

Public Document Pack



**Service Director – Legal, Governance and
Commissioning**

Julie Muscroft

Governance and Commissioning

PO Box 1720

Huddersfield

HD1 9EL

Tel: 01484 221000

Please ask for: Yolande Myers

Email: yolande.myers@kirklees.gov.uk

Monday 18 September 2023

Notice of Meeting

Dear Member

Cabinet

The **Cabinet** will meet in the **Meeting Room 3 - Town Hall, Huddersfield** at **3.00 pm** on **Tuesday 26 September 2023**.

This meeting will be live webcast. To access the webcast please go to the Council's website at the time of the meeting and follow the instructions on the page.

The items which will be discussed are described in the agenda and there are reports attached which give more details.

A handwritten signature in black ink, appearing to read "Julie Muscroft".

Julie Muscroft

Service Director – Legal, Governance and Commissioning

Kirklees Council advocates openness and transparency as part of its democratic processes. Anyone wishing to record (film or audio) the public parts of the meeting should inform the Chair/Clerk of their intentions prior to the meeting.

Cabinet Members:-

Member	Responsible For:
Councillor Cathy Scott	Leader of the Council
Councillor Paul Davies	Deputy Leader and Corporate
Councillor Elizabeth Reynolds	Learning and Aspiration
Councillor Graham Turner	Finance and Regeneration
Councillor Viv Kendrick	Children' Services (Statutory responsibility for Children)
Councillor Masood Ahmed	Housing and Highways
Councillor Jackie Ramsay	Health & Social Care (Statutory responsibility for Adults)
Councillor Mussarat Pervaiz	Communities
Councillor Yusra Hussain	Culture and Greener Kirklees

Agenda

Reports or Explanatory Notes Attached

Pages

1: Membership of Cabinet

To receive apologies for absence from Cabinet Members who are unable to attend this meeting.

2: Minutes of Previous Meeting

1 - 4

To approve the Minutes of the Meeting/s of the Cabinet held on 6 September 2023.

3: Declaration of Interests

5 - 6

Members will be asked to say if there are any items on the Agenda in which they have any disclosable pecuniary interests or any other interests, which may prevent them from participating in any discussion of the items or participating in any vote upon the items.

4: Admission of the Public

Most agenda items take place in public. This only changes where there is a need to consider exempt information, as contained at Schedule 12A of the Local Government Act 1972. You will be informed at this point which items are to be recommended for exclusion and to be resolved by the Committee.

5: Deputations/Petitions

The Cabinet will receive any petitions and/or deputations from members of the public. A deputation is where up to five people can attend the meeting and make a presentation on some particular issue of concern. A member of the public can also submit a petition at the meeting relating to a matter on which the body has powers and responsibilities.

In accordance with Council Procedure Rule 10, Members of the Public must submit a deputation in writing, at least three clear working days in advance of the meeting and shall subsequently be notified if the deputation shall be heard. A maximum of four deputations shall be heard at any one meeting.

6: Questions by Members of the Public

To receive any public questions.

In accordance with Council Procedure Rule 11, the period for the asking and answering of public questions shall not exceed 15 minutes.

Any questions must be submitted in writing at least three clear working days in advance of the meeting.

7: Questions by Elected Members (Oral Questions)

Cabinet will receive any questions from Elected Members.

In accordance with Executive Procedure Rule 2.3 (2.3.1.6) a period of up to 30 minutes will be allocated.

8: Appointment of Cabinet and Portfolios (Notice Under Article 7)

7 - 8

To note the appointment of Cabinet Members and Portfolio allocations, in accordance with Articles 7.3 and 7.5.5.5 of the constitution.

9: Kirklees Active Leisure Centre Offer 2024/25 - Consultation

9 - 18

To consider a consultation in relation to future leisure centre offer provided by Kirklees Active Leisure.

Wards affected: all

Contact: Rebecca Strutt, Programme Manager, Transformation

Team.

10: Asset Review September 2023 19 - 30

To consider assets and interests across the Council's estate.

Wards affected: all

Contact: Daniel McDermott Strategic Manager – Assets & Estates

11: Proposed Closure of Castle Grange and Claremont House residential care homes 31 - 38

To consider a consultation to close Castle Grange and Claremont House residential care homes.

Wards affected: Heckmondwike, Newsome

Contact: Saf Bhuta, Head of In-House Provision, Adult Services

12: Review the offer of council in-house supported living provision 39 - 46

To consider a formal consultation to review council in-house supported living.

Wards Affected: Heckmondwike, Mirfield and Cleckheaton

Contact: Saf Bhuta, Head of In-House Provision – Adult Services

13: Redesign of Short Break, Respite and Support Provision 47 - 54

To consider a consultation on the redesign and reconfiguration of the short breaks, respite, and support services.

Wards affected: all

Contact: Dr Kieran Lord, Service Director – Resources, Improvement and Partnerships

14: Tenant Safety in Council Housing 55 - 78

To consider an update in relation to tenant safety in council housing.

Wards affected: all

Contact: Hannah Elliott, Head of Assets and Development

15: Annual RIPA update

79 - 110

To receive an update on the use of the Regulation of Investigatory Powers Act 2000.

Wards affected: all

Contact: David Stickley, Senior Legal Officer

Contact Officer: Yolande Myers

KIRKLEES COUNCIL

CABINET

Wednesday 6th September 2023

Present: Councillor Cathy Scott (Chair)
Councillor Masood Ahmed
Councillor Paul Davies
Councillor Yusra Hussain
Councillor Viv Kendrick
Councillor Mussarat Pervaiz
Councillor Jackie Ramsay
Councillor Elizabeth Reynolds
Councillor Graham Turner
Councillor Bill Armer
Councillor David Hall

Observers: Councillor Bill Armer
Councillor David Hall

39 Membership of Cabinet

Cllr G Lowe submitted her resignation from the membership of Cabinet.

40 Minutes of Previous Meeting

RESOLVED - That the Minutes of the Meeting held on 11 July 2023 be approved as a correct record.

41 Declaration of Interests

No interests were declared.

42 Admission of the Public

It was noted that all items would be considered in public.

43 Deputations/Petitions

No deputations or petitions were received.

44 Questions by Members of the Public

No questions were asked.

45 Questions by Elected Members (Oral Questions)

No questions were asked.

46 Appointment of Cabinet and Portfolios (Notice Under Article 7)

Cabinet received, for information, the schedule of appointment of Cabinet Members and associated portfolio responsibilities, in accordance with Articles 7.2.4 and 7.3.4 of the Constitution.

Cabinet - 6 September 2023

The Acting Leader advised that following the resignation of Cllr Lowe, the portfolio responsibilities would be absolved by other portfolio holders.

RESOLVED – That the appointment of Cabinet Portfolios, under the provision of Article 7.2.4 and 7.3.4 of the Constitution, be noted.

47 **Council Budget Strategy Update: 2024/25 and future years**

(Under the provision of Council Procedure Rule 36(1), Cabinet received representations from Councillor David Hall).

Cabinet considered the Council budget strategy update, prior to the submission of the report to Council on 13 September 2023, which set out the framework for the subsequent budget setting process and future financial planning.

Cabinet was advised that should the forecast outturn position for 2023/24 be sustained until the year end, the Council's Unallocated Reserve would fall to an inadequate level, and in response, a series of mitigating measures had been put in place to reduce the Council's net expenditure.

Cabinet noted the provisional outturn position on the Council's General Fund Revenue Budget was an overspend of c£27m. The report advised that some of the factors that contributed to that position had continued into 2023/24 and the latest monitoring position indicated the Council was forecast to overspend by £20.3m.

It was noted that, in the view of the Service Director Finance, mitigating actions were necessary to avoid the need to issue a report under s114 of the Local Government Finance Act 1988. The need to issue such a report would remain under review depending on the success or otherwise of the implementation of the mitigating actions.

Cabinet was advised that there was a forecast deficit on the Medium Term Financial Plan of £57.9m by 2028/29 with the most immediate issue being a funding gap in 2024/25 of £47.8m. This was partly caused by the continuation of the overspend in 2023/24 as a result of the continuing impact of the cost of living on the Council, shortfalls in income and rising demand pressures, particularly in Children's Services.

The report noted that the Government had indicated that it did not intend to undertake the awaited Fair Funding Review along with the Business Rates Retention Review, and as such, funding allocations to Councils would continue to reflect spending needs from 2013/14, thus not taking into account how those needs had changed (in relative terms) since that time.

RESOLVED – That the report be referred to the meeting of Council on 13 September 2023 with a recommendation;

- 1) That the key risks to the delivery of the budget in 2023/24 be noted and that these would be subject to consideration as part of the regular Budget Monitoring reports submitted to the Cabinet;

Cabinet - 6 September 2023

- 2) That the uncertainty with the funding outlook for the Council be noted, not least the limited progress on Local Government Finance reforms and that these would not take place before the next General Election;
- 3) That subject to the continuation of the Business Rates Pooling arrangements, delegate authority to the Chief Executive and the Service Director Finance, in consultation with the Leader and the Finance and Regeneration Portfolio Holder, to determine whether the Council should continue as a member of the Leeds City Region Business Rates Pool in 2024/25;
- 4) That the update to the Medium Term Financial Plan for 2024/29 as shown at Appendix A of the considered report be noted, and that in view of the uncertainty with some of the assumptions upon which the Plan is based, that it would remain under review as the Council's budget process progresses;
- 5) That the scenario analysis as shown at Appendix D which models 'worst' / 'best' case scenarios around the baseline MTFP as part of the assessment of potential risks facing the Council be noted;
- 6) That the Medium Term Financial Strategy as set out in the report be recommended for consideration and approval by Council;
- 7) That as delegations allow, and in view of the significant financial challenge faced by the Council, note that early action would be taken to identify and implement budget reduction measures (consistent with the Medium Term Financial Strategy set out above) as a means of reducing the funding gap set out in this report;
- 8) That in consultation with relevant Cabinet Members, request Officers to identify and bring forward proposals consistent with the Medium Term Financial Strategy set out in this report for consideration by Cabinet as part of their development of the budget for 2024/25;
- 9) That the timetable set out in the report for the development of the Council's Budget for 2024/25 be noted;
- 10) That, subject to consideration by respective Portfolio Holders, approval be given to any budget proposals arising from the work above be considered by the Cabinet in due course (and subject to the proposal on consultation below);
- 11) That subject to the work above and agreement with Councillors and recognising that it may be necessary to consult on specific matters as required, note that it is proposed to undertake consultation on the budget over Autumn 2023 with a view to informing decisions on the Council's budget for 2024/25.

This page is intentionally left blank

KIRKLEES COUNCIL			
COUNCIL/CABINET/COMMITTEE MEETINGS ETC			
DECLARATION OF INTERESTS			
Name of Councillor			
Item in which you have an interest	Type of interest (eg a disclosable pecuniary interest or an "Other Interest")	Does the nature of the interest require you to withdraw from the meeting while the item in which you have an interest is under consideration? [Y/N]	Brief description of your interest

Signed: Dated:

NOTES

Disclosable Pecuniary Interests

If you have any of the following pecuniary interests, they are your disclosable pecuniary interests under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.

Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses.

Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority -

- under which goods or services are to be provided or works are to be executed; and
- which has not been fully discharged.

Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.

Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.

Any tenancy where (to your knowledge) - the landlord is your council or authority; and the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where -

- (a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and
- (b) either -

the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

KIRKLEES COUNCIL NOTICE UNDER ARTICLE 7 OF KIRKLEES COUNCIL CONSTITUTION

I give notice under Article 7.2.4 and 7.3.4 of the Kirklees Council Constitution that I wish to make the changes to the Cabinet portfolio of functions described below, including the Councillors appointed as Deputy Leader and with Statutory Responsibility for Children.

Executive Functions and Delegations to the Cabinet and others including officers will remain as set out within Part 3 of the Council's Constitution.

Name	Description of Portfolio or other responsibility
Cathy Scott	Leader
Paul Davies	Deputy Leader and Corporate
Elizabeth Reynolds	Learning and Aspiration
Graham Turner	Finance and Regeneration
Viv Kendrick	Children' Services (Statutory responsibility for Children)
Masood Ahmed	Housing and Highways
Jackie Ramsay	Health & Social Care (Statutory responsibility for Adults)
Mussarat Pervaiz	Communities
Yusra Hussain	Culture and Greener Kirklees

Cathy Scott
Leader of the Council

Signed



Date 14th Sept 2023

This page is intentionally left blank



Name of meeting: Cabinet

Date: 26 September 2023

Title of report: Kirklees Active Leisure Centre Offer 2024/25 - Consultation

Purpose of report: To agree the approach to consultation in relation to the future leisure centre offer provided by Kirklees Active Leisure and approve the acceptance of grant aid from Sport England if applications are successful.

Key Decision - Is it likely to result in spending or saving £500k or more, or to have a significant effect on two or more electoral wards? Decisions having a particularly significant effect on a single ward may also be treated as if they were key decisions.	Yes
Key Decision - Is it in the <u>Council's Forward Plan (key decisions and private reports)</u>?	Key Decision – Yes
The Decision - Is it eligible for call in by Scrutiny?	Yes
Date signed off by <u>Strategic Director</u> & name Is it also signed off by the Service Director for Finance? Is it also signed off by the Service Director for Legal Governance and Commissioning?	Richard Parry Strategic Director for Adults and Health 13.9.23 Isabel Brittain 13.9.23 Julie Muscroft 13.9.23
Cabinet member	Cllr Graham Turner Portfolio Holder Finance & Regeneration

Electoral wards affected: All
Ward councillors consulted: None
Public or private: Public

Has GDPR been considered – Yes

1. Summary

- 1.1 This report will highlight the financial challenges facing leisure services in Kirklees and propose an approach to consultation on the potential sites and offer from KAL in 2024/25.
- 1.2 Due to a combination of salary cost pressures that have built up over time as NLW has increased and more recent inflationary energy and other operational costs, the challenge for Kirklees Active Leisure (KAL) to operate in a financially sustainable way has increased and even with the recovery of income and membership numbers to above pre-Covid levels, there continues to be a financial challenge. From FY 21/22 to FY 23/24, the council has provided additional financial support of £9.96m to support KAL through these difficult periods. This is in addition to the council's core funding of £6.08m and a Sport England Grant of £1.175m across the same periods.
- 1.3 As part of the council's need to balance its budgets during the current financial situation and the removal of the additional Covid support funding, the council has indicated that it will make available a maximum grant/subsidy of £2.55m in 24/25 as stated in the Budget Book and that it is unable to provide additional financial support.
- 1.4 Cabinet is requested to approve a six-week public consultation programme to commence on 27 September to ask residents for their views about the future leisure centre offer in Kirklees.
- 1.5 Consultation responses will then be considered alongside Integrated Impact Assessments and economic, environmental, social and legal data to inform the decision about the future of our leisure centre offer.
- 1.6 A funding application has also been submitted to Sport England for revenue funding from the Swimming Pool Support Fund (SPSF) for Scissett Baths and Fitness Centre and Huddersfield Leisure Centre and it is intended that an application will also be made to the SPSF capital fund in October 2023 for Scissett Baths. Cabinet is requested to delegate authority to the Strategic Director for Adults and Health, after consultation with relevant Cabinet members and the Section 151 Officer, to approve the acceptance of both revenue and capital funding if the bids are successful and the conditions of grant aid are deemed acceptable.

2. Information required to take a decision.

- 2.1 The council does not have a statutory duty to provide leisure services, only discretionary powers.
- 2.2 In 2002, the council chose to transfer the management and delivery of its leisure centres through the creation of a charitable, non-profit distributing trust that is independent from the council called Kirklees Active Leisure (KAL). This legal structure, based on grant funding and long leases, benefits from business rates and VAT savings that can be re-invested into the improvement of assets and the service offering thus improving the offer available to residents. All physical assets have continued to reside on the council's balance sheet and the council retains most of the

responsibilities for major repairs and maintenance although KAL has also significantly invested in the local leisure stock.

- 2.3 KAL delivers leisure services across 11 sites to over 65k registered customers. It received 2.5m customer visits during 2022/23. It also provided swimming lessons for over 136 schools in its 8 pools, as well as 2 pools located at Huddersfield school sites.
- 2.4 Leisure services throughout the UK are facing unprecedented financial challenges. Last year, UKActive stated that 40% of council areas were at risk of reducing their leisure centres and swimming pools and 65 pools had closed in the three years to March 2022.
- 2.5 Mirroring the picture nationally, the key challenges facing the leisure centre offer in Kirklees are increased staffing costs due to increases in the National Living Wage, increased energy costs and the impact of continuing high inflation. In particular, the operating costs of public swimming pools have increased significantly over the past few years.
- 2.6 Since 2021/22, to support KAL to recover from the impact of Covid and rising energy costs, the council has provided additional financial support as shown below:

Financial Year	Core Grant Funding	Covid/ Recovery Support	Cost of Living Pressures	Total Kirklees Council Funding	Additional Funding
2021 / 22	£1.570m	£3.5m		£5.070m	£823k Sport England Grant
2022/23	£2.155m	£2m	£712k	£4.867m	£352k Sport England Grant
2023 / 24	£2.355m	£1.5m	£2.245m	£6.1m	
2024/25	£2.555m				
2025/26	£2.755m				

- 2.7 As part of the council's need to balance its budgets during the current financial situation, the council can only make available a maximum financial contribution of £2.555m in the financial year 24/25 and is unable to provide additional financial support.

2.8 The Leisure Centre Review Programme

In June 2023, a 'Leisure Centre Review' programme was set up and phase one of the review began. The phase one Discovery stage included:

- Gathering financial and performance data on each KAL leisure centre
- Researching other councils and operating models for leisure centres
- Analysis of the leisure centre sites to understand their condition, recent renovations and future spending needed on the buildings.
- Closure costs.
- Alternative leisure centre offers in Kirklees.

Benchmarking has been carried out with other similar council areas, many of which have already been through an asset rationalisation programme some time ago. The leisure offer within Kirklees is much larger than other areas. For example, in 2022, the average offer in other areas was 1 pool per 80,000 people whereas in Kirklees it is 1 pool per 55,000 people.

All of this information will be considered when decisions are taken about the future leisure centre offer.

2.9 Other sources of funding

KAL and the council are actively seeking other sources of funding to reduce the pressure on KAL's budget. An application has been submitted to a Sport England funding stream for swimming pools at risk of closure. The criteria was very restrictive and therefore not all assets within the Kirklees estate qualified. Due to this, two swimming pool sites, Huddersfield Leisure Centre and Scissett Baths and Fitness Centre, were included in the bid for one-off revenue funding support (up to £500k). The outcome of the application is expected at the end of September 2023.

In addition to this, it is intended that an application will be submitted for Scissett Baths and Fitness Centre in October 2023 to the capital strand of the Swimming Pool Support Fund. This funding is to assist with energy reduction measures. The reason Scissett Baths has been selected is that it meets the criteria of the funding stream, there is already a significant capital scheme in development which can be delivered within the timescale required for the fund and there is the opportunity to seek partnership funding from the endowment fund linked to the facility. The capital funding could help Scissett Baths and Fitness Centre to significantly reduce its future operating costs.

If an award is offered for the revenue element, the council will be expected to give a commitment to keep Huddersfield Leisure Centre and Scissett Baths open for at least three years. Should the capital element be successful, the council will be required to keep Scissett Baths open for a timescale subject to the level of funding provided by Sport England.

3. Consultation

- 3.1 Along with the data collated through the Discovery phase of the Leisure Centre Review Programme, it is important that the views of Kirklees residents, both those who use KAL services and those who don't use the services but effectively contribute to the cost of the services, are taken into consideration. It is therefore proposed that a comprehensive consultation is undertaken over a 6 week period. The final decision about the leisure centre offer will be made at the 12th December 2023 Cabinet meeting.

- 3.2 Approval is sought from the Cabinet to commence this consultation immediately following Cabinet.
- 3.3 It is intended that information about each of the centres will be shared with residents so that they are aware of the reasons for the potential changes to the leisure offer, financial challenges, capital investment requirements and usage data and therefore can submit well informed comments.
- 3.4 For the consultation, it is proposed that the estate is split into three categories:
- The core offer - the sites that it is proposed will stay open given that they are modern buildings with a comprehensive offer and limited capital investment is required compared to other sites.
 - Marginal sites – the sites which it is currently considered are most likely to remain open in 2024 whilst other funding and management options are explored because they require a low financial contribution from the council and/or have fewer capital requirements and/or there are other factors that influence decision making in the short term. If they begin to require more financial investment from the council or factors influencing their long term future change, these sites could close at a later stage.
 - Potential closures – sites it is currently considered are least likely to remain open in 2024 because they require significant financial investment from the council to operate and/or require significant capital investment and/or there are other factors that influence decision making.

Residents will be asked for their views about the proposed offer outlined below and which sites should be included in each category.

- 3.5 The proposed offer is:

Core Offer

Centre	Reason
Huddersfield Leisure Centre	Modern facility, offering full provision
Spenn Valley Leisure Centre	Modern facility, offering full provision and is the newest leisure centre in the estate

Marginal Sites

Centre	Reason
Bradley Park Golf Course	This site generates a surplus.
Deighton Sports Arena	Options are being explored for an alternative operating model which could enable the site to remain open.
Holmfirth Pool and Fitness Centre	This site requires a relatively low level of financial contribution from the council.
Leeds Road Sports Complex	A site requiring a low level of financial contribution from the council with potential for future investment and partnership opportunities
Scissett Baths and Fitness Centre	The council has submitted a funding bid to Sport England, which if granted, should reduce the site's operating costs although this will still be subject to inflation and rising National Living Wage and energy costs

Stadium Health and Fitness Club	There are complex lease issues associated with this asset. The implications of withdrawal are being investigated and discussions are underway with partners regarding the future operating model and offer. The site requires significant capital investment over the next three years.
---------------------------------	---

Potential Closures

Centre	Reason
Batley Sports & Tennis Centre	This site requires very significant council contribution to operate and the building needs capital investment over the next 3 years.
Colne Valley Leisure Centre	This site requires significant council contribution to operate and capital investment is required over the next three years.
Dewsbury Sports Centre	This site requires very significant council contribution to operate and the building needs significant investment over the next 3 years particularly on the wet side and complete replacement of the pool in the medium term. In addition, RACC has been discovered in the building and further investigation is required to understand the implications of this and the safety of the building.

4. Implications for the Council

4.1. General

The reduced level of financial support available to KAL will impact significantly on KAL staff, with the charity having to reduce significantly in size to remain viable. In order to achieve this reduction prior to the 2024/25 financial year and due to the associated cash risk attributed to uncontrollable costs and potential drop in income, KAL will need to begin to undertake the legally required statutory redundancy process whilst the consultation exercise is being undertaken.

