Bradford the Annual Governance Statement is approved by the Governance and Audit Committee in accordance with the guidance contained in the CIPFA/Solace framework 'Delivering Good Governance in Local Government'.
- 2.2 The Statement must be approved by Members and signed by the Chief Executive and a Leading Member.
- 2.3 The Annual Governance Statement includes an annual review of the Council's internal control environment.

3.0 The Annual Review

- 3.1 The Annual Review is undertaken against the principles contained in the CIPFA/Solace framework – Delivering Good Governance in Local Government. The Council is required to consider the effectiveness of its current arrangements and:

- Assess the extent to which it complies with the principles and requirements of good governance
- Identify systems, processes and documentation that provide evidence of compliance
- Identify and ensure individuals and committees hold responsibility for governance arrangements and their continuing application and effectiveness
- Identify issues that have not been addressed adequately and any planned changes required in the future
- Prepare an action plan, identifying any individuals responsible for taking any changes forward

- 3.2 The Annual Review is undertaken by the Director of Finance as S151 Officer. In conducting the review, reliance is placed upon six main sources of evidence.

- The Constitution of the Council
- The adequacy of management actions in relation to key risks as identified in the corporate risk register
- Evidence from the regular monitoring and reporting to the Executive and Scrutiny Committees on performance, risk and finance issues
- Key Control and fraud risk self assessments supporting written confirmation from Strategic Directors that all reasonable steps have been taken to ensure compliance with established policies, procedures, laws and regulations.

- The reports of Internal Audit
- External Audit and other external inspection agencies.

External Audit in particular provided the Council with an independent assessment of the way in which the Council conducts its business, safeguards and properly accounts for public money. It reports regularly to Members of the Governance and Audit Committee.

4.0 Conclusion of the Annual Review for 2015-16

- 4.1 The Annual Review has confirmed that the Council has arrangements in place that provide a sound governance framework and system of internal control.
- 4.2 The overall governance arrangements are represented by the Constitution of the Council, associated detailed procedures and codes of practice which are annually reviewed by the Governance and Audit Committee.
- 4.3 The overall adequacy and effectiveness of the Council's internal control environment is reviewed on a continual basis by Internal Audit. Monitoring reports throughout the year have examined the controls in operation and working effectively in any year. A number of operational internal control issues are identified. These are addressed through a series of recommendations agreed by senior management and subsequently implemented.
- 4.4 External Audit undertake a programme of work during the year covering areas such as value for money and internal control. Details are contained within the Audit Strategy Memorandum, regular progress reports and the publication of the Audit Completion Report. The results of this work have been taken into account when determining the measure of risk to the Council.
- 4.5 Action plans for improvement are devised and implemented in response to External Audit recommendations.
- 4.6 The Council adopts a process of risk management and departmental and corporate risk registers are maintained and reviewed on a regular basis.

5.0 Specific Governance Issues

- 5.1 A number of governance challenges previously recognised by the Council have been resolved or progressed during the year. These are explored in greater depth in the accompanying Annual Governance Statement, presented in full at Appendix 1.
- 5.2 The Council reviews the governance arrangements of its major risks and issues through reports either to Council, the Executive, Governance and Audit Committee, Standards Committee and Scrutiny arrangements. This occurs on a continuing basis. Accordingly, the Council will focus on the following governance issues in 2016/17, a number of which have already been included work plans of the respective committees

- 1) Agreeing an operating and financial plan in the context of the intractable tensions between resources, expectations of citizens and service users, and the statutory framework
- 2) Improving educational attainment
- 3) Safeguarding vulnerable children
- 4) Ensuring an effective integrated system of health and social care
- 5) Mitigating the effects of a loss of experience and expertise arising from staff reductions, especially where loss of such resource impacts on the management of services protecting vulnerable people
- 6) Establishing sound governance structures pertaining to the West Yorkshire Combined Authority ensuring democratic accountability at the local level
- 7) Putting in place governance structures arising from developing policies for the delivery of regional devolution
- 8) Assessing the implications of the EU Referendum Result.

6.0 Arrangements with the West Yorkshire Pension Fund

6.1 The Council is also responsible for the financial and management arrangements of the West Yorkshire Pension Fund and a separate assessment of the adequacy of these arrangements is also required. The following internal arrangements are in place to provide the Council with the necessary assurance.

- The West Yorkshire Pension Fund has adopted the Council approved approach to risk management
- Risk registers are maintained and management action plans (MAPs) are in place for risks assessed as requiring active management
- Risks are monitored and MAPs reassessed regularly
- Risk management is reviewed quarterly
- A risk management report is submitted annually to the WYPF Joint Advisory Group.

There are not expected to be any issues arising from the annual report and review to be submitted to the Joint Advisory Group meeting in July 2016.

7.0 Financial and Resources appraisal

7.1 There are no direct financial implications arising from this report however any governance issues arising now or in the future, which need further strengthening will require appropriate action to be taken. Officer time will be required to formulate action plans and putting into place the appropriate corrective arrangements to strengthen the governance framework.

8.0 Risk Management

8.1 Risk management issues are referred to in the report and annual governance statement where appropriate.

9.0 Legal appraisal

- 9.1 The CIPFA/Solace framework 'Delivering Good Governance in Local Government' defines proper practices for the production of a governance statement that meets the requirements of the Accounts and Audit Regulations 2015. The Annual Governance Statement must be signed by the Chief Executive and a leading member.

10.0 Recommendations

- 10.1 That the Governance and Audit Committee authorise the Leader of the Council and the Chief Executive to sign the document, on behalf of the Council, to accompany the Statement of Accounts 2015-16.

11.0 Appendices

- 11.1 Appendix 1: Annual Governance Statement 2015-16

12.0 Background documents

Accounts and Audit Regulations 2015
CIPFA/Solace Delivering Good Governance in Local Government Framework
Statement of Accounts

ANNUAL GOVERNANCE STATEMENT 2015-16**1. Scope and Purpose****1.1 Scope of Responsibility**

The City of Bradford Metropolitan District Council is responsible for ensuring that its business is conducted in accordance with the law and proper standards, and that public money is safeguarded, properly accounted for, and used economically, efficiently and effectively. It also has a duty under the Local Government Act 1999 to make arrangements to secure continuous improvement in the way in which its functions are exercised.

In discharging its overall responsibility, the Council is responsible for putting in place proper arrangements for the governance of its affairs, facilitating the effective exercise of its functions, as well as arrangements for the management of risk.

1.2 The purpose of the governance framework

The governance framework comprises the systems and processes, culture and values by which the Council and its partners are directed and controlled and those activities through which it accounts to, engages with and leads the community. It enables the Council to monitor the achievement of its strategic objectives and to consider whether those objectives have led to the delivery of appropriate, cost-effective services.

The framework has continued in place at the Council for the year ended 31 March 2016 and up to the date of approval of the statement of accounts. Whilst supporting the Council's arrangements for risk management, it cannot eliminate all risk to the achievement of policies, aims and objectives and can therefore only provide reasonable and not absolute assurance of effectiveness.

2. The Governance Framework.

The systems and processes that comprise the Council's governance comprise the following key elements:

2.1 Code of Corporate Governance.

The Council has approved and adopted a code of corporate governance which is consistent with and founded on the six core principles of the CIPFA/SOLACE framework "Delivering Good Governance in Local Government" –

- Focusing on the purpose of the authority and on outcomes for the community, and creating and implementing a vision for the local area.
- Members and officers working together to achieve a common purpose with clearly defined functions and roles.
- Promoting the values of the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour.

- Taking informed and transparent decisions which are subject to effective scrutiny and managing risk.
- Developing the capacity and capability of members and officers to be effective.
- Engaging with local people and other stakeholders to ensure robust public accountability.

2.2 The Constitution of the Council

The Constitution, reviewed at Annual Council, provides the framework within which the Executive takes decisions in discharge of the Council's functions, subject to the examination of a number of Overview and Scrutiny Committees. The Executive is collectively responsible for the decisions it makes and its decision making arrangements are designed to be open, transparent and accountable to local people.

