

Public Document Pack

Cabinet

Meeting Venue
Hybrid meeting - Zoom - County Hall

Meeting date
Tuesday, 21 November 2023

Meeting time
10.00 am

For further information please contact
Stephen Boyd
01597 826374
steve.boyd@powys.gov.uk



County Hall
Llandrindod Wells
Powys
LD1 5LG

15/11/2023

Mae croeso i chi siarad yn Gymraeg neu yn Saesneg yn y cyfarfod.
Rhowch wybod pa iaith rydych am ei defnyddio erbyn hanner dydd, ddau ddiwrnod gwaith cyn y cyfarfod.
You are welcome to speak Welsh or English in the meeting.
Please inform us of which language you wish to use by noon, two working days before the meeting.

AGENDA

1.	APOLOGIES
----	------------------

To receive apologies for absence.

2.	MINUTES
----	----------------

To authorise the Chair to sign the minutes of the last meeting held as a correct record.

(Pages 5 - 8)

3.	DECLARATIONS OF INTEREST
----	---------------------------------

To receive any declarations of interest from Members relating to items to be considered on the agenda.

4.	COUNCIL TAX BASE FOR 2024-2025
----	---------------------------------------

To consider a report by County Councillor David Thomas, Cabinet Member for Finance and Corporate Transformation.

(Pages 9 - 20)

5.	FINANCIAL FORECAST FOR THE YEAR ENDED 31ST MARCH 2024 (AS AT 30TH SEPTEMBER 2023)
-----------	--

To consider a report by County Councillor David Thomas, Cabinet Member for Finance and Corporate Transformation.

(Pages 21 - 52)

6.	CAPITAL FORECAST 2023-24, AS AT 30TH SEPTEMBER 2023
-----------	--

To consider a report by County Councillor David Thomas, Cabinet Member for Finance and Corporate Transformation.

(Pages 53 - 62)

7.	THE COUNCIL'S USE OF SURVEILLANCE UNDER THE REGULATION OF INVESTIGATORY POWERS ACT 2000 2022-2023
-----------	--

To consider a report by County Councillor Jake Berriman, Cabinet Member for a Connected Powys.

(Pages 63 - 132)

Reports for Information

8.	CORPORATE SAFEGUARDING BOARD ACTIVITY REPORT
-----------	---

To consider the report of the Interim Director of Social Services and Housing.

(Pages 133 - 138)

9.	DELEGATED DECISIONS TAKEN SINCE THE LAST MEETING
-----------	---

To note the delegated decisions taken since the last meeting.

(Pages 139 - 140)

10.	FORWARD WORK PROGRAMME
------------	-------------------------------

To consider the Cabinet forward work programme.

(Pages 141 - 142)

11.	EXEMPT ITEMS
------------	---------------------

The Monitoring Officer has determined that category 3 of the Access to Information Procedure Rules applies to the following items. His view on the public interest test (having taken account of the provisions of Rule 14.8 of the Council's Access to Information Rules) was that to make this information public would disclose information relating to the financial or business affairs of any particular person (including the authority holding that information).

These factors in his view outweigh the public interest in disclosing this information. Members are asked to consider these factors when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.

12.	ERC SCRUTINY COMMITTEE RECOMMENDATIONS
------------	---

To consider the recommendations of the ERC Scrutiny Committee.
(Pages 143 - 146)

13.	POWYS OWNED CARE HOMES
------------	-------------------------------

To consider a report by the Cabinet Member for a Caring Powys.
(Pages 147 - 154)

This page is intentionally left blank

**MINUTES OF A MEETING OF THE CABINET HELD AT COUNTY HALL AND ON
ZOOM ON TUESDAY, 24 OCTOBER 2023**

PRESENT

County Councillor J Gibson-Watt (Chair)

County Councillors J Berriman, J Charlton, R Church, S Cox, S C Davies,
M J Dorrance, P Roberts, D Selby and D A Thomas

In attendance: County Councillors A Davies, GD Jones, J Jones, P Lewington and G Thomas.

1.	APOLOGIES
-----------	------------------

Apologies for absence were received from County Councillors J Brignell-Thorp (Cabinet Assistant) and A Kennerley (Cabinet Assistant) and from the Director of Social Services.

2.	MINUTES
-----------	----------------

The minutes of the meetings held on 10th and 11th October 2023 were agreed as correct records.

3.	DECLARATIONS OF INTEREST
-----------	---------------------------------

County Councillor David Selby advised that he would be speaking as a local member on the report on Newtown Schools Review.

4.	NEWTOWN SCHOOLS REVIEW
-----------	-------------------------------

Cabinet considered the findings of an options appraisal exercise and the engagement exercise carried out on proposals on the potential enlargement of the new building for Ysgol Calon y Dderwen to accommodate pupils from other schools in Newtown.

Based on the findings of the exercises the advice of officers was that Cabinet approve commencing the statutory process to implement the following proposal:

Phase 1: Close Treowen C.P. School from 31 August 2025 and extend Ysgol Calon y Dderwen to include the former Treowen C.P. School site from 1 September 2025

Phase 2: Ysgol Calon y Dderwen to move to a new building located on the existing Ysgol Calon y Dderwen site during 2026/27, and the Treowen site closes.

The intention was that the new building for Ysgol Calon y Dderwen would be part of the North Well-being Programme's new Health and Well-being Campus. Whilst the preference would have been to have Maesyrrhandir CP School also on the campus, continuing uncertainty over the future of the North Wales Wellbeing Hub scheme meant that this could not be included at this time.

Cabinet also considered the comments of the Learning and Skills Scrutiny Committee. The Chair of the Committee presented the recommendations and said they reflected the Committee concerns about the proposals. He suggested that the schools transformation policy needed to be updated.

County Councillor Joy Jones spoke as a local member and expanded on her comments that had been included in the report calling on the Cabinet not to close Treowen CP School.

County Councillor Pete Lewington spoke as a Newtown member and asked for a delay whilst a plan for the whole of Newtown was developed.

County Councillor Aled Davies spoke as leader of the opposition and whilst he accepted that there needed to be rationalisation in Newtown, he did not feel that what was proposed was the right solution.

County Councillor David Selby also spoke as a Newtown member in support of the proposals.

Officers explained that the rationalisation of schools in Newtown had to be phased. They confirmed that they had been working closely with colleagues at Powys Teaching Health Board on the development of the wellbeing hub and that any delay to the proposals would lead to delays to the hub project. It was also confirmed that an active travel plan would be developed.

Having considered the report and the comments made at the meeting it was

RESOLVED that Cabinet approves commencing the statutory process on the following proposal:

Phase 1: Close Treowen C.P. School from 31 August 2025 and extend Ysgol Calon y Dderwen to include the former Treowen C.P. School site from 1 September 2025

Phase 2: Ysgol Calon y Dderwen to move to a new building located on the existing Ysgol Calon y Dderwen site during 2026/27, and the Treowen site closes.

Cabinet further agreed that officers should have discussions with the Health Board on the development of the Hub and if necessary for the Leader to write to Welsh Government to press for a decision.

5. IRFON VALLEY C.P. SCHOOL – PROPOSAL PAPER

Cabinet was advised that after the governors of the school had approached the council to outline their concerns over low pupil numbers and financial viability, an options appraisal had been carried out. On the basis of that appraisal it was recommended that Irfon Valley C.P. School close, with pupils to attend their nearest alternative schools.

Council also noted the recommendations of the Learning and Skills Scrutiny Committee and with regard to the potential future use of the site, it was confirmed that there would be a plan in place by the time the school closed.

County Councillor Aled Davies, the leader of the opposition, asked for more flexibility in the authority's admissions policy.

RESOLVED to close Irfon Valley C.P. School from the 31st August 2024, with pupils to transfer to their nearest alternative schools.

6.	DELEGATED DECISIONS TAKEN SINCE THE LAST MEETING
-----------	---

Cabinet noted the delegated decisions taken by Cabinet members since the last meeting.

7.	FORWARD WORK PROGRAMME
-----------	-------------------------------

Cabinet noted the forward work programme. A paper on the future of the Local Development Plan and the Strategic Development Plan would be brought forward, date to be confirmed. A report on the car parking review would be brought forward in January.

County Councillor J Gibson-Watt (Chair)

This page is intentionally left blank

CYNGOR SIR POWYS COUNTY COUNCIL.

CABINET EXECUTIVE
21st November 2023

REPORT AUTHOR: County Councillor David Thomas
Portfolio Holder for Finance and Corporate
Transformation

SUBJECT: Council Tax Base for 2024-2025

REPORT FOR: Decision

1. Purpose

- 1.1 Section 33 of the Local Government Finance Act, 1992 requires each Billing Authority to calculate the basic amount of its Council Tax by applying a formula which includes calculating the Council's Council Tax Base.

2. Background

- 2.1 This report is to formally set the Council Tax Base for the financial year 2024-25 for tax setting purposes. Setting the Council Tax base is an annual statutory requirement and is an integral part of the setting of the Council's Council Tax level (at band D) in accordance with specified formulae, reflecting its budget requirements for the relevant financial year.
- 2.2 The Council Tax Base is the adjusted number of chargeable dwellings in the Council's area belonging to each valuation band modified to take account of several assumptions and factors including the proportion applying to dwellings in each Council Tax Band together with the number of discounts, exemptions, disablement reductions and premiums. An estimate for losses on collection is also made.
- 2.3 The Council has determined, to charge a Council Tax Premium on long term empty properties (unoccupied and unfurnished) of 100% and to charge a Council Tax premium on periodically occupied dwellings (second homes/holiday homes- that are furnished and not someone's main residence) of 75%. These rates for a Council Tax premium have been effective since 1 April 2023. The Council Tax Base calculation includes a projection of properties expected to be subject to the Council Tax premium during 2024-25,
- 2.4 This calculation is made in accordance with the "Local Authorities (Calculation of Council Tax Base) (Wales) (Amendment) Regulations 2016.
- 2.5 The Council Tax Base calculation for 2024-25 is based on the list prepared by the Valuation Office Agency, as at 31st October for the financial year.

- 2.6 The gross Council Tax Base calculation is supplied to Welsh Government and is used as part of the distribution of Revenue Support Grant in the annual provisional and final local Government Revenue Settlement.
- 2.7 The Council is not only required to calculate the Council Tax Base for the County Council as a whole, but also make separate calculations for areas that have their own Town or Community Council.
- 2.8 The net Council Tax Base is used by the Police & Crime Commissioner and Town/Community Council's to set their Council Tax precepts for 2024-25, which will be included in the annual demands sent to every Council Taxpayer in March 2024.

3. The Calculation

- 3.1 Appendix one sets out the calculation of the 2024-25 Council Tax Base.
- 3.2 The estimated collection rate on non-military dwellings is **98.5%**, this is same that was used within 2023-24 calculation.
- 3.3 For military dwellings the Regulations require Authorities to assume a **100%** collection rate on dwellings.
- 3.4 The breakdown of the Council Tax Base for each Community is set out in paragraph 4.2 below.

4. Advice

It is proposed:

- 4.1 That this report on the calculation of the Council Tax Base for the whole and parts of its area for the year 2024-25 be approved. The calculation is contained within **appendix one**.
- 4.2 That, pursuant to the report and in accordance with the Local Authorities (Calculation of Council Tax Base) (Wales) (Amendment) Regulations 2016, the amount calculated by Powys County Council as its Council Tax Base for the whole of its area for the year 2024-25 shall be **64,536.48** and for the parts of the area listed below for the year 2024-25 shall be for the:

Community of:

Community	2024-25 Tax Base
Abbeycwmhir	131.75
Aberedw	139.22
Aberhafesp	236.7
Abermule with Llandyssil	756.08

Banwy	330.21
Bausley with Criggion	396.14
Beguildy	389.07
Berriew	757.2
Betws Cedewain	234.78
Brecon	3638.11
Bronllys	456.1
Builth Wells	1096.32
Cadfarch	465.61
Caersws	722.72
Carno	356.4
Carreghofa	323.33
Castle Caereinion	318.58
Churchstoke	935.04
Cilmery	235.89
Clyro	441.95
Cray	127.8
Crickhowell	1164.37
Cwmdu and District	577.41
Disserth & Trecoed	574.28
Duhonw	158.14
Dwyrhiw	285.44
Erwood	250.85
Felinfach	394.63
Forden	886.62
Gladestry	232.86
Glantwymyn	660.84
Glasbury	585.01
Glascwm	278.96
Glyn Tarrell	312.22
Guilsfield	878.13
Gwernyfed	497.85
Hay-on-Wye	926.85
Honddu Isaf	226.38
Kerry	1051.22
Knighton	1346.15
Llanafanfawr	243.06
Llanbadarn Fawr	354.68
Llanbadarn Fynydd	149.04
Llanbister	197.26
Llanbrynmair	507.16
Llanddew	132.14
Llanddewi Ystradenny	154.49
Llandinam	457.71
Llandrindod Wells	2553.08
Llandrinio & Arddleen	843.74

Llandysilio	555.7
Llanelwedd	195.14
Llanerfyl	218.89
Llanfair Caereinion	803.9
Llanfechain	275.83
Llanfihangel	285.44
Llanfihangel Rhydithon	126.28
Llanfrynach	331.43
Llanfyllin	714.52
Llangammarch	287.25
Llangattock	592.89
Llangedwyn	205.16
Llangorse	572.07
Llangunllo	202.11
Llangurig	391.8
Llangynidr	613.82
Llangyniew	304.34
Llangynog	193.52
Llanidloes	1227.66
Llanidloes Without	320.82
Llanigon	300.08
Llanrhaeadr Ym Mochnant	610.28
Llansantffraid	761.65
Llansilin	375.4
Llanwddyn	129.22
Llanwrthwl	110.52
Llanwrtyd Wells	424.24
Llanyre	587.73
Llywel	266.93
Machynlleth	908.97
Maescar	472.96
Manafon	188.98
Meifod	728.67
Merthyr Cynog	144.78
Mochdre with Penstrowed	260.46
Montgomery	753.35
Nantmel	361.15
New Radnor	239.53
Newtown & Llanllwchaiarn	4502.85
Old Radnor	414.34
Painscastle	286.05
Pen Y Bont Fawr	261.36
Penybont & Llandegley	208.29
Presteigne & Norton	1352.72

Rhayader	921.91
St Harmon	316.99
Talgarth	763.87
Talybont-on-Usk	394.43
Tawe Uchaf	583.79
Trallong	207.58
Trefeglwys	515.76
Treflys	249.32
Tregynon	398.77
Trewern	671.86
Vale of Grwyney	499.54
Welshpool	2807.37
Whitton	219.21
Yscir	269.75
Ystradfelte	257.42
Ystradgynlais	3020.26

Total Tax Base **64,536.48**

4.3 The Tax Base of 64,536.48 is a growth of 279.97 (0.44%) on 2023-24 Tax Base, The change in Tax Base at community level can be found in **Appendix Two**.

5. Resource Implications

5.1 Setting the Council Tax Base is an annual statutory requirement and is an integral part of the setting of the Council's council tax level (at band D) in accordance with specified formulae, reflecting its budget requirements for the relevant financial year.

5.2 The Deputy Head of Finance confirms that the increase in the Council Tax Base will provide additional council tax revenue in 2024/25. The tax base is accounted for as part of the council's financial strategy alongside the Revenue Support Grant distributed by the Welsh Government which uses the Council Tax Base to determine the level of financial support. The figures proposed in this report are consistent with the projections set out in our Finance Resource Model.

5.3 The Head of Finance (Section 151 Officer) notes the content of the report and can support the recommendations.

6. Legal Implications

6.1 Legal, the recommendation can be supported from a legal point of view

6.2 The Head of Legal Services and Monitoring Officer has commented as follows: "I note the legal comment and have nothing to add to the report".

7. Data Protection

7.1 There are no data protection implications within the proposal

8. Comment from Local Members

8.1 None required.

9. Integrated Impact Assessment

9.1 An impact assessment is not required, as the report is one of a technical nature.

10. Recommendation

10.1 That the calculation of the Council Tax Base for the whole of its area for the year 2024-25 of **64,536.48** be approved, and

10.2 That the calculation of the Council Tax Base for each Town and Community Council contained within 4.2 above, be approved to meet the legal requirement of the Council to set a Council Tax Base for 2024-25.

Contact Officer:	Andrew Griffiths
Tel:	01597 826127
Email:	andrew.griffiths@powys.gov.uk
Head of Service:	Jane Thomas

Appendix One

Part A: Chargeable dwellings		A*	Valuation band									Total (= sum of band figures)
			A	B	C	D	E	F	G	H	I	
A1	All chargeable dwellings		5,752	8,976	12,793	10,457	12,195	9,448	4,067	569	196	64,453
A2	Dwellings subject to disability reduction (included in line A1)		16	47	101	86	150	121	48	12	29	610
A3	Adjusted chargeable dwellings (taking into account disability reductions)	16	5,783	9,030	12,778	10,521	12,166	9,375	4,031	586	167	64,453
B1	Dwellings with no discount or premium (including long term empty properties and second homes with no discount or premium)	8	2,089	4,163	7,190	6,615	8,252	7,049	3,170	442	127	39,105
B2a	Dwellings with a 25% discount (excluding long term empty properties and second homes)	8	3,438	4,563	5,265	3,548	3,547	2,072	722	99	29	23,291
B2b	Dwellings with a 50% discount (excluding long term empty properties and second homes)	0	2	16	9	18	20	32	17	28	1	143
B3a	Dwellings with a variable discount other than 25% or 50% (Part G, line 11)	0	0	0	0	0	0	0	0	0	0	0
B3b	Dwellings with long term empty property or second homes discount		0	0	0	0	0	0	0	0	0	0
B3c	Dwellings with long term empty property or second homes premium		254	288	314	340	347	222	122	17	10	1,914
B4	Total adjusted chargeable dwellings (sum of B1 to B3c=A3)	16	5,783	9,030	12,778	10,521	12,166	9,375	4,031	586	167	64,453
		0	0	0	0	0	0	0	0	0	0	0
Discount and premium adjustments												
B5	Total variable discounts (=Part G, line 12)	0	0	0	0	0	0	0	0	0	0	0
B6	Long term empty property and second homes discount adjustment (Part H, line 9g, 11g)		0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
B7	Long term empty property and second homes premium adjustment (Part H, line 10g, 12g)		228.5	248.3	264.0	281.3	284.5	184.0	98.8	14.3	8.3	1,611.8
Part C: Calculation of chargeable dwellings with discounts and premiums												
C2	Total dwellings including discounts and premiums (=A3-(B2ax0.25)-(B2bx0.5)-B5-B6+B7)	14	5,151	8,130	11,721	9,906	11,554	9,025	3,941	562	168	
C3	Ratio to band D	5/9	6/9	7/9	8/9	1	11/9	13/9	15/9	18/9	21/9	
C4	Band D equivalents (=C2xC3) (rounded to 2 decimal places)	7.78	3,434.00	6,322.94	10,418.89	9,906.25	14,121.25	13,036.11	6,567.92	1,123.00	390.83	65,328.97
C7	Total discounted dwellings excluding long term empty and second homes adjustment	14	4,923	7,881	11,457	9,625	11,269	8,841	3,842	547	159	
C8	Band D equivalents excluding long term empty and second homes adjustment	7.78	3,281.67	6,129.86	10,184.22	9,625.00	13,773.53	12,770.33	6,403.33	1,094.50	371.58	63,641.80

Part E: Calculation of council tax base

E1	Chargeable dwellings: band D equivalents (=C4 total)	65,328.97
E2	Collection rate (please enter to 2 decimal places)	98.50 %
E3	= E1 x E2 (rounded to 2 decimal places)	64,349.04
E4	Class O exempt dwellings: band D equivalents (please enter to 2 decimal places)	187.44
E5	Council tax base for tax-setting purposes (=E3+E4)	64,536.48
E5b	Discounted chargeable dwellings excluding long term empty and second homes adjustment	63,641.80
E6	100% council tax base for calculating revenue support grant (=E5b+E4)	63,829.24

APPENDIX TWO

Community	2024-25 Tax Base	2023-24 Tax Base	No: Properties change	% Change
Abbeycwmhir	131.75	128.94	2.81	2.13%
Aberedw	139.22	139.76	-0.54	-0.39%
Aberhafesp	236.7	227.64	9.06	3.83%
Abermule with Llandyssil	756.08	762.32	-6.24	-0.83%
Banwy	330.21	333.03	-2.82	-0.85%
Bausley with Criggion	396.14	393.81	2.33	0.59%
Beguildy	389.07	386.83	2.24	0.58%
Berriew	757.2	758.48	-1.28	-0.17%
Betws Cedewain	234.78	228.34	6.44	2.74%
Brecon	3638.11	3643.45	-5.34	-0.15%
Bronllys	456.1	455.79	0.31	0.07%
Builth Wells	1096.32	1102.11	-5.79	-0.53%
Cadfan	465.61	465.91	-0.3	-0.06%
Caersws	722.72	731.27	-8.55	-1.18%
Carno	356.4	361.85	-5.45	-1.53%
Carreghofa	323.33	321.39	1.94	0.60%
Castle Caereinion	318.58	317.65	0.93	0.29%
Churchstoke	935.04	923.73	11.31	1.21%
Cilmery	235.89	241.79	-5.9	-2.50%
Clyro	441.95	429.9	12.05	2.73%
Cray	127.8	129.95	-2.15	-1.68%
Crickhowell	1164.37	1161.59	2.78	0.24%
Cwmdu and District	577.41	575.23	2.18	0.38%
Disserth & Trecoed	574.28	568.45	5.83	1.02%
Duhonw	158.14	159.78	-1.64	-1.04%
Dwyrhiw	285.44	290.44	-5	-1.75%
Erwood	250.85	251.62	-0.77	-0.31%

Felinfach	394.63	390.58	4.05	1.03%
Fordeu	886.62	863.96	22.66	2.56%
Gladestry	232.86	230.88	1.98	0.85%
Glantwymyn	660.84	661.39	-0.55	-0.08%
Glasbury	585.01	579.08	5.93	1.01%
Glascwm	278.96	271.23	7.73	2.77%
Glyn Tarrell	312.22	312.51	-0.29	-0.09%
Guilsfield	878.13	875.79	2.34	0.27%
Gwernyfed	497.85	499.08	-1.23	-0.25%
Hay-on-Wye	926.85	908.55	18.3	1.97%
Honddu Isaf	226.38	230.26	-3.88	-1.71%
Kerry	1051.22	1037.81	13.41	1.28%
Knighton	1346.15	1342.02	4.13	0.31%
Llanafanfawr	243.06	239.17	3.89	1.60%
Llanbadarn Fawr	354.68	357.5	-2.82	-0.80%
Llanbadarn Fynydd	149.04	143.4	5.64	3.78%
Llanbister	197.26	197.11	0.15	0.08%
Llanbrynmair	507.16	498.06	9.1	1.79%
Llanddew	132.14	128.64	3.5	2.65%
Llanddewi Ystradenny	154.49	143.5	10.99	7.11%
Llandinam	457.71	458.53	-0.82	-0.18%
Llandrindod Wells	2553.08	2510.56	42.52	1.67%
Llandrinio & Arddleen	843.74	815.21	28.53	3.38%
Llandysilio	555.7	560.77	-5.07	-0.91%
Llanelwedd	195.14	195.68	-0.54	-0.28%
Llanerfyl	218.89	220.26	-1.37	-0.63%
Llanfair Caereinion	803.9	808.04	-4.14	-0.51%
Llanfechain	275.83	283.98	-8.15	-2.95%
Llanfihangel	285.44	279.01	6.43	2.25%
Llanfihangel Rhydithon	126.28	124.8	1.48	1.17%
Llanfrynach	331.43	327.27	4.16	1.26%

Llanfyllin	714.52	730.47	-15.95	-2.23%
Llangammarch	287.25	287.53	-0.28	-0.10%
Llangattock	592.89	599.8	-6.91	-1.17%
Llangedwyn	205.16	205.29	-0.13	-0.06%
Llangorse	572.07	568.75	3.32	0.58%
Llangunllo	202.11	203.36	-1.25	-0.62%
Llangurig	391.8	389.05	2.75	0.70%
Llangynidr	613.82	615.98	-2.16	-0.35%
Llangyniew	304.34	306.23	-1.89	-0.62%
Llangynog	193.52	193.76	-0.24	-0.12%
Llanidloes	1227.66	1222.47	5.19	0.42%
Llanidloes Without	320.82	318.04	2.78	0.87%
Llanigon	300.08	294.09	5.99	2.00%
Llanrhaeadr Ym Mochnant	610.28	615.37	-5.09	-0.83%
Llansantffraid	761.65	747.56	14.09	1.85%
Llansilin	375.4	379.85	-4.45	-1.19%
Llanwddyn	129.22	129.55	-0.33	-0.26%
Llanwrthwl	110.52	108.83	1.69	1.53%
Llanwrtyd Wells	424.24	421.8	2.44	0.58%
Llanyre	587.73	594.74	-7.01	-1.19%
Llywel	266.93	265.27	1.66	0.62%
Machynlleth	908.97	902.28	6.69	0.74%
Maescar	472.96	473.15	-0.19	-0.04%
Manafon	188.98	190.43	-1.45	-0.77%
Meifod	728.67	714.49	14.18	1.95%
Merthyr Cynog	144.78	143.21	1.57	1.08%
Mochdre with Penstrowed	260.46	263.34	-2.88	-1.11%
Montgomery	753.35	746.34	7.01	0.93%
Nantmel	361.15	353.75	7.4	2.05%
New Radnor	239.53	237.15	2.38	0.99%
Newtown & Llanllwchaiarn	4502.85	4474.53	28.32	0.63%

Old Radnor	414.34	417.76	-3.42	-0.83%
Painscastle	286.05	294.38	-8.33	-2.91%
Pen Y Bont Fawr	261.36	260.41	0.95	0.36%
Penybont & Llandegley	208.29	212.37	-4.08	-1.96%
Presteigne & Norton	1352.72	1350.7	2.02	0.15%
Rhayader	921.91	917.97	3.94	0.43%
St Harmon	316.99	321.09	-4.1	-1.29%
Talgarth	763.87	764.95	-1.08	-0.14%
Talybont-on-Usk	394.43	399.36	-4.93	-1.25%
Tawe Uchaf	583.79	573.5	10.29	1.76%
Trallong	207.58	203.48	4.1	1.98%
Trefeglwys	515.76	513.95	1.81	0.35%
Treflys	249.32	256.07	-6.75	-2.71%
Tregynon	398.77	399.46	-0.69	-0.17%
Trewern	671.86	673.84	-1.98	-0.29%
Sale of Grwyney	499.54	504.22	-4.68	-0.94%
Welshpool	2807.37	2789.08	18.29	0.65%
Whitton	219.21	220.26	-1.05	-0.48%
Yscir	269.75	268.81	0.94	0.35%
Ystradfelte	257.42	256.97	0.45	0.17%
Ystradgynlais	3020.26	2975.74	44.52	1.47%

64,536.48 64,256.51 279.97

CYNGOR SIR POWYS COUNTY COUNCIL.