To ensure that due process is followed and financial milestones are met, Cabinet must take a decision about the leisure centre offer on 12th December 2023.

4.2. Working with People

The recommended consultation approach is to be comprehensive and open to all - stakeholders, residents and KAL customers. There will be an online survey for all and focus group sessions with those with protected characteristics. An Integrated Impact Assessment on the proposed leisure offer will run alongside this process and be informed by the results of the consultation. A process will be highlighted to welcome interest around Community Asset Transfer. The findings will support effective decision making.

It is recognised that changes to the estate may well have an adverse impact on some current KAL customers. This will be most significant for swimming pool users as KAL provides the majority of swimming pools in Kirklees whereas there are a wide range of other providers of gyms and other non-wet side activities. Phase 2 of the Leisure Centre Review Programme will focus on the future vision of leisure in Kirklees and which organisations are best placed to deliver this.

The reduction in the number of sites and activities will also impact on KAL staff.

4.3. **Working with Partners**

KAL is one of the ways in which people can access physical activity. There are a wide range of other internal and external partners that the Council works with to support physical activity from its library service, parks and open spaces and many third sector organisations as well as private providers.

Place Based Working

Other potential operating models could be Community Asset Transfers where there is interest. This could provide opportunities for the centres to be run by the community. Communities can use their local intelligence and information to allocate resources in the best possible way to achieve the best outcomes for local people. We will work with communities and councillors to respond and support this interest if it happens at an appropriate pace.

Any asset transfer would have to be without financial support from the Council. Given the timescales for a transfer to take place, it could require an interim closure of a centre which would result in additional costs for the council. As such, transfers may only be only achievable if the council has the resources to manage the process.

4.4. **Climate Change and Air Quality**

An Integrated Impact Assessment (IIA) is being progressed around the future changes to the estate. This will include an assessment of the impact on climate change. If Sport England award capital funding to Scissett Baths and Fitness Centre, measures will be introduced to reduce energy usage and therefore reduce impact on the environment.

4.5. **Improving outcomes for children**

Any reduction in swimming pools will have an impact on school swimming provision. KAL and the council will work with schools to mitigate the impact of the closure of pools and together develop a new model for school swimming.

4.6. **Other (e.g. Financial, Legal or Human Resources)**

Due to the ongoing economic pressures, sustaining the leisure offer in its current form is not financially viable for KAL or the Council. The consultation will be delivered by council staff and therefore the financial cost of the consultation reduced.

Although there is no statutory obligation to undertake consultation, it will improve the quality of the decision making. A fair consultation is one undertaken when proposals are at a formative stage; sufficient reasons are given for proposals to allow intelligent consideration together with criteria that will be applied when considering proposals and which factors will be considered decisive or of substantial importance; adequate time is given for consideration and response; and the product of consultation must be conscientiously taken into account before any final decision is taken. The Council has a duty of Best Value under section 3 of the Local Government Act 1999. The Council has a fiduciary duty to taxpayers to ensure, before committing to any discretionary grant funding, that it is prudent, affordable and sustainable in the context of the council's unprecedented budget challenges. The council's discretionary grant funding to KAL is provided under section 19 of the Local Government (Miscellaneous Provisions) Act 1976 and all other enabling powers. This is a power and not a statutory duty .

Integrated Impact Assessment (IIA)

Integrated Impact Assessments (IIA) are being progressed for each of the options to help us fully understand the impact on our residents and climate.

5. Consultation and Engagement

It is requested that Cabinet approve the consultation process as set out in sections 3 and 4.2. A wide range of residents will be engaged through the consultation process including KAL customers, non-users and people with protected characteristics. Alongside an on-line consultation, paper copies will also be available at KAL managed centres. There will also be some opportunities to discuss the proposals face-to-face. This will make sure that those with protected characteristics or who do not want to engage online or are unable to, still have an opportunity to be heard.

6. Next steps and timelines

If agreed, the consultation process will commence immediately following Cabinet for six weeks until 12th November 2023 with a view to a decision being made by Cabinet around the new offer on 12th December 2023.

7. Officer recommendations and reasons

- 7.1 That Cabinet agrees that a consultation starts immediately following the Cabinet meeting with a view to this informing the subsequent decision making.
- 7.2 Cabinet delegates to the Strategic Director for Adults & Health, in consultation with the S151 Officer and relevant Cabinet members, detailed decision making on accepting and using funding from Sport England, if awarded.

8. Cabinet Portfolio Holder's recommendations

Whilst we don't have a statutory duty to provide leisure services we recognise the value they bring to our residents in terms of health and wellbeing, and such things as school swimming lessons.

We will continue to support KAL to help them deliver leisure services across Kirklees, however given the pressures on the council's budget we are limited in what support we can offer. A consequence of this is that, given the cost pressures on KAL caused by the current cost of living crisis and the failure of central government to support the leisure sector, they will have to reduce the level of service they offer.

It's important that we consult with the public to allow them to be involved in the new look KAL.

The Cabinet portfolio holder for Finance and Regeneration, Cllr Graham Turner, recommends that Cabinet approves the consultation programme and delegated authority to progress the consultation process to the Strategic Director for Adults and Health.

Cllr Turner also recommends that Cabinet approves delegating authority to the Strategic Director for Adults and Health to accept the offer of funding from Sport England if the bids are successful.

9. Contact officer

Rebecca Strutt, Project Manager, Transformation Team – 01484 221000

10. Background Papers and History of Decisions

N/a

11. Service Director responsible

Adele Poppleton, Service Director for Culture and Visitor Economy.

This page is intentionally left blank



Name of meeting: Cabinet
Date: 26th September 2023

Title of report: Asset Review September 2023

Purpose of report:

The purpose of this report is to establish working principles, and to initiate a holistic asset review considering the optimisation, rationalisation, mothball, closure, and disposal of property assets and interests across the Council's estate. This report sets out some early recommendations for consideration. Further options and recommendations will be offered across a series of reports over the coming months for consideration and presented in alignment with ongoing budget planning and organisational change activity.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Yes – has implications exceeding £500k and covers all wards.
Key Decision - Is it in the <u>Council's Forward Plan (key decisions and private reports)?</u>	Key Decision – Yes Public Report
The Decision - Is it eligible for call in by Scrutiny?	Yes
Date signed off by <u>Strategic Director</u> & name	David Shepherd – Strategic Director for Growth and Regeneration – 08/09/23
Is it also signed off by the Service Director for Finance?	Isabel Brittain – Service Director for Finance – 13/09/23
Is it also signed off by the Service Director for Legal Governance and Commissioning?	Julie Muscroft – Service Director for Legal, Governance and commissioning – 15/09/23
Cabinet member portfolio	Cllr Graham Turner – Finance & Regeneration

Electoral wards affected: All Wards

Ward councillors consulted: No

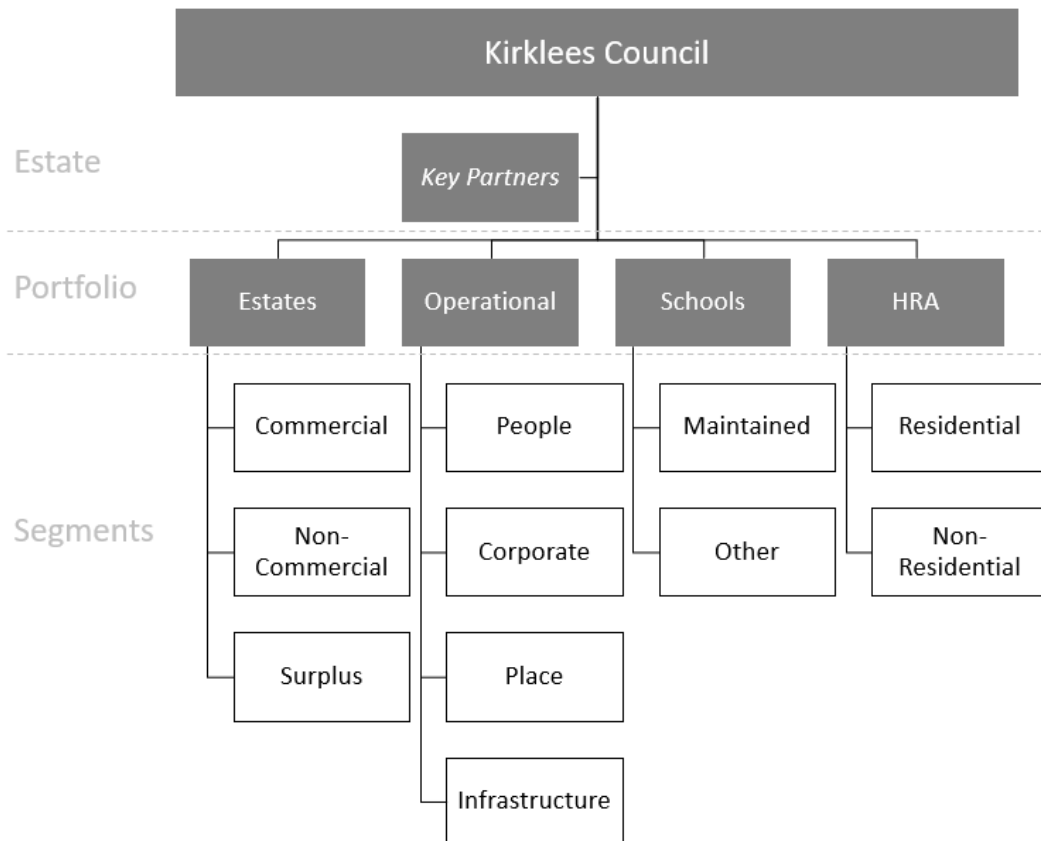
Public or private: Public

Has GDPR been considered? There is no personal data within the report.

1. Summary

- 1.1 This report, in alignment with the emerging Corporate Property Strategy, introduces the Council's Asset Review, presenting a systematic and holistic approach to the optimisation, rationalisation, mothball, closure, and disposal of property assets and interests across the Council's estate. It also sets out some early recommendations.
- 1.2 The council's estate is split into portfolios and segments as illustrated below, the initial focus of the asset review is on the operational portfolio.

Figure 1 - Kirklees Council's Estate



- 1.3 The approach taken to prioritise assets across the estate is termed the Core Estate.
- 1.4 The Core Estate identifies those assets which are required to facilitate the Council's statutory functions, corporate and political priorities, and to safeguard legal, cultural, and heritage obligations.
- 1.5 The categorisation and review of the operational portfolio is under review to understand the forward investment priorities of the retained Core Estate and to further identify opportunities for rationalisation and optimisation of the estate.
- 1.6 As opportunities emerge either due to the review or as a result of ongoing business planning and service change activity, further reports will be brought forward for consideration.

2. Information required to take a decision.

- 2.1 The initial outputs of the asset review, in conjunction with the decisions taken as part of the recent asset rationalisation and surplus property disposals cabinet reports, have been assembled into focus reviews, presenting further opportunities to make the management and running costs of the Council's operational estate leaner.
- 2.2 The outputs from two of these reviews are presented as follows.

A. Town Halls

- 2.3 5 Town Halls are currently managed as part of the Council's operational estate. However, Slaithwaite Town Hall is not currently considered as part of this review due to its primary function facilitating service delivery and providing place-based office accommodation. The remaining four Town Halls are summarised as follows with additional detail provided within Appendix A.
- 2.4 Huddersfield and Dewsbury Town Halls are identified as being core assets, and key civic buildings supporting local democracy and the delivery of statutory and key services across the district. In alignment with the core estate principles, work is underway to fully understand each building and the forward investment requirements to ensure they are maintained to be fit for purpose, efficient and effective into the future.
- 2.5 Batley Town Hall is identified as having available capacity which is proposed to be repurposed and made fit for purpose to support wider council services. This creates an opportunity to support the delivery of a modernised Library provision in a refurbished building. This would release the Batley Library building, which requires extensive investment, as surplus to organisational requirements. This decision is subject to the outcome of consultation. It is proposed that the Strategic Director for Adults and Health be delegated with authority to carry out a non-statutory consultation on the proposals and to finalise plans for consultation including methodology and timescales.
- 2.6 The main hall at Cleckheaton Town Hall is currently closed pending specialist investigation due to significant emerging condition and health and safety issues. The future planned capital investment needed to bring the building up to standard is already significant and currently unfunded. To allow the required further detailed assessment of the building to be undertaken the whole building will need to be mothballed. The timing of this will be aligned with the planned use of the building for vaccinations until the end of the calendar year, following which, the building will remain mothballed until determined otherwise.
- 2.7 Uses/users have been transferred to alternative venues or plans are in place to do the same.

B. Dewsbury Town Centre

- 2.8 This review assembles changes across several buildings within Dewsbury, there is a clear link with the Dewsbury Blueprint and Town Deal project board. A scheme of work is required to invest in making key assets fit for purpose, this will be funded and delivered within existing budgets.

- 2.9 Following extensive consultation through the Dewsbury Town Board and forums such as the Historic England Historic Places Panel, the council has reflected on the position and determined that the Walsh building should be identified as key to retaining and supporting the forward delivery of Council services within Dewsbury. Due to this position, the existing decision taken by Cabinet at its November 2021 meeting to relocate services and demolish the building will need to be amended. In response, the Dewsbury Town Deal Project will also need to be aligned to reflect that the building is to be retained.
- 2.10 The Walsh building is identified as having available capacity which is proposed to be repurposed and made fit for purpose to support wider council services. This will be funded and delivered within existing corporate landlord baseline budgets.
- 2.11 This creates an opportunity to support the delivery of a modernised service hub including the library and customer service centre in a refurbished building. This decision is subject to consultation.
- 2.12 It is proposed that the Strategic Director for Adults and Health be delegated with authority to carry out a non-statutory consultation on the proposals and finalise plans for the consultation including methodology and timescales.
- 2.13 The current library building would then become vacant and be partially mothballed subject to further review. This review will consider the complex property arrangements in place and will need to consider the site as a whole including the leisure centre.
- 2.14 The office accommodation within Dewsbury will also be reviewed to ensure that the ongoing place-based office provision is effective and efficient to meet forward service requirements. This involves office space currently provided across Empire House, Dewsbury Town Hall, and the Walsh building.

Summary

- 2.15 The following table presents the annual revenue change as a result of delivering the proposed activity:

	Annual Revenue Change (saving)
Town Halls	£220k
Dewsbury	£235k
<u>Total:</u>	<u>£455k</u>

- 2.16 The investment required to cover the cost of change associated with implementing and delivering these proposals is to be funded through the alignment of existing revenue and capital budgets within the Corporate Landlord and Capital service.

- 2.17 The annual revenue change is subject to the delivery of the required investment and changes proposed. Resultant savings are forecast to commence and accumulate from 2024/25 onwards.
- 2.18 In addition to the direct property related efficiencies, the optimisation of the estate promotes and, in some cases, prompts service change. Savings associated with service change are usually indirect and difficult to target and monitor.

3. Implications for the Council

3.1 Working with People

The planned approach for delivery will require key council services to work closely together proactively.

3.2 Working with Partners

As part of the process for bringing forward the reshaping of the Council's estate, key partners will be made aware to help identify any collaborative opportunities.

3.3 Place Based Working

Changes to property can often highlight wider opportunities and be a catalyst for development, which in turn can make our places more attractive and vibrant.

3.4 Climate Change and Air Quality

Rationalising and optimising property reduces the council's estate and carbon footprint, contributing to our commitment towards net zero.

3.5 Improving outcomes for children

Aligning the rationalisation and optimisation of property with service change will overall support the improvement of outcomes.

3.6 Finance

A balanced approach is required to support the rationalisation and optimisation of the estate. Vacating and mothballing assets can provide more immediate and direct building related revenue savings, alongside the optimisation of assets to improve the efficiency and effectiveness of use to promote more indirect service-based efficiencies and savings.

3.7 Financial Implications for the people living or working in Kirklees

None

3.8 Legal

Normal processes and procedures, including the officer scheme of delegation, will be used and advice sought as appropriate to bring forward the proposals for delivery.

At this time the proposals associated with library relocations continue to comply with the council's statutory duty, in accordance with the Public Libraries and Museums Act 1964, and the proposed consultation is non-statutory in alignment with DCMS guidance. Proposals will comply with the S149 Equality Act 2010 and Public Sector equality duty.

The Council's approach to determining a core estate is in alignment with the power to provide Town Halls is within S132 of the Local Government Act 1972. Also, the Council has the legal power to dispose of assets generally under section 123 of the Local Government Act 1972 usually for the best consideration that can reasonably be obtained.

3.9 **Integrated Impact Assessment**

An Integrated Impact Assessment has been carried out as part of the Council Budget setting process and is published on the Council's website. Individual assessments may need to be considered for each scenario and should be undertaken as part of bringing each scenario forward for delivery alongside appropriate consultation and communication.

4. **Consultees and their opinions**

4.1 This report has been subject to consultation with the Council's Executive Team (ET), Leadership Management Team (LMT), and the Portfolio Holder for Corporate services, and their comments have informed the contents of this report.

4.2 Ward members will be engaged and informed of progress on a property-by-property basis.

5. **Next steps and timelines**

5.1 Following this report, and subject to approval, instruction will be given to proceed at pace with the proposals, forming an accelerated programme for delivery.

6. **Officer recommendations and reasons**

Cabinet is asked to agree the overall approach, noting ongoing and planned activity which is being managed under business as usual, and to:

A. approve A. Town Halls;

(i) To delegate authority to the Strategic Director for Adults and Health in consultation with the Portfolio Holder for Corporate Services and the Portfolio Holder for Finance and Regeneration, to finalise plans for non-statutory consultation about the proposed library proposals at Batley including methodology and timescales, to carry out the consultation, and following consultation, the decision about moving the library into Batley Town Hall.

(ii) And, once vacated, to declare the Batley library building as surplus to organisational requirements in preparation for disposal.

B. approve B. Dewsbury;

(i) To amend the existing decision taken by Cabinet at its November 2021 meeting, to now retain the Walsh building as a key building for supporting the delivery of services within Dewsbury.

(ii) And, to delegate authority to the Strategic Director for Adults and Health in consultation with the Portfolio Holder for Corporate Services and the Portfolio Holder for Finance and Regeneration, to finalise plans for non-statutory consultation about the proposed library proposals at Dewsbury including methodology and timescales, to carry out the consultation, and following consultation, the decision about moving the library into the Walsh building.

7. **Cabinet Portfolio Holder's recommendations**

7.1 The council faces a significant financial challenge in the coming years, and the need to produce a balanced budget in February has meant we have to look at how we operate and deliver services, and where we deliver those services from.

7.2 The huge financial challenges forced up on us by the chronic lack of funding for essential services by central government means we must take some very difficult decisions.

- 7.3 As part of the process of delivering a balanced budget we need to save significant amounts of money from our assets budget.
- 7.4 Therefore, we need to reduce the number of buildings we operate and deliver services from and create a core of building assets that will provide only the space we need to deliver services and provide office functions from.
- 7.5 This report is the first of several that we will be bringing as we reduce our assets in line with our core need.
- 7.6 As out lined in this report we are proposing to move Batley library into the town hall after the appropriate consultation, this will allow the Batley library building to be disposed of and generate a capital receipt to help deliver vital services.
- 7.7 The formal mothballing of Cleckheaton town will allow us time to carry out the intrusive survey work and provide the public with clarity.
- 7.8 The moving of Dewsbury library is a positive move, as it aligns with the original cabinet report that stated library's need to be in our town centres and provide easy public access.
- 7.9 These are difficult decisions, that are not taken lightly, but they are necessary if we are to balance our books.

8. Contact officer

Daniel McDermott: Strategic Manager – Assets & Estates – 01484 221000 – Daniel.McDermott@Kirklees.gov.uk

9. Background Papers and History of Decisions

Cabinet 2021 – Item 16

10. Service Director responsible

Joanne Bartholomew: Service Director – Development – Growth & Regeneration – 01484 210000 – Joanne.Bartholomew@Kirklees.gov.uk

Appendix A – Scenario A: Town Halls

Batley Town Hall



Overview:

Sited in the middle of the successful Batley LUF2 bid, whilst not part of the bid the town square and market in front of it are a key component. On a sloping site it sits next to the former police station which is being converted into apartments.

The building is currently used to support events and ceremonies, with a small office base for locality working. The building has capacity to be used more effectively and efficiently, and it is proposed that as part of the required investment into the building that the library provision is relocated from Batley Library. This would result in the retention of key council services within the town, within a fit for purpose and accessible building.

Building Maintenance & Condition:

Current issues are present with lath and plaster requiring short-term reactive repairs, and over the next 3-5 years the building will require significant planned repairs and refurbishment, including but not limited to:

- Structural issues to be investigated and addressed
- Full electrical rewire & mechanical upgrade/replacement
- Fire compartmentalisation
- Full redecoration, replacement ceilings, floor coverings and carpentry

Finance:

Annual Running Costs	£255k
Maintenance Backlog	£5m

Cleckheaton Town Hall



Overview:

A large building (2,675m²) that sits in the centre of Cleckheaton, built on a sloping site next to a large car park.

Until recently the building supported small events and community use. However the main hall has had to be closed pending specialist investigation due to significant emerging condition and health and safety issues and all uses have been relocated to alternative venues. The hall remains closed and mothballed while further investigation and review work is undertaken, significantly restricting any wider use of the building.

Building Maintenance & Condition:

Notwithstanding the issues being investigated for the main hall, over the next 3-5 years the building will require significant planned repairs and refurbishment, including but not limited to:

- Structural issues to be investigated and options to be presented
- Full window repairs
- Full electrical rewire & mechanical upgrade/replacement
- Fire compartmentalisation
- Full redecoration, replacement ceilings, floor coverings and carpentry

Finance:

Annual Running Costs	£175k
Maintenance Backlog	£5m+ (significant increase expected pending review)

Dewsbury Town Hall



Overview:

Grade II listed, the building opened in 1889 and is located in the centre of Dewsbury. The building is currently used as a venue to support events and ceremonies, and supports services such as the registration service, Number 12 children services point, and office accommodation.

The building has capacity to be used more effectively and efficiently, creating an improved venue offer and providing further office accommodation capacity to support place-based working. Creating this office capacity would allow the leased-in offices at Empire House to be vacated. In addition, should Huddersfield Town Hall be closed as part of future planned refurbishment, the building would be the interim plan to support the continuation of the Council's civic and political functions.