2.3 Identification and communication of a clear vision of the Council's purpose, its shared priorities with its partners and intended outcomes for citizens and service users.

Bradford District Partnership requested the production of a District Plan in October 2015 to confirm shared vision, outcomes and priorities for action with partners over the next four years.

The District Plan has been developed with key partners and partnerships, and builds on the BDP governance review, giving a clear responsibility for each outcome to a specific strategic partnership. The development of the plan also involved overview and scrutiny committee and area committee input.

The final District Plan was agreed by Bradford District Partnership Board on 22 April 2016. Building on the outcomes and principles established via the Council's New Deal approach it sets out a clear vision and agreed action over the next four years to 2020.

A Council Plan is in development that identifies how the Council will deliver the commitments established in the District Plan. It is scheduled for Executive consideration on 19 July 2016

Internally, the Council's purpose is defined as: "Working with people and partners for a healthier, caring, more prosperous and sustainable Bradford District."

The priorities identified in the plans are:

- Good schools and a great start in life for all our children
- Better skills, more and better jobs and a growing economy
- Decent homes that people can afford to live in
- Better health, better lives
- Safe clean and active communities
- A well run council which is cost effective and productive.

A plan for communicating and engaging on the key messages of the plan, and promoting its delivery is being developed.

2.4 Review of the Council's vision and implications for its governance arrangements.

The Council Plan will be further developed and delivered through internal governance arrangements comprising six director-led boards, whose scope reflect the Plan's defined priorities, overseen by the Executive.

A review of Bradford District Partnership arrangements was carried out over late 2015, and implemented by April 2016.

This involves a clear lead partnership for each of the agreed outcomes that form the Council and District's vision. Each partnership is responsible for a "chapter" of the District Plan.

Bradford District Partnership board are currently considering how they ensure greater accountability from the partnerships to the Board, via regular reporting on progress at future Board meetings. An updated handbook is also being produced.

2.5 Business Continuity Management.

The Council is committed to providing for business continuity, as detailed in the Civil Contingencies Act 2004, to ensure it can provide all its key functions in the event of an emergency or disruption, so far as is practicable. Assistant Directors lead on business continuity planning within their service areas. The Emergency Management Team has put in place processes that set out the Council's approach to business continuity management.

2.6 Measuring the quality of services for users, ensuring services are delivered in accordance with the Council's objectives and represent the best use of resources.

- The Council uses corporate and departmental service level performance measures to report and manage service delivery.
- The Annual and Mid-year Finance and Outturn Performance Reports, and Quarterly Financial Monitoring Reports, present to the Executive and Corporate Overview & Scrutiny the current and forecast position on performance and finance in relation to the Council's activities. The reports set out the key areas of progress, the key issues, areas for continued attention in relation to the Council's corporate priorities and actions to address any areas of underperformance.
- The Council now has a well established way of measuring productivity and financial activity data to ensure that it is using its resources efficiently and providing value for money.
- A set of Corporate Indicators is in place that focuses on key Council priorities. The Corporate Performance Framework is revised in line with the changes to our performance arrangements. Performance will continue to be monitored through Departmental Management Teams, CMT, Council's Policy Programmes and Change Service within the Chief Executive's department, Executive and Overview & Scrutiny Committees.

- There are service specific customer feedback and user engagement mechanisms in place, and user-specific engagement methodologies such as Learning Disabilities Partnership and Easier Access events that allow the Council systematically to gather customer insight.
- The Council continues to face significant budget cuts and a rising demand for services. In order to shape the future Council, it and its partners have invested in a wide ranging programme of consultation and engagement. The Council continues to use a range of tools to secure value for money, which are continuously developed. They include, for example, a commissioning-led approach to service planning, sharper procurement disciplines, benchmarking, finance and activity costing, competitive tendering, external peer review, business case appraisals, investment models, contract mechanisms and pricing regimes.
- Additionally the Council's system of internal control is designed to support effective and efficient use of resources.

2.7 Defining the roles and responsibilities of the Executive, the non-executive, scrutiny and officer functions including clear delegation arrangements and protocols for effective communication.

- A clear statement of the respective roles and responsibilities of the Executive, the members and senior officers including delegation arrangements and protocols for effective communication of committee decisions, can be found in the Council's constitution.
- In addition, the Council's financial management arrangements conform with the governance requirements of the CIPFA "Statement on the Role of the Chief Financial Officer in Local Government 2010"
- Role Profiles for all senior officers detail their key responsibilities

2.8 Embedding and communicating codes of conduct defining the standards of behaviour for members and staff across the organisation.

The Council has approved a Code of Conduct for Elected Members and a procedure for dealing with complaints. The Standards Committee's role was retained to have responsibility for overseeing the operation of the Code and for promoting high standards of conduct.

In addition, the Council's Constitution establishes:-

- A protocol on member-officer relations providing rules and guidance for members, co-opted members and officers in their working relations.
- Protocols for members on gifts and hospitality and members' use of Council resources including the use of email and the internet.
- Members and officers have been provided with guidance on the framework within which they are required to undertake their different roles
- Employees are expected to comply with the Council's Code of Conduct for Employees.

2.9 Standing orders, standing financial instructions, a scheme of delegation and documented supporting procedures and strategies which clearly define how decisions are taken and how the processes and controls required to manage risks are implemented.

- Council standing orders for contracts and financial regulations are contained in the Constitution of the Council. They are subject to annual review by officers before approval at the Governance and Audit Committee and adoption by full Council at the annual meeting.
- Key control booklets are maintained by Internal Audit, updated as required and placed on the Council's intranet.
- A scheme of delegation is provided in the Council's constitution.
- Additionally the Council has six Overview and Scrutiny Committees which are required to contribute to the better decision making of the council, and secure continuous improvement in service delivery
- Area Committees enable local communities to participate in Council activities
- The Council has adopted a Risk Management Strategy and maintains both corporate and service risk registers which identify actions required to mitigate any risks identified. The registers should be regularly maintained, reviewed and updated. In 2015-16 further work on risk management was required to establish the appropriate reporting structure.
- Risk management training is standard within project management and at particular key stages of project implementation.

2.10 Arrangements to ensure compliance with relevant laws and regulations, internal policies and procedures, that expenditure is lawful and an anti fraud and corruption strategy, all monitored by the Governance and Audit Committee.

- The Council's Monitoring Officer is required to maintain an up to date version of the Constitution and to make amendments and/or improvements as necessary to take account of changes in legislation, guidance, Council policy, decisions of the Council and the Executive.
- The Monitoring Officer, following consultation with the Chief Executive and the Section 151 Officer, is required to report to the Executive if she considers that any proposal, decision or omission would give rise to unlawfulness or maladministration. To assist the Monitoring Officer in this role, Legal Services monitor new legislation and disseminate this information to service departments.
- The Section 151 Officer is similarly required to report to the Executive and the Council's External Auditor if he considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is likely to cause a loss or deficit.
- Each Strategic Director and the Chief Executive are required to confirm in an annual letter to the Section 151 officer that they have taken reasonable steps to ensure compliance with established policies, procedures, laws and regulations, including how risk management is embedded in the Departments. This is underpinned by performing the key control and fraud risk self assessments and levels of non compliance are duly considered.

- The Council has a Counter Fraud Policy and Strategy to protect public funds by actively seeking to deter and prevent fraud, corruption and theft and ensure that all possible risks are minimised.
- The reports of Internal and External auditors consider and inform compliance with regulations, policies and procedures.
- The Council has established internal control procedures designed to support compliance with established policies, practices, laws and regulations and to safeguard the Council's assets and interests from loss
- All reports to Executive must be cleared by a member of the Council's Management Team, the Monitoring Officer and the Director of Finance.