CABINET EXECUTIVE
21st November 2023

REPORT AUTHOR: County Councillor Cllr David Thomas
Portfolio Holder for Finance and Corporate
Transformation

REPORT TITLE: Financial Forecast for the year ended 31st March 2024 (as
at 30th September 2023)

REPORT FOR: Decision

1. Purpose

1.1 To provide Cabinet with the forecast revenue budget outturn for the 2023-24 financial year, based on the full year forecasts as at 30th September 2023.

2. Background

2.1 Based on the position as at the end of September 2023 the projected outturn position has deteriorated to a position of £2.85 million surplus, a reduction of £0.88 million from the position reported at Quarter 1 (£3.73 million as at Quarter 1).

2.2 Employee Costs are set to increase significantly. Welsh Government have agreed the pay award offer for teachers and headteachers with 5% uplift applied from September 2023. National Employers for local government services (NJC) pay award, which equates to c7% increase this financial year, was agreed on the 1st November 2023. The budget set by council back in March is not sufficient to meet our actual salary costs with the Councils forecasted surplus position reported in September 2023 now being eroded as a consequence.

2.3 Whilst the council is managing its budget position this year, we cannot underestimate the challenge the council faces in maintaining a balanced budget next year and over the medium term. Inflation and increased demand continues to create pressure on our finances and with the outlook for public finances nationally the situation across local government is described by the Welsh Local Government Association as “extremely bleak and the options for many local services will be unpalatable”.

2.4 Table 1 below summarises the projected full year outturn position across the Council’s services including HRA and delegated schools.

Table 1 – Forecast Position

Revenue Budget	£'000
Base Budget	326,620
Cost Pressures	8,760
Cost Underspends	(10,643)
Cost Reductions Shortfall	886
Costs Funded from Risk	(234)
Sub Total	325,390
Underspend before Reserves	1,230
Funded by:	
Agreed Specific Reserve Use	(1,623)
Net Underspend	2,853

- 2.5 Appendix A provides detail of the financial position for each service, broken down into categories covering cost pressures cost underspends, cost reductions and use of reserves.
- 2.6 The largest change since quarter one has been the unavoidable pressures for Childrens Service's with an overspend rising to £853,000, this is due to the increase in demand for placements for children with complex needs, where there is a current national shortage, also we have received an increase in the number of children who are unaccompanied asylum-seeking children (UASC). The service is addressing its current position in year to identify mitigations wherever possible to reduce any impact of increased budget pressures for next year.
- 2.7 Corporate budgets are projecting a £2.1 million underspend, this is after funding the likely pay award of £1.8 million. The underspend is largely attributable to borrowing costs being lower than projection due to some capital schemes being re-profiled into future years, and it is this underspend that is proposed to fund the pay award. £1.5 million of the Risk Budget has been profiled into the forecast here, with the balance planned to be released to services should costs materialise through winter period. This becomes more likely as the year progresses.
- 2.8 Further detail about each service area is provided in Appendix B, with Heads of Service setting out their individual narrative that explains their financial position. This includes their activities being undertaken to deliver approved cost reductions, the pressures facing the service and how they are managing their budget to mitigate any shortfalls.

3. Cost Reductions

- 3.1 Cost reductions of £16.5 million were approved as part of the Councils budget for this year and the delivery of these is required to achieve a balanced budget this year. In addition, undelivered savings from 2022-23 have been rolled forward totalling £0.9 million, these also need to be delivered.
- 3.2 The summary at Table 2 shows that 62% or £10.8 million have been delivered and a further 33% £5.7 million are assured of delivery by Services. £0.9 million, 5% are unachieved and are at risk of delivery in year. Services are being challenged as to why the position for some proposals has changed and will be required to consider mitigating action to ensure that they can deliver within the budget allocated.

Table 2 – Cost Reductions

£'000	To Be Achieved	Actually Achieved	Assured	Un-achieved	% Achieved
Adult Services	4,648	2,744	1,904	-	59%
Childrens Services	3,013	1,458	1,555	-	48%
Commissioning - Adults & Children	97	97	-	-	100%
Economy and Digital Services	24	-	-	24	-
Education	830	810	19	-	98%
Schools Delegated	864	864	-	-	100%
Finance	73	73	-	-	100%
Central Activities	3,003	3,003	-	-	100%
Highways Transport & Recycling	3,594	1,202	1,817	575	33%
Housing & Community Development	379	191	187	-	51%
Legal Services	8	7	1	(0)	89%
Transformation and Communications	8	8	-	-	100%
Property, Planning & Public Protection	848	332	229	287	39%
Workforce & OD	20	2	18	-	8%
Total	17,409	10,792	5,731	886	62%
		62%	33%	5%	

3.3 Last years' savings were £10.9 million and at the quarter two point the performance was only 44% achieved and 28% assured. By year end we were unable to deliver 22% (£2.4 million). Comparing that performance against this years' predictions suggest far more robust savings were put forward through budget setting and are already making strong inroads into delivery.

3.4 Those services that show unachieved targets must consider what remedial action they take to mitigate the impact on the overall performance within their service, as their budget forecast must come back to a balanced position. At this point in the year there are opportunities to reduce spend and bring the targets back on track.

4. Reserves

4.1 The Reserves position at Table 3 sets out the reserve forecast as at 30th September 2023. The General Fund Reserve now stands at £10.3 million representing 4.2% of total net revenue budget (excluding Schools and the HRA). The Councils Reserves policy requires the General Fund Reserve to be maintained at a minimum of 4% of net revenue budget.

Table 3 – Reserves Table

Summary	Opening Balance (1st April 23) Surplus / (Deficit)	Budgeted (Use) of Reserves	Forecast (Over) / Under Spend	Projected Balance (31st March 24) Surplus/ (Deficit)
General Fund	9,333	0	935	10,268
Budget Management Reserve	3,584	0	0	3,584
Specific Reserves	35,329	(6,990)	(813)	27,526
Transport & Equipment Funding Reserve	9,460	(1,043)	0	8,417
Total Useable Reserves	57,706	(8,033)	122	49,795
Schools Delegated Reserves	6,666	(5,082)	(1,438)	146
School Loans & Other Items	(371)	7	0	(364)
Housing Revenue Account	3,967	0	0	3,967
Total Reserves	67,968	(13,108)	(1,316)	53,544

4.2 Schools set their budgets with an expected call on reserve of £5.1 million. This figure has worsened by £1.4 million based on updated forecasts, leaving a likely deficit reserve balance at year end. The split of reserves usage between the schools sector is shown in Table 4 below.

Table 4 – Schools reserve forecasts

School Sector	Opening Balance 31/3/23	Budgeted Contribution (from)/to Reserves as @ 30 th Sept 23	Forecasted Variance to Budgeted Contribution / (use) in 2023/24 as @ 30 th Sept 23	Forecasted Closing Balance 31/3/24
	£'000	£'000	£'000	£'000
Primary	6,654	(3,806)	(68)	2,780
Special	1,047	(374)	(86)	587
Secondary	(1,908)	(732)	(1,020)	(3,660)
All Through	830	(170)	(264)	396
Sub Total	6,623	(5,082)	(1,438)	103
Loans	(7)	7	0	0
Closed Schools	(321)	0	0	(321)
Total	6,295	(5,075)	(1,438)	(218)

4.3 Schools projecting deficit budget plans are being supported to implement recovery plans to realign their budgets.

5. Virements and Grants

5.1 There have been additional grants received this quarter and are included to comply with financial regulations:

5.1.1 Highways, Transport and Recycling:

- WRAP, a Welsh Government initiative have provided £15,000 of funding to support Powys County Council with the cost of procuring supplemental communications to increase recycling rates, using the Be Mighty. Recycle. Creative assets for eligible communications materials/cost
- Welsh Government have confirmed the Sustainable Waste Management Grant (SWMG) allocation for 2023-24 as £1,148,877. The SWMG is provided to support local authorities in continuing to improve performance and put in place infrastructure for the collection and treatment of recycling and waste whilst continuing to increase public awareness and participation in recycling and re-use.

5.1.2 Social Care

- £30,000 from The Health Foundation charity which is part of the Tech for Better Care programme, where teams are exploring opportunities and ideas for new, proactive and/or relational approaches to care closer to home and in the community. This team will develop and enhance Powys County Council's Home Support Services, which provides support and practical assistance for adults over

50 as and when they need it. The team will explore the design of an IOT solution utilising the LoRaWAN network to provide bespoke packages of technology around the service user.

- £123,440 Welsh Government grant to support work to address the Deprivation of Liberty Safeguards (DoLS) backlog, to deliver Mental Capacity act training, to improve monitoring and reporting on DoLS, including the collection and quality of DoLS data and supporting systems and processes, to embed the principles of the Mental Capacity Act across care, support and treatment planning and to take forward any other work necessary to improve the application of DoLS as we await a future UK Government decision to implement the Liberty Protection Safeguards.
- £1,851,603 Welsh Government Social Care Workforce grant to support uplift in salaries, mitigate current workforce pressures, address recruitment and retention, take forward measures that support fair work in the sector and the Welsh Language. Facilitate greater integration, innovation in roles and meet increasingly complex care and support needs.

5.1.3 Education

- £294,166 increasing the budget to £5,629,273 for Post 16 provision. Funding is being provided from Welsh Government to Sixth form provision in mainstream schools (“6th Form Provision”) and Adult Learning (“AL Provision”).
- £7,500 - Variation 1 of the Regional Consortia School Improvement Grant. Additional funding for National support for Curriculum Reform.
- £71,900 – Variation 1 of the Local Authority Education Grant, broken down as:
 - Wellbeing Interventions and Training - £41,170
 - Allocation changes to RRRS non-maintained funding (Additional Funding - £8,637) new total £72,847 for April to August
 - Allocation changes to RRRS non-maintained funding (Additional Funding £12,092) new total £101,985 for September to March
 - Allocation changes to School Essentials Grant — £10,000

5.2 Virement requests for approval are as follows:

- 5.2.1 Due to a change in service provision, contract payments associated with providing the T12 public transport route are to be increased by £249,000 between 31st August 2023 to 31st August 2025. The service requests a virement to fund this additional cost from the Transport Replacement reserve, where the service will generate a capital sales receipt by selling 3 vehicles which will be used to fund the increase in the cost of the T12 public transport route.
- 5.2.2 Highways operations have a savings target of £130,000 for the reduction of winter maintenance operations. Due to delays in consultation the saving will not be achieved in 2023-24 but is expected to be in place for 2024/25. To mitigate the unachieved saving reported in 2023-24 the service requests that the £130,000 savings target is temporarily transferred to street works, who are reporting a forecast over-achievement of income of £148,000.
- 5.2.3 Transport have a savings target of £549,000 for efficiencies within school and public transport provisions. The service has delivered a saving of £196,220, with the remaining £352,780 reported as unachieved. To mitigate the unachieved saving reported in 2023-24 the service requests that the £352,780 savings target

is temporarily transferred to car parks, who are reporting a forecasted over-achievement of income of £394,000.

- 5.3 The following virement require Cabinet approval and recommendation to Council:
- 5.3.1 The approved budget in March assumed a 5/5.5% pay increase for National Joint Council (NJC) and Teaching staff. Negotiations in relation to NJC staff have now concluded with pay award exceeding our budget, creating a recurrent unbudgeted cost pressure of at least £1,800,000 in the current financial year. A base budget virement request is sought to increase service area staffing budgets by £1,800,000 in order to offset pay award pressures. This will be funded by the underspend in the cost of borrowing in the capital programme. This approach is affordable recurrently as we are able to delay borrowing needed into future years because capital schemes are not incurring outlay in line with original plans. We will also consider use of other funding sources such as capital receipts before borrowing. Although a reserve has been set aside for the pay award, we do not plan to draw on this, instead realigning budgets in year to address the funding gap. This approach reduces the budget gap in next financial year and allows us to retain this reserve for the likely pressures that may need supporting in future years.

6. Financial Risks

- 6.1 The Council holds a £3.0m revenue risk budget centrally to manage the cost of potential additional pressures identified through budget setting but not funded at a service level, especially inflation and demographic pressures. Although CPI levels are now starting to fall, they remain higher than our budgeted allocations. Risk remains as the year progresses.
- 6.2 The greatest financial risk remains in our ability to deliver a balanced budget over the medium and longer term. Our MTFs reported to Cabinet on the 19th September 2023 projected a £16.3 million budget gap next year rising to £43.4 million cumulative in 2028-29. The Medium-Term Financial Strategy and the assumptions on which the Financial Resource Model is based continues to be reviewed and we continue to plan in a challenging and uncertain time and will continue to update on our projections as more information becomes available.
- 6.3 The Council remains under borrowed as we continue to utilise our cash reserves to underpin our cashflow. We can borrow both in the short to medium or long term, but the cost of borrowing has risen due to the changes in bank rate, our approach is regularly updated and explained as part of the Treasury Management update to Governance and Audit Committee.

7. Resource Implications

The Head of Finance (Section 151 Officer) has provided the following comment:

- 7.1 As outlined in paragraph 2.3 the council is managing its in year position and the virement proposed to realign pay budgets strengthens that position and removes an element of additional pressure recognised in next years plan, going some way to reduce the budget gap projected.
- 7.2 The delivery of savings is progressing well with assurance provided by Heads of Service that a further £5.7 million can be achieved by year end. £886,000 remains

at risk of delivery and it is essential that those services consider what remedial action they take to mitigate the impact and deliver a balanced position.

- 7.3 The pressure is equally felt across School budgets, collectively schools are projecting a further draw from their specific reserves in addition to that originally planned. Local Authority support to schools will ensure that Governing bodies take appropriate and timely action to manage their individual budget positions.
- 7.4 We continue to develop proposals to reduce the budget gap projected over the medium term, the Sustainable Powys programme is fundamental to our approach but may take several years to be fully realised, alternative strategies are also being considered as the budget plan develops. Local authorities across Wales will face impossible decisions as they set their budgets for the coming years.
- 7.5 Financial Resilience and sustainability can only be achieved by delivering a lower cost Council, effectively managing our collective resources, robust and transparent decision making, and actively managing risk supported by an appropriate level of reserves.

8. Legal implications

- 8.1 The Head of Legal & Democratic Services (Monitoring Officer has no comment with this report.

9. Climate Change & Nature Implications

- 9.1 Not applicable.

10. Data Protection

- 10.1 There are no data protection issues within this report.

11. Comment from local member(s)

- 11.1 This report relates to all service areas across the whole County.

12. Impact Assessment

- 12.1 No impact assessment required.

13. Recommendation

- 13.1 That Cabinet note the current budget position and the projected full year forecast to the end of March 2024.
- 13.2 The grants set out in section 5.1 are noted.
- 13.3 The virements set out in section 5.2 are approved, this is to comply with the virement rules for budget movements as set out in the financial regulations.
- 13.4 The virement set out in section 5.3 is agreed and recommended to Council for approval to comply with the virement rules in the financial regulations for requests over £500,000.

Contact Officer: Jane Thomas Email: jane.thomas@powys.gov.uk Head of Service: Jane Thomas

Appendix A – Forecast to year end as at 30th September 2023

		FORECAST FOR THE YEAR ENDED 31ST MAR 2024 AS PER CP/LEDGER SEPT 2023				ADJUSTMENTS OUTSIDE THE LEDGER					
	£'000	Add	Less	Add	Revised	Less	Less	Less	Final	Forecast as at Sept Variance	Forecast as at June Variance
	2023/24 Base Budget	Cost Pressures	Cost Underspends	Cost Reductions not delivered	Outturn	Cost Reductions not yet delivered but assured	Specific Reserves with Agreed use	Use of Risk Funding to cover unfunded Pressures	Outturn Position 2023/24		
Adult Services	80,632	61	(92)	1,904	82,505	(1,904)	0	0	80,601	31	45
Children's Services	29,482	2,587	(1,500)	1,555	32,124	(1,555)	0	(234)	30,335	(853)	(173)
Commissioning	3,039	0	(8)	0	3,031	0	0	0	3,031	8	18
Education	18,448	261	(364)	19	18,364	(19)	(134)	0	18,211	237	82
Highways Transport & Recycling + Director	33,320	289	(949)	2,392	35,053	(1,817)	(23)	0	33,212	108	(14)
Property, Planning & Public Protection	6,741	239	(345)	516	7,151	(229)	0	0	6,922	(181)	(201)
Housing & Community Development	7,374	773	(1,472)	187	6,862	(187)	0	0	6,675	699	(155)
Economy and Digital Services	7,462	0	(389)	24	7,097	0	0	0	7,097	365	282
Transformation & Democratic Services	4,014	45	(96)	0	3,963	0	0	0	3,963	51	27
Workforce & OD	2,544	0	(189)	18	2,373	(18)	0	0	2,355	189	174
Legal	1,494	146	(196)	1	1,445	(1)	(28)	0	1,416	78	33
Finance & Insurance	6,918	0	(47)	0	6,871	0	0	0	6,871	47	23
Corporate Activities	41,325	2,921	(4,995)	0	39,251	0	0	0	39,251	2,074	3,593
Total	242,793	7,322	(10,643)	6,617	246,089	(5,730)	(185)	(234)	239,940	2,853	3,734
Housing Revenue Account	0	0	0	0	0	0	0	0	0	0	0
Schools Delegated	83,827	1,438	0	0	85,265	0	(1,438)	0	83,827	0	0
Total	83,827	1,438	0	0	85,265	0	(1,438)	0	83,827	0	0
Total	326,620	8,760	(10,643)	6,617	331,354	(5,730)	(1,623)	(234)	323,767	2,853	3,734
					(4,734)				2,853		

Appendix B Head of Service Commentary

		FORECAST FOR THE YEAR ENDED 31ST MAR 2024 AS PER CP/LEDGER JUNE 2023				ADJUSTMENTS OUTSIDE THE LEDGER					
		Add	Less	Add	Revised	Less	Less	Less	Final		
£'000	2023/24 Base Budget	Cost Pressures	Cost Underspends	Cost Reductions not delivered	Outturn	Cost Reductions not yet delivered but assured	Specific Reserves with Agreed use	Use of Risk Funding to cover unfunded Pressures	Outturn Position 2023/24	Forecast as at September Variance	Forecast as at June Variance
Adult Services	80,656	61	- 92	1,904	82,529	- 1,904	-	-	80,625	31	45

Adult Social Care Overview

The forecast outturn at the end of quarter 2, 30th September 2023 is an overspend of £1.873 million. When the cost reductions are delivered then there would be a forecast underspend of £31k.

Page 2

Cost Pressures

(a) Current Pressures - Included in the forecast outturn at quarter 2. Current pressures are being managed within the current budget allocation approved.

(b) Future pressures

The forecast outturn does not account for any future costs that may materialise in relation to:

- Winter pressures and potential demand on home-based care and interim bed options, as future demand is unknown. To date Welsh Government have not indicated that there will be an additional funding.
- Stability of commissioned providers, particularly the care home sector. There are currently a number of providers who may be at risk of failure.
- The unmet need in regard to community services sitting on the CROFT following assessment but lack of provision, estimated annual cost of £1.795 million.
- Future demography, which was agreed to be funded from the risk reserve as part of the Financial Resources Model (FRM) budget setting process. This temporary allocation will only support these costs during 2023/24 and the full year impact will need to be considered in the FRM and Service's Integrated Business Plan (IBP) for future years.

Cost Underspends

The very small underspend in the main is due to staff slippage as a result of recruitment turnover and a reclaim in relation to 2022/23 for non service delivery on a contract.

Cost Reductions

- **Assured**

Of the original target of £4.648 million, £2.744 million (59%) has been achieved to date and included in the forecast outturn. There is assurance of delivery of the remaining outstanding balance of £1.904 million (41%).

- **Undeliverable**

A risk on delivery, if hospital pressures and referrals continue at the current levels.

Other mitigating actions to deliver a balanced budget.

- The service will take every opportunity to maximise/utilise any grant underspends, if applicable within the Terms & Conditions of the grant.
- To ensure we maximise every opportunity to avoid costs the service is prioritising the development of preventative and early intervention measures, such as Technology Enabled Care, Reablement and Local Area Coordination. We are supporting citizens to support themselves, remain independent and build resilient communities reducing admissions into residential care and hospital.

		FORECAST FOR THE YEAR ENDED 31ST MAR 2024 AS PER CP/LEDGER SEPT 2023				ADJUSTMENTS OUTSIDE THE LEDGER			
		Add	Less	Add	Revised	Less	Less	Less	Final
£'000	2023/24 Base Budget	Cost Pressures	Cost Underspends	Cost Reductions not delivered	Outturn	Cost Reductions not yet delivered but assured	Specific Reserves with Agreed use	Use of Risk Funding to cover unfunded Pressures	Outturn Position 2023/24
Children's Services	29,482	2,587	(1,500)	1,555	32,124	(1,555)	0	(234)	30,335

Forecast as at Sept Variance	Forecast as at June Variance
(853)	(173)

Children's Services Overview

The forecast outturn position is an overspend of £853k provided the outstanding savings target of £1.555 million is delivered.

Cost Pressures £2.587 million

The unavoidable cost pressures continue in terms of the demand for high-cost residential placements often outside of Powys. The cost of placements for children which are unregulated, due to the lack of placements nationally, continues to be a financial challenge. We have a further increase in our Unaccompanied Asylum-seeking children (UASC) which is likely to rise further, and which continues to have an impact on the financial position. The 2023/24 forecast for these placements is £0.933 million. We receive grant income of £143 per night pre 18 years of age and £270 per week post 18 off the Home Office. The forecasted income in relation to the above is £644,000. So, the net expenditure position is £234,000.

We are continuing to work collaboratively with colleagues in Housing and across the council to strengthen ways of working with this group of young people. The plan is to develop further local housing opportunities for our 16+ provision and our UASC.

Our own inhouse residential homes continue to be a challenge due to the ongoing costs of operating these homes with agency social care workers to meet the ongoing complex demands of children.

The current cost of agency social workers is £8,277 per day which is not sustainable. This cost has been reducing since Autumn 2022 and is continuing to reduce slowly. At the end of quarter 2 we had 24 agency staff. Through the Grow our Own programme, we are continuing to train social work staff and be able to reduce this number of agency staff year on year.

We are reviewing our offer around short breaks as the demand for families has risen and analysing if this could be provided in different and more creative ways rather than external residential short breaks.

The unfunded pressures within the service are due to

- £1.426 million Children Looked After (CLA) placements - new, step up in provision and increasing costs in relation to meeting the complexity of the need of the current cohort. These costs are unavoidable in the context of a national shortage of placements for looked after children across the U and an increase of £892,000 from quarter 1. All funding that was earmarked as part of the 2023/24 budget setting process for growth in Children looked after placements in 2023/24 has already been fully utilised. All new or step up in provisions going forward will be a pressure.
- £112,000 Additional to placement pressures for CLA support, an increase of £49,000 from Quarter 1.
- £679,000 total pressure forecasted for the four Residential home. An additional pressure of £547,000 from quarter 1 due to relief staff over an above base budget to cover rotas and the use of agency staff due to recruitment and escalating needs of the children, over and above that included in the original business cases.
- £86,000 budget pressure in regard to Section 21, for families in need of care and support, in the main due to post lockdown and trying to keep children with their families wherever it is safe and in their best interests to do so. This is an increase in costs of £34,000 from quarter 1.
- £44,000 Out of Hours (EDT) due to unfunded structure following a Management of Change and use of agency staffing, an increase from quarter 1 of £13,000.
- £240,000 due to increased demand for short breaks due to the pressures on families as an indirect result of the pandemic, an additional £154,000 from quarter 1.

Page 32

Cost Underspends - £1.500 million

The cost underspends continue to offset the cost pressures.

- £140,000 due to underutilisation of the Market supplement. Currently not all qualifying posts are occupied or been occupied for the relevant time frame.
- £1,094,000 Staffing underspend based on current vacancies qualified and non-qualified positions forecast to year end.
- £33,000 due to a delay to the Special Guardianship project.
- £127,000 Welsh Government grants mitigating baseline funded costs, in line with grant terms and conditions.
- £55,000 various small underspends on service subjective headings.
- £51,000 Legal, although this is difficult to predict as Legal services do not use commitment accounting.

Cost Reductions

£1.55m still to be achieved at the end of Quarter 2. Cost reductions continue and we are making positive progress on our Closer to Home strategy. Returning children home, reducing agency social workers all adds to the cost reductions.

Other mitigating actions to deliver a balanced budget.

We will

- fully utilise grants across the service as in 2022/23. We will continue to scrutinise the pressures and savings targets to identify matters with potential solutions. Our current predicted savings are on track to be met during this financial year.
- continue to monitor our high-cost residential placements and look to reduce these wherever is possible.
- continue to build our 16+ provision and homes for our UASC.