Building Maintenance & Condition:

The building is in reasonable repair, with no immediate significant issues and a proposed planned maintenance regime over the next 10-years.

Finance:

Annual Running Costs	£420,000
Maintenance Backlog	£4m

Huddersfield Town Hall



Overview:

The building is grade II* listed and is situated in the centre of Huddersfield. It is the Council's main civic building, a venue supporting events and ceremonies.

Building Maintenance & Condition:

A programme of major investment to the building's external fabric has been underway over the past 7 years, due for completion late 2023/24. This has included a full re-roof, pointing and stonework repairs, window repairs and drainage improvements. However, a forward plan is now required to consider the interior beyond basic repairs and backlog maintenance.

Finance:

Annual Running Costs	£525,000
Maintenance Backlog	£5m+ (scheme for full repair and maintenance £20m+)

This page is intentionally left blank



Name of meeting: Cabinet

Date: 26 September 2023

Title of report: Proposed Closure of Castle Grange and Claremont House residential care homes.

Purpose of report: To seek Cabinet approval to enter into formal consultation to close Castle Grange and Claremont House residential care homes and provide care through other care homes instead.

<p>Key Decision – A key decision is an executive decision to be made by Cabinet which is likely to result in Council spending or saving £500k or more per annum, or to have a significant positive or negative effect on communities living or working in an area comprising two or more electoral wards. Decisions having a particularly significant effect on a single ward may also be treated as if they were key decisions.</p>	<p>Yes</p> <p>If yes give the reason why</p> <p>significantly affecting more than 2 wards and expenditure/savings over £500k</p>
<p>Key Decision - Is it in the <u>Council's Forward Plan (key decisions and private reports)?</u></p>	<p>Key Decision – Yes</p> <p>Private Report/Private Appendix –No</p>
<p>The Decision - Is it eligible for call in by Scrutiny?</p>	<p>Yes</p>
<p>Date signed off by <u>Strategic Director</u> & name</p> <p>Is it also signed off by the Service Director for Finance?</p> <p>Is it also signed off by the Service Director for Legal Governance and Commissioning?</p>	<p>Signed off by Richard Parry on 15 September 2023</p> <p>Signed off by James Anderson – Head of Accountancy on behalf of Isabell Brittain Service Director for Finance on 15 September 2023</p> <p>Signed off by Julie Muscroft on 15 September 2023</p>
<p>Cabinet member portfolio</p>	<p>Cllr Ramsay – Health and Social Care</p>

Electoral wards affected: Heckmondwike, Newsome

Ward councillors consulted: Cllr V Kendrick, Cllr S Hall, Cllr A Butt, Cllr S Lee-Richards, Cllr A Cooper, Cllr K Allison

Public or private: Public

Has GDPR been considered? Yes

1. Summary

- 1.1 The strategic aim for social care services is to support people to remain in their own homes and as independent as possible for as long as possible. This is reflected in the significant expansion in reablement and home care capacity and delivery across Kirklees and the Council's investment in services such as the new build dementia day service at Knowl Park House.
- 1.2 In some areas of social care, the Council is a significant provider of services, typically where there are fewer alternative providers. Examples of this include dementia day services and day services and respite for people with a learning disability. These are all areas where the Council has been making significant capital investments.
- 1.3 In other areas of social care, there are a wide range of providers and the council provides only a small part of the total provision. Examples of this include residential and nursing home care where the vast majority of provision is not provided by the Council and the independent sector has a comprehensive service offer, supported by the Council and the NHS in conjunction with the local care association.
- 1.4 This report seeks approval in principle, subject to formal public and staff consultation, for the Council to withdraw from the long stay residential care market and focus its direct care delivery in other parts of the care market, particularly those areas where there are fewer providers and options for people. Current users of Castle Grange, Newsome, and Claremont House, Heckmondwike would continue to receive a residential care service but through independent sector care homes instead.
- 1.5 This proposal would involve consulting with the residents and families about re-assessing their needs in order to provide suitable alternative accommodation in independent sector care homes, of which there are 57 in Kirklees providing care for older people.
- 1.6 It would also involve consulting with staff and unions around the service reprovision and include consultation with the wider body of care providers to ensure a seamless and safe transition of current service users into alternative accommodation.

2. Information required to take a decision

Long Term Residential Homes (Castle Grange, Claremont House)

- 2.1 Castle Grange in Newsome and Claremont House in Heckmondwike are the only 2 remaining Council owned and run long stay residential care homes in Kirklees.
- 2.2 Each establishment has capacity for 40 beds, however currently there are only 46 residents across all 80 beds.
- 2.3 Should, Cabinet give approval to withdraw from the services and for the care to individuals to be provided elsewhere following a consultation process, these 46 residents and their families / carers would be allocated a dedicated assessor to support them to find alternative suitable residential accommodation.
- 2.4 It is proposed that, if this report is approved, no further admissions are taken in these establishments from the date of the Cabinet meeting.

- 2.5 There are currently approximately 128 staff (93.5 FTEs) across both establishments, primarily grade 5 support workers (see affected staff numbers / grades below).

Claremont House/Castle Grange Staffing			
Job Role	Grade	Number of Staff	FTE
Registered Manager	13	2	2
Deputy Manager	9	6	6
Team Coordinator	7	22	16.897
Activity Coordinators	6	2	1.622
Support Worker (Days)	5	43	33.415
Support Worker (Night)	5	21	14.438
Domestic Staff	3	23	12.33
Handy Person	2	2	1.622
Cook	5	4	3.188
Business Support	5	3	2

- 2.6 Vacancies that currently exist or that will be held as they arise in a number of the Council's other care services including Moorlands Grange and Ings Grove House. The planned expansion of reablement capacity will also create redeployment opportunities.
- 2.7 The gross expenditure budget for 2023-24 including potential pay award are £1,980,000 for Claremont House and £1,973,000 for Castle Grange totalling £3,953,000.
- 2.8 In addition, there are recurrent costs associated with the operation of the building (utilities etc) and with the overall operation of the service (HR, payroll, IPC etc). This provides a total annual operating cost (including both frontline costs and overheads) to the Council for these services of £4,946,000.
- 2.9 Alternative placements for the equivalent of 80 beds (based on 100% occupancy of 80 beds) in the independent sector would cost the Council £3,610,000. This is £1,336,000 less than the current Council costs above.
- 2.10 Alternative placements for the equivalent of 76 beds (based on 95% occupancy of 80 beds) in the independent sector would cost the Council £3,430,000. This is £1,516,000 less than the current Council costs above.
- 2.11 The current average occupancy rate of older people's care homes in Kirklees is 87%. Alternative placements for the equivalent of circa 70 beds (based on 87% occupancy of 80 beds) in the independent sector would cost the Council £3,141,000. This is £1,805,000 less than the current Council costs above.
- 2.12 Note that the above are based on revenue expenditure only. Potential closure would also:
- Negate planned capital expenditure across both homes of £550,000.
 - Raise potential capital receipts for the Council to the value of £8,346,000 (based on 2019 Asset Register Valuations).

Consultation

- 2.13 If, following the formal consultation process, Cabinet approves withdrawal from the homes, the properties will be passed to corporate assets for a decision on best use of the assets to support with wider Council priorities which could be re-purposing or disposal
- 2.14 It is proposed to start the formal public and staff consultation process of 12 weeks immediately following the call-in period following the Cabinet meeting, with a view to returning to Cabinet in January 2024 for a final decision.
- 2.15 If Cabinet approve the closure in early 2024, it is proposed to start the reprovision process for residents currently at Castle Grange and Claremont House shortly afterwards.
- 2.16 Expected impact/ outcomes, benefits & risks (how they will be managed)
- **Impact** – the stage 1 Integrated Impact Assessment shows this may have a short term negative affect on the residents, their families and on staff.
 - **Benefits** – the benefits to this proposal include the ability, through redeployment, to reduce the use of agency staffing in Council care services by filling vacancies and to provide both revenue savings and also one-off capital receipts. It may also support the independent sector where a number of residential homes have vacancies.
 - **Risks** – impact of potential moves to existing residents, reputational risk of moving vulnerable residents.

3 Implications for the Council

3.1 Working with People

All relevant stakeholders will be consulted as part of the formal consultation process.

3.2 Working with Partners

We will collaborate with all relevant partners to ensure the best outcomes possible for all concerned.

3.3 Place Based Working

These establishments support residents from the whole of the Kirklees community.

3.4 Climate Change and Air Quality

No impact.

3.5 Improving outcomes for children

No impact.

3.6 Financial Implications for the people living or working in Kirklees

Depending on where they live and where current residents move to, families of residents may see a change in travel costs to visit their relatives.

3.7 Other (eg Integrated Impact Assessment/Legal/Financial or Human Resources)

It is noted that some staff, many of which are Grade 5, may be deployed to alternative jobs which may be further from their homes and therefore incur some additional travelling costs. Disturbance allowances are payable.

The Care Act 2014 imposes a general duty on local authorities to promote an individual's well-being (section 1 Care Act 2014).

Local authorities had a duty to provide residential accommodation for adults who were in need of care and attention not otherwise available to them under section 21 of the National Assistance Act 1948. This was repealed and replaced by a duty to meet needs for care and support (section 18 Care Act 2014). Section 19 of the Care Act 2014 gives a local authority the power to meet needs for care and support, where it is not under a duty to do so. Unlike the National Assistance Act 1948, the Care Act 2014 does not specify separate duties for the provision of residential and non-residential care. Section 8 of the Care Act instead gives examples of the different ways that a local authority may meet needs under section 18, and the list includes "accommodation in a care home or premises of some other type" (s8(1)(a)), or "care and support at home or in the community" (s.8(1)(b)).

An assessment of needs must be carried out where it appears to the local authority that a person may have needs for care and support. The assessment must identify whether the adult has any needs for care and support. If there are, the assessment must state what those needs are. (Section 9(1), Care Act 2014.) A Local authority must also assess any carer (current or prospective) where it appears they may have need for support. Section 10(1) Care Act 2014.

After assessing what the needs of an adult or carer are, a Local Authority must consider whether the needs meet the eligibility criteria for a provision or service (section 13(1), Care Act 2014). The criteria does not specify the types of care and support that a Local Authority must provide to meet eligible needs. Prior to any individual moving accommodation, their needs assessment and care and support plan should be reviewed. In offering alternative accommodation the Local Authority should have regard to the Care and Support and After-care (Choice of Accommodation) Regulations 2014.

The council has a market shaping duty under section 5 of the Care Act 2014 and must exercise its duties in accordance with the Department of Health Care and Support Statutory guidance (2016)

The Council is required to carry out a non-statutory consultation process regarding proposals to reconfigure services and to carefully consider responses before reaching any decision regarding reconfiguration of care services.

The consultation process should be in line with criteria laid out in R v Brent LBC Ex parte Gunning [1985] and endorsed by the Supreme Court in R (Moseley) v Haringey LBC [2014].

The criteria are:

1. The duty to act fairly.
2. The requirement of fairness is linked to the purpose of the consultation.
3. The features of the consultees are relevant in deciding the degree of specificity required in the information provided.
4. Where the proposals involve the denial of a benefit, fairness demands will be higher.

5. Where there are no statutory restrictions on the content of the consultation, fairness may require that interested stakeholders be consulted on preferred option and also rejected options. Consultation in this case will be non-statutory.

Article 8 of the Human Rights Act 1998 - right to a private and family life, may be engaged. Following completion of the consultation, the council will need to ensure the needs of residents have been properly assessed and individual service user reviews in line with the Care Act 2014 will be carried out.

The council must comply with its Public Sector Equality Duty in section 149 Equality Act 2010. An Equality Impact Assessment (EIA) of the proposed options is advisable. The Council when exercising its functions must have "due regard to the need to":

- (a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Section 149(7) sets out 7 protected characteristics namely: age, disability, gender reassignment; pregnancy and maternity, race, religion or belief, sex or sexual orientation. It follows that age and disability will be most relevant in taking decisions about the future of the Council's care homes and an EIA will show how the proposals impact on people.

4 Consultation

This report seeks approval to enter into a formal consultation process.

5 Engagement

Following formal consultation, all stakeholders will be engaged in delivery of changes as appropriate.

6 Next steps and timelines

- 6.1 Subject to Cabinet approval, a formal consultation process will take place from October to December 2023 and the results of this exercise will be brought back to Cabinet in early 2024 for final decision.

7 Officer recommendations and reasons

- 7.1 To approve this report and delegate authority to the Service Director Learning Disability and Mental Health to agree the scope and terms of the 12 week consultation and to commence the consultation process relating to the proposed closure of castle Grange and Claremont House dementia residential care homes and report back to Cabinet on the outcome of this.
- 7.2 To approve the recommendation to cease further admissions to the establishments, until the formal consultation process is complete and Cabinet have made a decision on the back of the proposals following consultation.

7.3 To receive a further report at the January Cabinet meeting reporting back the findings of the consultations and for final decision.

8 Cabinet Portfolio Holder's recommendations

Local Authorities are chronically underfunded and none more so than Kirklees Council. The Institute of Fiscal Studies, 15th August 2023 estimates that Kirklees gets £69 per person less than the national average. If we assume that there are circ. 438,000 people who live in Kirklees that leaves us approximately £30m per year short compared to average. The current government has failed for years to address the need for a Fair Funding solution, and this has led to the significant financial challenge that the council now faces. The need to produce a balanced budget in February requires us to look at all options.

In addition, Adult Social Care is chronically underfunded, the reasons include growing demand, increased complexity of care needs and increases in the cost of care. The government has failed to address this lack of funding and even when comparatively small amounts of additional funding are made available, they have been insufficient to bridge the gap and are often short-term for specific issues e.g., discharge from hospital.

Therefore, it is important we concentrate our service offer on those services that we as a council believe are essential for us to provide, bearing in mind the choice available by other providers.

In this case we can see that even if both Care Homes were full, they would still cost the Council significantly more than it would for us to provide funding for these residents in the Independent Sector. Therefore, whilst it is a very difficult decision there is no choice in this challenging financial environment but to approve this report to allow officers to enter a formal consultation process and this to be reported back to Cabinet by January 2024 for final decision.

9 Contact Officer

Saf Bhuta, Head of In-House Provision, Adult Services.

10 Background Papers and History of Decisions

None.

11 Service Director Responsible

Michelle Cross, Service Director, Learning Disability and Mental Health.

This page is intentionally left blank



Name of meeting: Cabinet

Date: 26 September 2023

Title of report: Review the offer of council in-house supported living provision

Purpose of report: To seek Cabinet approval to review the offer of council in-house supported living services in line with current market conditions

<p>Key Decision – A key decision is an executive decision to be made by Cabinet which is likely to result in Council spending or saving £500k or more per annum, or to have a significant positive or negative effect on communities living or working in an area compromising two or more electoral wards. Decisions having a particularly significant effect on a single ward may also be treated as if they were key decisions.</p>	<p>Yes</p> <p>If yes give the reason why</p> <p>Affecting more than 2 wards</p>
<p>Key Decision - Is it in the <u>Council’s Forward Plan (key decisions and private reports)?</u></p>	<p>Key Decision – Yes</p> <p>Private Report/Private Appendix –No</p>
<p>The Decision - Is it eligible for call in by Scrutiny?</p>	<p>Yes</p>
<p>Date signed off by <u>Strategic Director</u> & name</p> <p>Is it also signed off by the Service Director for Finance?</p> <p>Is it also signed off by the Service Director for Legal Governance and Commissioning?</p>	<p>Richard Parry on 15 September 2023.</p> <p>Isabel Brittain on 15 September 2023.</p> <p>Julie Muscroft on 15 September 2023.</p>
<p>Cabinet member portfolio</p>	<p>Cllr Ramsay – Health and Social Care</p>

Electoral wards affected: Heckmondwike, Mirfield, Cleckheaton

Ward councillors consulted: Cllr V Kendrick, Cllr S Hall, Cllr A Butt, Cllr M Bolt, Cllr V Lees-Hamilton, Cllr I Ali, Cllr J Lawton, Cllr A Pinnock, Cllr K Pinnock

Public or private: Public

Has GDPR been considered? Yes

1. Summary

1.1 This report seeks approval to explore the role and ongoing viability of the Council as a provider of Supported Living care and support services. Supported Living is accommodation where people hold a tenancy or similar with a care provider providing on site care and support as people cannot live independently. It is similar to but not the same as residential care. The scale is much smaller with the accommodation typically supporting up to 8 people. Individuals are responsible for their living costs such as food and utilities (unlike residential care). The Council is proposing to review the arrangements at the properties listed below in line with the wider commissioning framework for Learning Disabilities Supported Living

- Brighton Court, Heckmondwike
- The Mews, Mirfield
- Wilton Terrace, Cleckheaton

1.2 In the case of The Mews, Mirfield, the landlord of the property has given notice to the Council that they no longer wish to let the building and, instead, to take possession back.

In the case of Brighton Court and Wilton Terrace, there have been a number of alternative service options develop since these services opened which would meet the needs of current residents.

1.3 This proposal will involve re-assessing tenants' needs in order to provide suitable alternative accommodation and support services. This is likely to mean that people, over the course of time, move into different accommodation that will also have support available to meet their needs.

1.4 It will also involve consulting with staff and unions around the proposed changes to the services affected.

1.5 Additionally, it will include the need to liaise with the owners of these properties, which are not council owned, and with the specialist accommodation providers that lease these properties from the property owners.

1.6 We also know that there are a number of individuals whose needs we cannot meet locally at present but whose needs could be met through repurposing Brighton Court and Wilton Terrace so that it could accommodate them rather than in out of area placements.

2 Information required to take a decision

2.1 Brighton Court in Heckmondwike has 6 flats of which 5 are currently occupied, The Mews in Mirfield has 7 flats of which 5 are currently occupied and Wilton Terrace in Cleckheaton has 6 flats of which all 6 are currently occupied. This represents an average occupancy rate of 84% (as at 01/08/2023). All of these properties are owned by other organisations rather than the Council.

2.2 There are currently approximately 37 staff (equating to 31.108 FTEs) staff providing support across all three properties, primarily grade 5 support workers. (see affected staff numbers / grades below).

The Mews/Wilton Terrace/Brighton Court Staffing			
Job Role	Grade	Number of Staff	FTE
Registered Manager	11	2	2
Deputy Manager	9	5	5
Support Worker (Days)	5	20	18.002
Support Worker (Night)	5	9	5.106
Business Support	5	1	1

- 2.3 The net revenue budgets for 2023-24 for the council to provide support for all these tenants is £1,146,409 which is primarily staff related costs.
- 2.4 Phase 1 of this proposal is deliverable during 2024/25 and is based on the Council exiting from being the provider of care and support at The Mews, as a response to the property owners request following expiry of the lease. This would involve joint working with assessors to reassess/reaccommodate existing tenants into suitable alternatives and maximising available capacity across remaining in-house provision across Brighton Court and Wilton Terrace. Exiting as the service provider from The Mews eliminates the current tenancy risk associated with the setting, mitigates the cost of existing voids and releases staffing revenue costs, with alternative provision delivering a net saving of £200k in 2024/25.
- 2.5 Phase 2 of this proposal is anticipated to be deliverable as a saving during 2025/26 and is sequential to Phase 1. This phase involves reassessment/reaccommodating of service users at Wilton Terrace into alternative and more appropriate settings with a view to using the flats at Wilton Terrace to accommodate more complex, high cost, out of area placements. It is anticipated that this will create a net saving on the placement budget of £252k.
- 2.6 This provides cumulative savings of £452k in respect of this proposal.
- 2.7 Expected impact / outcomes, benefits & risks (how they will be managed)
- **Impact** – the stage 1 Integrated Impact Assessment shows this will have a negative affect on the tenants and on staff. (see published IIA).
 - **Benefits** – the benefits to this proposal are both financial and also support the intention to bring back people that have been placed out of area in line with the wider commissioning framework for learning disabilities specialist accommodation.
 - **Risks** – reputational risk of moving vulnerable tenants.

3 Implications for the Council

3.1 Working with People

All relevant stakeholders will be consulted as part of the formal non-statutory consultation process.

3.2 Working with Partners

We will collaborate with all relevant partners to ensure the best outcomes possible for all concerned.

3.3 Place Based Working

These establishments support tenants from the whole of the Kirklees community.

3.4 Climate Change and Air Quality

No impact.

3.5 Improving outcomes for children

No impact.

3.6 Financial Implications for the people living or working in Kirklees

None.

3.7 Other (eg Integrated Impact Assessment/Legal/Financial or Human Resources)

There will be HR implications from these changes and staff and trade unions will be consulted in accordance with the usual procedures.

The Care Act 2014 imposes a general duty on local authorities to promote an individual's well-being (section 1 Care Act 2014).

Section 2 of the Care Act 2014 imposes a general duty to provide or arrange services to reduce ,prevent or delay the development of needs

Local authorities had a duty to provide residential accommodation for adults who were in need of care and attention not otherwise available to them under section 21 of the National Assistance Act 1948. This was repealed and replaced by a duty to meet needs for care and support (section 18 Care Act 2014). Section 19 of the Care Act 2014 gives a local authority the power to meet needs for care and support, where it is not under a duty to do so. Unlike the National Assistance Act 1948, the Care Act 2014 does not specify separate duties for the provision of residential and non-residential care. Section 8 of the Care Act instead gives examples of the different ways that a local authority may meet needs under section 18, and the list includes "accommodation in a care home or premises of some other type "(s8(1)(a)), or "care and support at home or in the community" (s.8(1)(b)).

An assessment of needs must be carried out where it appears to the local authority that a person may have needs for care and support. The assessment must identify whether the adult has any needs for care and support. If there are, the assessment must state what those needs are. (Section 9(1), Care Act 2014.) A Local authority must also assess any carer (current or prospective) where it appears they may have need for support. Section 10(1) Care Act 2014.

After assessing what the needs of an adult or carer are, a Local Authority must consider whether the needs meet the eligibility criteria for a provision or service (section 13(1), Care Act 2014). The criteria does not specify the types of care and support that a Local Authority must provide to meet eligible needs. Prior to any individual moving accommodation, their needs assessment and care and support plan should be reviewed. In offering alternative

accommodation the Local Authority should have regard to the Care and Support and After-care (Choice of Accommodation) Regulations 2014.

The council has a market shaping duty under section 5 of the Care Act 2014 and must exercise its duties in accordance with the Department of Health Care and Support Statutory guidance (updated June 2023).

The Council also has responsibilities under the Care and Support (Ordinary Residence) (specified Accommodation) Regulations SI 2014/2828 which specifies supported living accommodation (reg 5) whereby if an individual's needs can only be met in supported living accommodation, the council where the individual is ordinarily resident immediately before being placed is responsible (section 39 Care Act 2014).