2.11 Information Governance Arrangements

- A separate and independent information security team supports the Senior Information Risk Owner (SIRO) to discharge his responsibilities in championing an information security culture, establishing policy, practice, process, training, knowledge and technology, and assessing the effectiveness of those arrangements.
- The SIRO is supported by a distributed network of Information Asset Owners (at Assistant Director level) who in turn are supported by department and or system-specific information security managers
- The Bradford team liaises closely with peer function in other public bodies in West Yorkshire and beyond, and with the Information Commissioner's Office (ICO)
- The Council underwent a voluntary audit in 2015 by the ICO on the procedures supporting subject access requests, training and development and data sharing agreements, and its programme of work is informed by this audit.

2.12 Arrangements supporting whistle blowing and for receiving and investigating complaints from the public.

- The Council has a whistle blowing policy embodied in the Confidential Reporting Code for Employees. This can be accessed on the Council's web site.
- Under the Articles of the Constitution, the Governance and Audit Committee has a function to consider the effectiveness of the control environment and associated anti-fraud and anti-corruption arrangements.
- The Section 151 Officer has dedicated resources to undertake independent investigations and report on allegations of impropriety.
- The Council has a formal 'Comments, Complaints and Compliments' procedure on the "Contact us" section of the Council's website. All members of the public have the right to complain to the Council in writing, by telephone or by speaking to a member of staff.

2.13 Developing the needs of members and senior officers in relation to their strategic roles, supported by appropriate training.

- The Council supports members in undertaking their varied and evolving roles and responsibilities. A Member Learning and Development Strategy shapes the Member Development Programme which is run on a quarterly basis by the Human Resources Department.

- The Strategy introduces the key learning and development aims and objectives. It also identifies actions that will be taken to ensure all councillors have access to learning and development opportunities appropriate to their needs. The aim of this is to help councillors carry out their roles efficiently and effectively.
- The Council recognises that alongside members, employees are a key resource - the development of the two goes hand in hand. The Council's workforce development programme provides a focus on effective workforce planning and development, embracing leadership and skills training for all staff.

2.14 Establishing clear channels of communication with all sections of the community and other stakeholders, ensuring accountability and encouraging dialogue.

- The Council has five Area committees to encourage community engagement and participation.
- A principal form of securing dialogue with communities is by establishing and operating neighbourhood and ward forums.
- The Council supports a process of engagement with the District's communities of interests that complements our place based structures.
- Overview and scrutiny arrangements provide for meetings to be open to the public, except where confidential information or exempt information is likely to be disclosed.
- The Council's website and App provide a communication and wide ranging information link.
- The Council provides information and news using social media.
- The Council's Contact Centre and face to face Customer Service Centres provide easy access to Council services and information.
- An extensive programme of consultation on the annual budget generated considerable engagement and input into the establishment of the Council's budget priorities. It raised awareness of the financial and demand challenges facing the district, confirming what matters most to local people and exploring public expectations and aspirations for involvement in future delivery.
- CMT agreed for the development of an improvement to our insight capacity in late 2015. Part of this suite of work involves to Council developing an E-panel to ensure a representative section of the population can be consulted on and surveyed. Support for the recruitment of people to the e-panel was commissioned in March 2016.
- Insight into issues that are important to people will be gathered in this way from Summer 2016. A perceptions survey will be conducted in Autumn 2016 Publications, media, including social media, the Council's website. App and other publicity arrangements provide communication channels with the district's citizens.
- The Annual Statement of Accounts provides a report on the Council's financial activities for the year.
- Financial information, including details of efficiency savings, is issued with Council Tax bills.
- The Council has published a contracts register (which will be updated quarterly) and a grants register (which will be updated annually) in accordance with the Local Government Transparency Code.

2.15 Incorporating good governance arrangements in respect of partnerships and other group working and reflecting these in the Council's overall governance arrangements.

- The role of the Governance and Audit Committee includes maintaining an overview of the Council's partnership arrangements and overseeing any action plans for improvement arising, for example, from inspection reports.
- The Council has an agreed approach to collective bargaining with the recognised Trade Unions. This is undertaken through consultation and negotiation and is enshrined within the Council's Industrial Relations Framework. The Council takes a partnership approach to Industrial Relations, using the Industrial Relations Framework. This includes regular informal discussions between trade unions and management & formal OJC meetings at all levels across the Council - L1 (Corporate), L2 (Departmental) & L3 (Service).
- Bradford District Partnership (BDP), as the Local Strategic Partner for the area, ensures that the governance arrangements of the family of partnerships function well, in order to support the delivery of the Bradford District Strategy. The BDP reports to the Governance & Audit Committee on governance and functional business matters and to Overview and Scrutiny Committees on topic based performance and delivery.
- The Schools Forum is effective as the place where resource allocation decisions are made between the Council and the District's schools
- To support the Health and Wellbeing Board, governance arrangements for senior leaders and managers in the health and social care economy have been established to oversee the development of integrated health and social care models, and to ensure oversight of the whole system of public and personal health and social care

3. Review of Effectiveness

The Council has responsibility for conducting, at least annually, a review of the effectiveness of its governance framework including the system of internal control. The review of effectiveness is informed by the work of the executive managers within the Council who have responsibility for the development and maintenance of the governance environment. Confirmations have been obtained from Strategic Directors and the Chief Executive that reasonable steps have been taken to ensure compliance with established policies, procedures, laws and regulations. They have been asked to confirm that risk management is embedded in their departments, provide a fraud risk assessment and to report, on a three year rolling programme, the level of compliance with key controls that are set out in the Key Control Booklets.

The Council has in place a Governance and Audit Committee, independent of the Executive, to strengthen and consolidate its governance arrangements and provide the core functions as identified in CIPFA's "Audit Committees – Practical Guidance for Local Authorities".

The review is informed also by the work of the Internal Audit section which covers both the Council and the West Yorkshire Pension Fund. The key areas of assurance relate to the work detailed in their monitoring reports on the Council's control environment which are reported at regular intervals to Governance and Audit Committee. The Head of Internal Audit is required to deliver an annual Internal Audit Opinion and report regularly to the Governance and Audit Committee as prescribed by Public Sector Internal Audit standards. A number of operational control issues have been identified from this and action is being taken to put improvements in place.

Action plans for improvement are devised and implemented in response to recommendations from External Audit and other statutory agencies and inspectors.

The Council liaises fully and promptly with the Local Government Ombudsman's enquiries into complaints against the Council.

The Council liaises closely with the Information Commissioner's Office in reporting and closing information security risks and incidents, and to ensure it discharges fully its duties under Data Protection legislation and policies.

4. Significant governance issues

The annual review has established that the Council has arrangements in place which provide a sound governance framework and system of internal control. However the Council is not complacent and seeks to continually improve the arrangements it has in place. The Governance and Audit Committee will be kept informed of progress.

The specific governance issues set out in the 2014/15 Annual Governance Statement have been monitored through the year. Progress on these was reported to the Governance and Audit Committee in a detailed public report on the 29th January 2016. The following sections give a brief update on these risks. Whilst some of these risks have been mitigated during the 2015/16 financial year a number of risks are continuing to be monitored and remain high profile in 2016/17.

5. Governance challenges previously recognised and concluded during the year

5.1 Developing new and affordable models of care within the governance arrangements that exist across the health and social care system

The Council has agreed a reduction in the staffing budget of the Adults Department in the range of 2.5 million pounds over the period 2016\2018. Additional reductions in staffing are also required due to reduction in funding from the Better Care Fund. The quantum of savings will result in a full remodelling of the Council's social care model. The intention is to move to a community based model of delivery, based on people's assets as opposed to the current deficit model. Services will be developed with communities in order to better enable people to remain in and actively participate in them. The Council will continue to work with its NHS partner, voluntary and private sector partners to develop new models of integrated health and social care. Some new initiatives are planned for 2016/17 and are supported through the NHS Vanguard Programme. In 2016/17 the progress to deliver a new model will

accelerate in order to deliver the above budget reductions and the Government's intention that the health and social care systems will be integrated from 2020.

The Council agreed to raise the 2% Social Care Precept as part of its budget setting for 2016/17 and onwards. The additional income will go part way towards the increased costs of paying for care services as a result of the increase in the minimum wage. The monies raised have been passed on to social care providers as a contribution towards their additional costs.