Our work with our closer to home strategy will continue.

The purchase card expenditure will be tightened particularly with our residential homes.

The use of agency staff will more monitored in terms of requirements.

		FORECAST FOR THE YEAR ENDED 31ST MAR 2024 AS PER CP/LEDGER SEPT 2023				ADJUSTMENTS OUTSIDE THE LEDGER					
		Add	Less	Add	Revised	Less	Less	Less	Final		
£'000	2023/24 Base Budget	Cost Pressures	Cost Underspends	Cost Reductions not delivered	Outturn	Cost Reductions not yet delivered but assured	Specific Reserves with Agreed use	Use of Risk Funding to cover unfunded Pressures	Outturn Position 2023/24	Forecast as at Sept Variance	Forecast as at June Variance
Commissioning	3,039	0	(8)	0	3,031	0	0	0	3,031	8	18

Commissioning Overview

Although the projections point towards a balanced budget, it is anticipated, but not assured

		FORECAST FOR THE YEAR ENDED 31ST MAR 2024 AS PER CP/LEDGER SEPT 2023				ADJUSTMENTS OUTSIDE THE LEDGER				
		Add	Less	Add	Revised	Less	Less	Less	Final	
£'000	2023/24 Base Budget	Cost Pressures	Cost Underspends	Cost Reductions not delivered	Outturn	Cost Reductions not yet delivered but assured	Specific Reserves with Agreed use	Use of Risk Funding to cover unfunded Pressures	Outturn Position 2023/24	
Education	18,448	261	(364)	19	18,364	(19)	(134)	0	18,211	12
									Forecast as at Sept Variance	Forecast as at June Variance
									237	82

Education overview

The service has worked effectively throughout the last financial year to make significant financial savings within the service, and we are continuing to build on these considerable savings without compromising the service we provide. We continue to use our grants effectively to support the forecast outturn position of the service where possible and to alleviate pressure within the service. The Schools Service (excluding Schools Delegated Budgets) had forecasted outturn underspend at the year-end of £82k at Quarter 1.

All managers within the service are robustly challenged regarding financial decisions to ensure they deliver value for money but also align to the service priorities. Senior managers ensure all significant financial decisions are discussed at a strategic level and fit with the realisation of the vision for the service. The aftermath of the Covid-19 pandemic continues to place additional pressures on the service and through self-evaluation processes we are identifying key areas that could impact on service delivery such as ALN, attendance and behaviour.

Cost pressures:

Cost pressures at present are being managed within the overall forecast outturn position of the service. The two areas causing the pressure are in relation to buildings (essential works) and early retirement pensionable costs. Further work is taking place in both of these areas to review the costs.

Cost underspends:

Cost underspends in the service in the main are in relation to any vacant posts, slippage in relation to actual costs vs budgeted costs of staff, travel and supplies and services. Further review will take place during budget setting to identify if any permanent slippage can be found in order to mitigate cost pressures.

Cost reductions:

We continue to identify savings and projected a reduction in costs of £828K, £19k has not yet been delivered, but is assured to be delivered by year end.

- Targeted use of CfW grant to offset base budget
- Removal of unfilled posts that have not impacted on service delivery
- Post 16 transition managed within service by newly appointed 14+ Lead
- Review of PRUs
- Reduction in third sector spend but further work is to be undertaken
- Internal delivery of VAWDSW
- Use of grant funds to manage staff pay inflation
- Realignment of costs to delegated budget e.g. union costs
- Restructure in areas of the service
- Significant reduction in the use of consultants

Other mitigating actions to deliver a balanced budget:

We are reviewing income generation and another member of the service has become an RI so can generate income through working for Estyn.

We will also need to complete an ALN review alongside the Powys ALN Strategy including the potential delegation of more ALN funding to schools in line with other Local Authorities.

Page 36

		FORECAST FOR THE YEAR ENDED 31ST MAR 2024 AS PER CP/LEDGER SEPT 2023				ADJUSTMENTS OUTSIDE THE LEDGER			
		Add	Less	Add	Revised	Less	Less	Less	Final
£'000	2023/24 Base Budget	Cost Pressures	Cost Underspends	Cost Reductions not delivered	Outturn	Cost Reductions not yet delivered but assured	Specific Reserves Movements Agreed	Use of Risk Funding to cover unfunded Pressures	Outturn Position 2023/24
Schools Delegated	83,826	1,438	0	0	85,264	0	(1,438)	0	83,826

Forecast as at September Variance	Forecast as at June Variance
0	

Schools Delegated Overview

Schools submitted their approved budgets to the Authority on 1st May 23, which were reviewed by the Head of Education and the Head of Finance (Section 151 officer). All schools have now received a response to their submittals.

Through ongoing effective communication and collaborative working, the PCC finance team, School Improvement Advisers, Senior Managers, Headteachers and Chairs of Governors continue to identify potential savings for schools from reviewing spending plans and continuing to support schools with the development of their financial planning. We have recently completed another two in depth secondary school financial reviews at their request. This more detailed look at their finances has identified potential savings which could be implemented over time and bring their budgets to an in year balanced position and in turn reducing their overall carry forward deficits. We have also received review requests from other secondary schools which will be carried out in the Autumn Term. We continue to use the benchmarking tool and finance toolkit to direct discussions during finance surgeries to identify further potential savings.

We have also recently identified additional financial pressures on specific schools which are linked to deprivation and significant ALN needs so we are working closely with other LAs to capture and review different ALN and deprivation funding approaches which may support us further in helping these schools to manage their budget pressures. This review is forming part of the Formula review for 2023.

The Covid-19 pandemic and rising energy costs continue to place additional pressures on schools, and we are reviewing the impact the pandemic is still having on ALN, attendance and behaviour.

The in-year position that was submitted by governing bodies in May 2023 showed that there was an expected draw on reserves of £6,011k, overall, this position has decreased to a forecasted £4,573k draw on reserves, a reduction of £1,438k in 6 months. Updated projections including the updated estimates for pay awards and inflation will be reported in Qtr 3 closedown.

Recovery plans are due to be submitted by 30th September for schools that did not meet the requirements of the scheme for financing schools. There are also a number of schools that will work with officers to put a deficit agreement in place. Considerable staffing reductions are projected across all schools over the next 3 years and officers will support schools through these difficult times. A number of VSS applications have been approved for August 23 reductions of teachers and non-teaching staff.

We currently have 6 schools identified as having either received a financial Warning Notice or a Notice of concern, 4 of these are secondary schools, 1 special school and 1 primary school. 10 schools have been identified with escalating issues, 3 are secondary schools and 7 are primary schools. These school will be supported by officers and any issues will be escalated in line with the scheme for financing schools and schools causing concern guidance. Some schools have also been identified to receive targeted financial training where financial management issues have been identified by officers.

In terms of Delegated central any underspend on this area is allocated out to schools with a % done in January 24 and the remainder at year end. The formula review 2023 may have an impact on the funds held in this area.

		FORECAST FOR THE YEAR ENDED 31ST MAR 2024 AS PER CP/LEDGER SEPT 2023				ADJUSTMENTS OUTSIDE THE LEDGER			
		Add	Less	Add	Revised	Less	Less	Less	Final
£'000	2023/24 Base Budget	Cost Pressures	Cost Underspends	Cost Reductions not delivered	Outturn	Cost Reductions not yet delivered but assured	Specific Reserves Movements Agreed	Use of Risk Funding to cover unfunded Pressures	Outturn Position 2023/24
Highways Transport & Recycling + Director	33,348	289	(949)	2,392	35,081	(1,817)	(23)	0	33,240

Forecast as at September Variance	Forecast as at June Variance
108	(14)

Highways Transport & Recycling Overview

Forecast underspend for Qtr.2 is £108k - the main reasons are highlighted below:

Cost Pressures

- Unachieved savings totalling £575k. Total savings target for 2023/24 is £3.594m, of which £1.201m has been achieved to date, £1.816m assured to be achieved by year end and the remaining £575k is reported as unachieved. However, we have been able to carry out temporary in year virements to offset the bulk of the £575k
- £65k expenditure on 2 x project officer posts, where the service has been unsuccessful in securing transformation budget in 2023/24 to support these costs.
- £377k overspend on highways routine & structural maintenance works.
- £233k overspend on county winter maintenance works.
- £129k under-recovery of the budgeted profit target for Trade Waste collection services
- £401k overspend on home to school transport expenditure arising from changes to mileage, contracts and/or bigger bus capacity requirements and unfunded inflation.

Many of the above pressures is causing us to cut back on highway maintenance and there are elements that are out of our control around weather conditions, which can increase revenue costs particularly around flooding and winter maintenance. Furthermore, there are long standing pressures within the Transport service, which are due to a number of reasons, particularly around additional bus capacity and bus contract changes. As outlined above, we are using in year virements to offset some of the pressures because of the cost underspends, which are highlighted below:

Cost Underspends

- There is an under spend of £280k reported because of vacant management/supervision posts and reduced private contractor spend in Highways Operations.
- £308k underspend on street lighting energy costs and maintenance.
- £197k under spend on domestic waste collections, resulting in the main from an underspend against the staffing/agency budget and additional grant funding.
- An over-recovery of recycle income against budget of £141k.
- An under spend of £88k on disposal of residual waste.
- An under-spend of £49k against bring sites and other waste services.
- A forecast over-achievement of £148k against street works resulting from increased income against budget.
- A forecast over-achievement of £394k against car parks resulting from increased income against budget.
- An underspend on dual base transport costs of £100k
- An underspend on ALN for £227k

Other mitigating actions to deliver a balanced budget.

- Promote the green waste and Trade Waste Service.
- Reduce spend on highway Operations.

Undelivered savings - £575k

- £130,000 Reduction in Winter Maintenance - It was envisaged that this would be achieved for 23/24, but due to the summer consultation on the new Matrix and the need to review at September's Scrutiny, this saving will not be achieved for Winter season 23/24, but will be in place for 24/25. In order to mitigate this, the service will be doing an in year virement to offset this
- £352,782 – Efficiencies within Public Transport (We've given assurance of £167k based on service reductions in January 23. Further work to be undertaken to make routes more efficient). In year virement from the underspends will be used to offset this.
- £52,500 – Route Optimisation (This is in its final stages, but in order to clear this saving it is proposed we do a permanent virement from Recycling income, which is currently in a surplus position to clear this target)
- £40,000 – Use of Abermule to transfer recyclable material (We expect to make around £58k of savings and the proposal is to offset the remaining £40k by doing a virement from Recycling Income, which is currently in a surplus position to clear this target)

		FORECAST FOR THE YEAR ENDED 31ST MAR 2024 AS PER CP/LEDGER SEPT 2023				ADJUSTMENTS OUTSIDE THE LEDGER			
		Add	Less	Add	Revised	Less	Less	Less	Final
£'000	2023/24 Base Budget	Cost Pressures	Cost Underspends	Cost Reductions not delivered	Outturn	Cost Reductions not yet delivered but assured	Specific Reserves with Agreed use	Use of Risk Funding to cover unfunded Pressures	Outturn Position 2023/24
Property, Planning & Public Protection	6,741	239	(345)	516	7,151	(229)	0	0	6,922

Forecast as at Sept Variance	Forecast as at June Variance
(181)	(201)

PPPP Overview

PPPP are currently predicted an overspend of £181K. This overspend is likely to reduce as the year progresses and service areas secure more information to provide full assurance that savings proposals listed below are going to be delivered in full. This relates to the following savings proposals:

- Energy efficiency measures – offices,
- Staffing reduction – Strategic Property,
- Reduce maintenance budgets – offices and depots,
- Income from fire marshal and fire risk assessments,
- Rent Park Office, Newtown,
- Reduce cleaning budget,
- Staff reduction - Building Control,
- Income from 10 increase in income lines.

Moving forward, more robust evidence should become available to enable greater assurance to be provided. This is likely to reduce the overspend. In the meantime, steps are being taken to ensure that service areas are aware of the revenue budgets and the fact that overspends will not be tolerated.

Strategic Property are currently dealing with some uncertainty relating to factors outside of Strategic Properties control (i.e., energy use and electric & gas costs). In quarter 2, Strategic Property should have more certainty on some of these variables to enable budget predictions to be more robust. In the meantime, contingency plans are being developed to ensure a balanced budget is achieved by the end of the financial year.

		FORECAST FOR THE YEAR ENDED 31ST MAR 2024 AS PER CP/LEDGER SEPT 2023				ADJUSTMENTS OUTSIDE THE LEDGER			
		Add	Less	Add	Revised	Less	Less	Less	Final
£'000	2023/24 Base Budget	Cost Pressures	Cost Underspends	Cost Reductions not delivered	Outturn	Cost Reductions not yet delivered but assured	Specific Reserves with Agreed use	Use of Risk Funding to cover unfunded Pressures	Outturn Position 2023/24
Housing & Community Development	7,374	773	(1,472)	187	6,862	(187)	0	0	6,675

Forecast as at Sept Variance	Forecast as at June Variance
699	(155)

Community Development Overview

Spend is on track across most budget areas. The forecast position has improved since June mainly because of an improvement in Leisure services. The £1.1m that was included in the budget to fund any increased costs in utilities in Leisure centres is not currently forecast to be required, resulting in a £1,100k forecast underspend. This will be monitored over coming months as we move into the winter period.

Savings

The service has savings to achieve of £379k in 2023-24, £191k of savings have been achieved, with all the savings forecast as assured by the end of the financial year.

Cost Underspends

Libraries are reporting an under spend of £121k against an annual working budget of £1,217k. An improvement compared to the £17k underspend reported at the end of June. The improvement is mainly as a result of staff slippage and some redundancy costs that will be financed centrally. The underspend is also attributed to increased grant income that is funding base budget funded costs in this financial year. There are also a number of staff 'backfilling' and 'acting up' into other posts which has contributed to the underspend. This is not a usual position for the service.

Archives are reporting an outturn underspend of £9k compared to a working budget of £132k, a similar position to that reported in June. This is due to slippage in staffing costs and increased income for storage of records and records management.

The Policy Unit covers the central team and is forecasting an underspend of £40k, compared to a breakeven position at the end of June. The main reason for the forecast underspend is an underspend against staffing resulting from vacant posts.

Leisure and Sports Centres are reporting an underspend of £1,100k against a working budget of £1,606k, this is an improvement on the June forecast outturn overspend of £62k. The position has improved because it has been agreed that the condition surveys being undertaken as part

of the Leisure review will be funded by SPF grant and the £1,100k set aside for supporting the increased costs of utilities in the Leisure Centres is not currently forecast to be required.

Sports Development is reporting an underspend of £13k compared to the working budget of £66k, a similar position as that reported in June.

Arts and Cultural Services are reporting a breakeven position against a budget of £95k, compared to an overspend of £4k at the end of June. There was a saving put forward relating to a reduction in staffing and this has been achieved.

Museums are reporting a forecast outturn underspend of £14k compared to a working budget of £116k, the underspend is mainly a result of forecast underspends against utility costs.

Y Gaer is reporting an outturn underspend of £96k compared to a working budget of £622k. The forecast underspend has increased since June by £85k, this results from more certainty around utility costs as some bills have been received and some actual costs are now known. There is also increased income resulting from service charges levied. The underspend of £96k results from increased income and forecast underspends against utility costs, offset by a forecast overspend on staffing.

Catering is reporting an outturn breakeven position against a budget of £1,883k this includes assured savings of £187k. If the saving is not achieved an outturn overspend of £187k will be reported. An underspend of £187k was reported at the end of June, however the service has seen increased costs since quarter one in both staffing and food which have negated this underspend.

The roll out of the universal provision of free school meals continues with the uptake of meals increasing as a direct result of this initiative and therefore income is increased. Welsh Government will provide grant for delivery of UPFSM at £2.90 per meal.

BAC's and vouchers to FSM children during holidays have been provided up until the summer holidays, this was funded by WG up until the end of the financial year and by the council for the summer holidays. The cost of this provision have been estimated in the forecast but needs to be confirmed by the service.

Cleaning is reporting a forecast underspend of £36k, against a budget of £483k, this is because of increased income. The forecast does not include a proposed saving that is being discussed regarding office accommodation.

Matters affecting the forecast

- The swings in the catering forecast are being continuously monitored with a review of the way food is ordered needed to understand if there have been any changes which may be affecting the assumptions in arriving at the forecast spend for the year.

- Growth was identified to fund the increased utility costs in the leisure centres of £1.1m. It is assumed in this forecast that that money will not be required but if this situation was to change the forecast outturn would be affected.
- A reduction in cleaning of corporate buildings is required to achieve a saving in office accommodation and discussion is still ongoing around this which has not been built into the forecast.
- It is assumed in the forecast that all the Arts budget will be spent. This service is under review. The service will provide an updated forecast outturn when known.
- An estimated cost of utilities has been built into the forecast outturn position for all services, however this is based on a quarter's worth of actual costs with assumptions for increased costs over the winter period, this may be subject to change.
- Payment of invoices on time needs to be more closely addressed.

Housing Services Overview

Cost Pressures

Homelessness services are likely to exceed budget, an unavoidable consequence of the continued high demand for these statutory services, in particular temporary accommodation not all of which can be provided using existing social housing owned by the Council and housing associations. The Council is starting to experience a levelling out in the rate of increase in demand for homeless services, but demand remains high compared to historic trends. It is unclear what the impact of increased interest rates will have on home buyers.

Cost Underspends

There are no anticipated underspends.

Cost Mitigation

The Council increasing the number of Council and housing association owned homes used for temporary accommodation, to reduce the spend with private providers. However, this means that fewer homes will be available to let as permanent accommodation, meaning that people may need to spend longer in temporary housing. Revenue support in 2024-2025 will be needed for Instant Access 24/7 Triage Centres and Interim 24/7 Supported Accommodation, for which capital funding has been allocated and which will reduce the need for external private sector homeless accommodation and allow for some of homes being used for this purpose to be let as permanent accommodation will be considered as part of the FRM/IBP process for 2024-2025 onwards.

£'000	2023/24 Base Budget	Cost Pressures	Cost Underspends	Cost Reductions not delivered	Outturn	Cost Reductions not yet delivered but assured	Specific Reserves with Agreed use	Use of Risk Funding to cover unfunded Pressures	Outturn Position 2023/24	Forecast as at Sept Variance	Forecast as at June Variance
Housing Revenue Account	0	0	0	0	0	0	0	0	0	0	0

HRA

Summary

The HRA is ring fenced and forms part of its own trading account, any surpluses and deficits are contained within a ring-fenced reserve. Overall, the HRA is predicted to end the financial year 2023-2024 in balance (as of October 2023). However, there are actions being taken to achieve greater efficiency in the repairs and maintenance service to underpin this prediction and to allow for additional investment to be made in homes owned by the Council and maintain a strong HRA reserve.

Cost Pressures

Repairs and maintenance costs are ahead of profile, due to the age of the properties owned by the Council which is driving up the overall demand for repairs and maintenance and reliance in the first and second quarter of the year on external contractors to undertake works to void properties. Mitigation continues to be undertaken (please see below) which will to bring spending back in line, which if left unchecked, may result as of end of October 2023 in a year end deficit on repairs and maintenance.

Cost Underspends

There are anticipated underspends in salaries and other management and supervision costs within the HRA.

Cost Mitigation

Spending on external contractors is to be reduced as internal resources continue to be introduced and on-boarded, with the full impact of this now being, felt from October onwards (the final two quarters of 2023-2024). From thereon, external contractor use will be limited to specialist work the in-houses teams cannot undertake or to cope with an unexpected influx of voids. The cost of external contractors has been much higher than anticipated at the time of internalisation of repairs and maintenance, due to the over-reliance by the private provider of these services up until July 2022 on outsourcing work, which had weakened the ability for works to be directly provided.

Housing and Commercial Services continues to work to secure higher trade discounts from locally operating material and component suppliers, pending formal procurement of a locally sensitive (to dovetail with the locality-based approach to housing management and maintenance) framework to 'go-live' in April 2024.

Heating servicing contract remains due for mobilisation 01.11.23 which will reduce spending on agency workers and external contractors.

Income recovery is as of the end of October running at 92.18% of rent due; for the same period last year this was 93.65%. Rent collection is becoming increasingly challenging. This is a consequence of the high cost of living coupled with the levels of additional support provided in the previously financial year from UKGov/Welsh Government being steadily withdrawn, which is impacting on our most financially vulnerable tenants. Should additional financial support be made available by UKGov/Welsh Government, we have the structure and officers in place to maximize the take up by our tenants.

Void times continue to be reduced, although the number of properties required extensive works – which require longer works times – is increasing due to the age of our properties. Performance management of voids is a top priority for the Housing Senior Management Team to reduce rent loss due to void properties that are to be retained for letting. Further progress will be made on reducing void times when the void repairs teams, who have been deployed to complete the new housing scheme at red Dragon, Newtown, following the collapse of the external construction contractor, complete this project and return to void works.

		FORECAST FOR THE YEAR ENDED 31ST MAR 2024 AS PER CP/LEDGER SEPT 2023				ADJUSTMENTS OUTSIDE THE LEDGER			
		Add	Less	Add	Revised	Less	Less	Less	Final
£'000	2023/24 Base Budget	Cost Pressures	Cost Underspends	Cost Reductions not delivered	Outturn	Cost Reductions not yet delivered but assured	Specific Reserves with Agreed use	Use of Risk Funding to cover unfunded Pressures	Outturn Position 2023/24
Economy and Digital Services	7,462	0	(389)	24	7,097	0	0	0	7,097

Forecast as at Sept Variance	Forecast as at June Variance
365	282

Economy & Digital Overview

Cost Pressures

The service is managing current cost pressures from within service budgets. The service also identified activity that we were able to delay at low risk, meaning that we are able to manage current pressures inline with other priorities.

Cost Underspends

Staffing costs are currently underspent due to a variety of reasons such as short-term funding meaning that it is hard to attract people to our positions, leaving them vacant for periods of time. Also, the recruitment of staff has become increasing difficult with many job adverts having no applicants and needing to go out multiple times. This is causing delays with the implementation of some projects, which is seeing impact on other services ability to deliver change.

Cost Reductions

The cost reduction in the budget for 2023/24 includes the need to review the Careline Alarm service and to make the service cost neutral for private clients. Whilst starting this work other services using the same service are also conducting their own reviews due to the cessation of copper telephone lines. The team are now working in partnership with other services to review the entire provision and options for an approved way forward. This will take some time and it is unlikely the savings will be met until later in the year. Any shortfall will be covered by underspends from staffing as set out above. Also, due to ongoing negotiation joint working arrangements with PTHB, some posts have not been replaced like for like and have resulted in underspends. However, it has been agreed by both PCC and PTHB that these underspends will be held in reserves, which will be used to fund and transition costs for any changes to the current working arrangements.

Other mitigating actions to deliver a balanced budget.

Economy budgets have been set on a 3-year basis following WG grant allocations giving more stability to staffing resource and ability to deliver longer term initiatives with improved outcomes.

ICT continually challenge their contracts, scaling from "are they needed at all", to "can they be reduced" or "can the price be negotiated". This is assisting to limit the impact of some price increases.

FORECAST FOR THE YEAR ENDED 31ST MAR 2024
AS PER CP/LEDGER SEPT 2023

ADJUSTMENTS OUTSIDE THE LEDGER

		Add	Less	Add	Revised	Less	Less	Less	Final
£'000	2023/24 Base Budget	Cost Pressures	Cost Underspends	Cost Reductions not delivered	Outturn	Cost Reductions not yet delivered but assured	Specific Reserves Movements Agreed	Use of Risk Funding to cover unfunded Pressures	Outturn Position 2023/24
Transformation & Democratic Services	3,876	45	(96)	0	3,825	0	0		3,825

Forecast as at September Variance	Forecast as at June Variance
51	27

Transformation and Democratic Overview

Cost Pressures

The service is not fully funded by the permanent base budget, in particular, the Communications team are not fully funded. The current forecast outturn position for the service is an underspend of £51k, staff vacancies (in Welsh translation and Strategic Policy and Performance) and additional income through the Ukraine scheme and National Trading Standards Agency are the main reasons for the increased forecast underspend. Savings to be found in this area amounted to £8k and all savings have been achieved.

Cost Underspends

The forecast position at the end of September is a £51k underspend (compared with an underspend of £27k at the end of June).

Cost Reductions

Use of Reserves

If the forecast outturn is realised, then there is no requirement to draw down money from the specific reserve we hold (funded by income generation in other years).

Other mitigating actions to deliver a balanced budget.

The Transformation and Democratic service is reliant on income, any reduction or increase in income will affect the forecast. We are fortunate to have been able to access external funding from other sources to generate income to support the staffing structure we have, however there is a risk whether this will always be available. We have recently successfully recruited 1 FTE Welsh Translation to ensure we can keep up with demand and statutory functions around Welsh Language.

		FORECAST FOR THE YEAR ENDED 31ST MAR 2024 AS PER CP/LEDGER SEPT 2023				ADJUSTMENTS OUTSIDE THE LEDGER					
		Add	Less	Add	Revised	Less	Less	Less	Final		
£'000	2023/24 Base Budget	Cost Pressures	Cost Underspends	Cost Reductions not delivered	Outturn	Cost Reductions not yet delivered but assured	Specific Reserves with Agreed use	Use of Risk Funding to cover unfunded Pressures	Outturn Position 2023/24	Forecast as at Sept Variance	Forecast as at June Variance
Workforce & OD	2,544	0	(189)	18	2,373	(18)	0	0	2,355	189	174

Workforce and OD Overview

We are forecasting an annual underspend of £189k, which mainly arises from underspends against staffing budgets due mainly to delays in recruiting to newly created vacancies in Health and Safety and 2 OD posts established to help support the delivery of key initiatives relating to Objective 2. These posts are now filled and the initiatives progressing. An overachievement of additional income / profit has to a lesser extent also contributed to the forecasted figure, however additional staffing will be needed to undertake the extra work involved, which will impact on future forecasting. The service will deliver the cost reductions of £19k approved.