The Council will also comply with all relevant mental health legislation, amongst other things , in relation to capacity issues.

The Council is required to carry out a non-statutory consultation process regarding proposals to reconfigure services and to carefully consider responses before reaching any decision regarding reconfiguration of care services. The consultation process should be done at a formative stage in line with criteria laid out in R v Brent LBC Ex parte Gunning [1985] and endorsed by the Supreme Court in R (Moseley) v Haringey LBC [2014].

The criteria are:

1. The duty to act fairly.
2. The requirement of fairness is linked to the purpose of the Consultation, and sufficient reasons given so that the proposals enable an intelligent response.
3. The features of the consultees are relevant in deciding the degree of specificity required in the information provided.
4. Where the proposals involve the denial of a benefit, fairness demands will be higher.
5. Where there are no statutory restrictions on the content of the consultation, fairness may require that interested stakeholders be consulted on preferred option and also rejected options. Consultation in this case will be non-statutory.

Article 8 of the Human Rights Act 1998 - right to a private and family life, may be engaged. Following completion of the consultation, the council will need to ensure the needs of residents have been properly assessed and individual service user reviews in line with the Care Act 2014 will be carried out.

The council must comply with its Public Sector Equality Duty in section 149 Equality Act 2010. An Equality Impact Assessment (EIA) of the proposed options is advisable. The Council when exercising its functions must have "due regard to the need to":

- (a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. Section 149(7) sets out 7 protected characteristics namely: age, disability, gender reassignment; pregnancy and maternity, race, religion or belief, sex or sexual orientation. It follows that age and disability will be most relevant in taking decisions about the future of the Council's care homes and an EIA will show how the proposals impact on people.

4 Consultation

- 4.1 All relevant stakeholders will be consulted if this report is approved.

5 Engagement

- 5.1 Following formal consultation, all stakeholders will be engaged in delivery of changes as appropriate.

6 Next steps and timelines

- 6.1 Cabinet is asked to note the proposed implementation of Phase 1 (see 2.4 above) and Phase 2 (see 2.5 above).
- 6.2 Subject to Cabinet approval, a formal consultation process will take place from October to December 2023 and the results of this exercise will be brought back to Cabinet in January 2024 for final decision following which any approved service changes as set out in Phase 1 and Phase 2 will be implemented.

7 Officer recommendations and reasons

- 7.1 To approve this report and delegate to the Strategic Director for Adults and Health [in consultation with the relevant Portfolio Holder] the authority to design the consultation and to enter into a formal [12 weeks] consultation process about supported living care and support services and consultees feedback on this to be reported back to Cabinet by January 2024 for final decision on implementing potential service changes as set out in phase 1 and phase 2 and explained at paragraph 2.4 and 2.5 of this report .
- 7.2 The consultation and any subsequent changes will enable the council to deal with notice being given on The Mews and to make the most efficient use of the range of supporting living capacity to meet needs and deliver financial efficiencies.

8 Cabinet Portfolio Holder's recommendations

- 8.1 The inability to renew the lease for The Mews has provided the impetus for the service to reassess the needs of tenants within these three properties and for individuals in out of area placements, with a view to ensuring our 2 remaining properties are fit for purpose, fully utilised and that individuals are supported in the most appropriate manner.

To approve this report to allow officers to enter a formal consultation process and this to be reported back to Cabinet by January 2024 for final decision.

9 Contact officer

Saf Bhuta, Head of In-House provision, Adult Services.

10 Background Papers and History of Decisions

None.

11 Service Director responsible

Michelle Cross, Service Director, Learning Disabilities, Mental Health and Provider Services

This page is intentionally left blank



Name of Meeting: Cabinet

Date: 26th September 2023

Title of report: Redesign of short break, respite and support provision

Purpose of report: To seek cabinet approval to commence consultation on the redesign and reconfiguration of the short breaks, respite and support services for disabled children, young people and their families in Kirklees.

Key Decision - Is it likely to result in spending or saving £500k or more, or to have a significant effect on two or more electoral wards? Decisions having a particularly significant effect on a single ward may also be treated as if they were key decisions.	Yes.
Key Decision - Is it in the <u>Local Authority's Forward Plan (key decisions and private reports)</u>?	Key Decision – Yes Private Report/ Appendix – No
The Decision - Is it eligible for call in by Scrutiny?	Yes
Date signed off by <u>Strategic Director</u> & name	Tom Brailsford, Strategic Director – Children and Families, 14 th September 2023
Is it also signed off by the Service Director for Finance?	Isabel Brittain, 18.09.2023
Is it also signed off by the Service Director for Legal Governance and Commissioning?	Julie Muscroft, 18.09.2023
Cabinet member <u>portfolio</u>	Give name of Portfolio Holder/s Cllr V Kendrick, Children' Services Cllr E Reynolds, Learning & Aspiration

Electoral wards affected: All wards

Ward Local Councillors consulted: If approved, Ward Local Councillors will be consulted as part of the proposed process.

Public or private: Public

Has GDPR been considered? GDPR has been considered and upon review no personally identifiable information has been included in this report.

1. Summary

It is a Kirklees council priority to provide the best possible outcomes for all children, young people and families, especially our most vulnerable with Special Educational Needs and Disabilities (SEND). Kirklees invests in a range of services that support children and young people and families with additional needs.

We currently offer a range of services which provide short breaks, activities and overnight respite for our children and young people and their families and carers. The majority of this provision is currently delivered from fixed buildings across Kirklees.

Throughout the COVID 19 Pandemic, alternative delivery models for all respite, short break and activity provision were put in place due to the restrictions and as a result were delivered in the community close to where children, young people and their families lived, in a more flexible and individually tailored way. Post Pandemic this has resulted in a number of families changing the way they wish to receive respite, short break and activity provision.

To ensure we are offering a flexible and fit for purpose provision that meets needs and achieves improved outcomes for children and families with additional needs, it is proposed to formally consult on what this might look like and how it could be delivered. A new delivery model will ensure we continue to prioritise the most vulnerable children and young people in Kirklees.

The consultation will be in relation to redesigning existing provision (including short breaks, respite and activities) based on what families have told us to provide a greater level of flexible integrated, local provision. This delivery model is in line with our corporate approach towards a place-based delivery of services, and the need for a consultation in relation to a more flexible integrated service offer had been identified prior to the current financial challenges. However, integrating services as proposed in the consultation would be expected to achieve efficiency savings of approximately £400,000.

Consideration for cabinet approval is requested to undertake a consultation to seek a wider view of the proposals from key stakeholders to inform options for service redesign. Stakeholders will include children and young people, parents and carers, staff working in internal services and across partnerships, ward members, wider community stakeholders and other interested parties.

2. Information required to take a decision

The range of services for children and young people with disabilities and their families includes an Early Support and Inclusion team, a Children with Disabilities Social Work Service, a dedicated Young Peoples Activity Team (YPAT), and a specialised fixed building-based respite and short breaks provision for children and young people whose needs are more complex (Orchard View).

Our [local offer](#) highlights services that are available to families of children with disabilities in Kirklees and provides information on how to access additional support to meet needs. Families can request additional support directly or via other professionals such as school and health.

Many families access our Early Support and Inclusion Team. They are supported to engage with early help assessments which identify needs and strengths and develop a plan to coordinate the best support for them. The team tailor work for specific needs of disabled children and young people which includes techniques, information, advice and guidance to help them to manage particular complexities, as well as delivering group work and nurturing parenting courses for parent/carers of children with SEND.

Whilst many families are happy with this level of support, some prefer or need access to a statutory Social Care assessment which may result in provision of additional services as Children in Need. This means the family have access to a social worker and the needs of these families are discussed at our multiagency resource panel which helps guide the package of support for each family.

The outcome of these assessments would normally lead to families accessing support services provided by the local authority, which include activities, short breaks and respite. However, where these do not meet need or there is limited capacity, it may be that families are supported to access funding for alternative activities or breaks with community providers.

YPAT is a fixed-location service based in Ravensthorpe that supports disabled children and young people aged 5 to 18 with profound and complex needs to take short breaks. This includes running after school clubs, weekend clubs, and play schemes which run in school holidays. However, there have been issues with the suitability of the building for a number of years.

Orchard View is an 8-bed home situated in Mirfield, close to YPAT, that provides short breaks and respite for children for young people with disabilities between the ages of 7 to 17. Children and young people stay up to 10 nights per month, but usually around 2 or 3 nights. Families are invited to request access to the provision at times that meet their needs, but due to demand this is not always possible.

In October 2022, Cabinet approved a proposal to commission the purchase and development of another YPAT building in Ravensthorpe. Approvals were based on support for the specialised services that the building would provide which would improve the lives of children and young people with disabilities and their families. The nature of the activities for children and young people largely overlaps with those of Orchard View and YPAT. To date the development of this building has not commenced.

Many families find these provisions offer the support and outcomes that they need. However, other families have found that the support available does not meet their needs or is not available when they need it. This is often due to the services not being near to where they live. One example is where a family might be assessed to benefit from accessing an after-school club, but driving to where the service is based at that time of the day from where they live makes this difficult or not worthwhile. Another

example is a family that might require a few days respite provided by Orchard View, however the home is already at capacity at the time that they need it.

During the COVID-19 pandemic, services responded creatively to ensure continued access to services, which included alternative delivery models. Staff from across services worked in an outreach manner to enable and support activities, breaks and respite services within family's local areas. This was often using other buildings such as schools and community centres. This flexible and individually tailored approach of delivering services would be preferred by many families in Kirklees.

When existing provisions do not meet need of families, or are not available due to capacity, the resource panel works creatively to create packages of support which may be delivered by early support, social care or partnership agencies. However, due to how staff are currently assigned to specific service areas or locations, this often means paying for external options which can cost the Local Authority more. Also, this approach does not support families to develop stronger relationships near where they live. Our early support, social care, Orchard View and YPAT services benefit from staff with significant experience and skill working with this vulnerable cohort of children and young people. However, the current delivery model means staff and services are generally fixed-location based which restricts the access of families to specialised support depending on where they live.

We are seeking to integrate existing services to be more flexible and responsive to the individual needs of families, using a wider range of community facilities and buildings, would benefit individual families living across Kirklees. It is suggested that the 4 services that currently operate to meet the needs of children and families with SEND (early support and inclusion, social care, YPAT and Orchard View) are brought together into an integrated offer across universal, targeted and specialist support. This support could be better provided where families live, improving service intelligence about our local offer, and improving the life outcomes for our children.

We intend to consult with parents/carers, partners, stakeholders on our proposed plan.

3. Implications for the Local Authority

Working with People

The local authority intends to undertake a 6-week consultation process to ensure that a wide range of stakeholders can express their views. Officers would work closely with families and with staff ensuring they are aware of the proposals at the earliest opportunity and would advise how they could participate in the consultation process.

Working with Partners

One of the expected outcomes of a consultation is better integration with partners to meet the needs of children and young people in Kirklees. Partners include schools, community centres and other local providers. These partners would be identified by consultation with young people and their families. It is particularly important to identify and include partners across the region of Kirklees in all the areas where children and families live.

Place Based Working

A key priority of the proposed consultation is to inform the redesign of services to ensure families have access to a range of support services for their children and young people near where they live. This is in line with our corporate approach for place-based working.

Climate Change and Air Quality

Should the consultation lead to a delivery model that means families can access support nearer to where they live, this will result in shorter journeys for families, and in turn reduced emissions, positively affecting air quality and climate change.

Improving outcomes for children

The best outcome for our children is receiving the right support at the right time in the right place. It is suggested that providing tailored services nearer to where families live would make meet needs better for a wider range of families across Kirklees. Better integration of services provides opportunities to share the skills of staff and ensure consistency of relationships with children and families.

Financial Implications for the people living or working in Kirklees

It is suggested that in addition to service provision nearer to where families live, that integration will lead to targeted efficiencies which is critical in the current financial environment.

The proposed consultation suggests that integrating services should contribute to better outcomes for children and families. Additionally, integration of services including staffing and premises provides the opportunity for efficiencies, and in turn positive financial implications for the people living and working in Kirklees. Integration of the services highlighted in this report following consultation aims to achieve efficiency savings of approximately £400k.

Providing a range of support options nearer where children and families live also has potential for making a positive difference to the transport costs for individual families of children with disabilities currently accessing services from a fixed base away from their home area.

3 Consultation

This report is to request a consultation over the redesign and reconfiguration of the short breaks, respite and support services for disabled children, young people and their families. A consultation plan will be developed to include a wide range of stakeholders that will include children and young people, PCAN, staff, ward members and providers

4 Engagement

The proposal outlined is regarding the engagement of a group of stakeholders to support the consultation of support provision for children with disabilities. To ensure engagement with children and young people is appropriate and developmentally appropriate, officers will be supported by our children's engagement and voice teams who will provide support, guidance and delivery. The findings will be analysed and used to inform proposals that will be brought back to cabinet for a decision.

The consultation includes an aim to achieve integration of services, leading to efficiencies of approximately £400k. Where savings are likely to affect staff working within service areas, appropriate staff, HR and union engagement processes will be progressed concurrently to the consultation on service redesign. These processes may involve additional costs.

5 Next steps and timelines

Subject to cabinet approval, it is proposed that the next steps are to trigger a 6-week consultation. Following consultation, it is proposed that an outcomes and options report should be presented for consideration by Cabinet.

Any proposed re-design will include an Integrated Impact Assessment (IIA). A draft IIA has been completed for the purposes of this proposal, to be updated in line with the initiation of the consultation. The IIA looks at that the nine protected characteristics groups under the Equality Act 2010 and additional diversity characteristics. In addition to disability, these also crucially include gender, race, and religion. It is essential that any redesign would not disproportionately affect any children, young people or their families based on these characteristics.

6 Officer recommendations and reasons

The recommendation is to proceed with a timely consultation process with key stakeholders to establish options to design the optimal service for children and young people across the geographic region of Kirklees. Specifically, it is suggested that the consultation considers a change of service delivery direction from the previously approved model of resource focussed in one fixed location towards an integrated, place-based and partnership-delivered approach.

In order to do this Cabinet are asked to delegate authority to the Strategic Director for Children's Services in consultation with the Portfolio Holder for Children's Services to finalise plans for consultation about the redesign and reconfiguration of the short breaks, respite and support services for disabled children, young people and their families and to carry out the consultation in order to report back to Cabinet.

The consultation will enable feedback from consultees to inform a future decision by Cabinet to facilitate improved outcomes for service users as well as leading to efficiency savings.

Subject to decisions made by Cabinet, an indicative timeline for the next stages of the statutory process is set out below:

Activity	Date * These dates are indicative and may change; they are also subject to Cabinet approval.
Consultation and engagement	October 2023 to November 2023
Outcome and options report to SLT/ET and subsequently to cabinet to seek approval for proposed redesign.	December 2023
Kirklees Local Authority Cabinet take a final decision regarding the proposals.	December 2023
Implementation would begin	January 2024

7 Cabinet Portfolio Holder’s recommendations

The cabinet portfolio holders are aware of the proposal and invite the request for consultation to be considered by cabinet. We await further recommendations following consultation.

Contact officer

Dr Kieran Lord, Service Director – Resources, Improvement and Partnerships

Tel: 01484 221000

Email: Kieran.Lord@Kirklees.gov.uk

8 Background Papers and History of Decisions

Respite and Short Breaks Key Decision Notice submitted on 17th August 2023 for cabinet on 26th September 2023.

9 Service Director responsible

Dr Kieran Lord, Service Director – Resources, Improvement and Partnerships

This page is intentionally left blank



Name of meeting: Cabinet

Date: 26 September 2023

Title of report: Tenant Safety in Council Housing

Purpose of report: To update on the situation with tenant safety in council housing

<p>Key Decision - Is it likely to result in spending or saving £500k or more, or to have a significant effect on two or more electoral wards? Decisions having a particularly significant effect on a single ward may also be treated as if they were key decisions.</p>	<p>Not Applicable If yes give the reason why</p>
<p>Key Decision - Is it in the <u>Council's Forward Plan (key decisions and private reports)?</u></p>	<p>Key Decision – No Private Report/Private Appendix – No</p>
<p>The Decision - Is it eligible for call in by Scrutiny?</p>	<p>Not Applicable If no give the reason why not</p>
<p>Date signed off by <u>Strategic Director</u> & name</p> <p>Is it also signed off by the Service Director for Finance?</p> <p>Is it also signed off by the Service Director for Legal Governance and Commissioning?</p>	<p>David Shepherd, Strategic Director Growth and Regeneration 26 July 2023</p> <p>Isabel Brittain, Service Director Finance 14 September 2023</p> <p>Julie Muscroft, Director Legal, Governance and Commissioning 11 September 2023</p>
<p>Cabinet member http://www.kirklees.gov.uk/you-kmc/kmc-howcouncilworks/cabinet/cabinet.asp</p>	<p>Councillor Masood Ahmed, Housing and Democracy</p>

Electoral wards affected: All

Ward councillors consulted: None

Public or private: Public

Has GDPR been considered? There are no GDPR implications arising from the report.

1. Summary

- 1.1 Tenant Safety is a Portfolio Holder and service priority. This report provides an update and information on activity relating to the 'big 6' areas of building safety, fire, asbestos, water, gas, electrical, lifts, particularly fire where there has been, and continues to be, considerable focus.
- 1.2 In June 2021 the council referred itself to the Regulator of Social Housing in relation to fire safety matters at high-rise blocks. Since then, officers have focused on delivering programmes of fire safety works, inspections and re-inspections and developing longer term refurbishment and regeneration plans for these buildings. Regular contact is maintained with the Regulator and updates are provided on progress and issues.
- 1.3 Under the Building Safety Act higher-risk buildings are classified as those of 18m or 7 storeys or more. The council has four such buildings, Harold Wilson Court, Buxton House, Holme Park Court and Bishops Court. Higher risk buildings are subject to greater requirements under the Act at present. It is expected that the provisions under the Act for higher-risk buildings will eventually be extended to other multi-storey buildings and the approach to carrying out remedial works and implementing systems for safety and control is being applied now to accommodate the possibility of this change.
- 1.4 High-rise buildings have been a priority for larger scale remedial works, and the plans for remedial schemes to 6-storey blocks, Retirement Living Schemes and low-rise blocks are now being developed. These plans encompass structural, mechanical and electrical, and condition issues in addition to fire safety.

2. Information required to take a decision

2.1 Resident Involvement

- 2.1.1 The Tenant Involvement and Empowerment Standard sits within the Regulator of Social Housing's Consumer Standards and plays a key part in the Building Safety Act 2022 and the Social Housing (Regulation) Act 2023. These regulations set out requirements for engagement with residents on matters relating to fire and wider building safety matters.
- 2.1.2 The Fire Safety Resident Engagement Team (FSRE) were recruited to deliver the Fire Safety Engagement Framework. This dedicated team works closely with Building Safety and Neighbourhood teams to engage with tenants and leaseholders. The team takes a central role in the development, co-ordination and delivery of fire safety actions including communication with residents living in high-risk residential buildings.
- 2.1.3 The team monitor and report against three performance indicators and one key performance indicator. Data is captured through planned activities and day to day engagement with tenants. The table below describes quarter 4 performance for 2022/23.

Measure	Performance (Qtr 4)
---------	---------------------

Satisfaction with ability to raise concern on fire safety	89%
Tenants understanding of their fire safety responsibilities	100%
Tenant knowledge of fire safety improved following engagement	100%
Tenants satisfied they understand how the Council is keeping them safe in their home in relation to fire safety	100% (KPI)

The Tenant Satisfaction Measures set out in the Consumer Standards include a question relating to tenant satisfaction with the safety of their home and in future this will be monitored and reported against instead of the current KPI.

2.1.4 Homes and Neighbourhoods Fire Safety Resident Engagement Framework is an integral part of the Fire Safety Management Plan. The Framework commits the council to:

- Have a range of methods in place to allow tenants and residents to get involved in a way and at a level that suits them.
- Encourage and develop a wider range of innovative, less formal approaches to encourage more people to play their part in fire safety.
- Have arrangements in place to consult and involve tenants and residents who are not involved in formally recognised groups, and
- Make a special effort to reach those tenants and residents who do not normally get involved

2.1.5 The approach to engaging and communicating with residents around fire safety supports the recommendations in the Building Safety Engagement Best Practice Report, released in March 2021. This independent report commissioned by Government included recommendations for good practice when engaging with residents on fire and building safety issues. The four recommendations in the report are underpinned by the following principles:

- Building trust with residents
- Providing a clear explanation of why access is needed
- Using effective communication methods
- Delivering the service well
- Understanding and mitigating any factors impacting on the resident
- Using a personalised approach

2.1.7 The approach to delivering the Fire Safety Engagement Framework is also aligned with the objectives set out in the H&N 'Get Involved' Tenant Involvement Strategy. This strategy is being reviewed but currently states that the council will:

- Listen to what tenants are telling us
- Put in place the right support for tenants so they feel empowered to engage effectively
- Ensure all tenants have a strong voice and can influence key decisions

- Make sure engagement is planned, monitored and measurable with clear outcomes
- Use a wide and flexible range of involvement tools and opportunities to promote fairness and inclusion, recognising that one size does not fit all
- Create opportunities for projects to be delivered that utilise the strengths of our tenants and enable individuals to do more for themselves and each other
- Give clear feedback on how the council has acted upon what tenants tell them and what difference their contribution has made

2.1.8 The work also complements key principles that inform H&N's journey towards service excellence namely that, 'the experience of the tenant come first' and 'contact with tenants is always an opportunity for feedback'.

2.1.9 The FSRE Team carry out Person Centred Fire Risk assessments (PCFRAs) to help identify residents who are at higher risk, from fire in their home or their ability to evacuate in the event of fire. This could be related to how they use their home or their ability to respond to a fire alarm. Where a PCFRA is carried out and specific needs are identified, actions are put in place to eliminate, reduce and manage risks. This ranges from providing specialist evacuation alert equipment to working over a longer period with residents to declutter and remove items from homes where hoarding is an issue. Many tenants who the team work with on hoarding, enter into voluntary agreements to allow regular inspections of their homes to help reduce the likelihood of a build-up of possessions becoming an issue again.

2.1.10 The Tenant Advisory and Grants Panel ensures the voice of tenants and leaseholders is heard and influences the development and delivery of council housing services. The Panel monitors how well the council delivers on the Consumer Standards for Social Housing, receives regular updates and reports on fire and building safety and contribute to and advise on the development of policy and procedure.