The service offer will need to be delivered within its budget constraint which will result in real changes to how services are currently delivered. More information on Adult and Community Services transformation programmes can be found in "Adult and Community Services Portfolio of Transformation Programmes progress December 2014 – November 2015" – report to Health & Social Care Overview and Scrutiny committee 10th December 2015.

5.2 Ensuring that the Council's risk management strategy and practice is effectively embedded and reflects the dynamic risk environment faced by the Council.

During the year further progress on risk management was made. A training session was delivered to the Senior Leadership Team on the 7th August 2015. A report on risk management was tabled at the Corporate Overview and Scrutiny Committee on the 6th January 2016. The Committee made three recommendations –

- That risk management be incorporated into the Quarterly Finance and Performance Monitoring reports.
- That a further progress report be presented to Overview and Scrutiny Committee in 12 months time
- That relevant sections of the risk register be incorporated into the risk section of all reports to Overview and Scrutiny Committees.

In discussion, the Committee also asked for further consideration to be given to the process for collecting and refreshing information on changes in the risk environment from all areas of the Council's operations as well as ensuring they were compatible with the risk registers of key partner organisations.

6. Governance challenges which require continuing review in 2016/17

6.1 Agreeing an operating and financial plan in the context of the intractable tensions between resources, expectations of citizens and service users, and the statutory framework

The Council's short and medium term plans will be developed and implemented as follows:

District Plan

The District Plan adopted by the Bradford District Partnership will be the vehicle for developing proposals about the future of the Council to around 2020. The working arrangements for each District Plan outcome vary to suit the maturity of the proposals and the gamut of views needed.

The Council Plan

The Council Plan will set out the overarching medium term priorities for what the Council will do, in collaboration with partners. Within the context the Medium Term Financial Strategy, which will be published in July 2016, budget proposals for 2017-19 will be made and publicly consulted upon from autumn 2016. Engagement with partners and the public more generally will build on existing channels and methods of engagement

Council Budget 2016-2018

The Council's proposed budget for 2016/17 and 2017/18 was consulted on, using familiar consultation mechanisms from previous years. The budget agreed in February 2016 Council, set the financial parameters for the District and Council Plans, and is now being implemented. Quarterly financial monitoring reports to Executive will track progress.

Under all these arrangements, the tension between what is expected, required and affordable, and how to resolve it, remains centre stage, and features prominently in risk analyses.

6.2 Improving Educational Attainment and Managing Ofsted Outcomes

The Local Authority's (LA) school improvement function was inspected in June 2015. The lead document for the inspection was the LA's Self Evaluation. Whilst the outcome of the inspection was heavily influenced by the continued poor overall outcomes achieved in Bradford's schools, there was recognition that the Local Authority knows itself and the challenges it faces, and the inspectors were confident that the newly formulated school improvement strategy was the right way forward. The LA has been led to expect that its school improvement arrangements and outcomes will be re-inspected in autumn 2016.

The new improvement strategy fully supports a school-led improvement system and sets out clear roles for the three strategic partners. The Government's latest White Paper (March 2016) states that all remaining maintained schools will be academies or in the process of conversion by 2020. Whilst the Government has now revised the requirement for the very best schools to become academies, the guidance is still clear that all schools in underperforming local authorities will convert to academies. This is expected to apply in the Bradford District. As a result this clearly indicates a removal of the LA's strategic role in education. However in the interim there is a clear understanding between the strategic partners about their respective roles.

- The LA to work with underperforming and schools causing concern to monitor, challenge and intervene when necessary to ensure their rapid improvement. The LA as a commissioner rather than deliverer of services.
- The five main partnerships of secondary, primary, catholic, special and nursery schools, to lead on the school-to-school support for improvement. This recognises that the expertise and capacity to have a positive impact on Bradford's educational outcomes sits in our schools. However it is also recognised that external expertise is needed to accelerate improvement in

Bradford and as a result schools have been working closely with colleagues from Wigan LA, and there have been recent negotiations with the Regional Schools Commissioner to bring two major, and successful, external sponsors to Bradford to lead improvements in a number of new academies

- The Teaching School Alliances (TSAs) have access to training resources and external funding so that school staff, at whatever stage they are in their careers, can access further training and development. There are five TSAs in the Bradford District

Future development of the school-led improvement strategy in Bradford is being directed through the post-Ofsted Action Plan that the LA produced in September 2015 and was being implemented prior to that date. The plan focuses on nine key improvement themes, each led by a senior LA officer (DCS, ADs and Heads of Service). The tracking of the progress and impact of the plan is carried out through a KPI (key performance indicator) monitor and monthly RAG ratings of each of the key activities. The outcomes of the plan are being evaluated by the Education Improvement Strategic Board (EISB), which includes in its membership an external chair, four senior elected members, and key stakeholders from schools (including a governor rep), partnerships, teaching school alliances and the LA. The EISB holds all partners to account for the required improvements. In addition the Council's Overview & Scrutiny Committee has a clear role in monitoring and evaluating progress. The Bradford Education Improvement Commissioning Board has also been set up to ensure that resources, mainly made available by Bradford Council and the Schools' Forum, are allocated to schools, partnerships and teaching schools alliances where they will have greatest impact in addressing Bradford's key priorities. The Commissioning Board is independently chaired, holds providers to account for the impact of allocated resources, and in turn is held to account by the Education Improvement Strategic Board (EISB). Plans are now being formulated to revise the post-Ofsted Action Plan in order to broaden its remit during a period of rapid change in education where multi-agency and multi-organisational working will need to be well co-ordinated to ensure the focus remains on the safety, health and well-being and educational outcomes of Bradford's children and young people.

Professor David Woods, a leading educational expert, who conducted a robust review of Bradford's school improvement arrangements in the summer of 2014, continues to provide consultancy support as a critical friend. His work involves the scrutiny of our developments and documentation to ensure they are fit for purpose.

Accountability for the raising of standards in Bradford is now shared between the three strategic partners (teaching school alliances, partnerships and LA). The Regional Schools Commissioner (RSC) is playing an increasing role in monitoring the performance of Bradford schools – overseeing the conversion of schools to academies and the formation of multi-academy trusts, and holding existing academies to account for their performance.

6.3 Safeguarding Vulnerable Children

The number of referrals to children's social services has reduced to 400 per month compared to 450 per month last year. There has been a reduction in the number of children on Child Protection Plans, from 646 in the last year to 487 in October 2015. This demonstrates the effectiveness of the work being done to reduce risks and safeguard children. The Action Plan developed following the Ofsted Inspection of

Child Protection and Looked After Children in February and March 2014 has been completed and systems are in place to monitor child protection conferences and safeguarding arrangements by both the council and the Bradford Safeguarding Children's Board.

All children who are subject to a Child Protection Plan have an allocated social worker and 87% of Child Protection conferences take place within the required timescale. The multi agency Child Sexual Exploitation Hub has had increase in staffing from the police and a review of the Hub is currently taking place.

An independent review of Children's homes has been completed and a comprehensive transformation programme incorporating recommendations from that review is being implemented. The programme will refocus and strengthen our children's residential and foster care, in particular regarding placements for adolescents with complex needs. All the children's homes except one have been inspected under the new revised inspection regulations. 82% were judged to be good, one was graded outstanding and one requires improvement.

The council is leading a programme of change with partner agencies to develop our Early Help offer which will see families supported earlier and prevent problems escalating. A multi-agency project board meets monthly and there are plans to pilot the new arrangements from April 2016.

6.4 Ensuring an effective integrated system of health and social care

With financial and performance pressures mounting in the NHS, the national quest continues for how an affordable and effective integrated system of health and social care should be organised and operate. Whilst governance arrangements are in place – with the Health and Wellbeing Board at the apex, supported by officer-level governance groups and a work programme; and while progress has been made in developing high-level visions, some new local initiatives of integrated care, there is not yet a shared and affordable plan of the health and social care system in the Bradford District for the medium term. The current planning mechanism is the district-wide Sustainability and Transformation Plan, seeking to set out what needs to be done on three fronts: health of people, quality of care, and cost. The magnitude of the challenge, the interconnectedness of the system, and the centrality of the issues to the Council's key priority of Better Health, Better Lives, and the elusiveness of answers, mean these questions remain on the list of principal governance challenges.

6.5 Mitigating the effects of a loss of experience and expertise arising from staff reductions, especially where loss of such resource impacts on the management of services protecting vulnerable people.

The impact of the loss of experience and expertise is being felt in all Council departments. From a governance and control perspective, this can surface as:

- Insufficient capacity, skill or knowledge, to identify and manage risks and resolve issues
- Loss of corporate memory
- Poor or insufficient practical service delivery.

Examples cited by departments include transport engineering, teachers and school leaders, and social care management.

Service managers are using a variety of mitigations to reduce the risk associated with continued downsizing:

- Dedicated retention and recruitment drives, particularly for teachers
- More stringent criteria for approving request for voluntary departure
- Eliminating “single points of failure”
- Sharing resources and expertise with other local authorities
- Skills development programmes including Future Leaders Programme, and the Regeneration Academy, and the workforce development strategy led by Human Resources
- Short-term use of temporary staff
- Restructuring to regularise collaborative working and skill sharing

Looking ahead, the governance challenge will remain of how the skills, knowledge and capacity can be secured and developed to ensure priority, more keenly defined in view of shrinking resources, can actually be delivered.

6.6 Establishing sound governance structures pertaining to the West Yorkshire Combined Authority ensuring democratic accountability at the local level.

Projects funded by the West Yorkshire Combined Authority (WYCA) are controlled under their Assurance Framework. A rigorous project management system is in place for all Growth Fund and West Yorkshire+ Transport Fund projects.

Reports have been presented to CBMDC Governance and Audit Committee and to Corporate O&S Committee on WYCA/Leeds City Region Enterprise Partnership (LEP).

Governance arrangements are set through WYCA with direct involvement of the Leader of CBMDC on the Board and in the WY&Y Investment Committee. The Deputy Leader is also directly involved on transport, planning and housing matters. CBMDC elected members are also involved in WYCA’s own Governance and Audit Committee and Overview & Scrutiny committee and activity. The Leader of the Conservative Group is a political substitute member on the WYCA. The Leader of the Liberal Democrat Group, CBMDC sits on WYCA representing Liberal Democrats.

Further changes to WYCA for legal compliance and effective operation are being progressed through the Business Plan 2015-16 and a Development Programme, including the recruitment of a Managing Director post to oversee the next significant phase of WYCA efficiency and transformation. This sees the WYCA, as a local authority body, working with the five primary Local Authority constituent members, including CBMDC.

Governance and Audit Committee received an update on WYCA and LEP in Spring 2016. Established governance structures and arrangements are in operation with monitoring and continuous improvement. More substantial changes may be necessary in the light of sub-national devolution and other processes – local government & public services reconfiguration, public sector reform, democratic renewal etc. for 2016.

6.7 Impact on governance structures arising from developing policies for the delivery of regional devolution.

A Devolution deal was agreed in March 2015 and implementation plan developed with Civil Servants on the technical aspects relating to transport, housing, business support, employment and skills. Since the General Election and under the new Government, devolution ambitions and expectations are progressing including specific legislative proposals set out in the Cities and Local Government Devolution Bill, the Buses Bill and Housing and Planning Bill amongst others.

Further negotiations are in progress with HM Government and civil service. Governance structures, procedures and implications are being considered and developed, within the emerging legislative framework, to protect and promote the interests of local places and local government.

These developments are expected to continue into 2016 and to secure appropriate opportunities, powers, resources and risk management to support local prosperity, economic growth, regeneration and investment. This is subject to Government policy and resource decisions, especially those to be pursued through the Spending Review 2015.

This remains an open-ended process with political and senior management involvement from CBMDC with attention on powers and resources to achieve outcomes and the related governance arrangements to support democratic and civic interests.

This remains a continuing challenge in 2016-17 for CBMDC given refinements to WYCA governance and operations, further Government policy change and sub-national devolution developments.

7. 2016/17 Governance Challenges

The risks detailed below will be reviewed through the 2016/17 financial year and progress against them will be reported to the Governance and Audit Committee.

- 1) Agreeing an operating and financial plan in the context of the intractable tensions between resources, expectations of citizens and service users, and the statutory framework
- 2) Improving educational attainment
- 3) Safeguarding vulnerable children
- 4) Ensuring an effective integrated system of health and social care
- 5) Mitigating the effects of a loss of experience and expertise arising from staff reductions, especially where loss of such resource impacts on the management of services protecting vulnerable people.

- 6) Establishing sound governance structures pertaining to the West Yorkshire Combined Authority ensuring democratic accountability at the local level.
- 7) Impact on governance structures arising from developing policies for the delivery of regional devolution.
- 8) Implications of the EU Referendum Result

8. West Yorkshire Pension Fund

The Council is the administering authority for the West Yorkshire Pension Fund (WYPF). The WYPF produces its own Governance Compliance statement which has been prepared in accordance with the requirements of the provisions of the Local Government Pension Scheme (Amendment No. 3 Regulations 2007).

The Council has established two bodies to assist and support the Governance & Audit Committee oversee the WYPF:

- the WYPF Investment Advisory Panel and
- the WYPF Joint Advisory Group

The WYPF Investment Advisory panel has overall responsibility for overseeing and monitoring the management of WYPF's investment portfolio and investment activity. In this capacity, the Panel is responsible for formulating the broad future policy for investment. A Director of Finance from one of the member Authorities sits on the Panel, this position is currently held by the Director of Resources for Kirklees MDC.

The WYPF Joint Advisory Group has overall responsibility for overseeing and monitoring the WYPF's pensions administration function, and for reviewing and responding to proposed changes to the Local Government Pension Scheme. In addition the group approves the budget estimates for the pensions administration and investment management functions of WYPF, and also receives WYPF's Annual Report and Accounts.

The Council is also responsible for the financial and management arrangements of the West Yorkshire Pension Fund and a separate assessment of the adequacy of these arrangements is also required. The following internal arrangements are in place to provide the Council with the necessary assurance.

- The West Yorkshire Pension Fund has adopted the Council approved approach to risk management
- Risk registers are maintained and management action plans (MAPs) are in place for risks assessed as requiring active management
- Risks are monitored and MAPs reassessed regularly
- A risk management report is submitted annually to the WYPF Joint Advisory Group.

There are not expected to be any issues arising from the annual report and review to be submitted to the Joint Advisory Group meeting in July 2016.

9. Statement

Over the coming year we propose to take steps to address the challenges identified above to further enhance our governance arrangements. We are satisfied that these steps will address the need for improvements that were identified in our review of effectiveness and will monitor their implementation and operation as part of our next annual review.

Signed:

Councillor Susan Hinchcliffe, Leader of Council

Signed:

Kersten England, Chief Executive

Report of the External Auditor to the meeting of Governance and Audit Committee to be held on 28 June 2016.

Subject:

D

External audit progress report for the 2015/16 audits of City of Bradford Metropolitan District Council and West Yorkshire Pension Fund

Summary statement:

The report updates the Governance and Audit Committee on progress with the 2015/16 audits and highlights key emerging national issues which may be of interest to the Committee.

Mark Kirkham
Partner
Mazars LLP

Report Contact: Steve Appleton
E-mail: steve.appleton@mazars.co.uk

1. SUMMARY

We have completed our planning and risk assessment for both the 2015/16 audits of City of Bradford MDC and West Yorkshire Pension Fund.

We will start the next phase of our audits on receipt of the financial statements at the end of June.

Our progress report advises the Committee of proposed audit fees for 2016/17 as set by Public Sector Audit Appointments Limited.

We have also highlighted two matters which may be of governance interest.

2. BACKGROUND

Not applicable.

3. OTHER CONSIDERATIONS

None.

4. OPTIONS

Not applicable.

5. FINANCIAL & RESOURCE APPRAISAL

Not applicable.

6. RISK MANAGEMENT AND GOVERNANCE ISSUES

None.

7. LEGAL APPRAISAL

Not applicable.

8. OTHER IMPLICATIONS

8.1 EQUALITY & DIVERSITY

Not applicable.

8.2 SUSTAINABILITY IMPLICATIONS

Not applicable.

8.3 GREENHOUSE GAS EMISSIONS IMPACTS

Not applicable.

8.4 COMMUNITY SAFETY IMPLICATIONS

Not applicable.

8.5 HUMAN RIGHTS ACT

Not applicable.

8.6 TRADE UNION

Not applicable.

8.7 WARD IMPLICATIONS

Not applicable.

9. NOT FOR PUBLICATION DOCUMENTS

None.

10. RECOMMENDATION

That the Governance and Audit Committee considers the external audit progress report.

11. APPENDICES

External audit progress report

12. BACKGROUND DOCUMENTS

None.

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City of Bradford Metropolitan District Council

External Audit Progress Report

28 June 2016

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Our reports are prepared in the context of the Audit Commission's 'Statement of responsibilities of auditors and audited bodies'. Reports and letters prepared by appointed auditors and addressed to members or officers are prepared for the sole use of the Authority and we take no responsibility to any member or officer in their individual capacity or to any third party.

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01

Purpose of this paper

This paper updates the Governance and Audit Committee on progress in meeting my responsibilities as your external auditor. It also highlights key emerging national issues and developments which may be of interest to you.

If you require any further information please contact Mark Kirkham or Steve Appleton using the contact details at the end of this update.

Finally, please note the website address www.mazars.co.uk

which sets out the range of work Mazars carries out across the UK public sector. It also details the services provided within the UK and abroad.

02

Summary of audit progress

In the last quarter we have carried out the following work for the 2015/16 audit year.

We have:

- carried out our planning and risk assessment, refreshing our understanding of the Council's business and what we consider are the significant risks of material misstatement in respect of the financial statements and the Value for Money Conclusion to inform our testing strategy;
- documented a walkthrough of the key financial systems;
- held on-going liaison meetings with your Internal Auditors to both share common knowledge and ensure no duplication; and
- held on-going liaison meetings with senior officers.

We presented our Audit Strategy Memorandum , which sets out our planned work and assessments in more detail, to the April meeting of the Governance and Audit Committee.

In addition, our update work on the Council's IT general controls is in the process of being completed.

Based on our work to date, including walkthroughs of the key financial systems, we have no significant matters arising to report to you and there are no changes to our original assessment of significant risks (opinion and VfM) as set out in our Audit Strategy Memorandum.

We have completed a similar process for the audit of West Yorkshire Pension Fund and we also presented our Audit Strategy Memorandum at the April meeting.

We start the next phase of our work on receipt of the financial statements at the end of June.

03

Audit fees 2016/17

City of Bradford Metropolitan District Council

Public Sector Audit Appointments Limited (PSAA) oversees the audit contracts let by the Audit Commission until they end at the completion of the 2017/18 audits for local government bodies. PSAA's responsibilities include appointing auditors, setting audit fees and monitoring the quality of auditors' work.

PSAA has concluded its consultation on its 2016/17 proposed work programme and scales of fees. There are no changes to the work programme for principal bodies for 2016/17. PSAA has set scale fees for the main audit at the same level as the fees for 2015/16.

The table below outlines our proposed fees for completion of our Code audit work.

Area of work	Proposed fee 2016/17	Provisional fee 2015/16
Code audit	£185,317 plus VAT	£185,317 plus VAT
Certification of claims	£19,733 plus VAT	£16,520 plus VAT

At this stage we are not proposing to carry out any additional services for the Council. PSAA's scale fee assumes that you are able to provide us with complete and materially accurate financial statements, with supporting working papers, within agreed timeframes.

Outline of work programme

For 2016/17 we are required to meet the requirements of the National Audit Office's Code of Audit Practice and the Local Audit and Accountability Act 2014. The programme of work we are required to carry out in respect of the new Code remains largely unchanged. Our proposed fee for Code audit work includes:

- the audit of your financial statements;
- our work to conclude on your arrangements to secure value for money in your use of resources; and
- a programme of work specified by the National Audit Office in respect of your Whole of Government Accounts submission.

In addition, we will address any legal challenge work prompted by local electors at the rate prescribed by PSAA.

West Yorkshire Pension Fund

PSAA has concluded that fees for pension fund audits at local authorities will also remain unchanged from 2015/16.

The proposed fee for the Code audit for 2016/17 is £48,546 plus VAT which is unchanged from 2015/16.

04

Emerging issues and developments

The following pages outline for your attention some significant emerging issues and developments in respect of:

- English devolution deals, National Audit Office; and
- Fighting fraud and corruption locally: the local government counter fraud and corruption strategy 2016 to 2019, Department for Communities and Local Government, April 2016.

English devolution deals, National Audit Office, April 2016

Devolution deals to devolve power from central government to local areas in England offer opportunities to stimulate economic growth and reform public services for local users, but the arrangements are untested and government could do more to provide confidence that these deals will achieve the benefits intended, according to the National Audit Office.

Over the last 18 months, 10 devolution deals have been agreed, outlining the transfer of powers, funding and accountability for policies and functions previously undertaken by central government, in Greater Manchester, Cornwall, Sheffield City Region; the North East; Tees Valley; Liverpool City Region; the West Midlands, East Anglia; Greater Lincolnshire; and the West of England. They are the latest in a range of initiatives and programmes designed to support localism and decentralisation.

HM Treasury and the Cities and Local Growth Unit are responsible for managing the negotiation, agreement and implementation of devolution deals on behalf of central government as a whole. All of the deals include an agreement on devolved responsibility for substantial aspects of transport, business support and further education. Other policy areas included in some of the deals are housing and planning, employment support and health and social care.

The government has announced new additional investment funding of £246.5 million a year alongside the devolution deals announced so far. Over time, the government intends to combine this funding with a number of other funding streams into a 'single pot' to enable more local control over investment decisions, and has announced £2.86 billion of initial allocations over 5 years for the first 6 mayoral devolution deals.

Central government's management approach to brokering devolution deals is designed to support its policy of localism. The government considers that devolution proposals should be led by local areas, and that central government's role should be to respond to these proposals. As a result, the government has decided not to set out a clear statement of what it is trying to achieve through devolution deals.

According to the NAO, however, there are significant accountability implications arising from the deals which central government and local areas will need to develop and clarify. These include the details of how and when powers will be transferred to mayors and how they will be balanced against national parliamentary accountability. The deals agreed so far involve increasingly complex administrative and governance configurations. And as devolution deals are new and experimental, good management and accountability both depend on appropriate and proportionate measures to understand their impact.

To improve the chances of success, and provide local areas and the public with greater clarity over the progression of devolution deals, central government should clarify the core purposes of devolution deals as well as who will be responsible and accountable for devolved services and functions, and should ensure it identifies and takes account of risks to devolution deals that arise from ongoing challenges to the financial sustainability of local public services.

<https://www.nao.org.uk/report/english-devolution-deals/>

Fighting fraud and corruption locally: the local government counter fraud and corruption strategy 2016 to 2019, Department for Communities and Local Government, April 2016

Fighting Fraud and Corruption Locally is the new counter fraud and corruption strategy for local government. It provides a blueprint for a tougher response to fraud and corruption perpetrated against local authorities. By using this strategy local authorities will develop and maintain a culture in which fraud and corruption are understood to be unacceptable, understand their fraud risk and prevent fraud more effectively, use technology to improve their response, share information and resources more effectively to prevent and detect fraud loss, bring fraudsters account more quickly and efficiently, and improve the recovery of losses. This strategy is aimed at council leaders, chief executives, finance directors, and all those charged with governance in local authorities.

The strategy:

- calls upon local authorities to continue to tackle fraud with the dedication they have shown so far and to step up the fight against fraud in a challenging and rapidly changing environment illustrates the financial benefits that can accrue from fighting fraud more effectively;
- calls upon central government to promote counter fraud activity in local authorities by ensuring the right further financial incentives are in place and helping them break down barriers to improvement updates and builds upon Fighting Fraud Locally 2011 in the light of developments such as The Serious and Organised Crime Strategy and the first UK Anti-Corruption Plan; and
- sets out a new strategic approach that is designed to feed into other areas of counter fraud and corruption work and support and strengthen the ability of the wider public sector to protect itself from the harm that fraud can cause.

<https://www.gov.uk/government/publications/fighting-fraud-and-corruption-locally-2016-to-2019>

05

Contact details

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Report of the Director West Yorkshire Pension Fund to the meeting of Governance and Audit Committee to be held on 28 June 2016.

E

Subject:

Minutes of West Yorkshire Pension Fund (WYPF) Pension Board held on 16 March 2016.

Summary statement:

The role of the Pension Board, as defined by sections 5(1) and (2) of the Public Service Pensions Act 2013 is to assist the Council as Scheme Manager in ensuring the effective and efficient governance and administration of the LGPS.

City of Bradford Metropolitan District Council (the Council), as Scheme Manager, as defined under section 4 of the Public Service Pensions Act 2013, has delegated legal and strategic responsibility for West Yorkshire Pension Fund (WYPF) to the Governance and Audit Committee.

The minutes of the WYPF Pension Board meeting are to be submitted to this committee.

Rodney Barton
Director

Portfolio:

Leader of Council & Strategic Regeneration

Report Contact: Caroline Blackburn
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Overview & Scrutiny Area:
Corporate



1. SUMMARY

- The minutes of the WYPF Pension Board meeting are to be submitted to this committee.

2. Appendices

- Minutes of the WYPF Pension Board 16 March 2016.



Minutes of a meeting of the West Yorkshire Pension Fund Pension Board on Wednesday 16 March 2016 at West Yorkshire Pension Fund, Aldermanbury House, Bradford

Commenced 1040
Concluded 1130

PRESENT

Employer Representatives	Member Representatives
Councillor M Slater (Chair)	Mr G Nesbitt - GMB
Mr J Morrison	Mr M Binks – Unison
	Mr C Sykes – Unison
	Mr M Morris – Unite

19. DISCLOSURES OF INTEREST

All those present who were members or beneficiaries of the West Yorkshire Pension Fund disclosed, in the interests of transparency, an interest in all business under consideration.

Action: *City Solicitor/Director, West Yorkshire Pension Fund*

20. MINUTES

Resolved –

That the minutes of the meeting held on 19 November 2015 be signed as a correct record (previously circulated).

21. INSPECTION OF REPORTS AND BACKGROUND PAPERS

There were no appeals submitted by the public to review decisions to restrict documents.

22. REVOKING AND REPLACING THE LOCAL GOVERNMENT PENSION SCHEME (MANAGEMENT AND INVESTMENT OF FUNDS) REGULATIONS 2009

The report of the Director, West Yorkshire Pension Fund, (**Document “N”**), advised Members of the Department for Communities and Local Government (DCLG) consultation on revoking and replacing the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009.

It was explained that the new regulations broadly simplified what was already in place with the addition of powers allowing the Secretary of State to intervene in some circumstances. Currently the fund adhered to a long list of limits which had been in place in their current

form for a number of years. Pension Funds, at each review, had recommended that those limits should be eliminated and funds allowed to make their own decisions. That was the way in which all private sector trust schemes were allowed to operate and it had been argued that rules should be applied on a similar basis to Local Government schemes.

Members were advised that the WYPF's response to the consultation, appended to Document "N", had shown that although generally happy with the changes to the basic regulations there was concern that introducing a power of direction for the Secretary of State was completely contrary to the principle behind the changes to the regulations, increasing local discretion and accountability. It was explained that from discussions with civil servants it appeared that the Secretary of State's intention was quite narrow; however, that power could be used by subsequent ministers for different purposes. It was understood that those powers were being taken to enforce the pooling arrangements and, therefore, the regulations were unlikely to be withdrawn.

Members questioned if there were limits on particular investment classes and were advised that, although there were limits, the WYPF had a range of values within each investment class and had been operating on that basis since the 1990s. It was reiterated that the fund were quite happy with the basic regulations but not comfortable with the Secretary of State's powers to dictate how pension funds invest their money.

It was questioned if there had been any response to the fund's response to the consultation. Members were advised that there had been a vague promise that there may be some announcement in the budget taking place later in the day. A written response was expected later to both the individual response and joint response which had been made with Tameside Metropolitan Borough Council, Wirral Metropolitan Borough Council and Greater Manchester Pension Fund.

Members questioned the implications of individual funds performing badly in future pooled arrangements. It was clarified that although assets would be compiled in a pool each individual fund would own their own assets within that pool. Assets would not increase or decrease because they were pooled. Investment decisions would be taken by investment professionals. The reality would be that there would be very little difference with the new arrangements. One advantage to under performing funds would be that they would have access to a greater degree of technical expertise within the pool. In smaller pools, without the benefit of internal investment professionals, reliance was placed on paid consultants. Some funds had over 20 separate external managers and that could be very costly.

Potential increases in costs following the pooling arrangements were discussed and it was explained that as the lowest cost provider of service at the moment anything done differently would accrue costs. Working with other funds would add to expenditure. It was not felt that a pool would provide any initial benefits on a day to day basis, however, there was some potential for savings on alternative investments as better deals could be negotiated. The savings would be seen in a few years time when the cost of setting up the pool and governance arrangements had been met. It was intended that people would be nominated to serve on a pool management committee. WYPF's representative would be decided by the WYPF Investment Advisory Panel. Assurances were provided that WYPF would decide how its own funds were invested within the pool unless it made a different decision which said the pool should invest in best manner according to mandate from West Yorkshire.

Resolved –

That the West Yorkshire Pension Fund’s responses to:-

- **Consultation to revoke and replace the regulations that currently govern the management of investment of funds in the Local Government Pension Scheme.**
- **Government criteria and guidance for investment reform (Pooling).**

be noted.

ACTION: Director, West Yorkshire Pension Fund

**23. WEST YORKSHIRE PENSION FUND JOINT ADVISORY GROUP MINUTES
28 JANUARY 2016**

Members were aware that the role of the Pension Board, as defined by sections 5(1) and (2) of the Public Service Pensions Act 2013 was to assist the Council as Scheme Manager in ensuring the effective and efficient governance and administration of the Local Government Pension Scheme (LGPS) including securing compliance with the LGPS regulations and any other legislation relating to the governance and administration of the LGPS; securing compliance with the requirements imposed in relation to the LGPS by the Pensions Regulator; and any other such matters as the LGPS regulations may specify.

The minutes of the WYPF Joint Advisory Group were appended to the report of the Director, West Yorkshire Pension Fund, (**Document “O”**) and were required to be submitted to the Pension Board to enable the Board to ensure effective and efficient governance and administration of the LGPS.

Members were reminded that the actuarial valuation, a three yearly exercise, had to be completed by 31 March 2017. Meetings had been held with the actuary to discuss the exercise and Terms of Reference and details of the timetable to achieve that completion date had been received. It was clarified that it was planned to submit the required data to the Actuary by the end of June 2016, two months earlier than previous processes. It was anticipated that WYPF would therefore be in a position to start to notify employers of employer rates between November 2016 and January 2017.

Lincolnshire Pension Fund (LPF) valuation exercise had been timetabled so that data would be completed for WYPF first. It was believed that WYPF data preparations would run more easily and that had been the rationale for the timetable chosen.

The increase in employers was increasing the size of WYPF and, in response to questions, it was confirmed that there were currently 227 employers and 90,000 members in the LPF and when added to the size of the WYPF there were over 300,000 members and a total of 627 employers. If fire authorities were added membership would increase to 400,000 and increases from schools attaining academy status were expected. It was confirmed that two additional fire authorities were joining the fund from April 2016 bringing the total to seven and it was acknowledged that the quality of WYPF processes had been demonstrated by the outcome of that competitive tender processes. In anticipation of increase workloads all unfilled vacancies had been retained in the staffing structure.

Resolved –

That the minutes of the WYPF Joint Advisory Group on 28 January 2016 be noted.

ACTION: Director, West Yorkshire Pension Fund

24. GUARANTEED MINIMUM PENSION (GMP) RECONCILIATION EXERCISE

The report of the Director, West Yorkshire Pension Fund, (**Document “P”**) informed Members of an exercise being undertaken to wind up the contracted out element link between the LGPS (Local Government Pension Scheme) and the SERPS (State Earnings Related Pension Scheme) which affected members with service between 6 April 1978 and 5 April 1997.

Members were reminded that in April 1978, a state pension was introduced which provided for:

- A flat rate state pension available for everyone regardless of their employment history – PLUS
- An additional amount of pension - the state earnings related pension scheme (SERPS) – based on a members national insurance contributions.

When a member joined the LGPS, they were ‘contracted out’ of the SERPS part of the state scheme and as a consequence, paid a lower rate of national insurance contributions. This part, or portion, of the state pension was therefore included within their LGPS benefits, as opposed to being paid with their state pension. This portion was called the Guaranteed Minimum Pension (GMP). Only members with service from 6 April 1978 to 5 April 1997 will have accrued a GMP.

A condition imposed on the LGPS regarding the contracted out portion, was that it must pay the member an equal or greater amount of pension than they would have received in the SERPS scheme had they not contracted out. Hence the name, Guaranteed Minimum Pension.

Her Majesty’s Revenue and Customs (HMRC) notified all schemes of each member’s individual GMP entitlement based on their own records of the member’s national insurance contributions. In the vast majority of cases, the pension paid by the LGPS was higher than the additional element that the member would have earned in the SERPS scheme, and as such, their GMP had already been incorporated within their LGPS pension.

The reconciliation exercise was designed to allocate all GMP liabilities to the correct fund before the deadline in 2018, after which, the relevant fund that held the record would be liable for pension inflation increases. The amount of the GMP would contribute towards the calculation of the members’ benefits in the new state pension system which would begin on 6 April 2016.

It was confirmed that strict attention had always been paid to records and officers were confident that WYPF would be able to identify its own liabilities. At end of the exercise people would be allocated a pot of money in the state pension scheme to cover the period they have been ‘contracted out’. Once the first exercise to liabilities had been completed GMP rectification would begin. That would identify any under or over payments of pension.

The information being communicated to WYPF scheme members was questioned and assurances were provided that members with a guaranteed pension had been informed.

Various working parties were discussing different elements of the reconciliation exercise and were looking at under and over payments with a view that if the amounts were significant members would be contacted. The intention was that HMRC would write to members. The reconciliation exercise would run until 2018 and there was to be consultation about updating GMP for people reaching pension age. Members in a contracted out scheme would incur a deduction to their state pension.

A newsletter was being despatched within the next couple of weeks to members and would include a letter to explain why WYPF were no longer a contracted out scheme and include information for frequently asked questions.

Resolved –

- (1) **That the report be noted and the potential additional workloads anticipated from the exercise be acknowledged.**
- (2) **That the Director, West Yorkshire Pension Fund be requested to provide an update report on progress on the reconciliation exercise at the next meeting.**

ACTION: Director, West Yorkshire Pension Fund

25. WEST YORKSHIRE PENSION FUND FIVE YEAR INTERNAL AUDIT PLAN 2015 TO 2020

The Director, West Yorkshire Pension Fund (WYPF), provided a report (**Document “Q”**) which presented the five year internal audit plan 2015 to 2020. The internal audit plan was updated annually using a five year planning horizon.

It was explained that regular meetings with the Internal Audit team were held to plan each audit, review and agree internal audit recommendations, and provide updates on implementation of recommendations.

The forthcoming pooling arrangements were discussed and it was questioned if it would be beneficial for the Internal Audit team to consider those arrangements. It was explained that until the pooling arrangements were finalised it could not be decided how the audit would be conducted.

Resolved –

That the five year internal audit plan be noted.

ACTION: Director, West Yorkshire Pension Fund

26. TRAINING, CONFERENCES, SEMINARS AND FUTURE PENSION BOARD MEETINGS

Members were reminded that the training of Pension Board members to understand their responsibilities and the issues they were dealing with was a very high priority. The report of the Director, West Yorkshire Pension Fund, (**Document “R”**) provided details of training courses, conferences and seminars which may assist Board Members. Full details about each event were available at the meeting for anyone interested.

The fund's Technical and Development Manager confirmed that a conference attended regularly by the Joint Advisor Group was the Annual Trustees Conference which was a two day course being held in Manchester. A venue and short programme was appended to Document "R" and members were requested to make contact if they wished to attend. It was confirmed that officers would also be in attendance to provide support and it was believed that the conference would be helpful for members.

It was also confirmed that, in an attempt to identify any gaps in knowledge, within the next couple of months, a training needs analysis would be forward to members of the Pension Board. The analysis would include topics it was believed would be helpful to members and would allow them the opportunity to consider if they were fully briefed on those issues or if additional support would be required. Training could be planned to address any knowledge gaps and could be provided individually or collectively. Members would be asked to complete the analysis and return to the fund's Technical and Development Manager or to visit Aldermanbury House to discuss and complete that document with officers. The training needs analysis would facilitate the development of formal training plans.

Members requested that training on the investment reform (pooling) arrangements be provided and it was agreed that support for members to understand the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009 would be provided.

The report also informed Members of the scheduled dates of the next two WYPF Pension Board meetings. Members were also asked to identify, in their role as scrutinisers, any topics they would like to be considered at future meetings. It was agreed that training could also be provided around any such themes if required.

Resolved –

- (1) **That the Training Analysis be noted and attendance at the events set out in Document "R" including the Valuation Training Event on 28 January 2016 be considered.**
- (2) **That the dates of the WYPF Pension Board meeting on 9 November 2016 and 19 April 2017 be noted.**

ACTION: Director, West Yorkshire Pension Fund

27. EXCLUSION OF THE PUBLIC

The Committee was asked to consider if the item relating to the minutes of the West Yorkshire Pension Fund Investment Advisory Panel and the Alternative Investments Working Group should be considered in the absence of the public and, if so, to approve the following recommendation:-

Resolved –

That the public be excluded from the meeting during the consideration of the item relating to minutes of the West Yorkshire Pension Fund Investment Advisory Panel meetings held on 5 November 2015 and 28 January 2016 and the Alternative Investments Working Group on 2-3 September 2015 because the information to be considered is exempt information within paragraph 3 (Financial or Business Affairs) of Schedule 12A of the Local Government Act 1972. It is also considered that it is in the public interest to exclude public access to this item.

ACTION: Interim City Solicitor

28. MINUTES OF THE WEST YORKSHIRE PENSION FUND INVESTMENT ADVISORY PANEL 5 NOVEMBER 2015 AND 28 JANUARY 2016 AND THE ALTERNATIVE INVESTMENTS WORKING GROUP ON 2-3 SEPTEMBER 2015

The Director, West Yorkshire Pension Fund, submitted **Not for Publication Document “S”**, which provided the minutes of the meetings of the West Yorkshire Pension Fund Investment Advisory Panel held on 5 November 2015 and 28 January 2016 and the minutes of the Alternative Investments Working Group on 2-3 September 2015.

Resolved –

That the resolution contained in Not for Publication Document “S” be approved.

ACTION: Director, West Yorkshire Pension Fund

Chair

Note: These minutes are subject to approval as a correct record at the next meeting of the Committee.

minutes\WYPFjag16March16

THESE MINUTES HAVE BEEN PRODUCED, WHEREVER POSSIBLE, ON RECYCLED PAPER

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