		FORECAST FOR THE YEAR ENDED 31ST MAR 2024 AS PER CP/LEDGER SEPT 2023					ADJUSTMENTS OUTSIDE THE LEDGER			
		Add	Less	Add	Revised	Less	Less	Less	Final	
£'000	2023/24 Base Budget	Cost Pressures	Cost Underspends	Cost Reductions not delivered	Outturn	Cost Reductions not yet delivered but assured	Specific Reserves Movements Agreed	Use of Risk Funding to cover unfunded Pressures	Outturn Position 2023/24	
Legal	1,494	146	(196)	1	1,445	(1)	(28)	0	1,416	

Forecast as at September Variance	Forecast as at June Variance
78	33

Legal Overview

We are forecasting an outturn underspend of £78k and no issues to report

		FORECAST FOR THE YEAR ENDED 31ST MAR 2024 AS PER CP/LEDGER SEPT 2023				ADJUSTMENTS OUTSIDE THE LEDGER					
		Add	Less	Add	Revised	Less	Less	Less	Final		
£'000	2023/24 Base Budget	Cost Pressures	Cost Underspends	Cost Reductions not delivered	Outturn	Cost Reductions not yet delivered but assured	Specific Reserves with Agreed use	Use of Risk Funding to cover unfunded Pressures	Outturn Position 2023/24		
Finance & Insurance	6,918	0	(47)	0	6,871	0	0	0	6,871		
										Forecast as at Sept Variance	Forecast as at June Variance
										47	23

Finance Overview

Expenditure across Financial services is in line with the budgets approved and the service is expected to deliver a balanced budget this year.

The service has funded additional posts through additional income streams to support Money Advice, Procurement, Financial training and Transformation work. Our transformation work continues to deliver efficiencies enabling us to redirect resource to areas of pressure as well as releasing the savings we expected.

		FORECAST FOR THE YEAR ENDED 31ST MAR 2024 AS PER CP/LEDGER SEPT 2023				ADJUSTMENTS OUTSIDE THE LEDGER			
		Add	Less	Add	Revised	Less	Less	Less	Final
£'000	2023/24 Base Budget	Cost Pressures	Cost Underspends	Cost Reductions not delivered	Outturn	Cost Reductions not yet delivered but assured	Specific Reserves with Agreed use	Use of Risk Funding to cover unfunded Pressures	Outturn Position 2023/24
Corporate Activities	41,325	2,921	(4,995)	0	39,251	0	0	0	39,251

Forecast as at Sept Variance	Forecast as at June Variance
2,074	3,593

Corporate Overview

Cost Pressures

The Housing Benefit budget forecast is overspending mainly due to the increased cost of homelessness in Powys and the differential between what is paid out to providers and what can be claimed back from the Department of Work and Pensions. The likely pay award estimated at £1.8 million has been forecast here and will be addressed with the virement of budget from Corporate budgets (Cost of Borrowing) to service pay budgets.

Cost Underspends

Interest payments on borrowing and Minimum Revenue Provision are lower than budgeted due to the current levels of low expenditure against the capital programme and the reprofiling of some projects. This has been a consistent position for a number of years and a virement is now being requested for it to fund the pay award gap when finalised with the unions. In addition there is an overachievement of council tax projected this year due to the increase in the level of premiums charged, this is based on current premiums being raised and may change as the impact of the additional charge reduces the number of empty properties or second homes. It is also reliant on the council tax collection rate achieved. £1.5 million relates to pulling through the corporate risk budget that is held to fund unforeseen pressures, whilst the balance will be factored in later to support exceptional increased demand across social care during the winter months

CYNGOR SIR POWYS COUNTY COUNCIL.

CABINET EXECUTIVE

21st November 2023

REPORT AUTHOR: County Councillor Cllr David Thomas
Portfolio Holder for Finance and Corporate
Transformation

REPORT TITLE: Capital Forecast 2023-24, as at 30th September 2023

REPORT FOR: Decision / Information

1. Purpose

1.1 This report provides an update on the financial position of the Council's capital programme for 2023/24 as at 30th September 2023.

2. Background

2.1 The 2023/24 Capital Programme was approved by Council on the 23rd February 2023. It included capital schemes totalling £93.29 million, of which £23.48 million related to the Housing Revenue Account (HRA). The programme has been updated following the reprofiling of projects and additional grants received from Welsh Government.

2.2 Table 1 - Breakdown by service

Service	Original Budget	Virements Approved	Revised Budget	Actuals	Remaining Budget		Commitments
	£,000	£,000	£,000	£,000	£,000	%	£,000
Adult Services	200	922	1,122	65	1,057	94	405
Childrens Services	0	379	379	102	277	73	121
Education	33,005	(5,238)	27,767	7,670	20,097	72	10,231
Highways Transport & Recycling	12,681	7,078	19,759	7,210	12,549	64	4,442
Property, Planning & Public Protection	100	998	1,098	305	793	72	126
Community Development	922	1,337	2,259	21	2,238	99	595
Housing General Fund	1,748	1,279	3,027	1,043	1,984	66	469
Economy & Digital Services	16,196	(1,679)	14,519	1,234	13,283	91	6,821
Unallocated	4,953	(454)	4,499	0	4,499	100	75
Total Capital	69,805	4,622	74,427	17,650	56,777	76	23,285
Housing Revenue Account	23,482	(1,587)	21,895	5,195	16,700	76	4,483
TOTAL	93,287	3,035	96,322	22,845	73,477	76	27,768

- 2.3 The revised programme at the 30th September 2023 is budgeted at £96.32 million following the successful award of additional grants and the reprofiling of budgets between financial years. Actual spend amounts to £22.85 million, representing 24% of the total budget. An increase of £15.24 million since that reported at Quarter 1.
- 2.4 Currently 42%, £40.59 million, of the capital expenditure is budgeted to be financed by borrowing, the interest cost for this is charged to the revenue account.
- 2.5 Table 2 – Capital Programme funding

Service	Supported Borrowing	Prudential Borrowing	Grants	Revenue Contribution	Capital Receipts	Total
	£,000	£,000	£,000	£,000	£,000	£,000
Capital	4,562	24,860	39,018	2,272	3,715	74,427
HRA	0	11,163	5,832	3,900	1,000	21,895
Total	4,562	36,023	44,850	6,172	4,715	96,322

3. Grants Received

3.1 The following grants have been received since the start of the financial year. These are for additional schemes and have been included in the Capital Programme.

3.2 Education

3.3 Welsh Government have awarded an additional £0.05 million for project management costs relating to the Childcare and Early Years Capital Programme. This takes the total grant awarded for the programme to £0.52 million.

3.4 Welsh Government have awarded £0.87 million of Capital Grant to Support Learners with Additional Learning Needs. The service will look to bring forward appropriate schemes to use this funding before the end of the financial year.

3.5 £0.19 million has been awarded by Welsh Government as part of the Asset Collaboration Program Phase 3 (ACPW3) Grant.

3.5 Community Development

3.6 £0.15 million has been received from Welsh Athletics for the development of Penlan Athletics track.

3.7 Highways, Transport and Recycling

3.8 Grants of £0.15 million and £0.10 million have been received from Welsh Government to develop flood alleviation schemes at sites in Llowes and Felindre respectively.

3.9 Welsh Government have awarded £0.68 million grant to develop four natural flood management schemes throughout Powys.

3.10 Regeneration

3.11 Welsh Government have awarded a £0.30 million Brilliant Basics Fund which will be used to develop visitor amenities.

4. Reprofiting Budgets Across Financial Years

- 4.1 During the last quarter, the finance team asked the services to provide estimates of the spend in this financial year, to ensure the budgets are accurately profiled. The following paragraphs detail the reprofiling that has resulted from this exercise.
- 4.2 **Housing Revenue Account** - The latest spend profile for the new build schemes has necessitated £7.95 million to be reprofiled from 2023/24 into 2024/25. This is due to the programme being limited to the areas of the county not affected by phosphate matters in the Wye and Usk river catchments.
- 4.3 **Highways, Transport and Recycling** - Due to problems faced in finding a location for one of the replacement highways weather stations, £25,000 budget has been reprofiled into 2024/25. The station is expected to be installed at the beginning of the financial year.
- 4.4 **Education** – The majority of the Schools Major Improvements Programme schemes in now place or planned, limited by the constraints of the school holidays and capacity available. It is not currently expected to require all of the allocation in this financial year, as a result, £1.45 million has been reprofiled into 2024/25 to carry out much needed schemes in future years.
- 4.5 **Digital Services** – A review of the allocation which used to replace the councils IT equipment has resulted in a reduced requirement of £0.30 million in this financial year. Due to the reduction in staff following the cessation of the Test, Trace and protect scheme, the service has been reallocating surplus equipment to staff rather than purchasing new equipment which had resulted in a reduced cost in the financial year.

5. Capital Receipts

- 5.1 A total of £1.24 million has been received to date. There are currently sales agreed to the value of £0.78 million (including £0.28 million for the HRA), these are at the legal stage of the process and will generate future capital receipts. At this stage it is expected that sales totalling £8.01 million (including £0.28 million for the HRA), could be achieved this financial year.

6. Resource Implications

- 6.1 The Head of Finance (Section 151 Officer) notes the content of the report. The reprofiling of schemes that has taken place is welcomed and is essential to enable us to accurately project expenditure, the consequential need to borrow and the impact on the revenue budget. Expenditure on the Capital Programme continues to be monitored carefully through the year, although inflation has stabilised, costs are high, alongside supply chain issues and additional borrowing costs which will have to be carefully considered. Prioritisation of resources at a corporate level ensures that the council can effectively meet its objectives whilst maintaining an affordable level of investment. The delay in utilising the Capital allocated creates slippage in the revenue budget as borrowing is delayed, and although the funding will be required at some point, the revenue budgets will be reviewed and reprofiled.

7. Legal implications

- 7.1 The Monitoring Officer has no specific concerns with this report.

6. Climate Change & Nature Implications

6.1 Not applicable

7. Data Protection

7.1 Not applicable

8. Comment from local member(s)

8.1 Not applicable

9. Impact Assessment

9.1 Not applicable

10. Recommendation

10.1 That the contents of this report are noted.

Contact Officer: Jane Thomas Email: jane.thomas@powys.gov.uk Head of Service: Jane Thomas

Appendix A:

Head of Service Commentary

Service Area	Budget	Actuals	Budget Remaining	Budget Remaining as a % of Budget
	£'000	£'000	£'000	%
Adult Services	1,122	65	1,057	84

HOS Comment

Expenditure will occur in the second half of the financial year as expected.

- Regional Integration Fund allocation of £100,000 for community equipment, £65,000 actual expenditure to date, if consistent with previous years, will be utilised later in the year to respond to winter pressures, for example, to support hospital discharge.
- Community Equipment Store contract roof improvements £265,000, initial works have commenced, and this will be completed and allocation fully utilised.
- Powys owned care homes £335,000 - lift improvements at one of the care homes will absorb a large element of the available allocation. The last property condition survey on all of the 13 homes identified a list of improvements required and as part of the contract the landlord is responsible for completing the list of improvements. There is a high confidence that the allocation will be fully utilised.
- An allocation for 'robotics' of £420,000, which means using technology to support care, this is not on course to spend, and a business case will be submitted for approval to use these monies.

Service Area	Budget	Actuals	Budget Remaining	Budget Remaining as a % of Budget
	£'000	£'000	£'000	%
Childrens Services	379	102	277	73

HOS Comment

The Flying Start childcare provision in Brecon is nearing completion. The setting was formally opened by Welsh Government at the end of September. Final financial housekeeping is underway to complete the project administration. This budget will be fully spent by end of March 2024.

Works to renovate Childrens Safe accommodation in order to meet CIW registration is continuing and is due to be completed shortly.

Service Area	Budget	Actuals	Budget Remaining	Budget Remaining as a % of Budget
	£'000	£'000	£'000	%
Education	27,767	7,670	20,097	72

The Council's Transforming Education Programme

Major Improvement Programme

The Programme supports the improvement of education and early years setting facilities and infrastructure for pupils and staff. In this financial year, there are 116 projects with:

- 2 projects on hold
- 7 schemes to commission
- 12 schemes commissioned
- 26 at the design stage
- 10 at the tender stage
- 16 at the construction stage
- 43 schemes are practically completed on site.

The overall programme budget is £6,477,208 for 2023/24 with expenditure of £930,427 to end of September 2023. There are contract commitments of £2.399million for projects in progress. The combined expenditure and commitments represent 37% of the overall budget is committed. There is some project's part funded by Community Focus WG Capital grant as agreed with Schools Service. There has been an allocation of £870,208 WG ALN Grant and agreement is agreed on the priorities for this work with Schools Service. This grant sits outside of this programme until the priorities are agreed.

Welsh Medium Grant – Ysgol Pennant classroom extension - The classroom extension work is progressing on site with completion anticipated by the end October 2023.

Early Years Capital Grant – Ysgol Pennant new early years accommodation – The contract has been awarded and work is anticipated to be completed before end March 2024.

Universal Primary Free School Meals (UPFSM) - The overall programme budget is £2,016,343 with current expenditure of £909,722. However, there are significant contract commitments, and all expenditure is expected by the end of March 2024. A significant programme of kitchen equipment installation and associated mechanical and electrical works is on track. This has significantly increased cooking capacity within many schools and supported the UPFSM rollout in line with specified timelines. It is anticipated that the completion of these works will effectively support the remaining rollout milestones.

Service Area	Budget	Actuals	Budget Remaining	Budget Remaining as a % of Budget
	£'000	£'000	£'000	%
Highways, Transport and Recycling	19,759	7,210	12,549	64

HOS Comment

- The Highways Capital Programme is on track.
- Implementation for the 20mph default speed limit for restricted roads was substantially completed on the 17th September (grant funded).
- The Street Lighting programme is on track.
- Consultation on the refurbishment of Brecon HWRC has been undertaken. construction is programmed to start in Q3 and is on-track.

The Service notes that the Q2 financial profile in terms of expenditure is 36% mid-way through the financial year, however it is often lighter in Q1&2, as it is predominantly a period for designing/ planning with works programmed for Q3/Q4.

As noted last year, inflationary costs continue to significantly reduce the scope of works achievable within the highway's capital programme.

Service Area	Budget	Actuals	Budget Remaining	Budget Remaining as a % of Budget
	£'000	£'000	£'000	%
Property, Planning and Public Protection	1,098	305	793	72

HOS Comment

Capital programme is on track. Service area expected spend to be low in Q1 and Q2 and to mainly be spent in Q3 and Q4. No reprofiling of capital expenditure currently required.

Inflationary costs are being monitored and appropriate action will be taken to ensure works fall with funding envelopes.

Service Area	Budget	Actuals	Budget Remaining	Budget Remaining as a % of Budget
	£'000	£'000	£'000	%
Community Development	2,259	21	2,238	99

HOS Comment

Some projects / works were unavoidably delayed in 2022/23 which resulted in capital budget being carried forward, with the intention of spending the full amount in 2023/24 which was planned for within the programme. The 'Review of Leisure Services' commenced in the spring 2023 (as a result of the energy crisis/increased costs of utilities) which meant that much of the capital programme is paused, apart from essential works, where agreed and progressed.

Of the £2,238,000 - £595,000 is already committed to the end of September with an additional £970,000 worth of projects and works ready for either tender / procurement or progression or is contributing to support grant funding received. to be spent by March 2024.

Service Area	Budget	Actuals	Budget Remaining	Budget Remaining as a % of Budget
	£'000	£'000	£'000	%
Housing General Fund	3,027	1,043	1,984	66
Housing Revenue Account	21,895	5,195	16,700	76

HOS Comment

Housing General Fund - Disabled Facilities Grants: Taking into account both works completed (as reported above) and those committed and good to go, Housing Services will be able to end the year on target for both works and use of financial resources. Any works that cannot be funded in 2023-2024 will be rolled forward to 2024-2025.

Improvement Loans for Private Property Owners: Demand is high for Home Improvement Loans and the Zero Interest Loan Fund scheme important schemes aimed at private property owners. Taking into account both loans completed (as reported above) and those committed and good to go, it is possible that towards year end demand may exceed funds. The schemes are administered on behalf of Housing Services by the Robert Owen Community Banking Fund (ROCBF), based in Newtown. The ROCBF has advised that it may be able to consider supporting clients with loan support for the remainder of the year using its own funds. Core funding from the Council will then, subject to funds being made available, return for 2024/25. Landlord Loans and Town Centre Loans are running well, and we do not expect in-year demand to exceed budgets.

Housing Revenue Account - New build - our development programme remains limited to the areas of the county not affected by the moratorium on new house building until the management of phosphate matters is resolved in the Wye and Usk river catchments. Six Powys County Council social rented housing schemes (approximately 120 homes) fall within the affected area. The Housing Development Team have continued to work on other areas. Within Q2, the official opening of Red Dragon scheme in Newtown took place. Tenders are being assessed for the letting of a thirty-home development in Newtown. A scheme in Ystradgynlais, which was under consideration for future development, will not go ahead after preliminary site

investigations revealed that the level of works needed to make the site developable would be uneconomic. However, tenders are now being sought for the development of new homes in the Ael-y-bryn and Pen-y-bryn area of Ystradgynlais.

Service Area	Budget	Actuals	Budget Remaining	Budget Remaining as a % of Budget
	£'000	£'000	£'000	%
Economy & Digital Services	14,517	1,234	13,283	91

HOS Comment

Digital Services Capital

The desktop refresh programme is a continual programme and is on track to spend this years' calculated figure although our replacement strategy is being reviewed to realise carbon reduction savings and to meet anticipated service staffing changes which may result in changes to forecast.

Cloud transformation capital, much of this is planned to be spent this financial year but further business cases will be required to highlight changes in capital funding.

For the individual projects, these are being reviewed in light of the new Digital Programme and will be drawn down as part of individual Project Business cases.

Economy Capital

An underspend from 2022-2023 capital programme from UK Government has resulted in monies being utilised through freedoms and flexibilities which is shown in the difference between allocated budget and remaining budget.

Overall capital budgets are managed from grant funds and profiled until March 2025. This process is managed through quarterly reporting fund management and slippage is being managed in monthly review meetings with partners and contractors. This includes:

Transforming Towns Programme £5,080,000 for Placemaking Grant is managed through an application process. The capital fund is managed through a local and regional panel and the spend profile for 2022/23 is slightly under target spend but with approval for roll forward to 2023/24. Projects are developed with partners and approved as bids are received. The team work hard to create opportunity for partners to draw down the capital investment and this is regularly monitored with Welsh Government.

Levelling-up Capital Projects. Project expenditure is currently behind schedule, this is regularly reviewed with partners to ensure delivery against grant terms and conditions. Council project aspects are being managed carefully and costs are within contingency limits with work slightly behind schedule but within grant agreements. Any required changes will be considered as a one-off Performance Assessment Review (PAR) during the lifetime of the project. We are assuming continued underspend of capital receipts from UK Government in quarters 1 to 3 at which point it is estimated a PAR review will take place to align predicted spend and schedule of works to the capital programme. This review is being left late in year as we need to

be confident of anticipated delivery timescale from partners as changes can only be made once in the lifetime of the programme between 2022 and 2025. Current boards are monitoring progress on a monthly basis to ensure the programme remains on track against the current profiled spend for quarter 4.

Service Area	Budget	Actuals	Budget Remaining	Budget Remaining as a % of Budget
	£'000	£'000	£'000	%
Unallocated	4,499	0	4,499	100

HOS Comment

The budget held here is the currently unallocated funds set aside for pipeline projects.

CYNGOR SIR POWYS COUNTY COUNCIL.**CABINET EXECUTIVE
21st November 2023**

REPORT AUTHOR: County Councillor Jake Berriman, Cabinet Member for a Connected Powys.

REPORT TITLE: The Council's use of surveillance under the Regulation of Investigatory Powers Act 2000 2022-2023

REPORT FOR: Information and decision.

1. Purpose

- 1.1 To brief Cabinet on the on the council's use of covert surveillance under the Regulation of Investigatory Powers Act 200 (RIPA) for 2022-2023.
- 1.2 To seek approval for the revised RIPA Policy as set out in Appendix A.
- 1.3 To seek approval for the non-RIPA Policy and procedures as set out in Appendix B.

2. Background

- 2.1 RIPA provides a statutory framework regulating the use of directed surveillance and the conduct of covert human intelligence sources (informants or undercover officers) by public authorities. The Act requires public authorities, including local authorities, to use covert investigation techniques in a way that is necessary, proportionate, and compatible with human rights.
- 2.2 Directed surveillance is covert surveillance conducted for the purposes of a specific investigation or operation and it is likely to result in the obtaining of private information about a person. Private information includes any aspect of a person's private or personal relationship with others, including family and professional or business relationships. Whilst a person may have a reduced expectation of privacy when in a public place, covert surveillance of that person's activities in public may still result in the obtaining of private information.
- 2.3 The Protection of Freedoms Act 2012, which requires a local authority only grant authorisations under RIPA for the use of directed surveillance where it is for the purposes of investigating criminal offences that attract a custodial sentence of six months or more or criminal offences relating to the underage sale of alcohol or tobacco.

- 2.4 All RIPA authorisations must be signed by an Authorising Officer. Authorising Officers must be trained before issuing any authorisations and they should attend regular refresher training. The council currently has 4 Authorising Officers.
- Professional Lead - Environmental Health (Commercial Services) & Trading Standards.
 - Senior Manager - National Trading Standards Estate & Letting Agency Team.
 - Principal Trading Standards Officer.
 - Principal Environmental Health Officer.
- 2.5 A further magistrate's approval is also required before the RIPA authorisation can take effect.
- 2.6 Relevant Codes of Practice Covert Surveillance and Property Interference Code of Practice and Covert Human Intelligence Sources Code of Practice were issued by the Home Office in 2018, and subsequently revised.

3. Investigatory Powers Commissioner's Office inspection.

- 3.1 The most recent inspection by the OSC, occurred in July 2022, via a desk top exercise.
- 3.2 An action plan to respond to the concerns of the Commissioner and implement their recommendations was developed, and recommendations inserted onto to the regulatory tracker.
- 3.3.1 Of the 21 actions identified,
- 18 have been completed,
 - 1 is still in progress and within agreed timescales.
 - 2 are over time scale, being the approval of the non-RIPA policy and procedures, which is part of this report, and the development of training on the RIPA and non-RIPA policies.
- 3.3.2 Of the 8 recommendations made by the Commissioner, then:
- 7 have been completed,
 - 1 is still in progress and within agreed timescales.

4. Council use of RIPA.

- 4.1 For the financial year (1 April 2022 to 31 March 2023) the council has not undertaken any directed covert surveillance, nor has it authorised the use of a covert human intelligence source.

5. Policies.

- 5.1 The revised RIPA policy is attached as Appendix A. Revisions include.
- Clarification over the Council's inability to authorise Criminal Conduct by a CHIS

- Clarification over the inability of an applicant to also authorise their own applications.
- Introducing the Council's non-RIPA policy, procedures, and templates as a separate document, and subsequently removed some non-RIPA information.
- Updated CHIS Code of Practice link to new version released by the Home Office.

5.2 The newly developed non-RIPA policy and procedures is attached as Appendix B and sets out the council's position and procedures to be followed, so that any interference with an individual's right to privacy through the use of covert surveillance when RIPA authorisations are not feasible meet the requirements of the Human Rights Act 1998.

6. Resource Implications

- 6.1 The Council's application of RIPA is undertaken by several staff throughout the organisation, in addition to other duties.
- 6.2 The cost of the Council's application of and management of RIPA related activities are undertaken as part of officers' duties. No exact recordings are maintained as to time spent on RIPA related activities.
- 6.3 Any costs associated with RIPA activities are met from existing budgets.
- 6.4 The Head of Finance (Section 151 officer) notes the report.
- 6.5 The Head of Legal Services and Monitoring Officer is nominated as the Senior Responsible Officer.

7. Legal implications

7.1 Legal: the recommendations can be accepted from a legal point of view.

7.2 The Head of Legal Services and the Monitoring Officer has commented as follows: "I note the legal comment and approve the recommendations."

8. Climate Change & Nature Implications

8.1 NA

9. Data Protection

9.1 The Data Protection Officer is the author of this report in addition to being the RIPA Co-ordinator and has nothing further to add.

10.1. Comment from local member(s)

10.1 The use of RIPA and the appropriate policies impact with equal force across the whole County, and therefore comments have not been sought from individual Members.

11. Impact Assessment

11.1 NA

12. Recommendation

12.1 Cabinet notes that the Council has not utilised RIPA in the financial year 2022/23 and the activity undertaken in response to the Commissioner's report.

12.2 Cabinet approves the revised RIPA Policy as set out in Appendix A to the report to take immediate effect.

12.3 Cabinet approves the newly developed non-RIPA Policy and procedures as set out in Appendix B to the report to take immediate effect.

Contact Officer:	Helen Dolman
Tel:	01597 826400
Email:	helen.dolman@powys.gov.uk
Head of Service:	Diane Reynolds
Corporate Director:	Emma Palmer

Appendix A



**Regulation of Investigatory Powers Act 2000 Policy
Version 2 (October 2023)**

About this policy

This policy sets out the procedure to be followed by appropriate Council Staff, so that the Council's investigatory powers can be used in a lawful way. The policy relates to the use of directed surveillance, use of covert human intelligence sources (CHIS) and accessing communications data, since not all surveillance is regulated by RIPA, but all surveillance is likely to interfere with the privacy of individuals and so must be human rights compliant.