2.2 High-rise buildings – fire safety remedial works and risk management

2.2.1 The delivery of remedial works at high-rise buildings is well progressed and there are a number of risk management and mitigation measures in place. Berry Brow flats are due for demolition and site redevelopment and Buxton House is due to be remodelled and refurbished in future years. Refurbishment works to address fire safety issues are due to start at Harold Wilson Court at the end of July.

2.2.2 At Berry Brow flats (Bishops Court and Holme Park Court) the following remedial works are in progress or have been completed:

- Fire rated flat entrance doors are fully installed at Holme Park Court and there are 2 outstanding architrave installations in Holme Park Court due to a lack of access.
- Part 6 fire detection systems have been installed to most flats, there are 2 installations outstanding at Holme Park Court and 5 in Bishops Court due to a lack of access.

- Communal fire door installation is virtually complete, with 4 doors in Bishops Court requiring renewal due to damage caused prior to handover. There are 6 doors awaiting handover where additional information is required from manufacturers to enable sign-off.
- Adaptations have been carried out to the Part 1 (communal) fire alarm system in both buildings.
- 1 Automatic Opening Vent (AOV) has been installed at Holme Park Court. There are 15 AOVs to install at Holme Park Court and 16 at Bishops Court. There has been a serious delay with this work because of a contractual negotiation around a payment claim. That issue was resolved in March and at that time the contractor put forward a programme for completion in a 9-week period. Work has not recommenced on site because of sub-contractor issues which the contractor has not yet resolved. Council officers have provided information and support to try and resolve this matter, but it is ultimately the responsibility of the contractor. The contractor has now indicated that they expect a start on site date in December 2023. Officers are speaking with the contractor on a weekly basis to push for this date to be brought forward.

2.2.3 The procurement process for a design team for Berry Brow flats is complete with Frank Shaw Associates the preferred bidder, their appointment has been agreed by the Strategic Director of Growth and Regeneration under delegated powers. The design team are now developing options for the site with a view to submitting a detailed planning application by the end of 2023.

2.2.4 Decanting of Berry Brow is ongoing and there are currently 54 properties of 98 that are void in Bishops Court and 32 of 96 are void in Holme Park Court. Residents with Person Centred Fire Risk Assessments (PCFRAs) have been prioritised as part of the decanting plan with 1 remaining resident in Bishops Court with a PCFRA in place, this tenant has a current offer of an alternate property and is due to move in the near future. Berry Brow provides temporary accommodation for Housing Solutions and vacant flats in the building will be used to provide short term support for increased pressure in this area. In 2023, up to twenty units will be provided for temporary accommodation and following a review of the success of this approach, up to a further 40 could be brought into use in 2024. The provision of temporary accommodation runs concurrently with the decant programme. Measures are in place to manage empty flats with letterboxes closed off, water systems decommissioned and the waking watch providing additional checks on empty properties.

2.2.5 At Buxton House the following remedial works have been completed:

- Fire rated flat entrance doors have been installed to all but one flat, where the leaseholder has not responded to contact.
- Communal fire door installation is complete.
- 2 AOVs require installation and the units have been designed and are on order.
- Part 6 alarm systems have been installed in all but one flat, where the leaseholder has not responded to contact.

- 2.2.6 Concept design proposals (RIBA Stage 2) for Buxton House are almost complete. Draft designs for consultation will be presented to the Council Housing Supply Board on 12 July, following which tenant and stakeholder consultation will take place through July and August. The current programme aims to submit a detailed planning application in September 2023. The process of finding suitable alternative accommodation for residents has commenced.
- 2.2.7 At Harold Wilson Court the following remedial works are in progress or have been completed:
- Fire rated flat entrances doors have been installed to all flats.
 - Part 6 fire detection is fully in place.
 - Communal fire door installation is complete.
- 2.2.8 The wider fire safety works at Harold Wilson Court including the replacement of the external wall insulation (EWI) system, installation of sprinklers, new fire alarm and evacuation alert systems started on site at the end of July 2023 and are programmed to take 65 weeks to complete. Resident engagement has been ongoing for the last few months and will continue throughout the works. Decant and respite properties have been put in place to minimise the impact of the works on residents and to enable works to be undertaken efficiently and appropriately.
- 2.2.9 In all cases where fire safety remedial works cannot be undertaken because of access to homes, there is an escalation process in place. This ultimately results in a request to Public Protection for action to be taken under the Environmental Protection Act and a warrant sought for entry.
- 2.2.10 The following risk management measures are in place in all high-rise blocks:
- 24-hour CCTV monitoring and waking watches (2 officers, 12-hour shifts in each building) are in place.
 - All fire safety repairs are assigned as Emergencies with a response time of 3 hours.
 - Emergency lighting.
 - Fire alarm and emergency lighting tests are carried out weekly.
 - Trade button access has been removed from high rise blocks. Access can only be gained via a key or if provided by a resident or concierge.
 - Information has been provided to all residents in high-rise blocks about fire safety measures and their role in keeping their homes and building safe. This information is updated and re-provided as the situation changes.
 - Temporary simultaneous evacuation arrangements are in place until works are completed and risk assessments revisited.
 - Specific arrangements are in place for those residents with a Person-Centred Fire Risk Assessments (PCFRAs).
 - West Yorkshire Fire and Rescue Service have upgraded their response to fire alarms at high rise blocks and bring an additional pump, engine and high ladder to each call.

- Any incidence of fire triggers the undertaking of a new Fire Risk Assessment.
- Legionella Risk Assessments and controls
- All voids are surveyed for asbestos

2.2.11 At Berry Brow the following additional measures are in place:

- Monthly air testing for asbestos is undertaken.
- Monthly water sampling has been introduced as an extra control measure to manage the risk from vacant properties.

2.3 6-storey, low-rise and retirement living schemes blocks – fire safety remedial works

2.3.1 In April 2023 Cabinet agreed a report setting out the revised approach to the procurement and delivery of fire safety remedial works for 6-storey, low-rise and retirement living scheme blocks. Cabinet resolved that:

- approval be given to the direct award of fire remedial works to two 6-storey blocks to Fortem Solutions Ltd.
- approval be given to the packaging and delivery of the remaining ten 6-storey blocks, retirement living schemes and low-rise blocks.
- approval be given to enter into formal engagement with affected residents as set out in section 5 of the considered report.
- authority be delegated to the Strategic Director Growth and Regeneration and the Service Director, Finance to sign off and agree the final costs prior to contract award for the direct award to Fortem Solutions Limited.
- authority be delegated to the Strategic Director Growth and Regeneration in consultation with the Service Director, Legal and Governance to award future tenders for packages, subject to the production of a robust and affordable business case.
- the results of the Stage 1 Integrated Impact Assessment be noted.

2.3.2 The 6-storey blocks have had intrusive and extensive surveys completed and the findings from these have informed recommendations on works to be undertaken, packaging of blocks to reflect risk and to maximise the efficiency of client and contractor management. The packages are currently:

Package 1	Hebden Court Buckden Court
Package 2	Malham Court Burnsall Court Fern Lea Flats
Package 3	Church View house Granby Flats Swan Court
Package 4	Wain Court Fare Hill Flats
Package 5	King Cliffe Flats Fernside Court

- 2.3.3 The packages include mandatory fire safety works for all 12 blocks, highly recommended fire safety and condition works at 10 blocks and recommended condition works at 2 blocks.
- 2.3.4 Package 1 of the 6-storey blocks has been approved for direct award to Fortem Solutions Ltd. Stage 1 design and specification documents have been drawn up by AHR, the council's consultant, and were shared with Fortem Solutions Ltd on 5 July. Fortem Solutions Ltd are now developing proposals for works and costs with their supply chain. Cost proposals are due back from Fortem by the end of July, detailed design and planning is due to complete in October with a start on site expected in January 2024. To ensure value for money, the development of costings for the scheme will be led by AHR. Scheme costs will be developed using an open book approach with Fortem Solutions Limited and their supply chain to obtain realistic costs. These will be cross-referenced and benchmarked with both published industry data and recently completed/ procured schemes for similar works by AHR before being agreed.
- 2.3.5 The remaining ten 6-storey blocks will be competitively tendered in packages. A Design and Build contract will be used to ensure that design and risk liability and management is appropriately apportioned and managed. AHR will remain as client advisors for the duration of the schemes and contractors will need to provide their own specialist design teams. This arrangement will help to ensure the exercise of rigour and due diligence necessary under the Building Safety Act in the design and delivery of works and ensure that the golden thread required to maintain a building safety case is achieved. Package 2 of the 6-storey block is expected to be out to tender by December 2023.
- 2.3.6 Detailed surveys of RLS are being conducted by a multi-disciplinary team led by AHR and will be provided in tranches from August to November 2023. The surveys are being undertaken on the same basis as those for 6-storey blocks and will result in a similar mandatory, highly recommended, recommended breakdown of works to support decisions on scope of work and packaging.
- 2.3.7 The fire safety remedial actions for low-rise blocks are being developed into tender packages for issue in August 2023. These will close off the majority of known FRA actions currently outstanding. Works are expected to start on site at the beginning of 2024/25.
- 2.3.8 The following risk management measures are in place in 6-storey blocks:
- All have part 1 and part 6 fire detection and alarm installations in place.
 - All have Emergency lighting.
 - Daily inspections of the premises are carried out.
 - Fire alarms and emergency lighting are tested weekly.
 - Any incidence of fire triggers the undertaking of a new Fire Risk Assessment.
- 2.3.9 The following risk management measures are in place in Retirement Living Schemes:

- All but one RLS have part 1 and part 6 fire detection and alarm installations in place.
- All have emergency lighting.
- All but one have sprinkler systems in place
- Daily inspections of the premises are carried out.
- Fire alarms and emergency lighting are tested weekly.
- Any incidence of fire triggers the undertaking of a new Fire Risk Assessment.

2.3.10 The following risk management measures are in place in low-rise blocks:

- Part 6 alarms are in place and checked during gas safety visit. If there is no gas in the property, then Part 6 alarms are checked during electrical safety visits. Part 6 alarms are reinstated during these visits where this is necessary or if they are reported as repairs by the resident.
- Fire safety inspections are undertaken on a monthly or weekly basis depending on risk.
- Any incidence of fire triggers the undertaking of a new Fire Risk Assessment

2.4 Other Fire Safety remedial actions

2.4.1 A total of 350 blocks have been identified as requiring changes to bin store configurations for fire safety reasons. These are mainly the creation of new bin stores 6m away from blocks or providing fire safe storage where this is not possible e.g., through a fire rated storage solution. This work is currently overseen by the Partnerships Service with consultation carried out by the Fire Safety Resident Engagement Team. The table below sets out the FRA priority and progress on bin stores:

Priority	Total number of actions	Number of completed actions	Notes
AA	9	9	
A	27	18	5 blocks awaiting start dates 3 blocks at planning stage 1 block excluded from this programme – Buxton House
B	31	1	1 block awaiting start date 29 blocks at advanced planning. The majority of these blocks are at Carr St, Birstall where work is ongoing.
C	10	2	2 blocks awaiting start date 6 blocks at design stage
D	271	26	9 blocks awaiting start date, 6 blocks at design stage and a draft programme has been produced for the remaining 230 blocks

2.4.2 Building safety signage has been reviewed and updated across all high rise and 6 storey blocks and is compliant. Further work is ongoing to make these

notices more accessible/pictorial. As part of the work to implement the new safety in communal areas policy signage is being rolled out across all blocks with a communal entrance.

- 2.4.3 Some high risk fire actions where remedial works overdue are being dealt with separately from the above projects, these include 47 actions in progress and due for completion by the end of August, 3 that need to be added to the bin store programme and 217 for which a programme is being scoped for delivery by Property Services.

2.5 Inspections, servicing and testing of council homes

- 2.5.1 For all the big 6 areas of building safety, there are monthly programmes of inspection and survey in place. Updates on the delivery of these programmes are regularly reported to Building Safety Assurance Board (BSAB) for monitoring and oversight with areas of low-performance and risk highlighted and reviewed.

- 2.5.2 Programmes of surveys and inspections were on target in May and June 2023, apart from:

- 5 yearly domestic electrical testing where 48 properties were outstanding in May and 45 outstanding in June (of which 4 are void), all properties are compliant with the 10-year requirement. Summary details of the duration since the last test and the current status are set out in Appendix 2. Officers work with residents where household circumstances mean a test is not possible and where appropriate seek access under the Environmental Protection Act.
- Annual domestic gas servicing where 45 properties were overdue in May and 18 overdue in June. Summary details of the duration since the last service and the current status are set out in Appendix 2. Officers seek access under the Environmental Protection Act as soon as service dates are passed.
- Communal water hygiene inspection where 13 properties were outstanding in May and 9 were outstanding in June. This is due to contractor performance issues and the Technical Officer Water is working with the contractor to produce a programme for the remainder of the year to bring inspections back on track by August.
- Lift servicing where 6 services were overdue in June. Details of reasons for delay and anticipated completion dates are awaited from the contractor.

- 2.5.3 Remedial works identified through survey and inspections are actioned according to risk with actions taken appropriate to the area of safety affected, as follows:

- Asbestos – asbestos which is in a condition that necessitates additional remedial actions is either removed or encapsulated. Where asbestos is encapsulated, the frequency for re-survey is reviewed to ensure risks are adequately managed dependent on the type of Asbestos, likelihood of disturbance, and any applicable parameters that affect risk level.
- Water – where legionella risk assessments identify remedial actions, these are either ordered immediately or promptly following a visit by the

Technical Officer Water to assess requirements. The risk assessments identify remedials based on risk levels of high, medium, and low. These are managed against SLA requirements identified in the Water Safety Management Plan and in compliance with legislative requirements.

- Electrical – Where Electrical Installation Condition Reports (EICRs) are completed these produce remedials: C1 (Danger Present), C2 (Potentially Dangerous, C3 (Improvement recommended), and FI (Further Investigation required). C1 & C2s present a risk to the safety of residents and are resolved immediately. FI items are investigated immediately and works or risk mitigations put in place immediately. C3 recommendations are dealt with through capital schemes, upgrades and one-off projects; as these present low risks to safety or could potentially require larger investment to improve the performance of the installation.
- Gas servicing – Where remedials are identified during a CP12 Gas Inspection, the risk posed by the requirement will be identified by the Competent Person for Gas Safety and a RAG rating assigned. These could be high risks where a boiler would be isolated immediately or a lower risk action that would be rectified against the identified SLA in the Gas Safety Management Plan and in compliance with legislative requirements.
- Lifts – Remedial actions and risk levels for lifting equipment are identified through monthly or bi-monthly servicing or through 6 monthly LOLER Insurance Inspections. Where further testing is needed to identify remedial issues, requirements or risks this is immediately escalated to the Service Manager Building Safety or the Head of Assets and Development for Safety Assessment Federation (SAFed) testing to be commissioned. Any remedial actions identified or missed services that have implications for the safety of users of lifting equipment are risk assessed by the Service Manager Building Safety and a decision made on whether to take the lift out of service and isolate it. Where this happens, residents are informed and kept up to date about the situation and if the issue will affect their movement around the building, alternative arrangements will be put in place.
- Fire – Where remedial actions are identified through a Fire Risk Assessment or other fire related tasks, risks are assessed as being high, medium and low. Remedial actions and reports are managed by the Technical Officers, Fire Safety with works being undertaken by competent persons to ensure legal compliance and resident safety. Where firefighting equipment, such as fire alarms, dry risers, sprinkler systems are present, they are serviced and maintained through regular maintenance visits by contractors with remedial actions managed by the Technical Officers, Fire Safety and escalations are raised with the Service Manager, Building Safety. Where repairs cannot be completed in a timely manner, risk mitigations are put in place to reduce risks arising and ensure the safety of residents.

2.6 Testing, servicing and inspection in leaseholder homes

2.6.1 Kirklees Council has circa. 1,100 leasehold properties where the council is not responsible for building safety testing, inspection and servicing but is

responsible for ensuring building and tenant safety relating to communal areas and services that may impact on buildings. Prior to the implementation of the Building Safety Act 2022, there was no specific legislation in place requiring a leaseholder, living in their own property, to undertake their own gas and electrical safety checks. There is legislation in place for any leaseholder who has sublet the property to provide gas and electrical safety certificates to their tenant (but it is not stipulated within the existing leasehold agreement that they must evidence this to the council).

- 2.6.2 Currently the Council has evidence that 17% of leaseholders have up to date gas safety certificates in place and 5% are compliant in relation to electrical safety. A number of leaseholders (estimate 440 (40%)) sublet their properties, which in essence means that the leaseholder at the point of letting the property, is obligated to carry out their own landlord safety checks. However, the current lease agreement does not require them to provide a copy of this to the council.
- 2.6.3 A new master lease has been drawn up with Trowers and Hamblins Solicitors which includes clauses to ensure that leaseholders share relevant safety, testing and servicing information with the Council. The use of this master lease commenced in March 2023 for new leases being granted under the right-to-buy scheme, however it is not possible to retrospectively amend existing leases.
- 2.6.4 Officers have contacted leaseholders to request evidence of safety tests and inspections, but there has been little improvement in the number of leaseholders that are known to be compliant. The Leasehold team are developing processes and systems to manage the collection and management of building safety compliance data from leaseholders in relation to gas and electricity. The creation of a leaseholder forum for building safety is being considered as part of this work.
- 2.6.5 Tenants of sub-let properties have been provided with information on their rights in relation to building safety.

3 Implications for the Council

3.1 Working with People

- 3.1.1 Putting tenants at the heart of the decisions affecting them is central to the way Homes and Neighbourhoods works. The delivery of programmes of inspection and remedial works means that building safety risks are mitigated and managed to ensure resident safety. PCFRAs and fire safety engagement in high-risk buildings enables understanding of resident concerns and awareness so that approaches to their involvement are responsive to need. Large scale remedial works schemes will be delivered through engagement and consultation with residents and learning from other projects and activity. Engagement with tenants to develop the proposals, manage delivery and the upkeep of buildings in future is critical in achieving successful outcomes.

3.2 Working with Partners

- 3.2.1 Officers continue to work closely with WYFRS and carry out engagement days in a number of different settings, these are usually driven by partnership concerns e.g. increases in secondary fires. Where WYFRS request to carry out training in our buildings e.g last year at Buxton House this is supported and used as an opportunity to engage with tenants.
- 3.2.2 West Yorkshire Fire and Rescue Service (WYFRS) are involved in managing and mitigating ongoing risks to Council homes and buildings. Meetings are held on-site with WYFRS monthly to discuss risks, issues and actions. The impact of remedial works on the safety of buildings will reduce and change these risks and WYFRS will help the development of proposals through advice and guidance on best practice and designing to support their response to incidents. Homes and Neighbourhoods Improvement Board has requested that a protocol be put in place with WYFRS in relation to working together and sharing information and intelligence – for example where residents have PCFRAs or are known to be hoarders.

3.3 Place Based Working

- 3.3.1 Activity being undertaken at present supports the gathering of data and evidence about the safety of homes and buildings. The intelligence derived from data enables risk management and plans for investment to meet needs and ensure compliance. Learning from recent and current projects, fire safety engagement and complaints will support continuous improvement to engagement and involvement of ward members, residents and communities in building safety activity.

3.4 Climate Change and Air Quality

- 3.4.1 For larger scale remedial works, such as those in 6-storey blocks, the opportunity for improvements to homes to reduce carbon emissions, provide sustainable energy sources and make them climate ready will be assessed through option appraisal.
- 3.4.2 The 6-storey block projects will be used to develop the understanding of the climate impact of schemes, measuring and quantifying the effects of removal, reuse, recycling and disposal of existing materials and the lifecycle footprint of new materials. This will provide material to develop toolkits and specifications to manage the environmental impact of future schemes in the most appropriate way.

3.5 Improving outcomes for children

- 3.5.1 The actions set out in the report support the management of safety in council homes and the improvement of living conditions. This in turn should lead to better physical and mental health.

3.6 Financial Implications for the people living or working in Kirklees

- 3.6.1 Where the fabric of a building is improved and brought up to more modern standards, this should have an impact on the efficiency of the property and support lower energy usage by residents. This will reduce the costs to residents of running their homes and support them to cope with the cost of living. It should

also help provide conditions that enable leaseholders and tenants to obtain insurance and benefit from the peace of mind this brings.

- 3.6.2 Social Value requirements are being developed for the 6-storey block projects and will be used to produce a framework of requirements for application to future projects. The framework used to appoint Fortem Solutions Limited required bidders to confirm their willingness to deliver on social value measures on local employment, supply chain, supplies and equipment and community engagement. These measures align with the Councils TOMs and the framework provides the freedom for the Council to agree the specific measures with Fortem Solutions Ltd.

3.7 Other (eg Integrated Impact Assessment (IIA)/Legal/Financial or Human Resources) Consultees and their opinion

- 3.7.1 A Stage 1 IIA has been carried out on the proposals for 6-storey blocks, RLS and low-rise blocks and a Stage 2 assessment is not required. The main areas affected by the proposals were the environment and people with disabilities. Designs and proposals will take account of guidance and best practice in relation to dementia, physical and visual disabilities and impairments.
- 3.7.2 The Council as landlord has numerous statutory duties and obligations and must comply with regulatory standards. Failure to comply may compromise tenant safety and result in a breach of the Regulators consumer standards and or lead to prosecution being brought against the council (eg corporate manslaughter) in serious cases .

4 Consultation

- 4.2 There is ongoing consultation with residents about building and fire safety through a range of channels. The consultation method used depends on the issue being dealt with, the type of building and individual resident needs. In general, the first communication to inform, update or raise awareness will be through a letter, posted or hand delivered to each home. Letters are used to provide information on fire safety works, including a rationale for works, the improvements they will make to resident safety, start dates, duration and levels of disruption. Most recently letters have been sent in relation to investment work at Harold Wilson Court and Buxton House. Letters include FAQs where applicable, contact details should residents have further questions and information on how translations into different languages or formats can be obtained if required. Ward Councillors also receive copies of key letters sent to their constituents.
- 4.3 The high-rise blocks at Berry Brow, Buxton House and Harold Wilson Court have been receiving a bi-monthly newsletter. These have recently been paused and will be re-established in the coming months with content related to the high-rise investment programme.
- 4.4 The 6-storey blocks receive block specific newsletters on a 6 monthly basis, the frequency is increased if there are identified concerns within a block. The format is similar to that of high-rise newsletter. The proposals for fire safety

remedial and condition related works to the 6-storey blocks will be included in the next newsletter.

- 4.5 A newsletter for the 19 retirement living schemes has been developed and is being distributed. Following the delivery of the newsletters, staff from the Fire Safety Engagement Team and Independent Living Officers arrange drop-in sessions for tenants to discuss any fire safety questions and concerns.
- 4.6 Noticeboards have been installed in all high-rise and 6-Storey Blocks. These all contain relevant information including fire action notices and evacuation points. The Fire Safety Resident Engagement Team carry out regular checks of all information to ensure it remains current and up to date.
- 4.7 Information on fire safety is available on the Kirklees Council website. This platform provides a variety of information on 'fire safety in your home and in your building'. This includes an 'easy read' summary of the current Fire Risk Assessment (currently being updated to reflect remedial works delivered) for all the high-rise, 6-storey blocks and retirement living schemes along with an opportunity to feedback any comments or concerns. Content for the website under the banner 'Safety and Services' continues to be developed. Fire safety messages are also shared through social media.
- 4.8 In January 2023 letters were sent to all tenants about the importance of fire doors and tenant responsibilities including keeping these closed and not damaging the integrity of doors. Follow up visits to check information had been received and understood were carried out on a sample of blocks. Some tenants had received the letter whilst others could not remember seeing it. Duplicate copies of letters were provided and the importance of flat entrance doors and communal fire doors were discussed with residents, as was the importance of reporting any damage to these doors as soon as it is identified and how to do this.
- 4.9 The FSRE Team completed engagement work in the 6 storey and high-rise blocks during December 2022, engaging with tenants on cost of living and safe practices e.g. use of Calor Gas heaters, candles etc.
- 4.10 The FSRE Team has extended the delivery of PCFRAs from high-rise blocks and is now working in the low-rise blocks. During quarter 4, the team completed 22 PCFRAs. A Standard Operating Procedure has been developed to deliver the PCFRA function working closely with the Building Safety Team. The Team carried out a roadshow across Housing Management teams to present the approach to PCRFAs. This has resulted in an increase in referrals for residents living in low-rise accommodation.
- 4.11 In March 2023 TAGP received an update on the signing off and implementation of the communal areas policy. The policy states that communal areas of blocks are risk assessed with regards to items stored in communal areas. A sample of risk assessments for retirement living schemes was shared with the Panel, where areas were assessed as "normal" with no items requiring removal. The Communal Area Policy complies with regulation and has been developed using

guidance from specialist officers in Homes and Neighbourhoods and West Yorkshire Fire and Rescue Service.

5 Engagement

- 5.2 There are currently 16 Fire Safety Champions who are tenants or leaseholders and represent the block of flats or scheme where they live. Sadly, one Fire Safety Champion passed away in May 2023. Work is ongoing to continue to recruit additional Fire Safety Champions. The ambition is to recruit one champion for each building in scope, namely the four high-rise blocks, twelve 6-storey blocks and 19 retirement living scheme, 35 in total. Champions are supported by the Fire Safety Resident Engagement Team to ensure that they can effectively carry out their duties.
- 5.3 Champions share information relating to fire safety with other tenants and leaseholders; help to advise residents of their responsibility for fire safety; feed back any concerns in the block relating to fire safety; and take part in block inspections with Housing Management Officers (HMOs) to monitor communal areas ensuring they are well kept and safe. Fire Safety Champions are also encouraged to work with other local tenant and resident associations on campaigning or community activities.
- 5.4 Fire Safety Champion Forums have been established and the first round, held during quarter 4, were well attended by Champions. The Forums are an opportunity to update Champions on general fire/building safety, confirm roles and responsibilities and an opportunity for champions to ask questions. Fire safety champions asked if the current name and contact details of the Housing Management Officer for blocks and Independent Living Officers for schemes could be displayed on the notice boards. A request was made to amend the block check forms the Champions use to differentiate between a block and retirement living scheme and to provide more space to write information needed. These changes are being actioned by the FSRE Team.

6 Next steps and timelines

- 6.1 Remedial fire safety works to high-rise blocks will be completed by November 2023, subject to gaining access where appropriate.
- 6.2 Package 1 of fire safety remedial works to 6-storey blocks will be taken forward through design and delivery phases with AHR, Fortem Solutions Ltd, residents, members and other stakeholders. Programme dates are awaited from AHR.
- 6.3 Development of detailed designs and proposals for Packages 2 to 5 for 6-storey blocks to be taken forward along with stakeholder engagement planning. Programme dates are awaited from AHR.
- 6.4 Surveying of RLS will be completed by November and reports will be issued in tranches from August. Option appraisal and the development of works packages will commence in September.
- 6.5 Packages of fire safety remedial works for low-rise blocks will be developed and issued for tenders by the end of August 2023.
- 6.6 Programmes of inspection and re-inspection will continue to be delivered with KPI reporting monthly. KPIs to be reported will be reviewed to ensure that they reflect legislation, policy and guidance and enable Boards to be sighted on key risks and issues. The development of Safety Management Plans is ongoing and

they will set out KPIs and PIs, a report on this will be presented to Cabinet in November.

- 6.7 The Fire Safety Resident Engagement and Building Safety teams will continue to develop the approach to PCFRAs and will extend this activity to include the development of Personal Emergency Evacuation Plans (PEEPs) for those residents that need them. Work on scoping requirements for PEEPs will be completed by the end of August and PEEPs will then be produced.
- 6.8 Engagement with WYFRS to develop a partnership working protocol will commence in August.

7 Officer recommendations and reasons

- 7.1 The Council as landlord has numerous legal duties to ensure the safety of its tenants and leaseholders and must comply with regulatory standards of the Regulator of Social Housing and the Building Safety Regulator. The Council is also subject to oversight from the Housing Ombudsman in relation to council housing. This report sets out how the Council is complying with regulation and ensuring the safety of residents.
- 7.2 Members are asked to:
 - 7.2.1 Note the contents of the report, in particular current performance.
 - 7.2.2 Provide officers with feedback on areas of concern in relation to resident safety to enable further action to be taken.
 - 7.2.3 Note the approach taken to resident safety and engagement, risk management and mitigation.

8 Homes and Neighbourhoods Improvement Board recommendations

- 8.1 Homes and Neighbourhoods Improvement Board (HNIB) has been in place since June 2023 and provides robust challenge and support for the delivery of housing activity and strategy. Part of the role of HNIB is to advise and make recommendations on and escalate items and issues to Cabinet
- 8.2 HNIB considered and discussed this paper on 24 August 2023 and agreed with the officer recommendations set out in section 7 above.

9 Cabinet Portfolio Holder's recommendations

- 9.1 This paper was considered by the Cabinet Portfolio Holder on 11 July 2023. The Cabinet Portfolio Holder at that time (Cllr Cathy Scott) agreed with the officer recommendations set out in section 7 above.

10 Contact officer

- 10.1 Hannah Elliott, Head of Assets and Development, 01484 221000
hannah.elliott@kirklees.gov.uk













11 Background Papers and History of Decisions

[20230310 Fire safety Blocks Cab report Apr23 v2.1.pdf \(kirklees.gov.uk\)](#)
[Decision - Procurement of fire safety remedial works to Council Housing 6-storey, low-rise and retirement living scheme blocks | Kirklees Council](#)

www.gov.uk/government/publications/the-social-sector-building-safety-engagement-bestpractice-group-final-report

12 Service Director responsible

Naz Parkar, Service Director Homes and Neighbourhoods

Health & Safety Compliance Scorecard - Inspection and Re-Inspection														
Inspection type	Jan-23	Feb-23	Mar-23	Apr-23	May-23				Jun-23				Direction of Travel	
	% Compliant Jan 23	% Compliant Feb 23	% Compliant Mar 23	% Compliant Apr 23	Inspections Required May 23	Inspections Complete May 23	Overdue Inspections May 23	% Compliant May 23	Inspections Required Jun 23	Inspections Complete Jun 23	Overdue Inspections Jun 23	% Compliant Jun 23		
Type 1 Fire Risk Assessment to Communal Blocks	100.00%	100.00%	100.00%	100.00%	24	41	0	100.00%	22	47	0	100.00%		
Electrical testing - Domestic 5 yearly	97.71%	99.55%	99.62%	99.71%	21188	21140	48	99.77%	21187	21142	45	99.79%		
Electrical testing - Communal Areas	100.00%	100.00%	99.89%	100.00%	921	921	0	100.00%	921	921	0	100.00%		
Gas Servicing - Domestic	99.87%	99.87%	99.85%	99.82%	20085	20040	45	99.78%	20073	20055	18	99.91%		
Gas Servicing - Communal Areas	100.00%	100.00%	100.00%	100.00%	52	52	0	100.00%	52	52	0	100.00%		
Annual solid fuel check - domestic	N/A	100.00%	96.15%	92.31%	51	47	4	92.16%	51	51	0	100.00%		
Asbestos - Communal Area Re-Inspection	100.00%	100.00%	100.00%	100.00%	46	46	0	100.00%	91	91	0	100.00%		
Asbestos - Domestic Reinspection	N/A	N/A	N/A	N/A			0	N/A	681	681	0	100.00%		
Water Hygiene - Communal Inspections	100.00%	75.86%	63.79%	63.79%	58	45	13	77.59%	58	49	9	84.48%		
Passenger Lifts/Platform lifts - Servicing	100.00%	100.00%	100.00%	100.00%	24	24	0	100.00%	30	24	6	80.00%		
Passenger Lifts/Platform lifts - Insurance Inspections (LOLER)	100.00%	100.00%	100.00%	100.00%	13	13	0	100.00%	2	2	0	100.00%		

Health & Safety Compliance Scorecard - Remedial Actions



May 2023

Remedial Action type	Remedial Actions Required	Remedial Actions Complete	Overdue Remedial Actions (previous month)	Overdue Remedial Actions (current month)	Actions identified through Type 1 FRA	Completed Type 1 FRA Actions	Extrapolated Actions	Completed Extrapolated Actions	Details	Direction of Travel
FRA High Priority	1393	1063	291	330	1393	1063	0	0	39 new actions were received in May No actions were completed in May	↓
FRA Medium Priority	11369	893	10410	10476	2521	280	8848	613	66 new actions No actions completed	↓
FRA Low Priority	6324	458	6054	5866	1550	29	4774	429	188 low priority actions were completed or closed in the system in May	↔
	19086	2414	16755	16672	5464	1372	13622	1042		

Remedial Action type	Remedial Actions Required	Remedial Actions Complete	Overdue Remedial Actions (previous month)	Overdue Remedial Actions (current month)					Details	Direction of Travel
A.I.B. Removal	2476	2444	34	32					Currently there are 32 Removal / Encapsulation jobs outstanding. 20 of these require a tenant decant and are being managed by the asset team as part of the wider decant programme. 3 properties are on hold. The remaining 9 properties are on order, or out to quote.	↔

Remedial Action type	Remedial Actions Required	Remedial Actions Complete	Overdue Remedial Actions (previous month)	Overdue Remedial Actions (current month)	Outstanding Remedial Actions (previous month)	Outstanding Remedial Actions (current month)			Details	Direction of Travel
Communal Water High priority	316	283	0	0	6	42			7 New LRAS carried out in May resulted in increase in remedial actions. Technical Officer, Water to visit sites before ordering some work. Other works on order with property services and IWS. All remedial actions are currently within the allowed time frame	↓
Communal Water Medium Priority	64	55	0	0	0	9			7 New LRAS carried out in May resulted in increase in remedial actions. Technical Officer, Water to visit sites before ordering some work. Other works on order with property services and IWS. All remedial actions are currently within the allowed time frame	↓
Communal Water Low Priority	130	121	0	0	0	9			7 New LRAS carried out in May resulted in increase in remedial actions. Technical Officer, Water to visit sites before ordering some work. Other works on order with property services and IWS. All remedial actions are currently within the allowed time frame	↓

Health & Safety Compliance Scorecard - Remedial Actions
June 2023



Remedial Action type	Remedial Actions Required	Remedial Actions Complete	Overdue Remedial Actions (previous month)	Overdue Remedial Actions (current month)	Actions identified through Type 1 FRA	Completed Type 1 FRA Actions	Extrapolated Actions	Completed Extrapolated Actions	Details	Direction of Travel
FRA High Priority	1392	1075	330	317	1392	1075	0	0	1 new high priority actions was received in June 12 high priority actions were completed in June	↓
FRA Medium Priority	11630	893	10476	10737	2782	280	8848	613	An additional 261 medium priority actions were identified in June	↓
FRA Low Priority	6324	458	5866	5866	1550	29	4774	429	No new actions received in June No actions completed in June	↔
	19346	2426	16672	16920	5724	1384	13622	1042		

Remedial Action type	Remedial Actions Required	Remedial Actions Complete	Overdue Remedial Actions (previous month)	Overdue Remedial Actions (current month)					Details	Direction of Travel
A.I.B. Removal	2502	2472	32	30						↔

Remedial Action type	Remedial Actions Required	Remedial Actions Complete	Overdue Remedial Actions (previous month)	Overdue Remedial Actions (current month)	Outstanding Remedial Actions (previous month)	Outstanding Remedial Actions (current month)			Details	Direction of Travel
Communal Water High priority	339	327	0	0	42	12			Most outstanding actions are regarding tank conditions following on from LRAs. Tank clean and disinfection works are on order.	↑
Communal Water Medium Priority	74	68	0	0	9	6			Most outstanding actions are regarding tank conditions following on from LRAs. Tank clean and disinfection works are on order.	↑
Communal Water Low Priority	134	128	0	0	9	6			Most outstanding actions are regarding tank conditions following on from LRAs. Tank clean and disinfection works are on order.	↑

Inspections Overdue			
May-23			
Status	Number	Period since last test	Commentary
5 Yearly Domestic Electrical Testing			
Total number overdue	48		
Works planned	8		All works are planned for July 2023 1/2/visit
	0	10+ years	
	0	8+ years	
	0	7+ years	
	0	6+ years	
	8	5+ years	
On hold	6		6 properties works are being arranged void or repair after test
	0	N/A	
	6	5+ years	
Difficult to Access	14		A mixture of warrants, no meter and other issues working with EPA/HOs/specialist cleaning and police weekly meetings
	1	no last test date	
	0	9+ years	
	3	7+ years	
	9	6+ years	
	1	5+years	
Awaiting other trades	1		void, will become complaint on completion of the void
	0		
	1	5+ years	
In legal process	18		All going through EPA process can be up to 5/6 weeks
	2	no last test date	
	3	7+ years	
	1	6+ years	
	12	5+ years	
Annual Gas Servicing			
Total number overdue	45		
Warrant served			
Warrant obtained	10		
Abatement notice expired	11		
Abatement notice served	24		
Awaiting service of notice			
Annual Solid Fuel Check			
Total number overdue	4		
Officer no-access process	4	3 x 12 months 1 x 11 months	3 of these have now been completed in June 2023
Water Hygiene Inspection			
Total number overdue	13		
Inspection programmed	13	2+ years	

Inspections Overdue June 2023



5 Yearly Domestic Electrical Testing

Total number overdue	45	
Works planned	8	All works are planned for July 2023 1/2/visit
	0 10+ years	
	0 8+ years	
	0 7+ years	
	0 6+ years	
	8 5+ years	
On hold	7	
	0 N/A	
	7 5+ years	
Difficult to Access status 350	13	A mixture of warrants, no meter and other issues working with EPA/HOs/specialist cleaning and police weekly meetings
	1 no last test date	
	0 9+ years	
	2 7+ years	
	9 6+ years	
	1 5+ years	
Awaiting other trades	2	void, will become complaint on completion of the void
	0	
	2 5+ years	
In legal process	15	All going through EPA process can be up to 5/6 weeks
	3 no last test date	1 x buy back
	3 7+ years	
	1 6+ years	
	8 5+ years	

Annual Gas Servicing

Total number overdue	18	
Warrant served		
Warrant obtained	1	
Abatement notice expired	12	
Abatement notice served	6	
Awaiting service of notice		

Water Hygiene Inspection

Total number overdue	9	
Inspection programmed	9	

Name of meeting: Cabinet

Date: 26th September 2023

Title of report: Annual RIPA update

Purpose of report

To brief Cabinet on the use of the Regulation of Investigatory Powers Act 2000 by the Council since the last report on use in March 2022.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	No
The Decision - Is it eligible for call in by Scrutiny?	No
Date signed off by <u>Strategic Director</u> & name	Rachel Spencer-Henshall – 16th August
Is it also signed off by the Service Director for Finance	Dean Langton – 21st August
Is it also signed off by the Service Director for Legal Governance and Commissioning Support?	Julie Muscroft – 18th August
Cabinet member portfolio	Cllr Paul Davies

Electoral wards affected: All

Ward councillors consulted: None

Public or private: Public

Has GDPR been considered? Yes

1. Summary

- 1.1 The role of Cabinet in Regulation of Investigatory Powers Act (RIPA) 2000 matters is to provide strategic oversight and to keep the Council's use of surveillance under review. This is the annual report on the Council's use of RIPA to Cabinet.
- 1.2 As a result of the view of the Investigatory Powers Commissioner's Office (IPCO) that the use of RIPA should be considered more often than annually by Local Authorities the Council's Corporate Governance and Audit Committee considers and monitors

any RIPA related matters during the year as part of its quarterly audit reports. The process followed is that any reports are to be brought back to cabinet to be considered during the year as necessary. There were no incidents which required RIPA to be used in the period since the last report to Cabinet and therefore no reports were required to be brought back to Cabinet since the last annual report.

2. **Information required to take a decision**

- 2.1 The Council is subject to the requirements of RIPA, which sets out how and when a local authority can engage in covert surveillance. RIPA regulates three types of surveillance, these being directed surveillance, the use of covert human intelligence and the obtaining of communications data. The current policy was adopted in January 2019 when it was amended in line with the implementation of GDPR and the Data Protection Act 2018.
- 2.2 The annual return to IPCO for 2022 has been completed. This is a report to the Commissioner on the Council's use of investigatory powers during 2021.
- 2.3 The RIPA policy has been reviewed and only one update has been made. This is a minor amendment, to change one of the Authorising Officers. Members are asked to approve the update.
- 2.4 The number of RIPA authorisations granted since the last annual report is 0.
- 2.5 The Council is subject to an IPCO inspection every three years. The current inspection is in progress and is conducted initially by means of a written response from the Council to a series of questions put by IPCO. This may result in IPCO making recommendations for action or may result in a formal inspection visit.

3. **Implications for the Council**

3.1 **Working with People**

N/A

3.2 **Working with Partners**

West Yorkshire Police – this will most often be a formal request for access to CCTV information held by the Council and is provided on the basis of a formal written request.

West Yorkshire Trading Standards– this will usually be within the context of test purchase operations, typically involving sales of age restricted goods to minors.

3.3 **Place Based Working**

N/A

3.4 **Climate Change and Air Quality**

N/A

3.5 **Improving outcomes for children**

N/A

3.6 **Financial Implications for the People Living or Working in Kirklees**

N/A

3.7 **Other (eg Legal/Financial or Human Resources)**

Training needs and resources – training is an area that IPCO are very keen to ensure is addressed and kept current. The last formal RIPA training sessions took place in 2019, when an external training provider gave a full day of training. It is possible that the IPCO inspection report may recommend refresher training.

4. Consultees and their opinions

4.1 The following have been consulted on the contents of this report and have approved them:

4.1.1 The Service Director – Legal, Governance and Commissioning, as Senior Responsible Officer

4.1.2 The Head of Legal Services, as RIPA Monitoring Officer

4.1.3 The Cabinet member for Corporate Services

5. Next steps and timelines

5.1 To monitor the outcome of the IPCO inspection and to ensure that any action points are addressed, especially with regards to the need for any formal training.

5.2 To continue to raise RIPA awareness, particularly with regards to the use of social media to obtain intelligence.

5.3 To consider training needs and whether these can be addressed internally or whether there is a need for external training.

6. Officer recommendations and reasons

6.1 That members approve the updated RIPA policy.

6.2 That members note the remainder of the report.

7. Cabinet portfolio holder's recommendations

7.1 That members note the report.

8. Contact officers

David Stickley david.stickley@kirklees.gov.uk
Senior Legal Officer 01484 221000

John Chapman john.chapman@kirklees.gov.uk
Head of Legal Services 01484 221000

9. Background Papers and History of Decisions

2022 Annual RIPA report to Cabinet - [Agenda Document for Cabinet, 08/03/2022](#)

2021 Annual RIPA report to Cabinet - [Agenda Document for Cabinet, 19/01/2021](#)

10. **Service Director responsible**

Julie Muscroft
Service Director – Legal, Governance and Commissioning
01484 221000
julie.muscroft@kirklees.gov.uk

KIRKLEES COUNCIL POLICY AND GUIDANCE ON

THE REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)

CONTENTS

Title	Page
Introduction	3
The Office of the Surveillance Commissioners (OSC) and the Interception of Communications Commissioner's Office (IOCCO)	7
The Role of Elected Members	7
The Use of Home Office Forms	7
Who Can Authorise Surveillance?	7
When Can Covert Surveillance Be Authorised?	7
Review of Authorisations	8
Confidential Information	9
What Steps Must Be Followed in Authorising Covert Surveillance?	9
Duration of Authorisations	10
The Keeping of Records	11
Retention and Destruction of Materials	12
The Roles of RIPA Officers	12
APPENDICES	
Appendix 1 List of Officers Responsible for RIPA and List of Authorising Officers	14
Appendix 2 Flowchart	15
Appendix 3 Duties of Authorising Officers	16
Appendix 4 Duties of Officers in Charge of Investigations	18
Appendix 5 Management of Covert Human Intelligence Sources	19
Appendix 6 Policy statement	22
Appendix 7 RIPA And Anti-Social Behaviour Enforcement	24
Appendix 8 Working with Other Agencies	25
Appendix 9 Communications Data	26
Appendix 10 Covert Surveillance and Social Media	27

Introduction

The Regulation of Investigatory Powers Act (RIPA) controls and regulates surveillance, and other means of gathering information, which public bodies employ in the discharge of their functions. Information gathering is one of the Council's many activities which could involve an interference with an individual's human rights, specifically an individual's rights under Article 8 of the European Convention on Human Rights to respect for his private and family life, his home and his correspondence. RIPA provides a statutory framework under which covert surveillance activity can be authorised and conducted compatibly with Article 8. The Home Office has issued Codes of Practice under RIPA which provide further guidance.

RIPA provides a statutory authorisation process for certain types of surveillance and information gathering. The Council may be required to justify, by reference to RIPA and the relevant Codes of Practice, the use or granting of authorisations in general or the failure to use or grant authorisations. No authorisation, renewal or notice issued by an authorising officer can take effect without judicial approval from a Justice of the Peace (magistrate). A failure to apply RIPA and the Codes of Practice in an appropriate manner may be considered by the courts in deciding whether material obtained via surveillance should be admissible in evidence or whether an individual's human rights have been infringed.

Unlike directed surveillance, which relates specifically to private information, authorisations for the use or conduct of a Covert Human Intelligence Source (CHIS) do not relate specifically to private information, but to the covert manipulation of a relationship to gain any information. Article 8 includes the right to establish and develop relationships. Accordingly, any manipulation of a relationship by the Council (e.g. one party to a relationship having a covert purpose on behalf of the Council) is likely to engage Article 8, regardless of whether or not the public authority intends to acquire private information.

The following are the main statutory documents relevant to this policy document:

- Regulation of Investigatory Powers Act 2000 (RIPA)
- Part II of the Protection of Freedoms Act 2012
- The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 as amended
- The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012 (Applies to Directed Surveillance only and does NOT apply to CHIS)
- The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources)(Amendment) Order 2015
- Covert Surveillance and Property Interference Revised Code of Practice (2018)
- Covert Human Intelligence Sources Code of Practice (2018)
- Office of Surveillance Commissioners – Procedures and Guidance 2016
- Acquisition and Disclosure of Communications Data Code of Practice (2015) (This code does not relate to the interception of communications nor to the acquisition or disclosure of the contents of communications)

These Codes of Practice, along with the text of RIPA and copies of approved forms are available on the Home Office website or from Legal and Governance. This document reproduces material from the Codes of Practice.

The following terms are defined in RIPA and the definitions are summarised in the relevant Codes of Practice as follows:

“surveillance”	Surveillance, for the purpose of RIPA, includes monitoring, observing or listening to persons, their movements, conversations or other activities and communications. It may be conducted with or without the assistance of a surveillance device and includes the recording of any information obtained
“directed surveillance”	Directed surveillance is covert surveillance that is not intrusive but is carried out in relation to a specific investigation or operation in such a manner as is likely to result in the obtaining of <i>private information</i> about any person (other than by way of an immediate response to events or circumstances such that it is not reasonably practicable to seek <i>authorisation</i> under RIPA)
“intrusive surveillance”	Intrusive surveillance is covert surveillance that is carried out in relation to anything taking place on residential premises or in any private vehicle (and that involves the presence of an individual on the premises or in the vehicle or is carried out by a means of a surveillance device). The Council cannot authorise intrusive surveillance.
“interference with property or wireless telegraphy”	There is a procedure for obtaining authorisation for interference with property or wireless telegraphy set out in the Police Act 1997 to enable the maintaining or retrieving of any equipment, apparatus or device whose placing or use has been authorised under RIPA. This procedure is available to the Police and other agencies but is NOT available to the Council and advice should be sought immediately from the RIPA Monitoring Officer if any proposed surveillance by the Council might involve any act of trespass.
“covert human intelligence source ”	<p>a person is a CHIS if:</p> <ul style="list-style-type: none"> a) he establishes or maintains a personal or other relationship with a person for the covert purpose of facilitating the doing of anything falling within paragraph b) or c); b) he covertly uses such a relationship to obtain information or to provide access to any information to another person; or c) he covertly discloses information obtained by the use of such a relationship or as a consequence of the existence of such a relationship. <p>NB It is most unlikely that the Council would wish to use a CHIS for surveillance purposes.</p>
“private information”	Private information is 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
“collateral intrusion”	Collateral intrusion is the risk of obtaining private information about persons who are not subjects of the surveillance
“communications data”	The term ‘communications data’ embraces the ‘who’, ‘when’ and ‘where’ of a communication but not the content, not what was said or written. It includes the manner in which, and by what method, a person or machine communicates with another person or machine. It excludes what they say or what data they pass on within a communication including text, audio and video (with the exception of traffic data to establish another communication such as that created from the use of calling cards, redirection services, or in the commission of ‘dial through’ fraud and other crimes where data is passed on to activate communications equipment in order to obtain communications services fraudulently) NB The only form of communications data which the Council is ever likely to wish to obtain is the identity of individuals who are the subscribers for particular telephone numbers. To date the Council had not sought to obtain communications data.
“subscriber information”	Subscriber information relates to information held or obtained by a Communications Service Provider about persons to whom the Communications Service Provider provides or has provided a communications service
“Confidential information”	Confidential information consists of communications subject to legal privilege, communications between a Member of Parliament and another person on constituency matters, confidential personal information, or confidential journalistic material.
“Confidential personal Information”	Confidential personal information is information held in confidence relating to the physical or mental health or spiritual counselling of a person (whether living or dead) who can be identified from it.
“Confidential constituent Information”	Confidential constituent information is information relating to communications between a Member of Parliament and a constituent in respect of constituency matters
“Confidential journalistic Material”	Confidential constituent information 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

“Legal privilege”

Legal privilege relates to communications between a lawyer and a client for the purposes of obtaining legal advice or conducting litigation but does not include communications made with the intention of furthering a criminal purpose

RIPA regulates the use of covert surveillance which consists of directed surveillance, intrusive surveillance, the conduct and use of covert human intelligence sources and the acquisition of communications data. Local authorities such as the Council can only authorise the use directed surveillance if:

- The authorisation is for the purpose of preventing or detecting conduct which constitutes one or more criminal offences; and
- The criminal offence or one of the criminal offences would be either –
 - Punishable, whether on summary conviction (in the magistrates’ court) or on indictment (in the Crown Court), by a maximum term of at least 6 months of imprisonment; or
 - Is an offence under:
 - section 146 of the Licensing Act 2003(2) (sale of alcohol to children);
 - section 147 of the Licensing Act 2003 (allowing the sale of alcohol to children);
 - section 147A of the Licensing Act 2003(3) (persistently selling alcohol to children);
 - section 7 of the Children and Young Persons Act 1933(4) (sale of tobacco, etc. to persons under eighteen).”
 - section 91 of the Children and Families Act 2014 (purchase of tobacco, nicotine products, etc. on behalf of persons under 18);
 - section 92 of the Children and Families Act 2014 (prohibition of sale of nicotine products to person under 18)

Local authorities such as the Council can only authorise the use of CHIS or the acquisition of communications data if “*for the purpose of preventing or detecting crime or the preventing of disorder*”.

Where covert surveillance activities are unlikely to result in the obtaining of private information about a person, or where there is a separate legal basis for such activities, neither RIPA nor the relevant Code of Practice code need apply, but there is an assumption that intrusive surveillance will involve the obtaining of private information. It is important to distinguish between the types of surveillance and information gathering regulated by RIPA, and normal general observation, in the course of discharging the Council’s functions. It is acknowledged that low-level general observation will not usually be regulated under the

provisions of RIPA. The relevant Code of Practice gives the following examples of this kind of general observation:

- patrolling to prevent and detect crime,
- review of images gathered by overt CCTV after the event to help identify the perpetrators of crime (however the use of such systems in a pre-planned manner to target a particular individual or group may require authorisation)
- officers attending a car boot sale where it is suspected that counterfeit goods are being sold, but where the intention is, through reactive “policing”, to identify and tackle offenders.

The Office of the Surveillance Commissioners (OSC) and the Interception of Communications Commissioner’s Office (IOCCO)

The OSC is one of the statutory regulators for RIPA. The OSC's aim is to provide effective and efficient oversight of the conduct of covert surveillance and covert human intelligence sources by public authorities. This includes inspecting public authorities and publishing reports on their compliance with RIPA. The most recent report on the Council by OSC can be obtained from Legal and Governance. The regulator in respect of the acquisition of communications data is the Interception of Communications Commissioner’s Office (IOCCO).

The Role of Elected Members

Cabinet should review the authority’s use of RIPA and set the policy at least once a year. They should also consider internal reports on use of RIPA on a regular basis to ensure that it is being used consistently with the Council’s policy and that the policy remains fit for purpose. They should not, however, be involved in making decisions on specific authorisations.

The Use of Home Office Forms

The forms which should be used in authorising, renewing, reviewing and cancelling surveillance are available via the RIPA part of the Home Office website. They are not reproduced as part of this document in order to avoid the use of out of date forms. Until the Home Office issue a revised form in relation to Directed Surveillance incorporating the requirements of the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012 the RIPA Monitoring Officer will circulate a form to Authorising Officers for use in authorising directed surveillance.

Who Can Authorise Surveillance?

The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 permits the following officers within a local authority to grant authorisations - “Director, Head of Service, Service Manager or equivalent”. The Council officers who can authorise directed surveillance and CHIS are set out in Appendix 1.

There are specific reporting requirements for confidential information and the OSC must be advised whether confidential information has been acquired and if so it must be made available to the inspector. In any case where confidential information is likely to be acquired advice should always be sought from the RIPA Monitoring Officer.

When Can Covert Surveillance Be Authorised?

The only specified ground upon which the Council can grant an authorisation is preventing or detecting crime or preventing disorder. There are no other grounds available to local authorities.

RIPA stipulates that the person granting an authorisation for directed or intrusive surveillance must believe that the activities to be authorised are necessary *for the purpose of preventing or detecting crime or of preventing disorder*.

If the activities are deemed necessary on this ground, the person granting the authorisation must also believe that they are proportionate to what is sought to be achieved by carrying them out. This involves balancing the seriousness of the intrusion into the privacy of the subject of the operation (or any other person who may be affected) against the need for the activity in investigative and operational terms.

The authorisation will not be proportionate if it is excessive in the overall circumstances of the case. Each action authorised should bring an expected benefit to the investigation or operation and should not be disproportionate or arbitrary. The fact that a suspected offence may be serious will not alone render intrusive actions proportionate. Similarly, an offence may be so minor that any deployment of covert techniques would be disproportionate. No activity should be considered proportionate if the information which is sought could reasonably be obtained by other less intrusive means. The following elements of proportionality should therefore be considered:

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

It is important therefore that all those involved in undertaking directed or intrusive surveillance activities under RIPA are fully aware of the extent and limits of the authorisation in question.

All applications should include an assessment of the risk of collateral intrusion and details of any measures taken to limit this, to enable the authorising officer fully to consider the proportionality of the proposed actions. Where it is proposed to conduct surveillance activity specifically against individuals who are not suspected of direct or culpable involvement in the overall matter being investigated, interference with the privacy or property of such individuals should not be considered as collateral intrusion but rather as intended intrusion. Any such surveillance or property interference activity should be carefully considered against the necessity and proportionality criteria.

Judicial Authority

As above no authorisation, renewal or notice issued by an authorising officer can take effect without judicial approval from a Justice of the Peace (magistrate). Applications for Judicial Authority are the responsibility of the RIPA Monitoring Officer. The Home Office guidance suggests that investigating officers may be authorised to present such applications to the magistrates and such authorisation would be a matter for the Senior Responsible Officer.

Review of Authorisations

Regular reviews of all authorisations should be undertaken to assess the need for the surveillance activity to continue. The results of a review should be retained for at least three years. Particular attention is drawn to the need to review authorisations frequently where the surveillance involves a high level of intrusion into private life or significant collateral intrusion, or confidential information is likely to be obtained.

In each case the frequency of reviews should be considered at the outset by the authorising officer. This should be as frequently as is considered necessary and practicable. Any proposed or unforeseen changes to the nature or extent of the surveillance operation that may result in the further or greater intrusion into the private life of any person should also be brought to the attention of the authorising officer by means of a review. The authorising officer should consider whether the proposed changes are proportionate (bearing in mind any extra intended intrusion into privacy or collateral intrusion), before approving or rejecting them. Any such changes must be highlighted at the next renewal if the authorisation is to be renewed.

Confidential Information

Special consideration must also be given to authorisations that involve confidential personal information, confidential constituent information and confidential journalistic material. Where such material has been acquired and retained, the matter should be reported to the OSC during the next inspection and the material be made available to him if requested. It is not anticipated that the Council would wish to engage in surveillance which would involve confidential information but if it did, only the Chief Executive could authorise the surveillance.

What Steps Must Be Followed in Authorising Covert Surveillance?

Responsibility for authorising the carrying out of directed surveillance rests with the authorising officer and requires the personal authority of the authorising officer.

The Code of Practice on Covert Surveillance and Property Interference refers to authorisations being granted verbally in urgent cases and records being made as soon as reasonably practicable but this procedure is **NO LONGER AVAILABLE** to the Council as it is incompatible with the requirements for obtaining judicial authority.

Authorising officers should not normally be responsible for authorising operations in which they are directly involved

A written application for a directed surveillance authorisation should describe any conduct to be authorised and the purpose of the investigation or operation. The application should also include:

- the reasons why the authorisation is necessary in the particular case and specify the criminal offences the directed surveillance is intended to prevent or detect;
- the nature of the surveillance;
- the identities, where known, of those to be the subject of the surveillance;
- a summary of the intelligence case and appropriate unique intelligence references where applicable;
- an explanation of the information which it is desired to obtain as a result of the surveillance;
- the details of any potential collateral intrusion and why the intrusion is justified;

- the details of any confidential information that is likely to be obtained as a consequence of the surveillance;
- the reasons why the surveillance is considered proportionate to what it seeks to achieve;
- the level of authority required (or recommended where that is different) for the surveillance; and,
- a subsequent record of whether authorisation was given or refused, by whom, and the time and date this happened.

Duration of Authorisations

The duration period of an authorisation commences with the Magistrates' approval.

Renewal of Authorisations

If, at any time before a directed surveillance authorisation would cease to have effect, the authorising officer considers it necessary for the authorisation to continue for the purpose for which it was given, he may renew it in writing for a further period of three month but such authorisations do not take effect until judicial authority is granted by the Magistrates' Court.

An application for renewal should not be made until shortly before the authorisation period is drawing to an end. Any person who would be entitled to grant a new authorisation can renew an authorisation. All applications for the renewal of a directed surveillance authorisation should record (at the time of application):

- whether this is the first renewal or every occasion on which the authorisation has been renewed previously;
- any significant changes to the information in the initial application;
- the reasons why the authorisation for directed surveillance should continue;
- the content and value to the investigation or operation of the information so far obtained by the surveillance;
- the results of regular reviews of the investigation or operation.

Authorisations may be renewed more than once, if necessary and provided they continue to meet the criteria for authorisation. The details of any renewal should be centrally recorded.

As above, for any renewal of an authorisation to take effect judicial authority must be obtained.

Cancellation of Authorisations

During a review, the authorising officer who granted or last renewed the authorisation may amend specific aspects of the authorisation, for example, to cease surveillance against one of a number of named subjects or to discontinue the use of a particular tactic. They must cancel the authorisation if satisfied that the directed surveillance as a whole no longer meets the criteria upon which it was authorised. Where the original authorising officer is no longer available, this duty will fall on the person who has taken over the role of authorising officer or the person who is acting as authorising officer.

As soon as the decision is taken that directed surveillance should be discontinued, the instruction must be given to those involved to stop all surveillance of the subject(s). The date the authorisation was cancelled should be centrally recorded and documentation of any instruction to cease surveillance should be retained. There is no requirement for any further

details to be recorded when cancelling a directed surveillance authorisation. However effective practice suggests that a record should be retained detailing the product obtained from the surveillance and whether or not objectives were achieved.

The Keeping of Records

A record of the following information pertaining to all authorisations shall be centrally retrievable within each public authority for a period of at least three years from the ending of each authorisation. This information should be regularly updated whenever an authorisation is granted, renewed or cancelled and should be made available to the relevant Commissioner or an Inspector from the OSC upon request.

- the type of authorisation;
- the date the authorisation was given;
- name and job title of the authorising officer;
- the unique reference number (URN) of the investigation or operation;
- the title of the investigation or operation, including a brief description and names of subjects, if known;
- The date of any review and the details of the decision made.
- if the authorisation has been renewed, when it was renewed and who authorised the renewal, including the name and job title of the authorising officer;
- whether the investigation or operation is likely to result in obtaining confidential information;
- whether the authorisation was granted by an individual directly involved in the investigation;
- the date the authorisation was cancelled.

The following documentation should also be centrally retrievable for at least three years from the ending of each authorisation:

- a copy of the application and a copy of the authorisation together with any supplementary documentation and notification of the approval given by the authorising officer;
- a record of the period over which the surveillance has taken place;
- the frequency of reviews prescribed by the authorising officer;
- a record of the result of each review of the authorisation;
- a copy of any renewal of an authorisation, together with the supporting documentation submitted when the renewal was requested;
- the date and time when any instruction to cease surveillance was given;
- the date and time when any other instruction was given by the authorising officer.
- The order of the magistrates' court granting judicial authority for the surveillance, including judicial authority for the renewal of authorisations, or any such order refusing authority.

The written records of every directed surveillance and CHIS authorisation, review, renewal, refusal or cancellation must be sent to the RIPA Monitoring Officer for inclusion in the Central Record, which will be made available to the OSC upon request. It is the responsibility of all Authorising Officers to ensure that the RIPA Monitoring Officer receives the relevant forms within 7 days of refusal, authorisation, review, renewal or cancellation.

Retention and Destruction of Materials

The Council must ensure that arrangements are in place for the secure handling, storage and destruction of material obtained through the use of directed or intrusive surveillance. Authorising officers must ensure compliance with the appropriate data protection requirements under the Data Protection Act 2018 and the General Data Protection Regulations (GDPR) and any relevant codes of practice produced by the Council relating to the handling and storage of material.

Where the product of surveillance could be relevant to pending or future criminal or civil proceedings, it should be retained in accordance with established disclosure requirements for a suitable further period, commensurate to any subsequent review. There is nothing in RIPA which prevents material obtained under directed or intrusive surveillance authorisations from being used to further other investigations

Where surveillance is being carried out as part of a criminal investigation officers are reminded of the requirements of the Code of Practice issued under the Criminal Procedure And Investigations Act 1996.

The Roles of RIPA Officers

The Service Director – Legal, Governance and Commissioning is the Senior Responsible Officer and is responsible for:

- the integrity of the process in place within the Council to authorise directed surveillance, the management of CHIS and the acquisition of communications data;
- compliance with RIPA, the Code of Practice on Covert Surveillance and Property Interference, the Code of Practice on Covert Human Intelligence Sources and the Code of Practice on Acquisition and Disclosure of Communications Data;
- oversight of the reporting of errors to the relevant oversight Commissioner and the identification of both the cause(s) of errors and the implementation of processes to minimise repetition of errors;
- engagement with the Commissioners and inspectors when they conduct their inspections, and
- where necessary, overseeing the implementation of any post inspection action plans recommended or approved by a Commissioner.

The RIPA Monitoring Officer is the solicitor within Legal, Governance and Monitoring responsible for advising the Senior Responsible Officer and the Council upon RIPA issues and for providing day to day advice and support to investigating and authorising officers. The RIPA Monitoring Officer will:

- Take steps to raise awareness of the requirements of RIPA across the Council
- maintain a central record of all directed surveillance operations
- monitor the quality of authorisation, review, renewal and cancellation forms
- raise issues as necessary with the Applicant Officer, the Authorising Officers and/or the Senior Responsible Officer as relevant
- return an application for authorisation to the relevant Authorising Officer for further information if deemed appropriate as a result of the information on the form
- keep the Senior Responsible Officer informed about the Council's conduct of directed surveillance and compliance with the law and relevant codes of practice, etc
- act as the contact point for any enquiries from the Office of the Surveillance Commissioners

- provide first line advice to those involved in covert surveillance
- ensure that all areas which may undertake directed surveillance operations are familiar with the RIPA legislation and codes of practice and the Council's Policy and Code of Practice
- in conjunction with the RIPA Legal Advisers, may carry out spot checks on any forms/activity from department to department, or may visit departments to check knowledge of RIPA.
- provide or arrange RIPA training, awareness raising, briefing notes and other corporate communications as necessary
- be responsible for applications to the magistrates' court for judicial authority

Overall responsibility for each directed surveillance operation will lie with the Authorising Officer in charge of the operation. Officers who authorise directed surveillance are responsible for granting, reviewing, renewing and cancelling authorisations. Corporate responsibility for monitoring the use of covert surveillance rests with the Senior Responsible Officer.

The RIPA Monitoring Officer in conjunction with the Senior Responsible Officer will ensure that relevant members of staff are suitably trained as applicants for RIPA authorisations and as authorising officers, as well as ensuring that relevant departments are kept informed of any significant changes in RIPA.

The Council's Internal Audit service will review this area of work when requested to do so by the RIPA Monitoring Officer.