Document Control

Organisation	Powys County Council
Title	RIPA Policy
Author	Senior Manager Customer Services and Information Governance
Owner	Senior Responsible Officer – Head of Legal Services and the Monitoring Officer
Subject	Regulation of Investigatory Powers Act 2000
Protective marking	None
Review Date	October 2024

Revision History

Revision Date	Revision	Previous Version	Description of Revision
August 2022	V2	V1	Complete review
October 2023	V2.1		(1) Clarified position over inability to authorise Criminal Conduct by CHIS (2) Clarified inability of applicant to also authorise own applications (3) Introduced the Council's non-RIPA policy, procedures, and templates as separate document – removed some non-RIPA information (4) Updated CHIS Code of Practice link

1 Introduction

- 1.1 The Regulation of Investigatory Powers Act 2000 (the Act) and subsequent legislation (Investigatory Powers Act 2016) regulate the use of powers connected with the interception and accessing of communication data and provides a framework for the authorisation and oversight of *directed surveillance (DS)* and the use of *covert human intelligence sources (CHIS)*. The Acts were passed to ensure that law enforcement and other operations are compliant with the duties imposed on public authorities by the Human Rights Act 1998 which incorporates the rights and freedoms of the European Convention on Human Rights into our domestic law. It is unlawful for a public authority to act against a Convention right or the UK General Data Protection Regulations & Data Protection Act 2018 (DPA).
- 1.2 This policy and procedures document (the Policy) sets out the means of compliance with, and use of, the Act by Powys County Council (the Council) It is based upon the requirements of the Act and the Home Office's Codes of Practice on Covert Surveillance and Property Interference (August 2018), Covert Human Intelligence Sources (Aug 2018), and Communications Data (Nov 18). This version of the Policy and Guidance has been updated to take account of the changes in the Protection of Freedoms Act 2012 and SI2012/1500 "The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012
- 1.3. The Council has numerous statutory powers and duties to investigate activities of private individuals, groups, and organisations within its jurisdiction for the benefit and protection of the public. Such investigations may require the use of DS, CHIS and / or access to communications data. (There are many reasons why the Council might need to investigate, such as Trading Standards, licensing, audit investigation, benefit fraud, health & safety compliance, environmental health and pollution control, planning enforcement, control of building works and investigation of its own employees for the purposes of disciplinary proceedings (Core functions); this list is not intended to be exhaustive. Some of these core functions are covered by RIPA; others are not and will, therefore, not fall within the RIPA framework.
- 1.4 For the purposes of this policy and procedure document, surveillance is deemed to include accessing of communications data as the Council is permitted to carry out under the Act, DS and the use of a CHIS. The Act provides for the authorisation of certain investigations using such surveillance.
- 1.5 The Council's stated objective is compliance with the provisions of the Human Rights Act 1998, and in particular the provisions of Article 8 obliging respect for an individual's privacy. However, this is a qualified right, not an absolute one, and all investigations involve a legitimate breach of this privacy to a greater or lesser extent.

- 1.6. RIPA is not available to use for investigations that do not form part of the Council's core functions, and where no criminal offence is identified or where the offence identified would not be punishable by a maximum term of at least 6 months imprisonment.
- 1.7 This does not preclude the Council's investigators from using DS or CHIS, but if an investigation requires the use of these techniques, the investigator must apply in the same way, using the specifically developed forms, for authorisation.
- 1.8 The Council's non-RIPA policy, and procedures with template forms, will be followed in such cases.
- 1.8 **No activity must take place until Judicial Approval has been obtained.** The procedure for Judicial Approval is explained in Appendix Nine. Before undertaking surveillance and applying for Judicial Approval, the Council must be satisfied that it is undertaken either in connection with a Core Function or with a function that any ordinary employer might have (an Ordinary Function), such as the investigation of false claims for sick pay. As all surveillance is likely to intrude upon someone's human rights (for example, the right to respect for privacy and family life, home, and correspondence), it is important that the investigator is able to justify that the breach of privacy is necessary, proportionate, and lawful. It is also **ESSENTIAL** that the reasoning is documented, and the correct authorisations gained, in order that the Council may be held accountable for their actions.
- 1.9 The Council shall ensure that Officers with responsibility for authorising or carrying out surveillance or accessing communications data are aware of their obligations to comply with the Act and with the Council's policy. Furthermore, Officers shall receive appropriate training or be appropriately supervised in order to carry out functions under the Act. The list of Authorising Officers appears at Appendix One to this Document.
- 1.10 The Data Protection Officer shall act as the **RIPA Co-ordinator (RC)** for all applications (See Appendix Five) The Head of Legal Services and the Monitoring Officer shall discharge the duties of the **Senior Responsible Officer (SRO)**, the Council's Chief Executive shall act as the **Senior Authorising Officer (SAO)**, in cases of Juvenile or Vulnerable Individual CHIS and where knowledge of confidential information is likely to be acquired.
- 1.11 **Failure to follow this Policy could mean that the evidence gathered may not be admissible in Court. A serious failure to adhere to the policy could be deemed as gross misconduct potentially leading to dismissal.**

2 Types of Surveillance

2.1 Surveillance includes:

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

Surveillance can be **overt** or **covert**.

2.2 Overt Surveillance (do not require authorisation)

2.2.1 Most of the surveillance carried out by the Council will be done **overtly**. In many cases, Officers will be behaving in the same way as a normal member of the public or will be going about Council business openly (such as conducting a site visit for planning enforcement purposes)

2.2.2 Similarly, surveillance will be overt if the subject has been told that it will happen (for example, where a licensee has been made aware that officers may conduct visits without notice to check that conditions applied to a licence issued under the Licensing Act 2003 are being complied with).

The following are NOT normally Directed Surveillance:

- Activity that is observed as part of normal duties, e.g., by an officer in the course of day-to-day work.
- CCTV cameras (unless they have been directed at the request of investigators) – these are overt or incidental surveillance and are regulated by the Data Protection Act.
- Targeting a *Hot spot*, e.g., licensing officers standing on a street to monitor private hire cars plying for hire illegally where this is not part of a planned operation, or surveillance on fly tipping and dog fouling clear up. (Home Office Guidance refers.)
- Routine test purchasing of age-related products.

2.3 Activity requiring authorisation.

2.3.1 The following types of activity will require authorisation:

- directed surveillance.
- the conduct and use of covert human intelligence sources

2.4. Directed Surveillance

(Only when properly authorised by an Authorised Officer AND approved by a Magistrate (see Appendix 9))

2.4.1 Directed surveillance is surveillance which ~

- is covert i.e., carried out in a way that is intended to make sure that the subject of the surveillance is not aware that it is happening; and
- is not carried out in an immediate response to events which would otherwise make seeking authorisation under the Act unreasonable; and
- is undertaken for the purpose of a **specific investigation** or operation in a manner **likely to obtain private information** about an individual (whether or not that person is specifically targeted for the purposes of an investigation); and
- is not intrusive surveillance (see section 2.5 below)

2.4.2 Private Information

2.4.3 In relation to a person includes any information relating to his private and family life, his home, and his correspondence. The fact that covert surveillance occurs in a public place or on business premises does not mean that it cannot result in the obtaining of private information about a person. Prolonged surveillance targeted on a single person will undoubtedly result in the obtaining of private information about him and others that he comes into contact, or associates, with.

Expectations of Privacy:

Two people are holding a conversation on the street and, even though they are talking together in public, they do not expect their conversation to be overheard and recorded by anyone. They have a 'reasonable expectation of privacy' about the contents of that conversation, even though they are talking in the street. The contents of such a conversation should be considered as private information. A directed surveillance authorisation would therefore be appropriate for a public authority to record or listen to the conversation as part of a specific investigation or operation and otherwise than by way of an immediate response to events.

A Surveillance officer intends to record a specific person providing their name and telephone number to a shop assistant, in order to confirm their identity, as part of a criminal investigation. Although the person has disclosed these details in a public place, there is nevertheless a reasonable expectation that the details are not being recorded separately for another purpose. A directed surveillance authorisation should therefore be sought.

2.4.3 Private life considerations are particularly likely to arise if several records are to be analysed together in order to establish, for example, a pattern

of behaviour, or if one or more pieces of information (whether or not available in the public domain) are covertly (or some cases overtly) obtained for purposes of making a permanent record on that person or for subsequent data processing to generate further information. In such circumstances, the totality of information gleaned may constitute private information even if individual records do not. Where such conduct includes surveillance, a directed surveillance authorisation may be required.

Reconnaissance:

Officers wish to drive past a café for the purposes of obtaining a photograph of the exterior. Reconnaissance of this nature is not likely to require a directed surveillance authorisation as no private information about any person is likely to be obtained or recorded. If the officers chanced to see illegal activities taking place, these could be recorded and acted upon as “an immediate response to events”.

If, however, the officers intended to carry out the exercise at a specific time of day, when they expected to see unlawful activity, this would not be reconnaissance but directed surveillance, and an authorisation should be considered.

Similarly, if the officers wished to conduct a similar exercise several times, for example to establish a pattern of occupancy of the premises by any person, the accumulation of information is likely to result in the obtaining of private information about that person or persons and a directed surveillance authorisation should be considered.

2.5 Intrusive Surveillance

2.5.1 RIPA does not authorise local authorities to carry out intrusive surveillance. Intrusive surveillance occurs when the surveillance is covert:

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

2.5.2 Council Officers must NOT carry out intrusive surveillance:

Notes about 'Intrusive':

Surveillance is generally 'Intrusive' only if the person undertaking the surveillance is on the same premises or in the same vehicle as the subject(s) of the surveillance. Carrying out surveillance using private residential premises (with the consent of the occupier) as a 'Static Observation Point' does not make that surveillance 'Intrusive'.

A device used to enhance your external view of property is almost never an *intrusive* device. A device would only become *intrusive* where it provided a high quality of information from inside the *private residential premises*.

If premises under surveillance are known to be used for legally privileged communications, e.g., Solicitor's offices that surveillance must also be treated as *intrusive*.

Examples:

Officers intend to use an empty office to carry out surveillance on a person who lives opposite. As the office is on the 4th floor, they wish to use a long lens and binoculars so that they can correctly identify and then photograph their intended subject covertly. This is NOT intrusive surveillance, as the devices do not provide high quality evidence from inside the subject's premises.

Officers intend using a surveillance van parked across the street from the subject's house. They could see and identify the subject without binoculars but have realised that, if they use a 500mm lens, as the subject has no net curtains or blinds, they should be able to see documents they are reading. This IS intrusive surveillance, as the evidence gathered is of a high quality, from inside the premises, and is as good as could be provided by an officer or a device being on the premises.

Notes about 'Private Residential Premises' (PRP):

Premises count as PRP if they are currently used as a residence, and this includes temporary use.

Examples:

- Flats, houses, caravans etc. used as a residence are PRP.
- Hotel rooms are PRP.
- Lorry cabs and camper vans are PRP.
- Communal areas (like stairs in a block of flats) are not PRP **but**
- A stairwell in a block of flats, known to be used by a homeless person as their temporary residence **is** PRP.
- Canteens and dining areas are not PRP.
- Front gardens are not PRP.

- Setting up a local authority house for a covert operation for non-residential purposes is not PRP.

2.6 Examples of different types of surveillance

Type of Surveillance	Examples
Overt	<p>Civil Enforcement Officer on patrol</p> <p>Signposted CCTV cameras (in normal use)</p> <p>Recording noise from outside the premises, providing that the occupier has been warned that this will take place.</p> <p>Enforcement Officer conducting a site visit, providing any legislative requirements as to notice have been complied with</p>
Covert Directed	Officers following an individual over a period to establish whether they are working whilst claiming benefit.
Intrusive	Planting a listening or other device in a person's home or in their private vehicle THE COUNCIL CANNOT AUTHORISE THIS ACTIVITY USING RIPA AND FORBIDS ITS OFFICERS FROM CARRYING OUT INTRUSIVE SURVEILLANCE.

2.7 Duration of Directed Surveillance Authorisations / Reviews/ Renewals

2.7.1 An authorisation in writing ceases to have effect at the end of a period of 3 months beginning with the day on which it took effect being the date of authorisation by the JP. So, an authorisation starting 1 January would come to an end on 31 March.

2.7.2 Reviews - Regular reviews of authorisations should be undertaken. If, during an investigation it becomes clear that the activity being investigated does not amount to a criminal offence or that it would be a less serious offence that does not meet the threshold (of at least a maximum of 6 months in prison) the use of directed surveillance should cease. The results of the review should be recorded in writing and a copy sent to the RIPA Co-Ordinator. If the surveillance provides access to confidential information or involves collateral intrusion more frequent reviews will be required. The Authorising Officer should determine how often a review should take place.

2.7.3 Renewals – While an authorisation is still effective the authorising officer can renew it if they consider this necessary for the purpose for which the authorisation was originally given. The authorisation will be renewed in writing for a further period, beginning with the day when the authorisation would have expired, but for the renewal, and can be for a further period of 3 months.

2.7.3.1 Applications requesting renewal of an authorisation are to be made on the appropriate form (Renewal Form for Directed Surveillance) links at Appendix 3 and be submitted to the Authorising Officer.

Applications for renewal will record:

- whether this is the first renewal, if not, the occasion which the authorisation has previously been renewed.
- the information as required in the original application, as it applies at the time of the renewal; together with:
 - the significant changes to the information in the previous authorisation
 - the reasons why it is necessary and proportionate to continue with the surveillance.
 - the content and value to the investigation or operation of the information so far obtained by the surveillance.
 - an estimate of the length of time the surveillance will continue to be necessary.

Renewals will also require the approval of a JP in the magistrates' court before they can take effect and investigating officers should bear in mind the relevant timescales when considering the need to renew an authorisation.

2.7.4 Cancellations - The person who granted or last renewed the authorisation MUST cancel it if they are satisfied that the directed surveillance no longer meets the criteria for authorisation. Requests for cancellation will be made on the appropriate form (Cancellation of use of surveillance) links at Appendix 3 and submitted to the authorising officer for authorisation of the cancellation.

2.7.4.1 No JP's involvement is required for cancellation. When cancelling an authorisation, the Authorising Officer should:

- record the date and times (if at all) that surveillance took place and when the order to cease the activity was made.
- the reason for cancellation
- ensure that the surveillance equipment has been removed and returned.
- provide directions for the management of the product.

- ensure that detail of property interfered with, or persons subjected to surveillance, since the last review or renewal is properly recorded.
- record the value of the surveillance or interference (i.e., whether the objectives as set in the authorisation were met).

3 USE OF COVERT HUMAN INTELLIGENCE SOURCES (CHIS)

(Only properly authorised by an Authorised Officer AND approved by a Magistrate (see Appendix 9))

- 3.1.1 A CHIS is someone who establishes or maintains a personal or other relationship for the covert purpose of helping the covert uses of the relationship to obtain information.
- 3.1.2 RIPA does not apply to circumstances where members of the public volunteer information to the Council or to contact numbers set up to receive such information (such as a benefit fraud hotline). However, should a member of the public repeatedly provide information that might reasonably be expected to have been gained using a personal or other relationship, and should the Council intend to act upon or otherwise use this information, consideration should be given to registering the information provider as a CHIS and taking steps to secure that person's safety.
- 3.1.3 A relationship is covert if it is conducted in a manner that is calculated to ensure that one of the parties to the relationship is unaware of its purpose.
- 3.1.4 If a person who provides information voluntarily is asked to obtain further information, it is likely that they would either become a CHIS or that Directed Surveillance authorisation should be considered.

Examples of a CHIS may include:

- Licensing Officers, working with the Police, covertly building a business relationship with a cab company which is believed to be using unlicensed drivers.
- Whistleblowing, when you actively recruit an employee to gather information on another employee who is the subject of a criminal investigation, provided this is undertaken within a formal framework (refer to the Council's Whistleblowing Policy and Procedure).
- Food Safety Officers posing as customers to get information on what is being sold at premises and developing a relationship with the shopkeeper beyond that of supplier and customer.

3.2 What must be authorised?

3.2.1 Officers must not create or use a CHIS without prior authorisation from an Authorised Officer and a Magistrate.

3.2.2 Creating (or Conduct of) a CHIS means procuring a person to establish or maintain a relationship with a person so as to secretly obtain and pass on information. The relationship could be a personal or 'other' relationship (such as a business relationship) and obtaining the information may be either the only reason for the relationship or be incidental to it. Note that it can also include asking a person to continue a relationship which they set up of their own accord.

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

3.2.4 Local Authorities have no power to grant the CHIS authority to commit a criminal act as part of the operation.

3.3 Test Purchases

3.3.1 A normal test purchase does not usually involve the conduct or use of a CHIS. If the test purchase does not require the purchaser to establish a relationship with the supplier with the covert purpose of obtaining information, the purchaser will not be a CHIS. In other words, if the purchaser acts in a manner entirely consistent with being an ordinary member of the public in making the test purchase, then no CHIS authorisation is needed.

3.3.2 By contrast, if a relationship is developed with the person in the shop, for example, to obtain information about supplies of goods (for example, food unfit for human consumption), then this is likely to amount to the

conduct or use of a CHIS. Similarly, if the test purchaser uses hidden devices, such as cameras or other recording devices, to record what is going on in the shop, then this will require authorisation, albeit in the form of covert directed surveillance. In some instances, a combined authorisation may be required.

3.3.3 Note that it is not just members of the public who can be a CHIS; an officer acting in this manner should be considered as a CHIS.

3.4 Use of juveniles as CHIS

3.4.1 A juvenile is a person under the age of 18. Special safeguards apply to the authorisation where the CHIS would be a child.

3.4.2 Authorisations for juvenile CHIS must not be granted unless: -

- A risk assessment has been undertaken as part of the application, covering the physical dangers and the psychological aspects of the use of the child; and
- The risk assessment has been considered by the Authorising Officer and they are satisfied that any risks identified in it have been properly explained; and
- The Authorising Officer has given particular consideration as to whether the child is to be asked to get information from a relative, guardian or any other person who has for the time being taken responsibility for the welfare of the child; and
- The Authorising Officer is satisfied that management arrangements exist which will ensure that there will always be a person who has responsibility for ensuring that an appropriate adult will be present between any meetings between Council representatives and a CHIS under 16 years of age.

3.4.3 **N.B.: A child under the age of 16 must never be asked to give information against his parents or any person who has parental responsibility for him**

3.4.4 **Authorisations for the use of a juvenile as a CHIS can only be granted by the SAO as Head of Paid Service or, in their absence, the person acting as Head of the Paid Service.**

3.4.5 The SRO will inform the Investigatory Powers Commissioner within seven working days of a juvenile CHIS authorisation.

3.5 Use of vulnerable individuals as a CHIS

3.5.1 A vulnerable individual is a person who is or maybe in need of community care services by reason of mental or other disability, age or illness and who is or may be unable to take care of themselves, or unable to protect themselves against significant harm or exploitation.

3.5.2 Any vulnerable individual should only be authorised to act as a CHIS in the most exceptional circumstances.

3.5.3 The SRO will inform the Investigatory Powers Commissioner within seven working days of a vulnerable individual CHIS authorisation.

3.5.3 **Authorisations for the use of a vulnerable individual as a CHIS can only be granted by the SAO as Head of Paid Service or, in their absence, the person acting as Head of the Paid Service.**

3.5.4. Additional information on the conduct or use of CHIS can be found in the Home Office Revised Code of Practice – see Appendix Three for link.

3.6 Duration of CHIS Approval

3.6.1 A written authorisation, unless renewed, will cease to have effect at the end of a period of twelve months (four months in the case of a juvenile CHIS) beginning with the day on which it took effect being the date of authorisation by the JP.

3.7 Renewals of CHIS Approvals

3.7.1 Authorisations for the conduct and use of CHIS can be renewed, the same criteria applying as on first authorisation. Applications for renewal must be made on the appropriate form and submitted to an Authorising Officer. An authorisation may be renewed more than once – provided it continues to meet the criteria for authorisation.

3.7.2 Before an Authorising Officer renews an authorisation, they must be satisfied that a review has been carried out of:

- The use made of the source during the period authorised.
- The tasks given to the source.
- The information obtained from the use or conduct of the source.

If the Authorising Officer is satisfied that the criteria necessary for the initial authorisation continue to be met, they may renew it in writing for a further period.

3.7.3 **Applications for renewal should not be made until shortly before the authorisation period is coming to an end but bearing in mind the timescales required to obtain the approval of a JP in the magistrates' court before they can take effect.**

3.8 Reviews of CHIS Approvals

3.8.1 Regular reviews of authorisations should be undertaken. The results of the review should be recorded in writing and a copy sent to the **RIPA Co-ordinator**. If the surveillance provides access to confidential information or involves collateral intrusion frequent reviews will be required. The authorising officer should determine how often a review should take place.

4 The Internet and RIPA

4.1 Nowadays investigators make much use of the internet in the course of their enquiries. Many of these enquiries are simple 'open source' enquiries and are unlikely to amount to either Directed Surveillance or the use of a Covert Human Intelligence Source. There are, however, circumstances under which RIPA authorisation may be appropriate.

4.2 Internet and RIPA - Normal usage

4.2.1 Where an investigator makes normal background checks on the internet, accessing pages that are in the public domain on a single occasion, this would be considered normal usage. Under these circumstances, whilst full records must obviously be kept (in order to comply with the Criminal Procedure and Investigations Act) there is no need for investigators to seek authorisation to make these enquiries. During the course of the investigation, it would be normal for an investigator to make very occasional checks on pages, in order to confirm the information contained therein or, for example, to check for changes just prior to interview.

4.2.2 If, on the other hand, investigators wish to make regular checks on pages, in order to keep check on a suspect's activities, this may amount to Directed Surveillance.

4.3 Internet and RIPA - Directed Surveillance

4.3.1 Where investigators make regular checks of a page, in order to monitor activity, this may amount to Directed Surveillance. This is because the person, whilst posting to a public forum, site, or page, may well not expect the Local Authority to be watching them.

4.3.2 An analogy must be drawn between the electronic world and the 'real' world – if investigators were to go to a public house, in order to listen to a conversation that the suspect was having, this would amount to Directed Surveillance; visiting an online forum for the same purpose is no different.

You wish to covertly watch a shop, in order to see if the shopkeeper is selling unlawful items. This is Directed Surveillance. That same shopkeeper has an online shop that you wish to check every day. What is the difference?

4.4 Internet and RIPA - Covert Human Intelligence Source (CHIS)

4.4.1 Looking at publicly available pages is normally considered 'Open Source' investigation, but the situation may change if investigators are required to *request access*, in order to view the page.

- 4.4.2 If investigators have to create or maintain a 'personal or other relationship' in order to access information, this could amount to becoming a CHIS if further interaction is likely to take place. A good example of this is 'Facebook', where a profile may be available for all to view ('Open Source' or Directed Surveillance) or may require investigators to send a friend request and have that request accepted.
- 4.4.3 An exception would be where, for example, the officer uses an identity that is manifestly overt (e.g., Powys Trading Standards) and sends the request from this identity. Under these circumstances, the viewing of the page would amount to monitoring and not Directed Surveillance or becoming a Covert Human Intelligence Source.
- 4.4.4 Officers are instructed to use the procedures outlined in this policy (either RIPA or Non-RIPA), if the above circumstances apply.

5 Authorisation Procedures for Directed Surveillance and CHIS.

Appendix Two provides a flow chart of the process to be followed.

5.1 Legal Advice should be sought from Legal Services prior to any application and authorisation.

5.1.1 To ensure that Directed Surveillance and the conduct or use of a CHIS can only be lawfully carried out, you must obtain legal advice from either of the following:

- Solicitor - Public Protection; or
- Professional Lead – Legal; or
- The Head of Legal Services and the Monitoring Officer.

5.2 Obtain Approval from Authorising Officers

5.2.1 DS and CHIS can only be authorised by Authorising Officers or the SAO who are named in this policy; the list of Authorising Officers appears at Appendix One. Authorising Officers will be removed from the list if they do not attend the required training programmes. Appendix one will be kept up to date by the SRO and amended as needs require, by the RIPA Co-ordinator. In addition, the SRO has authority to add, delete or substitute posts as required.

5.2.2 RIPA authorisations are for specific investigations only and must be renewed or cancelled once the specific surveillance is complete or about to expire.

5.2.3 Only the SAO can authorise the use of a CHIS who is a juvenile or vulnerable person.

5.2.4 The applicant and Authorising Officer will not be the same person, to ensure oversight of applications being made, and surveillance being undertaken.

5.4. **Application Forms for Approval by Authorising Officers**

5.4.1 Only the most up to date Home Office approved RIPA forms, available on the Home Office website, must be used (See Appendix three for links.) Any other forms will be rejected by the Authorising Officer and the RIPA Co-Ordinator.

5.4.2 The Authorisation Officer will check the quality of the applications made to them to ensure whether the application demonstrates sufficient grounds for authorisation.

5.4.3 The authorisation will usually be sought from the Authorising Officer associated with the service area, unless not available.

5.5 Grounds for Authorisation

5.5.1 Before considering an application for Authorisation, an Authorising Officer should be mindful of the Council's Policy and Procedures, the training provided, and any other guidance issued, from time to time, by the RIPA Co-ordinator and SRO

5.5.2 An authorisation may only be granted by an Authorising Officer where they believe from examining the Application Form that.

(a) the authorisation is necessary in the circumstances for the purpose of.

- preventing or detecting conduct which is a criminal offence being an offence punishable, whether on summary conviction or indictment, by a maximum term of at least 6 months' imprisonment, or offences relating to the underage sale of alcohol and tobacco (being those offences listed in Article 7A of the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010/521 as amended), or
- preventing disorder where such disorder involves a criminal offence punishable (whether on summary conviction or indictment) by a maximum term of 6 months' imprisonment.

(b) the authorised surveillance is proportionate to what is sought to be achieved by it. This involves balancing the intrusiveness of the activity on the target and others who might be affected by it against the need for the activity in operational terms. The activity will not be proportionate if it is excessive in the circumstances of

the case or if the information which is sought could reasonably be obtained by other less intrusive means. all such activity should be carefully managed to meet the objective in question

and must not be arbitrary or unfair. The least intrusive of gathering the information method will normally be considered to be the most proportionate method unless, for example, it is impractical or would undermine the investigation; and

(c) consider the risk of intrusion to the privacy of persons other than the specified subject of the surveillance (**collateral intrusion**). Measures must be taken to avoid or minimise (so far as is possible) collateral intrusion and this may be relevant to the issue of proportionality; and

(d) set a date for the review of the authorisation; and

(e) allocate a Unique Reference Number for the application as follows:

Year / Department or Operation / Number of Application; and

(f) Ensure that a copy of the RIPA form is forwarded to the RIPA Co-ordinator for entry onto the Central Register **within 48 hours of the relevant authorisation being given.**

5.5.3 NB: The application MUST make it clear how the proposed intrusion is necessary and how an absence of this evidence would have a prejudicial effect on the outcome of the investigation. If it does not, the application MUST be refused.

5.6.1 When completing the Authorisation Form, the Authorising Officer must expressly explain.

- Who the surveillance is directed at; and
- When and where it will take place; and
- Why the surveillance is necessary & proportionate; and
- What activities and equipment are being authorised; and
- How objectives are to be met

NB. It is not appropriate for the Authorising Officer to say, “Approved for the reason set out in the application”. Each authorisation must contain the Authorising Officer’s personal considerations.

5.6.2 See Appendix four for further guidance on authorisations.

Showing ‘Necessity’

The application should identify the specific offence being investigated (including section and act) and the specific point(s) to prove what the proposed surveillance is intended to gather evidence about. The applicant

must show that the operation is capable of gathering that evidence and that such evidence is likely to prove that part of the offence.

5.7 Additional Safeguards when authorising a CHIS.

5.7.1 When authorising the use of a CHIS, the Authorising Officers **must also**:

- (a) be satisfied that the **conduct** and / or the **use** of the CHIS is proportionate to what is sought to be achieved; and
- (b) be satisfied that **appropriate arrangements** exist for the management and oversight of the CHIS; this includes health and safety issues: and
- (c) consider the likely degree of intrusion of all those potentially affected, including assessing the privacy impact of the proposed surveillance and
- (d) consider any adverse impact on community confidence that may result from the use or conduct, or the information obtained; and
- (e) ensure **records** contain relevant, accurate, and appropriate information, and are not made available, except to those persons who have a need to know; and
- (f) consider the additional requirements for a CHIS under the age of 18 as set out in paragraph 3.4.2 above.

5.8 Judicial Approval

5.8.1 Local Authorities **must** obtain an order approving the authorisation Directed Surveillance and / or a CHIS, before it can take effect. This order must be made by a Justice of the Peace (Magistrate). The Magistrate will consider the necessity and proportionality of the activity being proposed.

5.8.2 The procedure for obtaining Judicial approval is set out in Appendices Nine and Ten.

NB: **Since the introduction of the Protection of Freedoms Act 2012, Local Authorities no longer have powers to authorise and undertake covert activities on the basis of urgency. All authorisations must be approved a Magistrate.**

5.9 **Duration of Directed Surveillance Authorisations / Reviews/ Renewals**

5.9.1 **Duration** - An authorisation in writing ceases to have effect at the end of a period of 3 months beginning with the day on which it took effect being the date of authorisation by the JP. So an authorisation starting 1 January would come to an end on 31 March.

5.9.2 **Reviews** - The RIPA authorisation must be reviewed in accordance with the time stated by the Authorising Officer and cancelled once it is no longer needed. If, during an investigation it becomes clear that the activity being investigated does not amount to a criminal offence or that it would be a less serious offence that does not meet the threshold (of at least a maximum of 6 months in prison) the use of directed surveillance should cease. The results of the review should be recorded in writing and a copy sent to the RIPA Co-Ordinator. If the surveillance provides access to confidential information or involves collateral intrusion more frequent reviews will be required. The Authorising Officer should determine how often a review should take place.

5.9.3 **Renewals** –

5.9.3.1 While an authorisation is still effective the Authorising Officer can renew it if he considers this necessary for the purpose for which the authorisation was originally given. The authorisation will be renewed in writing for a further period, beginning with the day when the authorisation would have expired, but for the renewal, and can be for a further period of 3 months.

5.9.3.2 Applications requesting renewal of an authorisation are to be made on a new application and be submitted to the authorising officer with a copy being sent to the RIPA Co-Ordinator.

5.9.3.3 Applications for renewal will record:

- whether this is the first renewal, if not, the occasion which the authorisation has previously been renewed; and
- the information as required in the original application, as it applies at the time of the renewal; together with.
 - the significant changes to the information in the previous authorisation
 - the reasons why it is necessary and proportionate to continue with the surveillance.
 - the content and value to the investigation or operation of the information so far obtained by the surveillance.
 - an estimate of the length of time the surveillance will continue to be necessary.

5.9.3.4 **Renewals will also require the approval of a JP in the magistrates' court before they can take effect and investigating officers should bear in mind the relevant timescales when considering the need to renew an authorisation.**

- 5.9.3.5 Authorisations can be renewed after an Authorisation has expired but must be treated as a new application taking into accounts the benefit of the surveillance to date, and any collateral intrusion that has occurred.

To renew or not

Cases that are likely to be renewed would include the following:

- The surveillance has gathered three-quarters of the evidence required but is still crucially short of what is needed for a successful prosecution. The reason for this is that the investigator's car broke down on the last occasion.
- The surveillance has only just managed to establish a pattern of behaviour to allow for a full investigation to take place.

Cases that are unlikely to be renewed would include the following:

- The investigators have been watching the subject for the last three months and have not seen him commit the offence. They are, however, sure that they are 'at it' and would like another three months to have a look.
- Surveillance has shown that the case involves more people than originally suggested, and the surveillance operation is to be widened to gather evidence against them; In this case the extant authorisation should be cancelled, and a fresh application submitted.

5.9.4 Cancellations

- 5.9.4.1 The person who granted or last renewed the authorisation MUST cancel it if he is satisfied that the directed surveillance no longer meets the criteria for authorisation. Requests for cancellation will be made in writing and submitted to the Authorising Officer for authorisation of the cancellation. No JP's involvement is required for cancellation.
- 5.9.4.2 When cancelling an authorisation, the Authorising Officer should:
- record the date and times (if at all) that surveillance took place and when the order to cease the activity was made.
 - the reason for cancellation
 - ensure that the surveillance equipment has been removed and returned.
 - provide directions for the management of the product.
 - ensure that detail of property interfered with, or persons subjected to surveillance, since the last review or renewal is properly recorded.

- record the value of the surveillance or interference (i.e., whether the objectives as set in the authorisation were met).

5.10 **Confidential Information**

5.10.1 The Act does not provide any special protection for confidential information, but there are slight differences in the process. However, particular care should be taken in cases where the subject of the investigation or operation might reasonably expect a high degree of privacy or where confidential information is involved.

5.10.2 Confidential material is anything which is:

- subject to legal privilege
- communications between a Member of Parliament and another person on constituency matters
- confidential personal information
- confidential journalistic material

5.10.3 Action which may lead to such confidential information being acquired is subject to additional safeguards.

5.10.4 Material subject to legal privilege

5.10.5 Section 98 of the Police Act 1997 describes those matters that are subject to legal privilege. Legal privilege does not apply to communications made with the intention of furthering a criminal purpose. Privilege is not, however, lost if a professional legal adviser is properly advising a person who is suspected of having committed a criminal offence. The concept of legal privilege applies to the provision of professional legal advice by any individual, agency or organisation qualified to do so.

5.10.6 Legally privileged information is particularly sensitive and surveillance which acquires such material may engage Article 6 as well as Article 8 of the Human Rights Act 1998. Legally privileged information obtained by surveillance is extremely unlikely ever to be admissible as evidence in criminal proceedings. Moreover, the fact that such surveillance has taken place may lead to related criminal proceedings being stayed as an abuse of process.

NOTE: Directed surveillance is treated for the purposes of RIPA as intrusive surveillance, where the surveillance takes place in locations where it is known that legal consultations are taking place. Local Authorities may not authorise *intrusive surveillance* using RIPA.

5.10.7 Confidential constituent information

5.10.8 Confidential constituent information is information relating to communications between a Member of Parliament and a constituent in respect of constituency matters. Such information is held in confidence if it is held subject to an express or implied undertaking to hold it in confidence or it is subject to a restriction on disclosure, or an obligation of confidentiality contained in existing legislation.

5.10.9 Confidential Personal Information

5.10.10 Confidential personal information is information held in confidence relating to the physical or mental health or spiritual counselling concerning an individual (whether living or dead) who can be identified from it. This information is likely to be considered personal data, as defined by s.1 DPA, and as such is subject to protection, unless the individual is deceased.

5.10.11 Such information, which can include both oral and written communications, is held in confidence if it is held subject to an express or implied undertaking to hold it in confidence or it is subject to a restriction on disclosure, or an obligation of confidentiality contained in existing legislation. In addition to the traditional action for breach of confidence, any misuse of this information is likely to involve a breach of the DPA, which could result in monetary penalties or criminal convictions.

5.10.12 Spiritual counselling means conversations between an individual and a minister of religion acting in his official capacity, where the individual being counselled is seeking or the minister is imparting forgiveness, absolution, or the resolution of conscience with the authority of the Divine Being(s) of their faith.

5.10.13 Confidential Journalistic Material

5.10.14 Confidential Journalistic Material includes material acquired or created for the purposes of journalism and held subject to an undertaking to hold it in confidence, as well as communications resulting in information being acquired for the purposes of journalism and held subject to such an undertaking.

5.10.15 Additional Safeguards for Confidential Information

5.10.16 An application for the use of surveillance which is likely to result in the acquisition of confidential information should only be made in exceptional and compelling circumstances. Full regard should be had to the particular proportionality issues such surveillance raises.

5.10.17 The application for authorisation should, in addition to the reasons why it is considered necessary, contain ~

- An assessment of how likely it is that confidential information will be acquired.
- Whether the purpose (or one of the purposes) of the use of surveillance or a CHIS is to obtain such confidential information

5.10.18 Additional safeguards are also to be imposed in that: -

The Authorising Officer must be the SAO or, in their absence, the person acting as SAO:

- Those involved in the surveillance must be advised that confidential material may be obtained.
- Confidential material will not be retained or copied unless there is a clear, relevant, and specific purpose for doing so.
- Confidential material will only to be disclosed to those who have a clear and substantial need to know and for a specific and proper purpose.
- Confidential material must be clearly marked as such and accompanied by a clear warning of its confidentiality.

5.10.19 N.B.: If there is any doubt over the handling and dissemination of confidential information, advice must be sought from Legal Services before any dissemination of the material takes place.

5.10.20 Where an Authorising Officer does authorise an application where confidential/legally privileged material may be obtained it will be made clear to the RIPA Co-ordinator for central records.

5.11 Covert Surveillance Equipment

5.11.1 The use of recording devices in private residential premises, after the subject of the recording (normally a nuisance neighbour) has been told they will be monitored by the use of such devices, is not surveillance, it is monitoring. (Officers must, however, be aware of the risk to health and safety of the person allowing you to use their premises.)

5.11.2 Set Up of Noise Monitoring or Recording Devices

5.11.3 Devices that make a record of noise levels are unlikely to be considered as a surveillance device, provided the guidance in this section has been followed.

5.11.4 Devices that record sound could be subject to suggestions that they are surveillance devices. The Council is clear that this is not the case, as the subject has been clearly informed that their noise levels will be monitored. Furthermore, the device is only recording noise that is clearly audible outside the monitored premises (such as in a neighbour's house or from the public highway).

5.11.5 Devices that record sound must be set so as to only record noise at the levels that are normally audible to the human ear at the location in which the device is located.

5.11.5 Devices that are not set up in accordance with the instructions in this section could be the source of complaints that they amount to unauthorised intrusive surveillance.

Officers are expressly forbidden from setting up such devices EXCEPT as set out in this section.

5.11.6 In the event that Officers wish to carry out surveillance other than monitor noise by use of surveillance devices, they must seek advice from Legal Services. The rules under which covert surveillance equipment may be installed on private premises are complex, and RIPA may not authorise the Council to act in this way.

5.11.7 Surveillance equipment will only be installed in residential premises if a member of the public has requested help or referred a complaint to the Council. Any permission to locate surveillance equipment on residential premises must be obtained in writing from the householder or tenant.

5.11.8 Surveillance devices designed or adapted for the purpose of providing information regarding the location of a vehicle alone do not necessarily constitute directed surveillance, however, the occupants of a vehicle do have privacy rights, and this would constitute directed surveillance.

5.11.9 The Council is not permitted to place a vehicle tracking device on a private vehicle for the purposes of surveillance without the owner's permission; this would constitute Property Interference.

Examples of Where Covert Surveillance Equipment Might be Used

A contractor is suspected of stealing supplies. Officers gain authorisation to observe the supply depot and to photograph any persons entering or leaving and to video any loading or unloading that takes place, using a concealed video camera.

A benefit claimant is suspected of working in a market. Officers gain authorisation to observe the market stall and to photograph the subject if they engage in trading activity, using a concealed still camera.

A person is suspected of mis-selling service to persons on the street. Officers gain authorisation to approach the man and record the conversation, using a concealed tape recorder.

5.11.10 Where the public have captured information, such as footage, screenshots, etc. then the evidence is theirs and a witness statement should be taken as to how they procured the evidence, since the integrity and provenance of the exhibit is outside of the Council's control.

5.11.11 All information captured using a surveillance device and stored within recording media used during directed surveillance or as part of the conduct of a source, whether used or unused material, must be recorded and retained and revealed to the prosecutor according to the Criminal Procedure and Investigations Act (CPIA).

5.12.1 Service Managers are responsible for ensuring that all covertly gathered material is handled and stored securely, applying relevant physical, technical, and operational security measures. Such material must be regularly reviewed to determine whether continued retention is required and justified. Where the material is no longer required then it must be securely destroyed. This is of particular importance where the material gathered is confidential or privileged information. Appendix Seven provides information as to the retention of records and material obtained.

6 Accessing Communications Data

6.1.1 The Council may only acquire communications data in relation to the “who”, “when” and “where” of a communication, but not the “what” i.e., the content of what was said or written.

6.1.2 RIPA groups communications data 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, duration.
- “Subscriber information” which includes billing information such as the name, address, and bank details of the subscriber of telephone or internet services.

6.1.3 The Council may only authorise the acquisition of the less intrusive types of communications data, i.e., service use information and subscriber information. Under no circumstances can the Council be authorised to obtain traffic data under RIPA

6.1.4 The Council is not permitted to intercept the content of any person’s communications and it is an offence to do so without lawful authority.

6.1.5 The Investigatory Powers Act 2016 provides two different ways of authorising access to communications data. An Authorisation would allow the Council to **collect or retrieve** the data itself or serve a Notice to the postal or telecommunications operator which requires the operator to collect or retrieve the data and provide it to the Council. The Designated Person decides whether or not Authorisation or Notice is applied.

6.1.6 The Council is party to a collaborative agreement with the National Anti-Fraud

Network (NAFN) and uses the NAFN shared Single Point of Contact, (SPoC) services for the acquisition of Communications Data. Applicants consult a NAFN SPoC throughout the application process and the SPoC will scrutinise the applications independently. All applications are made electronically using the NAFN secure portal.

6.1.7 The Council therefore determines to use NAFN as its SPoC, and a subscription to NAFN services should be maintained corporately or by relevant service areas.

6.2 Applicant

6.2.1 The applicant is the person conducting an investigation or operation who makes an application in writing or electronically for the acquisition of communications data. The applicant completes an application form, setting out for consideration by the designated person, the necessity and proportionality of a specific requirement for acquiring communications data.

6.2.2 Applications, which must be retained by the Council, will:

- be made via the NAFN secure portal by completing the electronic application form.
- include the name and position held by the person making the application.
- include a unique reference number.
- include the operation name (if applicable) to which the application relates.
- specify the purpose for which the data is required, this only be for the purposes of prevention or detection of crime or of preventing disorder.
- describe the communications data required, specifying, where relevant, any historic or future date(s) and, where appropriate, time period(s), who the data relates to.
- explain why the acquisition of that data is considered necessary and proportionate to what is sought to be achieved by acquiring it.
- consider and, where appropriate, describe any meaningful collateral intrusion the extent to which the privacy of any individual not under investigation may be infringed and why that intrusion is justified in the circumstances, and identify and explain the time scale within which the data is required.

6.2.3 The applicant or Designated Officer must ensure that the SRO is aware of the application being made.

6.3 Authorising Individual

6.3.1 Communications Data can be authorised by three separate categories of individuals:

- a. An Authorising Officer in the Office for Communications Data Authorisations.
 - b. The Designated Person who holds a prescribed office or rank in the relevant public authority. See Appendix 1
 - c. A judicial commissioner who is responsible for approving requests to identify or confirm journalistic sources.
- 6.3.2 As the Council is party to a collaborative agreement with the National Anti-Fraud Network (NAFN), then 6.3.1(a) will apply.
- 6.5 Designated Person
- 6.4.1 Designated Persons in Local Authorities can only be Directors, Head of Service, Service Manager or equivalent.
- 6.5 Single Point of Contact
- 6.5.1 The single point of contact (SPoC) is either an accredited individual or a group of accredited individuals trained to facilitate lawful acquisition of communications data and effective co-operation between a public authority and CSPs. To become accredited an individual must complete a course of training appropriate for the role of a SPoC.
- 6.5.2 An accredited SPoC promotes efficiency and good practice in ensuring only practical and lawful requirements for communications data are undertaken. This encourages the public authority to regulate itself. The SPoC provides objective judgement and advice to both the applicant and the designated person. In this way the SPoC provides a guardian and gatekeeper function ensuring that public authorities act in an informed and lawful manner.
- 6.5.3 The SPoC should be in a position to:
- assess whether the acquisition of specific communications data from a CSP is reasonably practical or whether the specific data required is inextricably linked to other data.
 - advise applicants and Designated Persons on the interpretation of the Act, particularly whether an authorisation or notice is appropriate.
 - provide assurance to Designated Persons those authorisations and notices are lawful under the Act and free from errors.
 - provide assurance to CSPs that authorisations and notices are authentic and lawful.
 - assess any cost and resource implications to both the public authority and the CSP of data requirements.
- 6.5.4 No application is to be submitted for authorisation until the SPoC is satisfied that it is practical and lawful and that appropriate procedures have been followed by the local authority.

7 Authorisation Procedures of Accessing Communications

7.1 The application form will be reviewed by the National Anti-Fraud Network (NAFN) SPoC.

7.1.1 When satisfied that the local authority has completed the verification process the NAFN SPoC will forward the application to the Office for Communications Data for consideration by an Authoriser.

7.1.2 An authorisation becomes valid on the date upon which the authorisation is granted. It is then valid for a maximum of one month.

7.2 Urgent Approvals

There is **NO** provision for the Council to grant urgent approvals for accessing communications data. Applications can only be made in the appropriate manner.

8 Consequences of non-compliance with this policy.

8.1 Where covert surveillance work is being proposed, this Policy and Guidance must be strictly adhered to in order to protect both the Council and individual officers from the following:

8.2. **Inadmissible Evidence and Loss of a Court Case / Employment Tribunal / Internal Disciplinary Hearing** – there is a risk that, if Covert Surveillance and Covert Human Intelligence Sources (both defined at Section 2) are not handled properly, the evidence obtained may be held to be inadmissible. Section 78 of the Police and Criminal Evidence Act 1984 allows for evidence that was gathered in a way that affects the fairness of the criminal proceedings to be excluded. The Common Law Rule of Admissibility means that the court may exclude evidence because its prejudicial effect on the person facing the evidence outweighs any probative value the evidence has (probative v prejudicial).

8.3. **Legal Challenge** – as a potential breach of Article 8 of the European Convention on Human Rights, which establishes a right to respect for private and family life, home, and correspondence, incorporated into English Law by the Human Rights Act (HRA) 1998. This could not only cause embarrassment to the Council, but any person aggrieved by the way a local authority carries out Covert Surveillance, as defined by RIPA, can apply to a Tribunal – see section 9.

8.4. **Offence of unlawful disclosure** – disclosing personal data as defined by the DPA that has been gathered as part of a surveillance operation may be an offence under Section 170 of the Act. Disclosure can be made but only where the officer disclosing is satisfied that it is necessary for the prevention and detection of crime, or apprehension or prosecution of offenders. Disclosure of personal data must be made where any statutory power or court order requires disclosure.

- 8.5. **Fine or Imprisonment** – Interception of communications without consent is a criminal offence punishable by fine or up to two years in prison.
- 8.6 **Censure** – the Investigatory Powers Commissioner’s Office conducts regular audits on how local authorities implement RIPA. If it is found that a local authority is not implementing RIPA properly, then this could result in censure from the Commissioner.
- 8.7. **Disciplinary Action** – Failure of officers to comply with this Policy and Guidance may be a disciplinary offence under the Council’s Policies and Procedures.

9 Complaints

- 9.1. If any person complains about matters covered by this policy, they will be directed to the Council’s Complaints Procedure, and invited to use it if they wish to make a complaint regarding breach of this Policy and Guidance. ANY complaint received will be treated as serious and investigated in line with this authority’s policy on complaints. **Regardless of this, the detail of an operation, or indeed its existence, must never be admitted to as part of the complaint handling process.** This does not mean it will not be investigated, just that the result of any investigation would be entirely confidential and not disclosed to the complainant.
- 9.2. Unlawful access or disclosure of information is likely to breach the Data Protection Act 2018, the Information Commissioner will investigate complaints and may take regulatory action.
- 9.3 The Investigatory Powers Tribunal is available to anyone who believes they have been victim of unlawful action by a public authority using covert investigative techniques, and or feel that their Article 8 rights have been unlawfully breached. This Tribunal is made up of senior members of the judiciary and the legal profession and is independent of the Government. The Tribunal has full powers to investigate and decide any case within its jurisdiction. Details of the relevant complaint procedure can be obtained from the following address:

Investigatory Powers Tribunal
PO Box 33220
London
SW1H 9ZQ

- 9.4 Furthermore, *Judicial Review* is available to any person who believes their rights have been unlawfully breached outside the scope of RIPA authorisation.

10 Non-RIPA Surveillance

- 10.1 RIPA does not grant any powers to carry out surveillance, it simply provides a framework that allows public authorities to authorise surveillance in a manner that ensures compliance with the European Convention on Human Rights.
- 10.2 Equally, RIPA does not prohibit surveillance from being carried out or require that surveillance may only be carried out following a successful RIPA application.
- 10.3 Whilst it is the intention of the Council to use RIPA in all circumstances where it is available, this is limited to preventing or detecting crime or disorder. The Council recognises that there are times when it will be necessary to carry out covert directed surveillance when RIPA is not available to use. This is known as Non-RIPA Surveillance.
- 10.4 In such cases the Council's non-RIPA policy and procedures will be followed.
- 10.5 The RIPA Co-ordinator will maintain a separate record of Non-RIPA activities.

11. Training

- 11.1 Relevant and appropriate training must be undertaken at regular intervals, of at least every two years by those:
 - Undertaking RIPA and non-RIPA surveillance
 - Making directed surveillance/CHIS/accessing communications data applications
 - Authorising applications
 - Acting as Designated Persons
 - Acting as SRO
 - Acting as RIPA Co-ordinator
- 11.2 Training will be given or approved by the SRO, and the RIPA Coordinator will maintain a central register of all those individuals who have undergone such training.
- 11.3 Authorising Officers must attend appropriate training before being permitted to authorise surveillance applications under this policy.

12 Working with Other Organisations/Agencies

- 12.1 Where the Council has instructed another agency to undertake any action under RIPA this must be done in accordance with the Council's policy. The appropriate Authorising Officer requesting the surveillance must ensure that the agency is made explicitly aware of the limits of the authorisation within which they can operate.

13 Duties of the Senior Responsible Officer

- 13.1 The Senior Responsible Officer is responsible for
- The integrity of policy and processes in place for directed surveillance/CHIS and / or accessing communications data.
 - Organisational compliance with the Act(s) and Code(s) of Practice
 - Reporting errors to the Investigatory Powers Commissioner, including identify causes and the implementation of process to prevent a reoccurrence.
 - Engagement with the Investigatory Powers Commissioner, their inspectors, and Authorising Officers in the Office for Communications Data.
 - Oversight of the implementation of post inspection recommendations and action plans, including addressing and concerns raised by inspection reports.
 - Ensuring all authorising officers are of an appropriate standard.
 - Informing the Investigatory Powers Commissioner of juvenile and vulnerable individual CHIS authorisations.
- 13.2 SRO oversight will include:
- Quarterly meetings between SRO and Authorising Officers
 - RCO to inform SRO of authorisations, cancellations, and reviews.
 - RCO to draw to SRO attention any authorisations not meeting section 5.6.3

14 Monitoring

- 14.1 The Council's Internal Audit provider shall undertake regular audits to monitor compliance with the Council's policy and RIPA legislation.
- 14.2 Any errors identified shall be reported directly to the SRO, who will determine whether it is a "reportable relevant error" (*S231(9) of the 2016 applies*)
- 14.2. The Investigatory Powers Act 2016 created the role of Investigatory Powers Commissioner to provide independent oversight of the use of investigatory powers The Commissioner will inspect Councils to assess their compliance with RIPA.

15 Oversight by Members

- 15.1 The Cabinet Member for a Connected Powys shall receive a report on the use of RIPA regulated activity by officers of the Council annually, and to ensure that the Policy is robust and that it is being followed by all officers involved in this area.