APPENDIX 1

LIST OF OFFICERS RESPONSIBLE FOR RIPA DUTIES

Senior Responsible Officer	Julie Muscroft (Service Director – Legal, Governance and Commissioning)
RIPA Monitoring Officer	John Chapman (Head of Legal Services)
RIPA Legal Advisors	David Stickley (Senior Legal Officer) Louise Carter (Assistant Legal Officer)

LIST OF AUTHORISING OFFICERS

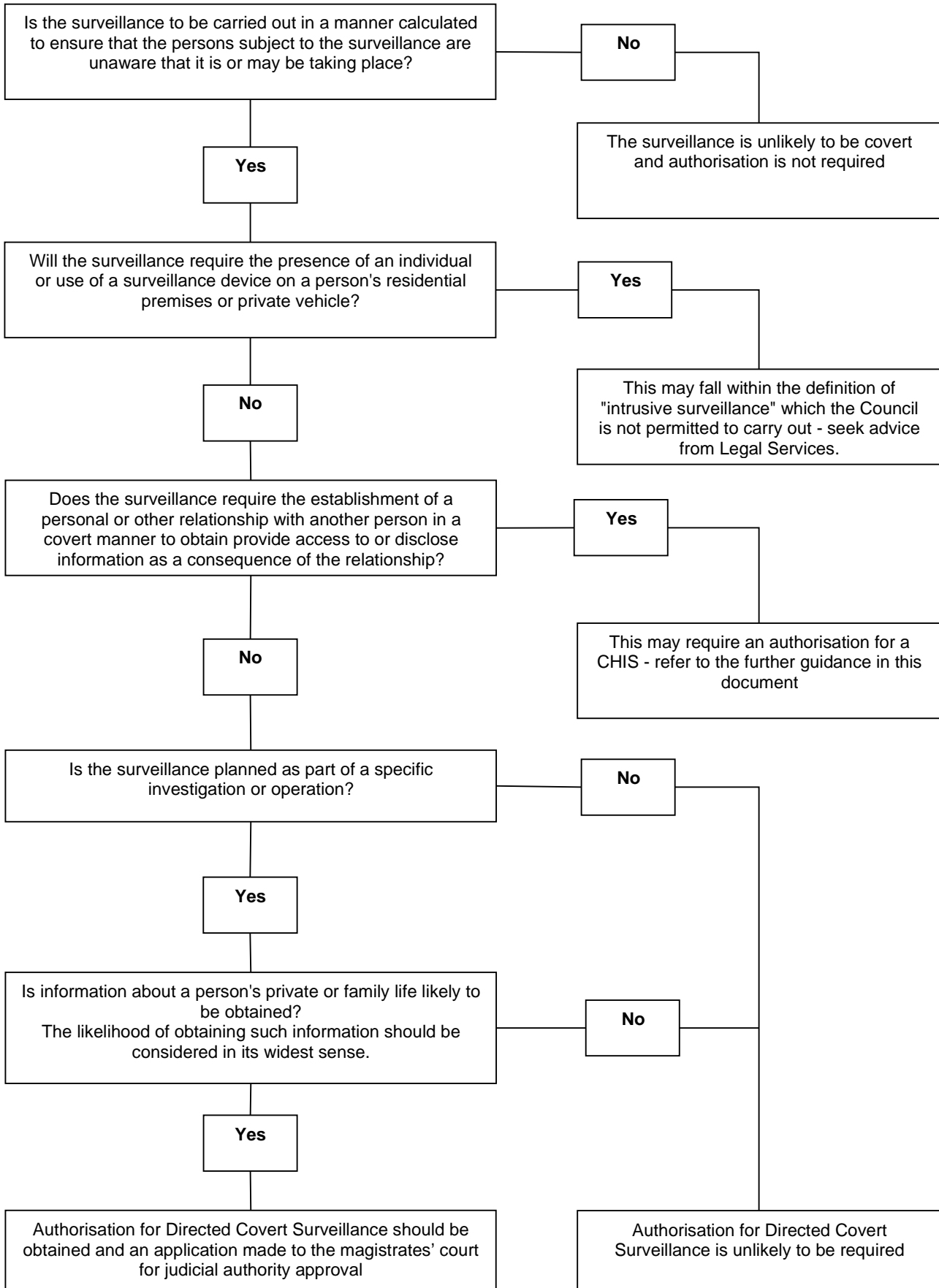
Jacqui Gedman	Chief Executive (for confidential information and juvenile CHIS authorisations)
Martin Wood	(for authorisation in exceptional circumstances) Head of Public Protection
Dave Thompson	Head of Access Strategy and Delivery (Office of the Chief Executive)

NOTES

- A. Only the Chief Executive or in his absence, the Senior Responsible Officer can authorise activities involving confidential information or the use of CHIS
- B. No person shall become an Authorised Officer and/or an Applicant Officer without undergoing and maintaining RIPA training. In the case of Authorised Officers, no person shall become an Authorised Officer until their appointment is confirmed by the Senior Responsible Officer following training provided by or arranged by the RIPA Monitoring Officer.
- C. If an Authorising Officer is in any doubt about an individual matter they should consult the RIPA Monitoring Officer or RIPA legal advisers before any directed surveillance and/or CHIS is refused, authorised, reviewed, renewed or cancelled.

APPENDIX 2

FLOWCHART



APPENDIX 3

DUTIES OF AUTHORISING OFFICERS

- A. Nominate Applicant Officers within their Services who can make applications and ensure that any Applicant Officer who submits an application to them has received appropriate training prior to making the application
- B. Only grant an authorisation for directed surveillance if it is necessary for the purpose of preventing or detecting conduct which constitutes one or more criminal offences; and the criminal offence or one of the criminal offences would be either –
- Punishable, whether on summary conviction (in the magistrates' court) or on indictment (in the Crown Court), by a maximum term of at least 6 months of imprisonment; or
 - Is an offence under:
 - section 146 of the Licensing Act 2003(2) (sale of alcohol to children);
 - section 147 of the Licensing Act 2003 (allowing the sale of alcohol to children);
 - section 147A of the Licensing Act 2003(3) (persistently selling alcohol to children);
 - section 7 of the Children and Young Persons Act 1933(4) (sale of tobacco, etc, to persons under eighteen).”
 - section 91 of the Children and Families Act 2014 (purchase of tobacco, nicotine products etc. on behalf of persons under 18);
 - section 92 of the Children and Families Act 2014 (prohibition of sale of nicotine products to persons under 18)
- C. Only grant an authorisation for CHIS or the acquisition of communications data if it is necessary for the purpose of preventing or detecting crime or of preventing disorder.
- D. Only grant an authorisation that is proportionate to what is sought to be achieved by carrying out surveillance
- E. Before authorising surveillance, take into account the risk of collateral intrusion
- F. Be aware of particular sensitivities in the local community where the surveillance is taking place and of similar activities that might be taking place by other public authorities
- G. Unless it is unavoidable, do not issue authorisations if you were directly involved in the original investigation(s)
- H. Ensure that you have sufficient information and justification to authorise an investigation, if in doubt seek further information

- I. Nominate the appropriate level of officer to be in charge of the investigation
- J. Determine how often a review should take place in each case and ensure that this is at intervals of no longer than one month and review authorisations granted, at intervals of no longer than one month, to assess the need for the surveillance to continue
- K. Ensure that the RIPA Monitoring Officer is informed whenever an authorisation is refused, granted, reviewed, renewed or cancelled and that the relevant form is sent to the RIPA Monitoring Officer within 7 days
- L. Ensure that no surveillance commences unless and until the RIPA Monitoring Officer has obtained judicial authority
- M. Only renew authorisations where appropriate
- N. Cancel the authorisation if you are satisfied that the surveillance no longer meets the criteria applied when it was authorised
- O. On cancellation, issue appropriate instructions to officers in charge of investigations
- P. In cases where confidential information is likely to be acquired ensure that the case is referred to the RIPA Monitoring Officer for a decision on authorisation to be made by the Chief Executive. If in doubt consult the RIPA Monitoring Officer
- Q. Provide an annual return to the RIPA Monitoring Officer recording the RIPA training which shows the RIPA training received by themselves and by their Applicant Officers

APPENDIX 4

DUTIES OF OFFICERS IN CHARGE OF INVESTIGATIONS

- A. Seek authorisation for surveillance where it is likely to interfere with any person's rights to privacy by obtaining private information about that person
- B. Make formal applications for Directed Surveillance and CHIS where appropriate
- C. Inform the Authorising Officer if the investigation unexpectedly interferes with the privacy of individuals who were not considered by the authorisation
- D. Make the Authorising Officer aware of particular sensitivities in the local community where the surveillance is taking place and of similar activities being undertaken by other public authorities which could impact on the surveillance
- E. Ensure that authorisations are regularly reviewed
- F. Apply for renewal shortly before the expiry of the authorisation period and at least 7 days before expiry where possible
- G. Cancel the authorisation when the surveillance is completed and advise any officers involved in the investigation accordingly
- H. Act immediately to terminate surveillance when instructed by the Authorising Officer
- I. Make the Authorising Officer aware of any likelihood that confidential information may be acquired if surveillance is authorised
- J. Properly store and retain the product of surveillance
- K. Ensure that no surveillance commences unless and until the RIPA Monitoring Officer has obtained judicial authority.

APPENDIX 5

MANAGEMENT OF COVERT HUMAN INTELLIGENCE SOURCES

Information Note: The use of a CHIS in Council investigations is most unlikely. Any officer contemplating such use should immediately seek advice from the RIPA Monitoring Officer

This is the text of the 2018 Home Office Code of Practice on Covert Human Intelligence Sources, Chapter 6 Management of Covert Human Intelligence Sources

Tasking

6.1. Tasking is the assignment given to the CHIS by the persons defined at sections 29(5)(a) and (b) of [RIPA], asking him to obtain, provide access to or disclose information. Authorisation for the use or conduct of a CHIS will be appropriate prior to any tasking where such tasking involves the CHIS establishing or maintaining a personal or other relationship for a covert purpose.

6.2. Authorisations should not be drawn so narrowly that a separate authorisation is required each time the CHIS is tasked. Rather, an authorisation might cover, in broad terms, the nature of the source's task.

If there is a step change in the nature of the task that significantly alters the entire deployment, then a new authorisation may need to be sought. If in doubt, advice should be sought from the Investigatory Powers Commissioner.

6.3. It is difficult to predict exactly what might occur each time a meeting with a CHIS takes place, or the CHIS meets the subject of an investigation. There may be occasions when unforeseen action or undertakings occur. When this happens, the occurrence must be recorded as soon as practicable after the event and if the existing authorisation is insufficient it should either be updated (for minor amendments only) or it should be cancelled and a new authorisation should be obtained before any further such action is carried out.

6.4. Similarly, where it is intended to task a CHIS in a significantly greater or different way than previously identified, the persons defined at section 29(5)(a) or (b) of [RIPA] must refer the proposed tasking to the authorising officer, who should consider whether the existing authorisation is sufficient or needs to be replaced. This should be done in advance of any tasking and the details of such referrals must be recorded. Efforts should be made to minimise the number of authorisations per CHIS to the minimum necessary in order to avoid generating excessive paperwork.

Handlers and controllers

6.5. Public authorities should ensure that arrangements are in place for the proper oversight and management of CHIS, including appointing individual officers acting as 'controller' and 'handler' for each CHIS (as defined in section 29(4A) and (4B) and 29(5)(a) and (b) of [RIPA]).

6.6. The person referred to in section 29(5)(a) of [RIPA] (the "handler") will have day to day responsibility for:

- dealing with the CHIS on behalf of the authority concerned;*
- directing the day to day activities of the CHIS;*

- recording the information supplied by the CHIS; and
- monitoring the CHIS's security and welfare.

6.7. The handler of a CHIS will usually be of a rank or position below that of the authorising officer.

6.8. The person referred to in section 29(5)(b) of [RIPA] (the "controller") will normally be responsible for the management and supervision of the "handler" and general oversight of the use of the CHIS.

6.9. Oversight and management arrangements for undercover operatives, while following the principles of the Act, will differ, in order to reflect the specific role of such individuals as members of public authorities. The role of the handler will be undertaken by a person referred to as a 'cover officer' and the role of controller will be undertaken by a 'covert operations manager'.

Joint working

6.10. There are many cases where the activities of a CHIS may provide benefit to more than a single public authority. Such cases may include:

- The prevention or detection of criminal matters affecting a national or regional area, for example where the CHIS provides information relating to cross boundary or international drug trafficking;
- The prevention or detection of criminal matters affecting crime and disorder, requiring joint agency operational activity, for example where a CHIS provides information relating to environmental health issues and offences of criminal damage, in a joint police/ local authority anti-social behaviour operation on a housing estate;
- Matters of national security, for example where the CHIS provides information relating to terrorist activity and associated criminal offences for the benefit of the police and the Security Service.

6.11. In cases where the authorisation is for the use or conduct of a CHIS whose activities benefit more than a single public authority, responsibilities for the management and oversight of that CHIS may be taken up by one authority or can be split between the authorities. The applicant, controller and handler of a CHIS need not be from the same public authority. In such situations, however, the public authorities involved must lay out in writing their agreed oversight arrangements.

6.12. Management responsibility for CHIS, and relevant roles, may also be divided between different police forces and the National Crime agency where there is a collaboration agreement under the Police Act 1996 and the collaboration agreement provides for this to happen.

Security and welfare

6.13. Any public authority deploying a CHIS should take into account the safety and welfare of that CHIS when carrying out actions in relation to an authorisation or tasking, and the foreseeable consequences to others of that tasking. Before authorising the use or conduct of a CHIS, the authorising officer should ensure that a risk assessment is carried out to determine the risk to the CHIS of any tasking and the likely consequences should the role of the CHIS become known. This should consider the risks relating to the specific tasking and circumstances of each authorisation separately, and should be updated to reflect

developments during the course of the deployment, as well as after the deployment if contact is maintained. The ongoing security and welfare of the CHIS, after the cancellation of the authorisation, should also be considered at the outset and reviewed throughout the period of authorised activity by that CHIS. Consideration should also be given to the management of any requirement to disclose information which could risk revealing the existence or identity of a CHIS. For example this could be by means of disclosure to a court or tribunal, or any other circumstances where disclosure of information may be required, and strategies for minimising the risks to the CHIS or others should be put in place. Additional guidance about protecting the identity of CHIS is provided at paragraphs 8.22 to 8.25 [in the Home Office guidance note

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/742042/20180802_CHIS_code_.pdf].

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

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

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

Sections 7.4 and 7.5 of the same Code of Practice provide:

Individual records of authorisation and use of CHIS

7.4 Detailed records must be kept of the authorisation and use made of a CHIS. Section 29(5) of the 2000 Act provides that an authorising officer must not grant an authorisation for the use or conduct of a CHIS unless they believe that there are arrangements in place for ensuring that there is at all times a person with the responsibility for maintaining a record of the use made of the CHIS. The Regulation of Investigatory Powers (Source Records) Regulations 2000; SI No: 2725 details the particulars that must be included in these records.

Where a CHIS is authorised under the terms of a Police Act 1996 collaboration agreement, that agreement should explicitly state on which force or agency's central record the authorisation should be recorded. This is likely to be either the force or agency providing the authorising officer, or the designated lead force or agency. The fact that the authorisation was given under these terms should be recorded on the central record.

7.5 *Public authorities are encouraged to maintain auditable records for individuals providing intelligence who do not meet the definition of a CHIS. This will assist authorities to monitor the status of a human source and identify whether that person should be duly authorised as a CHIS. This should be updated regularly to explain why authorisation is not considered necessary. Such decisions should rest with those designated as authorising officers within public authorities.*

Officers should be particularly careful to ensure that individuals who are not a CHIS at the outset of an investigation do not inadvertently become a CHIS by a process of "status drift". If, for example a complainant volunteers to obtain further information about a person being investigated, care should be taken to consider whether the proposed action would involve the

complainant becoming a CHIS and if so whether that is appropriate and in accordance with RIPA and the CHIS Code of Practice.

Appendix 6

Policy Statement

Kirklees Council takes seriously its statutory responsibilities and will take great care at all times to make sure that the use of surveillance is proportionate to the desired outcome of that surveillance.

In addition the RIPA Monitoring Officer can be contacted for further advice and assistance and the officers with particular expertise in this area are also listed at Appendix 1 and referred to throughout this document as the RIPA Legal Advisers.

Kirklees Council will only use directed surveillance:

- where it is necessary to do so for the prevention or detection of conduct which constitutes one or more criminal offences; and the criminal offence or one of the criminal offences would be either –
 - Punishable, whether on summary conviction (in the magistrates' court) or on indictment (in the Crown Court), by a maximum term of at least 6 months of imprisonment; or
 - Is an offence under:
 - section 146 of the Licensing Act 2003(2) (sale of alcohol to children);
 - section 147 of the Licensing Act 2003 (allowing the sale of alcohol to children);
 - section 147A of the Licensing Act 2003(3) (persistently selling alcohol to children);
 - section 7 of the Children and Young Persons Act 1933(4) (sale of tobacco, etc, to persons under eighteen)."
 - section 91 of the Children and Families Act 2014 (purchase of tobacco, nicotine products etc. on behalf of persons under 18);
 - section 92 of the Children and Families Act 2014 (prohibition of sale of nicotine products to persons under 18)
- in a way that is proportionate to the circumstances

Kirklees Council will only use CHIS or the acquisition of communications data;

- where it is necessary to do so for the prevention or detection of crime or to prevent disorder
- in a way that is proportionate to the circumstances

Kirklees Council will when using directed surveillance:

- do so with due consideration of human rights issues

- properly investigate any complaints made about its use
- actively monitor its use
- observe the appropriate law and Home Office Codes of Practice
- ensure that staff (and contractors) are properly trained

In the normal course of any covert surveillance activity the Council will not use Covert Human Intelligence Sources unless the surveillance is for the purposes of the West Yorkshire Trading Standards Service. If there appears to be a need to employ such sources, the application must be authorised by either the Chief Executive or the Senior Responsible Officer. The appropriate Home Office Code of Practice will then be followed.

The Council will not carry out intrusive surveillance within the meaning of RIPA.

The Council will, through the RIPA Monitoring Officer, maintain a central record of all directed surveillance operations which it undertakes and will monitor the quality of all forms created for this purpose. Any issues will initially be raised as necessary with Authorising Officers and will be drawn to the attention of the RIPA Monitoring Officer.

Responsibilities

Overall responsibility for each directed surveillance operation will lie with the Authorising Officer in charge of the operation.

Officers who authorise directed surveillance are responsible for granting, reviewing, renewing and cancelling authorisations.

The RIPA Monitoring Officer will be responsible for making applications for judicial authority.

Corporate responsibility for monitoring the use of covert surveillance rests with the Senior Responsible Officer.

The Council's Internal Audit service will review this area of work when requested to do so by the RIPA Monitoring Officer.

In cases where the Council's equipment or premises are used by the Police for the purposes of their investigations, the Police will be responsible for obtaining the necessary authorisations under the Act. Council officers should ensure that an appropriate authorisation has been obtained. If the Council officer is not satisfied that an appropriate authorisation has been obtained the Police should not be allowed to use the Council's equipment or premises. In cases where joint operations are undertaken, the lead authority should obtain the authorisation.

APPENDIX 7

RIPA AND ANTI-SOCIAL BEHAVIOUR ENFORCEMENT

- 7.1 Persons who complain about anti-social behaviour and thereafter keep a diary or incident log sheet will not normally be a CHIS as they are not required to establish or maintain a relationship for a covert purpose.
- 7.2 Recording the level of noise such as the decibel level, will not normally capture private information and therefore does not require directed surveillance authorisation.
- 7.3 Recording sound with a DAT recorder or matron box on the complainant's private premises will be directed surveillance unless it is done overtly, for example by informing the alleged perpetrator that a complaint has been received and monitoring will take place. The alleged perpetrator should also be informed of the period when this monitoring is likely to take place (e.g. over the next three months) and what this monitoring may involve (e.g. the use of log sheets, matron boxes etc).

Placing a covert stationary or mobile video camera outside a building to record anti-social behaviour on residential estates will also require an authorisation for directed surveillance.

NB There will be types of Anti-Social Behaviour which no longer meet the conditions for the authorisation of directed surveillance because the underlying criminal conduct does not carry a penalty of at least 6 months imprisonment. Such conduct may involve minor offences of violence, disorder or harassment. If there is any doubt as to what the underlying offences might be or what penalties they carry advice must be sought from the RIPA Monitoring Officer.

APPENDIX 8

WORKING WITH OTHER AGENCIES

Where another agency has been instructed on behalf of Kirklees Council to undertake any action under RIPA, this document and the forms referred to in it must be used (as per normal procedure) and the agency advised or kept informed, as necessary, of the various requirements. They must be made aware explicitly what they are authorised to do.

Where another agency such as the Police wishes to use the Council's resources (e.g. CCTV surveillance system), that agency must use its own RIPA procedures and before any officer agrees to allow the Council's resources to be used for the other agency's purposes, they must obtain a copy of that agency's RIPA form for the record or relevant extracts from the same which are sufficient for the purposes of protecting the Council and the use of its resources in accordance with any service/end agreement and/or Code of Practice in force between agencies.

Where another agency such as the police wishes to use the Council's premises for their own RIPA action and is expressly seeking assistance from the Council, the officer should normally co-operate with the same, unless there are security or other good operational or managerial reasons as to why the Council's premises should not be used for the agency's activities. Suitable insurance or other appropriate indemnities may be sought, if necessary, from the other agency for the Council's co-operation in the agency's RIPA operation. In such cases, however, the Council's own RIPA forms should not be used as the Council is only assisting, not being involved in the RIPA activity of the external agency.

If the police or another agency wishes to use the Council's resources for general surveillance as opposed to specific RIPA operations, an appropriate information request and the proposed use, extent of remit, duration, who will be undertaking the general surveillance and the purpose of it must be obtained from the Police or other agency before the Council's resources are made available for the proposed use.

APPENDIX 9

COMMUNICATIONS DATA

There are two types of communications data which can be obtained by local authorities such as the Council. These are:

Service data (s21(4)(b)) This covers itemised telephone call records, connection records, timing and duration of calls, connection, reconnection and disconnection data, use of forwarding or redirection service, additional telecom services and records of postal items.

Subscriber Data (s21(4)(c)) This includes information on subscribers of E-mail and telephone accounts, account information, including payment details, addresses for installing and billing and abstract personal records such as sign-up data.

Accordingly the Council cannot access the content of communications. The Council has an agreement in place with an external agency who will contact a communications provider if data is required. For more information on this contact the RIPA Monitoring Officer or the RIPA Legal Advisers. Authorisations will only be granted where necessary and proportionate. It seems unlikely that the Council would wish to use this facility unless requested to do so by the West Yorkshire Trading Standards Service.

Any errors must be reported to the RIPA Monitoring Officer who in turn will notify IOCCO as appropriate.

APPENDIX 10

COVERT SURVEILLANCE AND SOCIAL MEDIA

This is the text of the 2016 Office of Surveillance Commissioners Procedures and Guidance, Paragraph 289

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

289.1 Whilst it is the responsibility of an individual to set privacy settings to protect unsolicited access to private information, and even though data may be deemed published and no longer under the control of the author, it is unwise to regard it as “open source” or publicly available; the author has a reasonable expectation of privacy if access controls are applied. In some cases data may be deemed private communication still in transmission (instant messages for example). Where privacy settings are available but not applied the data may be considered open source and an authorisation is not usually required. Repeat viewing of “open source” sites may constitute directed surveillance on a case by case basis and this should be borne in mind.

289.2 Providing there is no warrant authorising interception in accordance with section 48(4) of the 2000 Act, if it is necessary and proportionate for a public authority to breach covertly access controls, the minimum requirement is an authorisation for directed surveillance. An authorisation for the use and conduct of a CHIS is necessary if a relationship is established or maintained by a member of a public authority or by a person acting on its behalf (i.e. the activity is more than mere reading of the site’s content).

289.3 It is not unlawful for a member of a public authority to set up a false identity but it is inadvisable for a member of a public authority to do so for a covert purpose without an authorisation for directed surveillance when private information is likely to be obtained. The Senior Responsible Officer should be satisfied that there is a process in place to ensure compliance with the legislation. Using photographs of other persons without their permission to support the false identity infringes other laws.

289.4 A member of a public authority should not adopt the identity of a person known, or likely to be known, to the subject of interest or users of the site without authorisation, and without the consent of the person whose identity is used, and without considering the protection of that person. The consent must be explicit (i.e. the person from whom consent is sought must agree (preferably in writing) what is and is not to be done).