- 15.2. The report shall be produced by the RIPA Co-ordinator and presented to the Cabinet Member by the RIPA Co-ordinator and the SRO. The report must not contain any information that identifies specific persons or operations but must be clear about the nature of the operations carried out and the product obtained.
- 15.3 The SRO may amend this Policy and make such changes that are necessary to ensure that the policy is up to date with current legislation, without having to obtain the consent of Elected Members.
- 15.4. Elected Members may not inquire into individual authorisations.

APPENDIX ONE

LIST OF AUTHORISING OFFICERS

POST	NAME
Chief Executive Officer	Dr Caroline Turner (SAO)
Beverly Cadwallader	Professional Lead - Environmental Health
James Munro	Senior Manager - National Trading Standards Estate & Letting Agency Team
Jacqui Thomas	Principal Trading Standards Officer
Catherine Davies	Principal Environmental Health Officer

LIST OF DESIGNATED PERSONS FOR APPROVING THE ISSUE OF A NOTICE IN RESPECT OF ACCESS TO COMMUNICATIONS DATA

POST	NAME
Chief Executive Officer Beverly Cadwallader	Professional Lead - Environmental Health

OTHER ROLES

RIPA SRO

Head of Legal Services and the Monitoring Officer	Clive Pinney
---	--------------

RIPA Co-ordinator

Senior Manager Customer Services and Information Governance	Helen Dolman
---	--------------

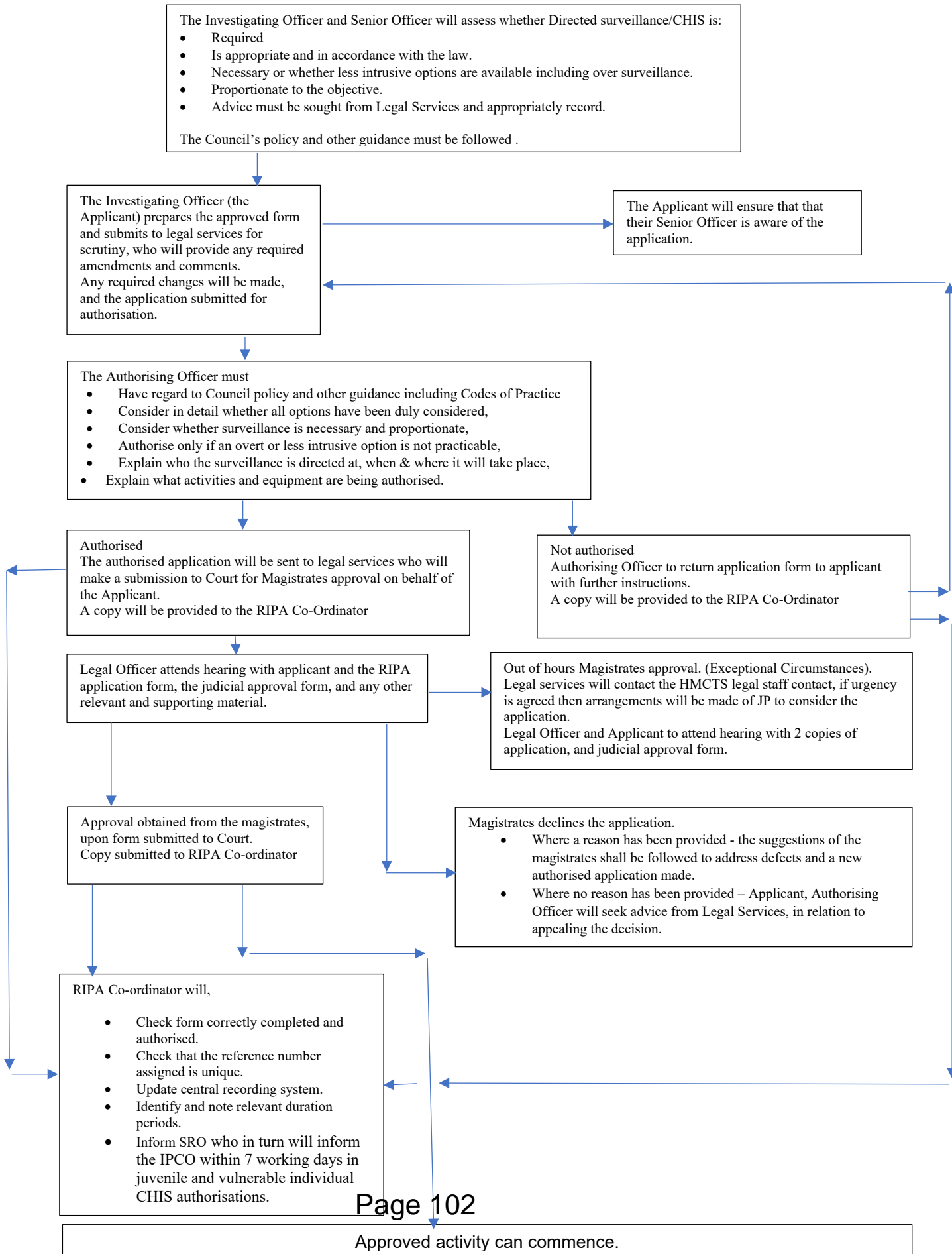
IMPORTANT NOTES

- A. Only the Chief Executive is authorised to sign forms relating to Juvenile Sources, Vulnerable Individuals and where knowledge of confidential information is likely to be acquired.
- B. If a Director or a Head of Service wishes to add, delete, or substitute a post, he must refer such a request to the Head of Legal Services and the Monitoring Officer for consideration.
- C. Any Officer who is unsure about any aspect of this Policy and Procedure Document should contact, at the earliest possible opportunity, the Council's Head of Legal Services for advice and assistance.
- D. This Policy shall be reviewed every two years or as and when required due to changes in legislation, case law or for the better performance of the Policy. Where Authorising Officers have suggestions for continuous

improvement of this Policy these must be brought to the attention of the RIPA Co-ordinator.

APPENDIX TWO

RIPA FLOW CHART FOR DIRECTED SURVEILLANCE AND CHIS



APPENDIX THREE

RIPA Forms, Codes of Practice and Advice

The policy requires you to use the most up-to-date versions of forms and codes of practice. Rather than reproduce forms and codes of practice that are subject to change, links are provided to the currently approved versions. You should access the document you require by following the relevant link.

The most up to date [RIPA forms](#) must always be used.

The full text of the Codes of Practice is available here:

[Covert Surveillance and Property Interference](#)

[Covert Human Intelligence revised Code of Practice](#)

[Communications Data](#)

- The Acts and SIs are available here:

[Regulation of Investigatory Powers Act 2000](#)

[Protection of Freedoms Act 2012](#)

[Investigatory Powers Act 2016](#)

[SI 2015 – 1500 The Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) \(Amendment\) Order 2012](#)

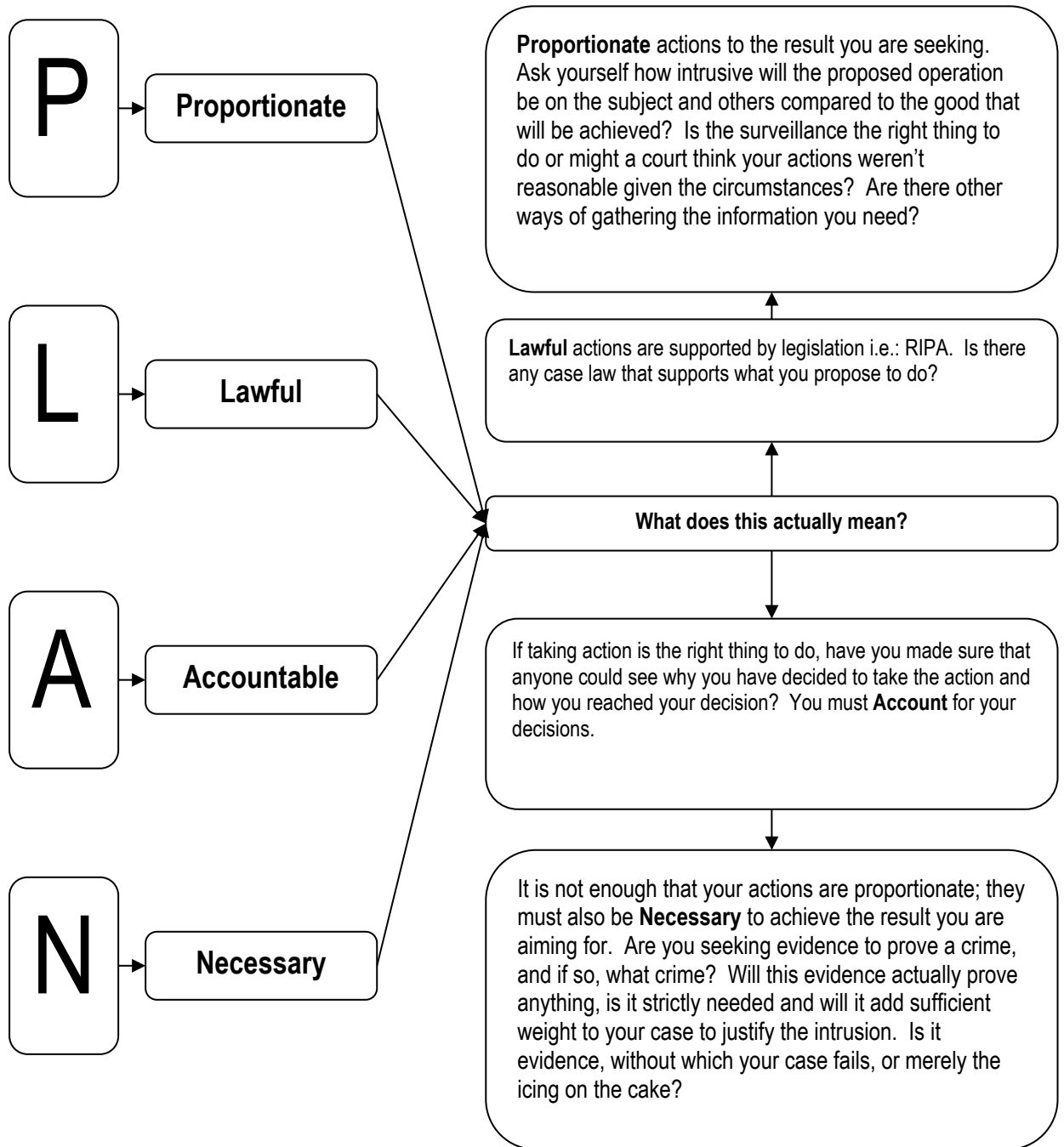
- The Investigatory Powers Commissioner's Office website has some useful information and advice and is available here:

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

If you have any problems accessing these links, you must report this immediately to the RIPA Co-ordinator.

APPENDIX FOUR

Notes for Guidance for Authorisation – Directed Surveillance



APPENDIX FIVE

The RIPA 1 Form – Guidance Notes on Completion

Directed Surveillance Unique Reference Number (URN) (to be supplied by the central monitoring officer).

Unique reference number.

PART II OF THE REGULATION OF INVESTIGATORY POWERS ACT (RIPA) 2000

APPLICATION FOR AUTHORISATION TO CARRY OUT DIRECTED SURVEILLANCE

Name of applicant **Unit/Branch /Division**

Full address

Investigation/Operation Name (if applicable)

Investigating Officer (if a person other than the applicant)

Details of application:

1. Give rank or position of authorising officer in accordance with the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2003; No. 3171. For local authorities exact position of the authorising officer should be given. For example, Head of Trading Standards.

Record your name. Not the name of the officers carrying out the surveillance (unless that is you).

What public body do you work for? Record it here

What dept / unit do you work in? Record it here.

Full address of your dept / office / building.

You can give the operation a name if you wish.

Give a phone number, email address and / or fax number to contact you on.

If the person who is the investigator in the case is someone other than you, record their name here.

You must give the position of the Authorising Officers who will be reviewing the application. You do not need to give their name. This should be their full job title, rank or position.

Page Two

2. Describe the purpose of the specific operation or investigation.	Enter a summary of the reason for the operation and what you are planning to do. Be brief: what will you do, why are you doing it and what will you get out of it?
3. Describe in detail the surveillance operation to be authorised and expected duration, including any premises, vehicles or equipment (e.g. camera, binoculars, recorder) that may be used.	What methods will you use for the surveillance? What are the technical aspects? Who, what, when, where, how long, how many, equipment etc. Mention everything. You will not be authorised to do things you don't mention here.
4. The identities, where known, of those to be subject of the directed surveillance. Name: • Address: • DOB: • Other information as appropriate:	Who are you intending to gather evidence on? If you do not know the identity of all parties you must describe them as best as you are able.
5. Explain the information that it is desired to obtain as a result of the directed surveillance.	What evidence do you intend to obtain from the surveillance? Specify exactly what you intend to get, how much and what types. This is so a judgement can be made on the weight of the evidence that you will get. Be careful what you write here: when you have achieved these aims the surveillance must stop immediately.

6. Identify on which grounds the directed surveillance is **necessary** under Section 28(3) of RIPA. Delete *that are inapplicable. Ensure that you know which of these grounds you are entitled to rely on.* (SI 2003 No.3171)

- In the interests of national security;
- For the purpose of preventing or detecting crime or of preventing disorder;
- In the interests of the economic well-being of the United Kingdom;
- In the interests of public safety;
- for the purpose of protecting public health;
- for the purpose of assessing or collecting any tax, duty, levy or other imposition, contribution or charge payable to government department;

Cross out the conditions that do not apply to you. **In the case of a local authority, the only one that does is prevention or detecting crime or disorder.**

Specify the offences that you are investigating or preventing. State why the information has to be obtained by surveillance, why do you need it for the reason you specified? How is it essential to the case?

7. Explain **why** this directed surveillance is necessary on the grounds you have identified [Code paragraph 2.4]

8. Supply details of any potential collateral intrusion and why the intrusion is unavoidable. [Bear in mind Code paragraphs 2.6 to 2.10.]
Describe precautions you will take to minimise collateral intrusion

Collateral intrusion is where the operation interferes with the private lives of those not intended to be subject to the surveillance. This could be members of the suspect's family, their partners, colleagues or members of the public. You must identify where there is a risk that you will gather this sort of information. You must take steps to minimise this risk and show that the risk left is unavoidable: what times are you conducting surveillance? Can you avoid catching others on camera? Do you have facilities to remove identifying features? The AO must be satisfied that the need to carry out the operation outweighs this risk.

Page Four

This is where you must justify your actions as proportionate. You should have completed a planner and decided that surveillance is necessary and the last resort. Record here what you have done already and what you cannot do as it'll prejudice the investigation. Tell the AO why the need to carry out the action outweighs the suspect's right to privacy. How serious is the matter? How intrusive will the operation be on the suspect and on others? What might happen if you don't carry out surveillance? Why can't you get the information in other ways? What will be achieved by gathering the evidence?

surveillance in operational terms or can the evidence be obtained
2.5]

10. Confidential information [Code paragraphs 3.1 to 3.12]:

INDICATE THE LIKELIHOOD OF ACQUIRING ANY CONFIDENTIAL INFORMATION:

11. Applicant's details

Name (print)		Tel No:	
Grade/Rank		Date	
Signature			

Confidential information is *special knowledge* of a person's religious, political or medical life or information of a confidential journalistic nature (journalistic sources). Communications subject to legal privilege are also confidential. If there is a chance that you might gather this sort of information, indicate the risk here. The authorisation can then only be given by the person within your public body designated by the RIPA code of practice for this purpose.

Finish by giving your name, telephone number, job title or rank. Date the form and sign it.

Authorising Officer's Statement

12. Authorising Officer's Statement. [Spell out the "5 Ws" – Who; What; Where; When; Why and the following box.]

I hereby authorise directed surveillance defined as follows: [Why is the surveillance necessary directed against, Where and When will it take place, What surveillance activity/equipment achieved?]

You must start by fully explaining what operation you are authorising. State why the surveillance is necessary to the case, what will be achieved, how it will be carried out, how many people used, what equipment / vehicles / technology you authorise the use of and where the operation will happen.

Make sure it is clear exactly what it is that you are authorising.

13. Explain why you believe the directed surveillance is necessary. [Code paragraph 2.4]

Explain why you believe the directed surveillance to be proportionate to what is sought to be achieved by carrying it out. [Code paragraph 2.5]

Now you must explain your decision. Simply stating that you agree with the officer who applied for the reasons they gave is not acceptable. You must give, in your own words, a detailed account of how you came to decide that the operation was necessary and proportionate. Make sure that you review the guidance in section seven and show how the evidence is necessary to the offence, and how the offence is one that it is necessary to investigate. Now ensure that you demonstrate how the officer has shown the need to obtain the evidence to be proportionate, when balanced against the person's expectation of privacy, the privacy of innocent third parties and the seriousness of the offence.

If you have completed a surveillance authorisation worksheet, go back over this as you should have already stated your reasons there.

You must explain why you feel it is in the public interest to carry out the action; is it serious, prevalent in the area, an abuse of position, premeditated? Why do you think that the investigation will be prejudiced without surveillance? Are you certain there is no other obvious and less intrusive way of obtaining the information? Does it need to be done? Record everything in this section.

This section must stand on its own, if you are called to court to justify your authorisation.

Authorising Officer's Statement

14. (Confidential Information Authorisation.) Supply detail demonstrating compliance with 3.1 to 3.12		This section is to be completed only by the Senior Authorising Officers if confidential information might be obtained. They should explain why they felt it to be appropriate for the surveillance to be carried out. To comply with the codes, show how further measures, such as more regular reviews and stricter limitations, have been put in place due to the particularly sensitive nature of the operation.
<p>This should be no more than four weeks from the date of authorisation. If you wish to restrict the length of time an officer may carry out surveillance for, you can use this box to set an early review date.</p>		
Date of first review	<p>Programme for subsequent reviews of this authorisation: [Code paragraph 4.22]. Only complete dates after first review are known. If not or inappropriate to set additional review dates then leave</p>	
<p>Use this box to record dates for review. The normal review period is no longer than every four weeks. It doesn't have to be completed but is useful to do so, especially when a shorter review period is appropriate.</p>		<p>Grade / Rank</p>
<p>Signature</p>		
<p>Expiry date and time [e.g.: authorisation granted on 1 April 2005 - expires on 30 June 2005, 23.59]</p>		<p>Date and time</p>
<p>Finally, write your name, sign the form giving the date and time. You must also record the expiry date. This is always three months, to the minute, from the date that the authorisation was given, no longer, or shorter. The operation can be cancelled before this date if appropriate. (See 7.14 (above) for guidance.)</p>		

The applicant and Authorising Officer will not be the same person.

APPENDIX SIX

The Role of the RIPA Co-ordinator

The RIPA Co-ordinator will maintain a register centrally of all authorisations, grants, refusals, reviews, renewals, and cancellations.

The role of the RIPA Co-ordinator also includes:

- Reviewing decisions and raising concerns with Authorising Officers (AOs).
- Arranging training and refreshers
- Maintain the list of Designated Persons
- Updating the RIPA Policy
- Removing people from list if code not followed / training skipped etc.
- Checking for updated advice (IPCO website etc.).
- Drawing to Head of Legal Services and the Monitoring Officer's notice of potential problems.
- Produce an annual RIPA report for elected members, in line with the Covert Surveillance and Property Interference Code of Practice in order that they may review the Council's use of the legislation and ensure that policies and procedures remain fit for purpose.
- Produce annual statistic returns for the Investigatory Powers Commissioner's Office, based upon the data provided from the Authorising Officers, at such times as requested by the IPCO.

Each individual Authorising Officer is personally responsible for reporting the following information to the RIPA Co-ordinator as soon as possible and, in any event, within one working day: -

- Authorisation of DS / CHIS.
- Review of DS / CHIS.
- Renewal of DS / CHIS.
- Cancellation of DS / CHIS.
- Any unexpected deviations from normal practice or procedure.
- Any unauthorised surveillance operations.
- Any surveillance authorised outside of RIPA.
- Any other matter concerning the authorisation of surveillance that may harm the council's interests.

The RIPA Co-ordinator will keep the records for 6 years (plus the current) to comply with Home Office Guidance.

The RIPA Co-ordinator should also keep the following:

- a copy of the application, authorisation and supplementary documentation and notification of approval given by the Authorising Officers.
- a record of the period over which the surveillance has taken place.
- frequency of reviews prescribed by the Authorising Officers.
- a record of the result of each review of an authorisation.

- a copy of any renewal of an authorisation, and supporting documentation submitted when it was requested; and
- the date and time any instruction was given by the Authorising Officers.

Records must be retained in accordance with data protection legislation, and all records relating to RIPA authorisations must be kept in the strictest confidence and accessible only on a strictly need to know basis.

APPENDIX SEVEN

Retention of Authorisations and Surveillance Product.

1. The original authorisation forms must be retained on the investigation file. Copies must be retained by the RIPA Co-ordinator within the Central Monitoring Record.
2. Information will be stored securely.
3. The RIPA Co-ordinator will discuss the need to identify the retention period of the surveillance product at the time of authorisation to ensure that Information obtained through covert surveillance or property interference, and all copies, extracts and summaries which contain such material, should be scheduled for deletion or destruction and securely destroyed as soon as they are no longer needed for the authorised purpose. If such information is retained, it should be reviewed at appropriate intervals to confirm that the justification for its retention is still valid.
4. The RIPA Co-ordinator must be sent a notification, **within 48 hours**, of all grants, refusals, reviews, cancellations, and renewals of authorisations.
5. Retention periods for records are shown in Table 1 (below)
6. Information will be destroyed securely in accordance with the retention periods set out in Table 1. The RIPA Co-ordinator must be informed when information is destroyed securely in accordance with the policy.
7. Variation to the retention periods outlined in Table 1 can be arranged through consultation and permission of the RIPA SRO.

Table 1. Retention periods

Class of record		Retention period
i	Central Corporate record	Permanent retention.
ii	Records of authorisations and refusals, reviews, cancellations, renewals of authorisations	Five Years
iii	Surveillance product	Deletion immediately upon identification as being no longer required for the purpose for which their collection was authorised. Surveillance product information shall be reviewed regularly, and records maintained in justification of its continued retention.
iv	Surveillance product containing confidential or privileged material	Deletion immediately upon identification as being no longer required for the purpose for

		which their collection was authorised. Surveillance product information shall be reviewed regularly, and records maintained in justification of its continued retention
--	--	--

APPENDIX EIGHT

GLOSSARY

Application	<p>A request made to an Authorising Officer to consider granting (or renewing) an authorisation for directed or intrusive surveillance (under the 2000 Act), or interference with property or wireless telegraphy (under the 1994 or 1997 Act).</p> <p>An application will be made by a member of a relevant public authority.</p>
Authorisation	<p>An application which has received the approval of an Authorising Officer. Depending on the circumstances, an authorisation may comprise a written application that has been signed by the Authorising Officer,</p>
Authorising Officer	<p>A person within a public authority who is entitled to grant authorisations</p>
CHIS	<p>Covert human intelligence sources</p>
Confidential information	<p>Confidential personal information (such as medical records or spiritual counselling), confidential journalistic material, confidential discussions between Members of Parliament and their constituents, or matters subject to legal privilege.</p>
Core Functions	<p>The statutory powers and duties given to the Council to investigate activities of private individuals, groups, and organisations within its jurisdiction for the benefit and protection of the public.</p>
Council	<p>Powys County Council</p>
CSP	<p>Communication Service Provider (a service provider that transports information electronically)</p>
Data Protection law	<p>The UK General Data Protection Regulation and Data Protection Act 2018.</p>
DS	<p>Directed surveillance.</p>
ICD	<p>Interception of communication data</p>
Legal privilege	<p>Matters subject to legal privilege are defined in section 98 of the 1997 Act. This includes certain communications between professional legal</p>

	advisers and their clients or persons representing the client.
Officer	In this context, a person who is an employee of the Council and who has been nominated to undertake investigations that might require the use of RIPA.
Prescribed Office	Those offices, ranks and position prescribed for the purposes of section 30(1) of RIPA for the purposes of granting authorisations under sections 28 and 29 of RIPA.
Public authority	Any public organisation, agency or police force (including the military police forces).
Private information	Any information relating to a person in relation to which That person has or may have a reasonable expectation of privacy. This includes information relating to a person's private, family or professional affairs. Private information includes information about any person, not just the subject(s) of an investigation.
RIPA	Regulation of Investigatory Powers Act 2000
RC	RIPA Co-ordinator
SPoC	Single Point of Contact
SRO	Senior Responsible Officer
URN	The Unique Reference Number stating the year, division and number of each application for authorisation for directed surveillance and CHIS.

APPENDIX NINE

Procedure for Judicial Approval

Judicial Oversight

1. The *Protection of Freedoms Act* brought into law the Judicial oversight of all RIPA approvals by Local Authorities. Which means that authorisations, whilst still given by LA staff, do not take effect until a Magistrate has approved them. The Judicial oversight does not replace the authorisation process – it is an oversight function and not an authorisation function. **The Council may not undertake the regulated activity until Judicial Approval has been given.**
2. Once the application has been approved by an Authorising Officer listed in Appendix 1, the Council via Legal Services **must** apply to the Magistrates Court for an order confirming that:
 - a. the person who granted or renewed the authorisation, or the notice was entitled to do so,
 - b. the grant or renewal met the relevant restrictions or conditions,
 - c. there were reasonable grounds for believing (at the time it was made or renewed) that obtaining the information described in the form was both necessary and proportionate; and
 - d. it is still (at the time the court considers it) reasonable to believing the grant / renewal to be both necessary and proportionate.
3. The oversight will be determined at a hearing in front of a single Magistrate.
4. The Application for Judicial Approval form (See appendix Ten) must accompany all applications. The officer who made the initial application must complete this form electronically once the *Authorising Officer* has approved the application. (This also applies to requests for renewal of authorisations.)
5. The bundle for submission to the courts must include:
 - a. the application for the order approving the authorisation.
 - b. the authorised application or renewal form.
 - c. any supporting information that, exceptionally, does not form part of the form.
 - d. any information you have that might show a reason to refuse the application.
 - e. an extract from the relevant legislation showing the offence being investigated and that it carries the relevant maximum sentence.

The following are things that you should normally disclose to the Court when making your application to them:

- Whether previous applications under RIPA have been rejected.
- There have been other investigations into the same subject or at the same address, regardless of whether or not they were successful.
- The proposed subject or someone living with them has alleged harassment against any person associated with the Authority.
- There have been any complaints made to the Authority by the proposed subject or anyone living with them.

N.B.: These are just examples – you must disclose anything that might influence a Magistrate in making their decision.

6. The applicant must attend the hearing and assert the accuracy of the application. They must also be prepared to answer any questions about the application and the investigation which the Magistrate may have. At the end of the application, the magistrate will give the court's decision.
7. Once the bundle has been submitted, the RIPA Co-ordinator will note this within the central record. Within 24 hours of receiving the Court's decision, the Applicant must notify the RIPA Co-ordinator and the Authorising Officer by email. The RIPA Co-ordinator must also be provided with the completed Application for Judicial Approval form, with decision of Court and detail of the Magistrate and Court. The original must be retained on the investigation file. The RIPA Co-ordinator will record the outcome within the central record.
8. In the event that the Court refuses the application, the applicant, the Authorising Officer will review the decision within 24 hours and decide if they wish to make representations to the Court before a Quashing Order is made.
9. Grounds for the submission should be set out in writing and notified to the court before the hearing. It must be drafted by the applicant and approved by the AO.
10. If the Authority elects to seek a hearing, the applicant, and AO will attend the hearing. At the conclusion of the hearing, the RIPA Co-ordinator will note the outcome in the central record.

APPENDIX TEN



URN	
Version	

Application for judicial approval for authorisation to obtain or disclose communications data, to use a covert human intelligence source or to conduct directed surveillance. Regulation of Investigatory Powers Act 2000 sections 28, 29 32A, 32B.

Local authority	Powys County Council	
Local authority department		
Offence under investigation		
Address of premises or identity of subject		
Covert technique requested	Directed Surveillance <input type="checkbox"/>	Covert Human Intelligence Source <input type="checkbox"/>

Summary of details

Investigating Officer:

Authorising Officer/Designated Person:

Officer(s) appearing before JP:

Address of applicant department:

Contact telephone number:

Contact email address (optional):

Number of pages:

Order made on an application for judicial approval for authorisation to obtain or disclose communications data, to use a covert human intelligence source or to conduct directed surveillance. Regulation of Investigatory Powers Act 2000 sections 23A, 23B, 32A, 32B.

Magistrates' Court (entre name)	
---------------------------------	--

Having considered the application, I (tick one):

I am satisfied that there are reasonable grounds for believing that the requirements of the Act were satisfied and remain satisfied, and that the relevant conditions are satisfied, and I therefore approve the grant or renewal of the authorisation/notice.

refuse to approve the grant or renewal of the authorisation/notice.

refuse to approve the grant or renewal and quash the authorisation/notice

Notes

Reasons

From the information provided, I grant judicial approval. The purpose of the approval is for the purpose of preventing or detecting crime under s.32 and s.28 (3)C.

Signed:

Date:

Time:

Full name:

Address of Magistrates' court:



**Policy and Procedures into the use of non-RIPA (Regulation of
Investigatory Powers Act 2000) surveillance
Version v.03 draft (October 2023)**

About this policy

This policy sets out the procedure to be followed by appropriate Council Staff, so that any interference with an individual's right to privacy through the use of covert surveillance when RIPA authorisations are not applicable consider and meet the requirements of the Human Rights Act 1998.

Document Control

Organisation	Powys County Council
Title	Policy and Procedures into the use of non-RIPA (Regulation of Investigatory Powers Act 2000) surveillance
Author	Senior Manager Customer Services and Information Governance
Owner	Senior Responsible Officer – Head of Legal Services and the Monitoring
Subject	Non-RIPA surveillance
Protective marking	None
Review Date	TBC

Revision History

Revision Date	Revision	Previous Version	Description of Revision

Powys non-RIPA surveillance policy and procedures

1 Introduction

1.1 Occasionally Powys County Council authority may need to undertake covert surveillance which is not regulated by the Regulation of Investigatory Powers Act 2000 (RIPA), and thus RIPA authorisation is not feasible.

1.2 Authorisation under RIPA affords a public authority a defence. However, failure to obtain an authorisation does not make covert surveillance unlawful, as indicated at section 80 of the Act and clarified by an Investigatory Powers Tribunal decision in the case of *C v The Police*. Simply put, covert surveillance may be undertaken outside of the RIPA authorisations regime, when the application of RIPA is not feasible.

2 Scope

2.1 This policy and procedures describe when the Council may identify a need to undertake covert surveillance, but when authorisations under RIPA are not applicable.

2.2 The Council may wish to undertake non-RIPA surveillance for the following reasons:

- Child/vulnerable adult safeguarding
- Staff malpractice
- Preventing and detecting crime that does not meet the serious crime threshold.
- Public health
- Public safety

2.3 This list is not exhaustive, and in many cases, there may be no specific crime to investigate, but a good reason to carry out the surveillance may still exist.

2.4 For this reason, Powys County Council have adopted this policy and procedures to work parallel to the RIPA policy and procedures.

3 Human Rights Compliance

3.1 Covert surveillance conducted without a RIPA authorisation will not have the protection of RIPA (i.e., the defence in section 27 of the Act).

3.2 However, covert surveillance can still be undertaken as long as it is conducted in accordance with the European Convention on Human Rights (ECHR) which is directly enforceable against public authorities pursuant to the Human Rights Act 1998.

3.3 Article 8 of the ECHR states:

“Everyone has the right to respect for his private and family life his home and his correspondence.

There shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the rights and freedoms of others.”

3.4 To satisfy Article 8, the covert surveillance must be both necessary and proportionate. In deciding whether it is, the same factors need to be considered as when authorising surveillance regulated by RIPA.

3.5 These procedures ensure all activity is Human Rights compliant and that evidence of such are available for inspection by the Investigatory Powers Commissioner’s Office (IPCO), as required.

4 Data protection legislation compliance

4.1 Data protection legislation will apply to the personal information to be processed, as the information will be about living individuals and will include their images, their movements, and their locations etc.

4.2 Additionally, the Information Commissioner (ICO) has produced guidance on how to undertake employee surveillance from video monitoring and vehicle tracking to email and internet surveillance, which results in compliance with data protection legislation. The Code is not law but can be taken into account by the ICO and the courts when determining if data protection legislation has been complied with.

https://ico.org.uk/media/for-organisations/documents/1064/the_employment_practices_code.pdf

(July 23 the Code is under review with consultation having taken place until January 2023)

5 Application and authorisation (See Appendix 1 for process map)

5.1 To justify the interference with an individual’s right to privacy then the following must be identified:

- Legitimate reason or purpose for the covert surveillance,
- Why it is necessary,
- Why it is proportionate,

5.2 Without records being maintained the Council will struggle to defend itself against legal challenges, nor would it be possible to provide oversight to the decisions being made and establish the extent to which the rights of privacy may be being interfered with.

5.3 Previous IPCO inspection and annual reports have called for processes and documentation to be put in place for such covert surveillance.

5.4 Using the RIPA designated Authorising Officers to authorise applications will ensure decisions are made by those with Human Rights knowledge, since they will have received RIPA training.

5.5 The non-RIPA form at Appendix 2 will be used for such authorisation.

5.6 This will ensure both consistency of approach and compliance with these procedures so that this type of surveillance is only carried out where it is appropriate, necessary, and proportionate to do so.

5.7 The surveillance should cease as soon as the surveillance is no longer necessary, and a non-RIPA cancellation form should be completed. See Appendix 3

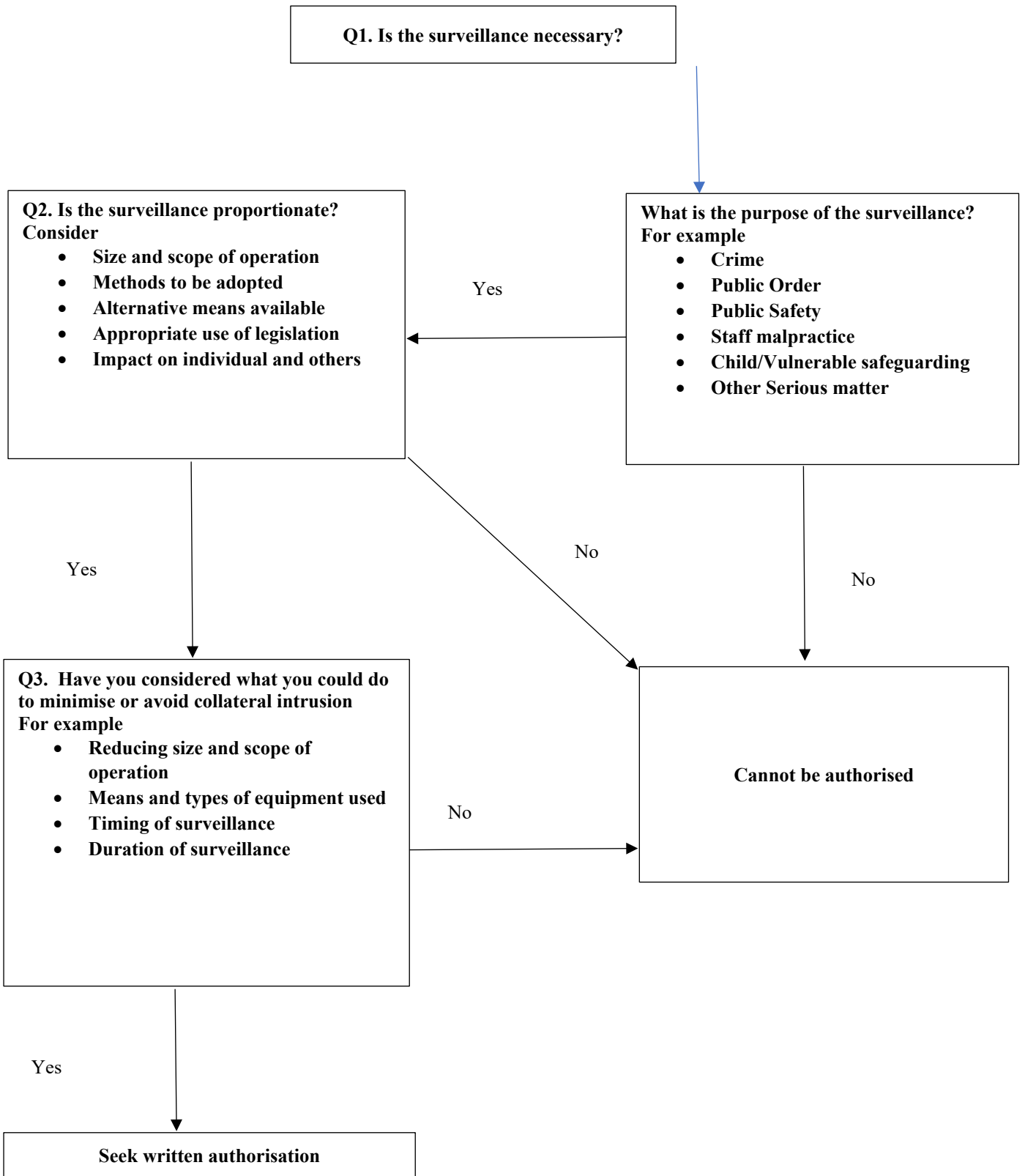
5.8 A central record of all non-RIPA authorisation, review, rejection, and cancellation forms will be maintained and monitored in a central register by the RIPA Co-ordinator for five years for oversight by the Senior Responsible Officer.

5.9 Authorising Officers will send completed forms to the RIPA Co-ordinator

5.10 The Senior Responsible Officer (SRO) for RIPA, will include these authorised Non-RIPA forms in their RIPA oversight activities, in line with Section 13 of the Council's RIPA policy.

5.11 If the Council authorises a non-employee (e.g., an enquiry agent) to conduct covert surveillance then that person/company is acting as an agent for the Council. The Authorising Officer must ensure that the person/company is competent, and they have provided a written acknowledgment that they are an agent of the Council and will comply with the authorisation, with relevant data protection agreements being in place.

Process map - Authorising non-RIPA Surveillance





Unique Reference Number (URN)	
-------------------------------------	--

Powys County Council

Non-RIPA Surveillance Form

NB This form is only to be used in circumstances when an authorisation under the Regulation of Investigatory Powers Act 2000 is not available under the legislation or where it is considered that such an authorisation is not required.

Public Authority (Including full address)	Powys County Council County Hall Llandrindod Wells Powys LD1 5LG
--	--

Name of Applicant		Section or Team	
Full Address			
Contact Details			
Investigation/Operation Name (if applicable)			
Investigating Officer (if a person(s) other than the applicant)			

Identify why a RIPA authorisation is not available under the legislation or it is considered that a RIPA authorisation is not required

Details of application:

1. Give rank or position of Authorising Officer

Outline the nature of the matter and how surveillance will contribute to the investigative strategy at this stage

2. Describe the purpose of the investigation / activity and include the operational number (if applicable).

3. Describe in detail the activity to be authorised and expected duration, including any premises, vehicles or equipment (e.g., camera, binoculars, recorder) that may be used.

4. The identities of those to be subject of the activity, where known.

Include name and address

5. Detail the information that the activity hopes to achieve.

Explain why it is considered that surveillance is necessary i.e., because there are no other alternative overt means of checking the situation, or is the surveillance is considered necessary to ascertain the veracity of information?

6. Explain why this activity is necessary

How intrusive might it be on the subject or on others? And why is this intrusion outweighed by the need for the activity in operational terms or can the evidence be obtained by any other means?

7. Explain why this activity is proportionate to what it seeks to achieve.

8. Explain why this activity is non discriminatory

Consider the age of individuals. Whether children are involved

9. Supply details of any potential collateral intrusion and why the intrusion is unavoidable.

Describe precautions you will take to minimise collateral intrusion

10. Confidential information.	<i>Indicate the likelihood of acquiring any confidential information</i>

11. Applicant's Details			
Name		Tel No:	
Grade/Rank		Date	
Signature			

12. Authorising Officer's statement.			
<div style="border: 1px solid black; padding: 5px; display: inline-block;"> <i>Spell out the "5 Ws" – Who; What; Where; When; Why and How & how the activity is deemed necessary and proportionate</i> </div>			
Date of first review			
Name (Print)		Grade/Rank	
Signature		Date and time	



Unique Reference Number (URN)	
-------------------------------------	--

Cancellation of a non-RIPA surveillance authorisation

Public Authority <i>(Including full address)</i>	Powys County Council County Hall Llandrindod Wells Powys LD1 5LG
--	--

Name of Applicant		Section or Team	
Full Address			
Contact Details			
Investigation/Operation Name (if applicable)			

Details of cancellation:

1. Explain the reason(s) for the cancellation of the authorisation:

2. Explain the value of surveillance in the operation:

--

3. Authorising Officer's statement.

I, [insert name], hereby authorise the cancellation of the directed surveillance investigation/operation as detailed above.

Name (Print)	Grade
Signature	Date

4. Time and Date of when the Authorising Officer instructed the surveillance to cease.

Date:		Time:	
--------------	--	--------------	--

5. Authorisation cancelled.	Date:	Time:
------------------------------------	--------------	--------------

This page is intentionally left blank

By 31CYNGOR SIR POWYS COUNTY COUNCIL.

CABINET EXECUTIVE

For Cabinet 21st November 2023

For Governance and Audit 24th November 2023

For Health and Care Scrutiny 1st December 2023

REPORT AUTHOR: Nina Davies, Interim Director of Social Services and Housing

SUBJECT: Corporate Safeguarding Board Activity Update

REPORT FOR: Information

1. Introduction

1.1 Cabinet is asked to note this update from the Corporate Safeguarding Board.

1.2 A confidential meeting of the Corporate Safeguarding Board was held on 4th August 2023.

1.3 This Activity report relates to the meetings of the Corporate Safeguarding Board on 4th August 2023 and 15th September 2023, and summarises the information provided at those meetings, where appropriate.

2. Agenda discussions 4th August 2023

2.1 The Board considered a confidential report from the Head of Education.

3. Agenda discussions 15th September 2023

3.1 The Board considered a confidential report from the Head of Education. This agenda item will also be considered in the December and March Board meetings to review progress.

3.2 Review of Progress against actions on Safeguarding Regulatory Tracker

The tracker was reviewed and progress noted, with 9 actions rated as green (on track), and one amber (slightly off-track).

Recommendation /Action 97 (amber) – The Council needs to clarify its expectation of contractors in respect of safeguarding training because there are currently discrepancies in the Council’s approach.

Achievements

- A Contract Annual Self-Assessment document is in development. This will assess the extent to which all services with Powys County Council contract have a safeguarding policy in place, training undertaken to assure understanding and the implementation of that policy in all settings.
- Freedom Leisure (management & delivery partner) have Safeguarding Policy & training for all staff in place. This is regularly checked through client visits, meetings and compliance audits. Freedom Leisure undertake 'safe recruitment processes' in line with Powys' Safer Recruitment Policy.
- DBS checks are undertaken for all Freedom Leisure staff as appropriate to roles. There is a named, designated safeguarding officer and safeguarding champions. Staff know who they are able to report concerns against workers to and are trained to recognise when children or adults may be at risk and know what procedures to follow.
- Policies and procedures are available to all Freedom Leisure staff, and they know where to locate them. Public access points are monitored, and all staff are easily identifiable. There are policies and procedures in place for contractors who attend the leisure facilities. Safeguarding risk assessments are undertaken if staff work off site and ICT policies are in place for safe use of the internet by users. Updates and changes are communicated to staff and users.

Future Actions

1. Agree and define Contract Self-Assessment form. Clarify sections of form that apply to all suppliers and sections that only apply to social care contracted services. By 31.12.2023
2. Self-Assessment to be issued to suppliers for completion. By 31.01.2024
3. Contract managers to analyse responses and respond to compliance issues. By 31.03.2024
4. Review Standard Services Contract with a view to achieving consistency across all contracted services. By 31.01.2024

3.3 Annual Safeguarding Self-Assessment / Audits.

The Board were informed that the Safeguarding Self-Assessment information has been built into a dashboard, which allows actions to be monitored and progress tracked. Work is underway with Heads of Service to update their relevant actions.

3.4 Safeguarding in Contract Management.

The Board were shown a presentation about the implementation of a tiered approach to contract management, prioritising resources for the top tier contracts. It was noted that both value and risk need to be prioritised to ensure resources are used effectively. It was suggested that Schools would benefit from accessing Contract Management Awareness training.

3.5 Channel and Community Safety Partnership Arrangements.

The Council has a duty to provide support for people vulnerable to being drawn into terrorism. There is a multi-agency approach to identify individuals at risk; assess the nature and extent of the risk and develop the most appropriate support plan for the individuals concerned.

The Channel duty requires Local Authorities to administer a Channel Panel that has both a Panel Chair and Deputy Chair. Concern has been expressed about the resilience of existing arrangements. Emergency Planning, Social Services and Education colleagues will review the arrangements and propose options for the Council going forward. Discussions are ongoing about attendance at the Community Safety Partnership, and dialogue continues with relevant internal and external partners.

This matter will return to the December Board.

3.6 Preparations for National Safeguarding Week.

The Board were reminded of the Conference taking place on 16th November 2023 during National Safeguarding Week and updated on plans regarding the programme and keynote speakers. There will be capacity limits on attendees from different regions, so the Safeguarding Senior Manager will ask if keynote speakers can be live streamed for those unable to attend.

3.7 Safeguarding 'Theme of the Month'.

The Board were informed that the VAWDASV Coordinator will lead on this work now badged as a '*Spotlight on Safeguarding*'. The first theme will focus on '*what is safeguarding*' and different themes will follow each month, with November being '*rural safeguarding*' to align with National Safeguarding Week.

The Board were informed that White Ribbon Day is 25th November, and four walks have been arranged across the county on that date.

3.8 Reports by Exception were provided as below:

a) Young People's Housing (16/17-year-olds)

An instant access Triage Centre is being proposed for the longer term; work is underway with Social Services on this.

The Board discussed the location of presentations and consideration of reflective conversations to consider what might have prevented accommodation breakdowns.

b) Safeguarding in Education, including Elective Home Education

The Board were informed that numbers of children educated at home are still higher than pre-pandemic levels. The Board were taken through the new Welsh Government Guidance published in May 2023. It clarified the legal position regarding duties in the Education Act 1996, strengthening the expectation that parents who educate their children at home are to engage with the Local Authority. Escalation processes in Wales were discussed and the steps taken to encourage pupils back into school.

The Board were informed that Education and Childrens Services are looking at the reasons why children are taught at home and developing a reporting mechanism to feed into the Regional Safeguarding Board so children are identified at the earliest opportunity.

The Board were informed that some reports of potential poor child employment practices by some businesses at the Royal Welsh Show were made. This lead to proactive liaison with the Builth Welsh Safety Group to plan ahead for future events. This matter will be discussed further at the December Board.

c) Mandatory Safeguarding Training, including VAWDASV

Compliance rates across the Council sat at 92.4% at 1st September 2023. Compliance rates in HTR have improved with 3 training options being offered (eLearning, workbooks, toolbox talks).

The Board were informed that Health and Care Scrutiny had requested statistics on volunteer training, which is being explored. Discussion was held about Safeguarding Training for School Governors, and about School's responsibility to checking Supply/Agency Staff.

d) Adult Social Care Safeguarding Performance, including Deprivation of Liberty Safeguards.

The Board were informed that Adult Services are seeing increasing numbers of safeguarding referrals, with a 95% compliance rate with the 7-day assessment target, only two low level referrals were out of timescale.

The Board were informed that there were 260 outstanding DoLS assessment, and work to engage internal Best Interest Assessors has been progressed to undertake the assessments.

e) Childrens Social Services Safeguarding Performance

The Board were informed of the multi-agency Joint Inspection of Child Protection Arrangements taking place in October.

The Board were informed that contacts to Children Services' Front Door remains high, with 91% being dealt with by Early Help Services. The Board were informed that there is an upward trajectory in child protection arrangements both nationally and locally, although the Child Protection numbers remain fairly stable.

4. Future Agenda Items, in addition to the standing agenda items, are currently to include:

The Board noted the Forward Plan

Dec 2023 Director of Social Services 22/23 Annual Report - safeguarding
Feedback on National Safeguarding Week in November
Child Performance Licencing and Child Work Permits Update
Review of Channel and Community Safety Partnerships
Builth Wells Safety Group
Safeguarding VLOG from Education for Members and Governors
Education Safeguarding Action Plan

March 2024 Education Safeguarding Action Plan

June 2024 Preparations for National Safeguarding Week (annually, November)
Annual Private Fostering Report
Annual Safeguarding Audits
Annual 'Spotlight on Safeguarding' programme

Sept 2024 Director of Social Services Annual Report - safeguarding

5. Other business included

5.1 The *Volunteering for Powys County Council Policy* was included in the agenda for the Board's information.

5.2 The Board were informed that 98.5% of Member's were compliant with Safeguarding Mandatory training, with mitigating circumstances for the 1.5% non-compliance.

5.3 The Board were informed that the Safeguarding VLOG for Members and Governors would be provided to the December Board, and that the Schools Service will develop some 'talking heads' to answer those questions regularly received.

4. Future Corporate Safeguarding Board Meetings

4.1 Future meetings are scheduled for 14th December 2023; 14th March 2024, 13th June 2024 and 12th September 2024.

5. Recommendation.

Cabinet receives this briefing as an update from the Chair of the Corporate Safeguarding Board, to ensure awareness of work to date.

Contact Officer:	Nina Davies, Interim Director of Social Services and Housing
Tel:	01597 827683
Email:	nina.davies@powys.gov.uk

This page is intentionally left blank

Delegated Decisions by Cabinet Members

24 October	Cabinet Member for a Learning Powys	Approved the appointment of school governors.
------------	-------------------------------------	---

This page is intentionally left blank

Meeting	Report Title	Report Author(s)	Presenting Member(s)
Cabinet – 2023-12-12	Welsh language promotion strategy	Sion Rowley	Councillor Sandra Davies
	Llangedwyn Consultation Report	Jane Thomas	Councillor David Thomas
	Ysgol Calon Cymru - report and implementation plan	Emma Palmer	Councillor Pete Roberts
	Quarter 2 Treasury Management report	Jane Thomas	Councillor David Thomas
Cabinet – 2024-01-16	Budget and MTFS	Jane Thomas	Councillor David Thomas
	Winter Maintenance	Matt Perry	Councillor Jackie Charlton
	Quarter 2 Strategic Risk Register	Jane Thomas	Councillor David Thomas
	Rent Setting for 2024-2025	Andy Thompson	Councillor Matthew Dorrance
	Supporting the development of Council Housing	Andy Thompson	Councillor Matthew Dorrance
Cabinet – 2024-02-06	Sennybridge School Outline Business Case	Emma Palmer	Councillor Pete Roberts
	Irfon Valley Consultation Report	Emma Palmer	Councillor Pete Roberts
Cabinet – 2024-02-27	Sustainable Communities for Learning – Strategic Outline Programme	Emma Palmer	Councillor Pete Roberts
	Llangedwyn Objection Report	Emma Palmer	Councillor Pete Roberts
	HRA Thirty Year Housing Revenue Account Business Plan 2024-2025.	Andy Thompson	Councillor Matthew Dorrance
	Corporate Safeguarding Board Activity Report	Nina Davies	
Cabinet – 2024-03-20	Quarter 3 Performance Report	Emma Palmer	Councillor James Gibson-Watt

This page is intentionally left blank

By virtue of paragraph(s) 14 of Part 1 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 14 of Part 1 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank