

To: Members of the Governance and
Audit Committee

Date: 25 January 2024

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Dear Councillor

You are invited to attend a meeting of the **GOVERNANCE AND AUDIT COMMITTEE** to be held at **9.30 am** on **WEDNESDAY, 31 JANUARY 2024** in **COUNCIL CHAMBER, COUNTY HALL, RUTHIN AND BY VIDEO CONFERENCE.**

Yours sincerely

G. Williams
Monitoring Officer

AGENDA

1 APOLOGIES

2 DECLARATION OF INTERESTS (Pages 3 - 4)

Members to declare any personal or prejudicial interests in any business identified to be considered at this meeting.

3 URGENT MATTERS

Notice of items, which in the opinion of the Chair should be considered at the meeting as a matter of urgency pursuant to Section 100B(4) of the Local Government Act 1972.

4 MINUTES (Pages 5 - 22)

To receive the minutes of the Corporate Governance Committee meeting held on 22 November 2023 (copy enclosed).

5 CARE INSPECTORATE WALES INSPECTION (CIW) REPORT - DENBIGHSHIRE DOMICILIARY SUPPORT SERVICE (Pages 23 - 36)

To receive a report which provided information regarding the recent Care Inspectorate Wales Inspection carried out on Denbighshire Domiciliary Support Service (copy attached).

6 TREASURY MANAGEMENT (Pages 37 - 82)

To receive a report showing how the Council will manage its investments and its borrowing for the coming year and sets the policies within which the Treasury Management function operates (copy attached).

7 REGULATION OF INVESTIGATOR POWERS ACT 2000 ANNUAL REPORT (Pages 83 - 122)

To receive the annual report on the Council's use of its powers of surveillance under RIPA (Regulation of Investigatory Powers Act 2000) (copy attached).

8 GOVERNANCE AND AUDIT COMMITTEE WORK PROGRAMME (Pages 123 - 130)

To consider the committee's forward work programme (copy enclosed).

FOR INFORMATION

9 OMBUDSMAN ANNUAL LETTER 22/23 (Pages 131 - 140)

To receive for information, the Ombudsman Annual Letter 22/23 which provided an overview of the Annual Letter reported to Local Authorities by the Public Services Ombudsman for Wales (copy attached).

MEMBERSHIP

Councillors

Ellie Chard
Justine Evans
Bobby Feeley

Carol Holliday
Arwel Roberts
Mark Young

Lay Member

Nigel Rudd
David Stewart

Paul Whitham

COPIES TO:

All Councillors for information

Press and Libraries
Town and Community Councils

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LOCAL GOVERNMENT ACT 2000

Code of Conduct for Members

DISCLOSURE AND REGISTRATION OF INTERESTS

I, (<i>name</i>)	<input type="text"/>
a *member/co-opted member of <i>(*please delete as appropriate)</i>	Denbighshire County Council
CONFIRM that I have declared a *personal / personal and prejudicial interest not previously declared in accordance with the provisions of Part III of the Council's Code of Conduct for Members, in respect of the following:- <i>(*please delete as appropriate)</i>	
Date of Disclosure:	<input type="text"/>
Committee (<i>please specify</i>):	<input type="text"/>
Agenda Item No.	<input type="text"/>
Subject Matter:	<input type="text"/>
Nature of Interest: <i>(See the note below)*</i>	<input type="text"/>
Signed	<input type="text"/>
Date	<input type="text"/>

*Note: Please provide sufficient detail e.g. 'I am the owner of land adjacent to the application for planning permission made by Mr Jones', or 'My husband / wife is an employee of the company which has made an application for financial assistance'.

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Public Document Pack Agenda Item 4

GOVERNANCE AND AUDIT COMMITTEE

Minutes of a meeting of the Governance and Audit Committee held in COUNTY CHAMBER, COUNTY HALL, RUTHIN AND BY VIDEO CONFERENCE on Wednesday, 22 November 2023 at 9.30 am.

PRESENT

Councillors Ellie Chard, Justine Evans, Carol Holliday, Arwel Roberts, Andrea Tomlin and Mark Young (Vice-Chair)

Lay Members – David Stewart (Chair), Nigel Rudd and Paul Whitham

Lead Members – Councillor Gwyneth Ellis Lead Member for Finance, Performance and Strategic Assets and Councillor Julie Matthews Lead Member for Corporate Strategy, Policy and Equality.

ALSO PRESENT

Chief Executive (GB), Corporate Director: Governance and Business – Monitoring Officer (GW), Head of Finance and Audit (Section 151 Officer) (LT), Chief Accountant (RE), Chief Internal Auditor (BC), Head of Service for Corporate Support, Performance, Digital and Assets (HVE), Strategic Planning & Performance Officer (HBP), Corporate Health & Safety Manager (GL), Trainee Fire Safety Manager (HT), Property Health & Safety Manager (SW), Strategic Planning Team Manager (NK), Chief Digital Officer (BE), Committee Administrator (SW) (Zoom Host) and Committee Administrators (SJ).

Audit Wales representative Mike Whiteley was also in attendance.

1 APOLOGIES

Councillor Carol Holliday informed the Chair she may be late attending the meeting.

2 DECLARATION OF INTERESTS

Councillor Mark Young declared a personal interest as he was the Chair of Governors at Denbigh High School.

Councillor Arwel Roberts declared a personal interest as he was a Governor at Ysgol Castell.

Lay Member Nigel Rudd declared a personal interest as he was a member of the Conwy County Borough Council Governance and Audit Committee.

The Chair, Lay Member David Stewart declared a personal interest as he was a recipient of a Clwyd Pension fund pension noted in agenda item 12 and was a member on the Governance and Audit committee on Wrexham County Borough Council.

Lay Member Paul Whitham declared a personal interest in agenda item 12 as he was a recipient of a Clwyd Pension fund pension.

3 URGENT MATTERS

No urgent matters were raised.

4 MINUTES

The minutes of the Governance and Audit Committee meeting held on the 20 September 2023 were presented for consideration.

Matters of accuracy –

Page 9 – Minutes – it should read ‘the Chair asked was it to be presented’ and not ‘had it been’.

Page 9 – Item 5 Approval of Statement of Accounts – It should state ‘the audited accounts have to be formally approved by Governance and Audit members on behalf of the council.’ Not elected members are noted.

Page 11 – Update on draft Statement of Accounts 2022/23 – It should read the ‘Chair thanked the Head of Finance’ for the training session.

Matters arising –

Page 8 – Minutes – Internal Audit Update – The Chief Internal Auditor confirmed communications with the Chief Internal Auditor of Ceredigion Council had commences to arrange the Peer review. She had received the submitted work provided and apologised for the delay. The intention was she would attend a Governance and Audit Committee meeting and meet with the Chair.

Page 8 – Minutes - Annual Governance Statement – The Monitoring Officer confirmed he would be meeting with the Chief Internal Auditor before the next Annual Governance Statement report to discuss the addition of a commitment to good governance be included.

Page 13 – Draft annual report of Governance and Audit Committee – The Chair informed members he would raise any training sessions including self-assessment at the forward work programme agenda item.

Members were informed the Chair had presented the annual Governance and Audit report to County Council which was warmly received by elected members. The Chair thanked the support he received from the Monitoring Officer.

Page 16 – Governance and Audit Forward Work Programme – The Monitoring Officer confirmed Scrutiny Chairs and Vice Chairs group would discuss shared prosperity and levelling up funding at the next meeting.

Page 16 - Governance and Audit Forward Work Programme – The Chair thanked officers for arranging the Scrutiny training. He had been in attendance and both

sessions. He felt it was very beneficial to both elected Councillors and lay members.

Page 19 – Joint Inspection of Child Protection Arrangements – The Monitoring Officer confirmed he had a meeting arranged with the officers that had been present at the last committee meeting to discuss the feedback to Care Inspectorate Wales. He confirmed he would share the details with Members prior to submitting.

RESOLVED, *subject to the above that the minutes of the Governance and Audit committee held on 20 September 2023 be received and approved as a correct record.*

5 CORPORATE RISK REGISTER: SEPTEMBER 2023 REVIEW

The Chair thanked officers for the training session provided on risk management prior to the meeting. It was beneficial and very informative to all.

The Head of Corporate Support: Performance, Digital & Assets introduced the report (previously circulated). The report provided an update on the September 2023 Review of the Corporate Risk Register and the Risk Appetite Statement.

The Head of Corporate Support: Performance, Digital & Assets advised members that the Corporate Risk Register update report had been compiled following a review in September where a number of changes had been made. Appendices to the report highlighted:

1. Appendix 1 – summary of significant changes
2. Appendix 2 - table and trend analysis of the Corporate Risks
3. Appendix 3 – detailed information on the 13 Corporate Risks
4. Appendix 4 – a reminder of the Risk Appetite Statement - agreed November 2022 to be reviewed in February 2024.

The Strategic Planning and Performance Officer provided further detail of the process of how the risk register had reviewed and updated. The report sought committee's assurance that a robust management process within the Council with a view to find any governance related risks that warrant further consideration.

It was noted that following the review the number of risks had reduced from 20 risks to 13. A number of the risks had been amalgamated and a number deescalated with two new additions. Details of the risks were provided in the papers.

The Chair thanked the officers for the report and also for the guidance information that was issued to Members following the training session on managing risks for better service delivery.

In his opinion the report demonstrated a proper and robust approach to risk management. This was a tool, that was understood and used by Members and officers to prioritise the risks faced by the council.

Following the introduction, officers responded to Members questions as follows:

- Risk 18: The risk that programme and project benefits were not fully realised had been removed. It was to be incorporated in the Financial Risk 51.

- The risk appetite statement was agreed by the Corporate Executive Team and was based on various impact level determined the risk appetite. Given the uncertain financial future it was important for officers monitor the risk appetite against risks. The Head of Finance stated the risk appetite for the council was lower. The context of which the authority was operating was outside the council's control. The financial context at present is higher to what the authority would want at this point in time.
- All budget saving schemes are required to complete a wellbeing impact assessment. Those would be collated to identify any impacts on key goals on the authority, the findings would be presented alongside the budget proposals in the new year. The wellbeing assessments were lie reports and could be updated and amended over time.
- Officers agreed to provide Members with some additional information on independent schools in relation to risk 01.
- Members agreed that following an update to the Corporate Risk Register a brief summary be provided as an information report to Governance and Audit committee. Members also suggested a single summary report be presented on a more regular basis to illustrate any changes to identified risks. The Monitoring Officer stated if committee wanted information on a more regular basis that could be requested to officers. Officers suggested taking the comments back to the team for observations in ways of providing more regular information to the committee.
- The risk of flooding was covered in Risk 11 – Ineffective response to a serious event.
- Members were encouraged to contact Lead Members with any concerns they felt should be included for specific concerns such as the Welsh Language and Culture. There were different ways of managing risks, each service area also had a risk register which detailed certain specific risks.
- Members were pleased to see fraud and corruption were still included as a risk to the authority.
- Members asked if the detail of cyber-attacks in Risk 11 needed further detail. Officers stressed greater detail had been placed on this particular risk in the service risk register although it still merited being included in the Corporate Risk Register.
- The correct scoring for the residual risk score remains unchanged as C2 for Risk45. Officers thanked members for identifying the discrepancy.
- Members asked if the details listed on the anticipated direction of travel were accurate. In response the Monitoring Officer stating with fewer vacant posts the authority would be less likely to recruit to those posts or retain staff.

The Chair thanked all officers and Members for the detailed discussion and it was;

RESOLVED, that

- I. Governance and Audit Committee note the review process of the Corporate Risk Register;*
- II. The guidance notes related to risk management be adjusted to reflect the Governance and Audit Committees role and*
- III. Officers to review and devise a more frequent summary report in respect of the Corporate Risk Register.*

6 BUDGET PROCESS UPDATE

The Chair welcomed Liz Thomas the Head of Finance and Audit to the Committee. He wished the Head of Finance and Audit best wishes in her new role.

The Lead Member for Finance, Performance and Strategic Assets presented the report (previously circulated) to Members. She stressed to Members the financial situation Denbighshire along with all other authorities across Wales was unprecedented in terms of the financial void. Thus meaning the process of setting a balanced budget was to be far more difficult than previously witnessed. A number of discussions had taken place and would take place to review and monitor the situation of balancing the authorities budget.

The Head of Finance and Audit echoed the comments made by the Lead Member. She expanded by saying the report was presented to committee to update and provide assurance on the processes on setting the budget for 2024/25.

The first section of the report provided details of where the authority currently was in relation to the financial position. Members were guided to the table included in appendix 1 of the report, provided the latest forecast. It demonstrated the difficulty in forecasting the potential level of funds. An additional column had been included in the table with the latest estimate figures which the team were working towards.

The table indicated the authority had budgetary pressures for 2024/ 25 totalling a predicted £26 million. The majority of those pressures were pay and inflation related, from demand led services. The majority of the risks were due to inflation and an increase in pay. Officers were constantly monitoring the inflation predictions and current figures.

The authority had not been required to find such a high balance void in recent years, it was stressed the council had a good history of making efficiencies and savings.

Officers were assuming Welsh Government would provide 3% to support the funding gap. Which was not in keeping with the high levels of inflation and demand. It was stressed the working assumption; officers were working to a council tax increase figure of 7%. No decisions had been made yet. With all these initial assumptions that would leave a funding gap of £15 million to find.

The strategy to review ways to close the gap was detailed in the appendix. An increase to fees and charges in line with the fees and charges policy would appropriately made. Heads of Service and Corporate Directors had put forward large scale savings proposals for consideration. Those proposals were being reviewed by the Corporate Executive Team. If any proposals were deemed a

possible savings a formal process would begin with a number of stages before any formal decisions are made.

There were a number of nonstrategic savings proposals put forward which were being reviewed. All areas of overspends within authority were being reviewed to review those areas to prevent future overspends.

Discussions with schools in relation to the position had taken place. The authority would continue to fund inflation increases within schools but there would still be a requirement for schools to source savings of between 2-4%.

All the suggested savings put forward would save an additional £8 million which would leave a remaining gap of £7.5 million to balance the budget. A lot of work and communication was being done to discuss options and potential savings had taken place. A number of meetings were taking place to review potential savings area.

Members heard a staff suggestion scheme had been initiated. That scheme had resulted in 150 suggestions submitted by employees which were being reviewed by finance officers and Heads of Service. The Lead Member along with Head of Finance and Audit were due to meet with all political group leaders to consider and develop and suggestions.

All staff, schools and trade unions were kept abreast with the changing situation and figures.

Going forward officers were working of a revision to the forecast which would be provided to members in the new year. It was stressed 2024/25, 2025/26 and 2026/27 were all looking equally as challenging.

The Chair stressed the Governance and Audits role was to review the process of the budget process and balancing the budget. Assurance was needed that all was being done to achieve a balanced budget in 2024/25 and subsequent years. Assurance was also needed that all saving proposals were achievable and were being achieved. Monitoring and tracking of those savings would be required.

The Committee would want to be made aware of any impacts on the governance of the authority as a result of the savings measures.

Following the detailed introduction, the Lead Member and Officers expanded on the following points raised:

- Members appreciated the difficulties faced by the authority over the coming years to balance budgets. They noted the large funding gap that was needed to be filled. Concerns were raised that certain service areas were currently over budget and would struggle to find savings they could commit to. Officers stressed there would have to be a process set over the medium term to review and monitor balancing the budget.
- Officers were working through the savings proposals, some were further ahead than others with some being developed and progressed. There would need to be a savings tracking process in place to ensure savings are being met.
- The savings identified to date identified a saving of £8million it was hoped that during the process additional savings would be identified.

- Services that currently were experiencing overspends were areas of high demand, they would also be required to assess any savings that could be made to reduce overspends and make savings proposals.
- The gap of £7.5 million reported today was not how officers intended to propose to balance the budget. Work was needed and further discussions to reduce that by the close down of accounts.
- Internal Audit would be reviewed and how best to work going forward. It was felt internal audit would need to work closely with the Head of Finance and Audit to monitor the proposed savings and completing savings proposed during the next months and years. Any issues would be presented to members in the audit reports presented to committee.
- A number of savings proposals were being put forward. One of those was looking at the roll in which City, Town and Community Councils could play in some of the savings proposals. Officers needed to review and assess going forward.
- The staff suggestion process had been extremely worthwhile. The level of engagement had been good with a number of suggestions offering areas that could be progressed to reduce the funding gap. It was important to ensure all staff felt involved and able to suggest areas for savings.
- It was confirmed the Section 151 Officer within the authority served the Section 114 notice on the authority and the external auditor. The Governance and Audit Committee was a prime link to the relationship between the external auditor and the authority.
- In recent years there had been no Welsh Authorities that had issued a Section 114 notice. When looking at services in the authority that would continue, officers would look at those services that were statutory and those non-statutory.
- Members heard the Medium Term Financial Plan covered three years and was currently being developed. Officers would look beyond the three-year plan to project future budget but it was stressed the further ahead you look the less reliant you can be on events.
- A budget mitigation reserve would cover the overspend for the financial year 2023/24.
- Capital programme was one of the major savings proposals that was being considered. In the report a savings figure of £500,000 was provided for investments and borrowing this was directly linked to new borrowing for capital projects.
- Data on the Capital proposals and projects going forward in terms of the authority's ambition was available. It may need to be reviewed to align what can be delivered and what was affordable to manage expectations.

- All areas including service delivery were under review and considerations when reviewing potential savings.
- The authority operated a housing revenue account which was reported to Cabinet as part of the budget monitoring report. The housing revenue account activity was reported to Cabinet and Communities Scrutiny and potentially Performance Scrutiny depending on the nature of the report. Officers confirmed it would look at the role of the Governance and Audit Committee in relation to the Housing Revenue Account to see where the role of the Committee would be.

Members asked if any variations or issues arose during the course of the coming months the committee were made aware of those issues and a report be presented at a meeting for discussion before the next scheduled update in June 2024.

RESOLVED that Governance and Audit Committee note the contents of the budget strategy agreed by Cabinet for setting the budget 2024/25. Members requested any significant events or deviations from the current projection be shared with the Committee.

At this juncture (11.55 a.m.) there was a 15 minute comfort break.

The meeting reconvened at 12.10 pm.

7 TREASURY MANAGEMENT UPDATE

The Head of Finance guided Members through the Treasury Management update report (previously circulated).

The report provided Members with assurance about the treasury management activity. The activity around investment and borrowing was in line with the policy and strategy that had been set.

It was stressed any surplus cash was being invested securely and not exposed to any unnecessary risk and cash was available if and when needed.

The majority of investments had been made to the UK Government's Debt Management Office (DMO) in order to minimise these risks. Cash flow was continually monitored by officers.

Members heard the authority only borrowed for capital purposes. Large coastal defence projects were currently being implemented and that was driving the authorities borrowing requirements. Close working with the treasury advisors Arlingclose Ltd to ascertain the best time to borrow continued.

The committee heard all the prudential indicators set for treasury management were currently being met.

The Chair thanked the Lead Member and Head of Finance for the update. Members discussed the following points in more detail:

- Previous years authorities had good availability of short term cash funds. Given the current level of authorities experiencing financial difficulties there was more scrutiny around short term borrowing and more questions being asked by lenders.
- There was a process to support schools in financial difficulty. Schools have to inform both the finance team and the education department when they are in a budget deficit. Recovery plans would be required and support provided when possible. There will be separate processes for the educational difficulties.
- Officers were unaware of any restrictions in the policies for not entering into financial transaction with authorities who had issued Section 114 notices. Denbighshire County Council wouldn't enter any such arrangements but there is nothing to say it could not be done. The Head of Finance stated she would raise the comments with Arlingclose Ltd as part of the strategy meeting.
- Members noted a panorama programme on an authority that had taken out a number of questionable investments in relation to treasury management activity. The advisors noted in that programme were Arlingclose Ltd, members asked for assurance that Denbighshire officers were made aware of any issues around that particular situation were known. Training was due for Governance and Audit. The Head of Finance stated she would request some of the points could be addressed at that session.
- The Chair directed members to a recent CIPFA report that had been published on 4 English authorities that had issued Section 114 notices.
- The Housing Revenue Accounts formed part of the Statement of Accounts. It was part of the Audit Wales testing to form the audit opinion.
- The Head of Finance stated as with all services she would have to seek savings in her service areas. She did not envisage any changes to the treasury management team.

RESOLVED that members note the Treasury Management update report for performance to date in 2023/24 and that it had read, understood and taken account of the Well-being Impact Assessment as part of its consideration.

8 INTERNAL AUDIT UPDATE

The Lead Member for Finance, Performance and Strategic Assets along with the Chief Internal Auditor (CIA) introduced the report (previously circulated). Members were updated on the Internal Audit Team's progress in terms of its service delivery, assurance provision, reviews completed, performance and effectiveness in driving improvement.

The report provided information on work carried out by Internal Audit since the last committee meeting. It allowed the committee to monitor Internal Audit's performance and progress as well as providing summaries of Internal Audit reports.

Confirmation that 4 Audits had been completed since the last committee meeting in July 2023, all four audits had received a high assurance rating. The number of completed audits was lower than usual due to a number of special investigations taking place at the same time. since publication of the agenda 3 further audits had been completed.

The Chief Internal Auditor was pleased to say the audit department was now at full capacity. The team was still in it's infancy with a number of employees on career pathways. The Chief Internal Auditor was pleased with the work the team were producing.

Over the coming months it was stressed Internal Audit would need to work closely with Heads of Service and Head of Finance to assess how audit go forward and complete audits. Assurance would need to be provided to ensure members are aware that any cuts are being met in line of budget proposals to enable the accounts to balance.

The Chair thanked the Chief Internal Officer for the detailed introduction.

During the discussion –

- Work was ongoing to complete the 2023/24 programmed audit work. The Chief Internal Auditor had to review the list of proposed work to prioritise audits that were required this financial year and those that could be deferred or not required. Meetings with Heads of Service would be arranged following the new plan being completed.
- Capacity of the team and workload of the team was currently at a satisfactory level. In the new financial year, the plan would potentially change to ensure all cuts are reviewed to provide committee assurance that the service area was still providing need.
- The special investigations process involves numerous officers including the Monitoring Officer and Chief Internal Auditor reviewing each case and decide the best course of action. Not all special investigations are reviewed by internal audit.
- A previous piece of work on partnership arrangements in Denbighshire would be reviewed and included in the new financial year. Members asked if the paper was more a mapping exercise to illustrate the key governance responsibilities and where they lie.
- The Chief Internal Auditor confirmed he would present the outcomes of the special investigations as a confidential report following completion of the investigation.

- All audit reports completed in schools were shared with the Head of Education. Internal Audit look at schools per cluster and if they were made aware of any trends further discussions with relevant officers would take place. He informed Members he was due to meet with the Chairs and Vice Chairs of Governing Bodies in the new year.
- Over the summer the internal audit team, contacted each school that had received an audit since January 2020, to review any outstanding actions. Officers with services ensured verito had been updated correctly against any outstanding actions or highlight any actions still needing completion. Further correspondence and discussions with schools would take place if actions remained outstanding.
- Members were made aware internal audit offered issues, each service designed the actions.

RESOLVED that, members note the Internal Audit's progress and performance.

9 ANNUAL SIRO REPORT

The Head of Corporate Support Service: Performance, Digital & Assets along with the Chief Digital Officer and Interim Senior Information Risk Owner April 2022-Sept 2023 introduced the report to the Committee (previously circulated).

The report covered the period April 2022 to March 2023 and provided information on the Council's information governance including data breaches of the Data Protection Act, Freedom of Information, Environmental Information and Data Protection requests received.

The report allowed the committee an oversight of information governance arrangements and performance.

Members heard there were 27 data incidents involving personal data, a decrease on last year (2021/22) when there were 35. Most of the data incidents were minor. It was felt the new ways of working had imbedded with employees and people were more mindful of the ways of working.

There were three incidents considered reportable to the Information Commissioner's Office (ICO), all of the reports resulted in no further action against the Council. The underlying cause of the majority of issues were human error, new procedures for remote 'checking' was being explored especially useful in the context of increased home working of most office-based staff.

There was a total of 1,057 Freedom of Information and Environmental Information Regulation requests during the 12 months to 31st March 2022.

Higher levels of data protection requests were received during 2022/23 compared to 2021/22 (203 total) these were likely because Data Protection cases for Children's Services which were now routinely recorded centrally.

Internal reviews had taken place 16 in total 8 of which were all or partially upheld.

The Chair thanked the officers for the detailed report and thanked the officers for the right level of assurance for members of the Governance and Audit committee. Members suggested that annual reports such as this should be considered as an information item unless any concerns or issues officers felt warranted member discussion. The report provided members with the level of assurance that they were happy with.

The Monitoring Officer stressed the importance of such annual reports being presented to Members for their attention. Members could always request further details or reports following an information item if they wished.

He informed Members that the authority was in receipt of thousands of pieces of correspondence annually. The authority took its responsibility seriously with processes in place to resolve any breaches.

Data protection forms part of the mandatory training for all staff. It had to be reviewed every three years. There was also an information governance group, where communication and awareness was fed through. Officers had assurance in some of the high risk areas that mitigations were in place to reduce the risk of breaches. Services with a higher risk of data breaches receive extra training. When a breach is recorded the individual concerned is required to fully complete all data protection training.

Officers were monitoring the impact of homeworking and the number of breaches around flexible working. Members were keen to monitor the current working policies and if that impacted on the number of breaches recorded.

Members asked if school staff were required to complete the data protection training and additional refresher 3 year modules. The Head of Corporate Support Service: Performance, Digital & Strategic Assets informed members she would seek the answer and circulate to members.

RESOLVED that the Governance and Audit Committee note the contents of the annual Senior Information Risk Owner report and in addition, future reports would be presented to the Committee for information.

10 ANNUAL CORPORATE HEALTH AND SAFETY REPORT

The Lead Member for Corporate Strategy, Policy and Equalities along with the Corporate Health & Safety Manager guided members through the annual Corporate Health and Safety report (previously circulated).

The report provided information regarding Health and Safety management within Denbighshire County Council during 2021-2022. Included as part of the paper was details including data of a number of areas in the authority.

Good levels of health and safety was expected in all areas of the local authority.

The first section of the report included the assessment of the implementation of health and safety systems, a medium assurance rating had been provided along with a medium assurance for employee involvement in health and safety.

Members were provided with key points provided in the report. These included:

- Agile working – guidance documents had provided to employees
- Hand arm vibration monitoring – an action plan had been created to monitor and was currently being implemented
- Health surveillance – working with occupational health a questionnaire was carried out for all employees to complete.

The report detailed all the areas and services health and safety have inputted in over the year. Members heard there was a dedicated health and safety team within property services that were responsible elements for building safety.

Details of the future work for the health and safety team for 2024 were provided. Including the next 2-year training action plan.

The reports were reported to the Senior Leadership Team when needed but were reported on a quarterly business to the Joint Consultative Committee for Health and Safety and Employee Relations.

Training was provided

The Chair thanked the officer for the detailed information and introduction. He suggested going forward the report would provide members with any major incidents or exceptions to the norm be highlighted to committee.

Members were grateful for the honest information regarding the hand am vibration monitoring. It was felt work was being done to monitor the situation and reduce the potential for any instances.

It was highlighted to Members that training included sections of agile working and working from home. If training was provided for a specific group of employees all working out the same environment the training was provided looking at that way of working. Training and requirements of responsibilities was made clear. Managers were responsible for employees completing training requirements. Support was provided to managers to ensure all training needs were met.

RESOLVED that, the Governance and Audit Committee receive the report, note its contents.

11 PROPERTY COMPLIANCE REPORT

Head of Corporate Support Service: Performance, Digital & Assets along with the Property Health & Safety Manager introduced the Property Compliance report) previously circulated).

Members heard monthly reports were composed, with a combination of those reports compiled into the report presented to the committee. The report provided Members with information regarding how property compliance was being proactively managed within the authority's corporate property stock.

Details of the key performance indicators were provided in the papers. It was highlighted the two higher areas were asbestos and gas safety. Both seen as high risk areas.

Each section within the report set out the legislative requirements, structure of the team, yearly performance and priorities.

Officers were pleased with the service performance and had no concerns. Work was ongoing to monitor and improve services where possible.

The Chair thanked the officers for the report and as stated earlier in the meeting, going forward annual assurance reports such as this would be presented to committee as information items. Allowing members sight of any concerns or officers to raise any areas for member's attention.

Members heard the properties leased by Denbighshire Leisure Limited were the responsibility of Denbighshire Leisure Limited to maintain but agreements are in place that they call off from the authority to support maintenance. An example of the SLA in place was provided to members as part of the park.

Further detail around the revenue budget for the management of Legionella was provided. Members heard an allocation of £161,000 had been set aside in the revenue budget for the work around Legionella. That included the work required for risk assessments, monthly monitoring, quarterly monitoring, biannually monitoring, annually monitoring and expansion vessels and servicing. In addition, there was a small amount of funding available to repair any additional items identified. There were 11,000 assets across the council that required monitoring, council investment had been secured to repair those assets. It was hoped in two years all repairs would be complete and officers would just be required to monitor and maintain a compliance level.

RESOLVED, that members note the contents of the Annual Property Compliance Report.

12 AUDIT WALES - TIMETABLE OF WORK

The Audit Wales representative, Mike Whiteley introduced the Audit Wales timetable of work report (previously circulated).

The report provided members with the detailed audit plan, which set out Audit Wales' planned work for the coming year. Members were guided to some of the key items detailed in the report including Audit Wales' key responsibilities, details of financial statements audit work and a summary setting out key information of each audit.

Members were guided through the information detailed in the papers including the specifics on materiality and how it applied to audits of accounts, group accounts and the council's single entity accounts. The paper also identified the risks associated with the audits, it was stressed no risks were specific to Denbighshire. If Audit Wales identifies any risks specific to Denbighshire during the course of the planned work these would be identified and reported to committee.

The Audit Wales representative was pleased to inform the committee the vacant post in the team of the performance audit lead role had been filled.

He informed Members of the two threats to the independence of the team which related to Matthew Edwards and a team member, as both have a relative employed by the Council. As a result, they would not be involved in any work in relation to the relevant services and only be permitted following a risk assessment.

The Chair thanked the representative for the detailed summary of the paper and open the debate for further discussion.

Lay Member Nigel Rudd, asked if there was any indication of a timescale when work on the thematic review – financial sustainability of local government would be available for committee. The representative stated his understanding was the financial sustainability work was in the final scoping stages to be rolled out as soon as possible. It was important that timing was given to the scoping aspect of that work.

The Chief Internal Auditor commented within in his report the financial stability reviews were due to take place between March-June 2024.

Members noted the appointment of the new performance audit lead and was pleased to hear the vacancy had been filled. It was also highlighted the team consisted of all male auditors. Audit Wales thanked officers for the observations. Members heard within the structure of the team in North Wales there were female auditors employed by the company.

It was stressed the aim to deliver the audited accounts by March 2024 was still the plan and resources were in place to support that target.

RESOLVED, that Members note the contents of the Audit Wales report.

13 GOVERNANCE AND AUDIT COMMITTEE WORK PROGRAMME

The Governance and Audit Committee's Forward Work Programme (FWP) was presented for consideration (previously circulated).

The Chair thanked officers for the early sight of the agenda to assess the weight of the meeting prior to the agenda being published.

It was noted the Draft Statement of Accounts and Statement of Accounts would need to be included in the FWP. He stressed the importance of being mindful of heavy agendas when adding additional reports to the FWP.

It was agreed that along with the annual report on the Corporate Risk Register, following the update presented to Cabinet and Scrutiny an information report be circulated with Governance and Audit Members.

The Monitoring Officer suggested the agenda item listed in January on any Constitution updates be presented as a report then reviewed as how best to present to the committee going forward.

The Chair suggested the Internal Audit update and the Internal Audit Annual Report be combined at the June meeting.

It was confirmed the Annual Governance Statement was listed for the June meeting.

Members were reminded that a training session was to be arranged before the January meeting. Officers would be in contact with all Members. The Chair asked Members to consider any additional areas of training they felt would be beneficial to all.

Lay Member Mr Paul Whitham suggested a session on the self-assessment requirement of the committee be included as a potential training need. The Chief Internal Officer suggested a session be arranged for the end of March/ April, this meaning the outcome of the self-assessment could be included in the Annual Internal Governance Statement.

Members suggested delegated authority be given to the Monitoring Officer, Chair and relevant Officers to review the contents of the work programme. Members stressed the importance of a number of reports received by the committee and the potential for capacity during a particularly heavy agenda.

The Chair was in agreement the proposal. He suggested as part of the briefing provided for the Chair and Vice-Chair a section of the briefing be on the work programme for future meetings.

The Monitoring Officer suggested a one off meeting be arranged for a discussion on the FWP then going forward it could form part of the Chair and Vice Chair's briefing prior to each meeting.

A report on the current position and assurances on the HRA would be included in the work programme.

RESOLVED that, subject to the above the Governance and Audit Committee's forward work programme be noted.

14 AUDIT WALES CERTIFICATION OF GRANTS

The Chair introduced the Audit Wales information report on Certification of Grants and Returns 2021-22 – Denbighshire County Council (previously circulated).

The Chair informed Members at a pre-meeting he had raised questions on the housing benefit subsidy that Audit Wales had identified errors. He assured Members, Audit Wales stressed the errors found were found annually and across numerous authorities and were not unexpected.

The Audit Wales Representative concurred with the Chair and stressed the work load that officers were currently under along with a number of changes taking place with processing work. The report provided reflected an improvement from previous years and did not raise any concerns with Audit Wales. He thanked the Denbighshire officers for implementing changes to make the improvements identified.

RESOLVED, that Members note the information report.

The Chair thanked all Members and officers for the discussions and contributions during the meeting and through the year. He wished all a merry Christmas and all the best for the New Year.

The meeting concluded at 13.55 pm.

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Report to	Governance and Audit Committee
Date of meeting	31 st January 2024
Lead Member / Officer	Elen Heaton
Head of Service	Ann LLoyd
Report author	Katie Newe
Title	Care Inspectorate Wales Inspection (CIW) Report – Denbighshire Domiciliary Support Service

1. What is the report about?

1.1. The CIW Inspection carried out on Denbighshire Domiciliary Support Service completed on 17th August 2023 (Appendix 1).

2. What is the reason for making this report?

2.1. To provide information regarding the recent CIW Inspection carried out on Denbighshire Domiciliary Support Service.

3. What are the Recommendations?

3.1. That the Committee confirms that it has read, understood and taken account of the contents of the report.

4. Report details

4.1. Denbighshire's Domiciliary Support Service consists of Health and Social Care Workers, Reablement Workers, Complex Case Workers and Care and Support Workers who work in the community and across three Extra Care Housing Facilities in Denbighshire. 57 carers are employed across the services.

4.2. This is the service's first inspection since its re-registration under the Regulation and Inspection of Social Care (Wales) Act 2016 and the first time Denbighshire Extra Care Housing (ECH) has ever been inspected.

4.3. The Inspection took place over two days in August 2023. The inspection consisted of a desktop review, staff and citizen interviews and a site visit to Gorwel Newydd ECH in Rhyl.

4.4. There were no areas of improvement identified. CIW verbal feedback was given to indicate that if a silent rating were applied, all areas would be evaluated as good.

4.5. Summary findings within the CIW report were;

People are happy with the service they receive and praise the standard of care delivered. Efforts are made to involve people in decisions regarding the care and support they receive. Their views are respected, and their care is tailored to their own wishes and preferences. The care provided is flexible to changes in people's needs. Personal plans reflect people's current care needs, how they wish to be supported and these documents are updated when required. People's views are sought as part of the formal reviews of the service provided. The service is well lead and consistently well managed. There are firm arrangements in place to regularly monitor the quality of the service provided and to consider how the service can be improved or further developed. Staff are recruited safely, are well supported by managers, and are provided with relevant training. Staff enjoy working at the service and feel they are valued in their roles.

4.6. Other highlight areas within the report include;

Citizens; *People told us they are happy with the care and support they receive, and their care needs are met. A social care professional told us staff work in partnership with them and health professionals. This facilitates people to overcome obstacles and achieve positive outcomes.*

Staff; *Staff enjoy their work and receive appropriate training to their roles. They also feel well supported by management and feel able to raise any concerns they may have.*

Leadership; *There is good managerial oversight of the service provided, which means people receive a good quality service. Regular monitoring checks are completed by the management and Responsible Individual (RI) to ensure the service delivered is as it should be. People can be assured robust arrangements are in place to consistently monitor the quality of the service provided..... The manager and RI are proactive in finding different ways of working with people and are committed to evolving the service so it can meet the needs of a wider population of people.*

5. How does the decision contribute to the Corporate Plan 2022 to 2027: The Denbighshire We Want?

5.1. **A healthier and happier, caring Denbighshire**, the service provides care and support to citizens living in their own homes in the community and in ECH, a snapshot for July 2023 shows that the service provided 764hrs of care and support to 39 citizens in ECH and 885hrs of care and support to 49 citizens living in their own homes in the community.

5.2. **A better connected Denbighshire**, the service is rolling out access to E vehicles for all mobile workers.

5.3. **A Denbighshire of vibrant culture and thriving Welsh language**, the inspection report found that the '*service provides an 'Active Offer' of the Welsh language. It anticipates, identifies and meets the Welsh language and cultural needs of people who use, or may use, the service*'.

5.4. **A well-run, high performing council**, the inspection report recognises that the service is well led and consistently well managed.

6. What will it cost and how will it affect other services?

6.1. The delivery of the service is contained within allocated budgets.

7. What are the main conclusions of the Well-being Impact Assessment?

7.1. N/A

8. What consultations have been carried out with Scrutiny and others?

8.1. N/A

9. Chief Finance Officer Statement

9.1. N/A

10. What risks are there and is there anything we can do to reduce them?

10.1. N/A

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Inspection Report on

Domiciliary Support Services

**Single Point Of Access
Denbighshire County Council
Wynnstay Road
Ruthin
LL15 1YN**

Date Inspection Completed

17/08/2023

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About Domiciliary Support Services

Type of care provided	Domiciliary Support Service
Registered Provider	Denbighshire County Council Adults and Children's Services
Registered places	0
Language of the service	Both
Previous Care Inspectorate Wales inspection	This is the service's first inspection since its re-registration under the Regulation and Inspection of Social Care (Wales) Act 2016.
Does this service promote Welsh language and culture?	The service provides an 'Active Offer' of the Welsh language. It anticipates, identifies and meets the Welsh language and cultural needs of people who use, or may use, the service.

Summary

People are happy with the service they receive and praise the standard of care delivered. Efforts are made to involve people in decisions regarding the care and support they receive. Their views are respected, and their care is tailored to their own wishes and preferences. The care provided is flexible to changes in people's needs. Personal plans reflect people's current care needs, how they wish to be supported and these documents are updated when required. People's views are sought as part of the formal reviews of the service provided. The service is well lead and consistently well managed. There are firm arrangements in place to regularly monitor the quality of the service provided and to consider how the service can be improved or further developed. Staff are recruited safely, are well supported by managers, and are provided with relevant training. Staff enjoy working at the service and feel they are valued in their roles.

Well-being

People who use the service know and understand what care, support and opportunities are available. This is because they can access clear, written information regarding the service provided. This enables people to make an informed decision about whether the service is suitable for them. This includes information regarding how to make a complaint, if required.

People have control over their care and support. Arrangements are in place to gather information from people who use the service regarding what matters to them, and how they wish to be supported. These are recorded in people's personal plans, and staff have easy access to these documents. The care delivered reflects each person's individual needs and preferences. This shows people's voices are heard. Care documentations are updated as people's needs change, which ensures people always receive the right support to meet their individual outcomes. Quality-of-care reviews include feedback from persons who receive support, which means they are involved in shaping the future development of the service.

People are happy with the service they receive and have good relationships with the staff who support them. We saw staff are respectful toward the people they support, and they recognise each person as an individual with their own needs. Support is provided to enable people to do the things they want to do, and this contributes to their positive sense of well-being. Staff enjoy their work and receive appropriate training to their roles. They also feel well supported by management and feel able to raise any concerns they may have. There is good managerial oversight of the service provided, which means people receive a good quality service. Regular monitoring checks are completed by the management and Responsible Individual (RI) to ensure the service delivered is as it should be.

Physical and emotional health is promoted. Arrangements are in place to support people to regain their previous level of independence when people are recovering from poor health or an injury. Staff recognise the importance of enabling people to do as much as they can for themselves and protecting people's independence. This means people maintain their sense of autonomy and sense of control over their own lives.

People are safeguarded from harm. Appropriate action is taken when there are concerns regarding the safety of people using the service. Staff working at the service are subject to suitability checks being completed before they start to work with people. Staff complete safeguarding training to ensure they know how to recognise abuse and neglect as well as what their responsibilities are to protect people from harm. A safeguarding policy is in place which states the actions required by management in response to any safeguarding matters arising.

Care and Support

Arrangements are in place to involve people in discussions regarding their care and support. We saw personal plans record people's wishes regarding how they would like to be supported and their individual preferences are respected. What people can do for themselves is recorded and staff told us promoting people's independence is given importance. People told us they are supported to regain their previous levels of independence, which they feel is a positive outcome for them. The manager told us the support provided is flexible and is responsive to people's specific needs. Staff confirmed they have ongoing conversations with people regarding the level of assistance they require, and the support provided is adaptable according to changes in people's needs.

People told us they are happy with the care and support they receive, and their care needs are met. A social care professional told us staff work in partnership with them and health professionals. This facilitates people to overcome obstacles and achieve positive outcomes.

People can be confident their personal plan records their current care and support needs. We looked at a sample of personal plans and saw they are kept under review, and they document any changes in people's needs. This means staff can access up-to-date written information regarding the support people require, which ensures people consistently receive the correct assistance.

There are systems in place to protect people from harm and neglect. We saw staff have access to a safeguarding policy and training is provided. Staff demonstrate a good understanding of their responsibilities in relation to protecting people from abuse and are confident in how to report such matters. The manager refers safeguarding concerns appropriately to the local authority when required.

People can receive a service in their preferred language. The Welsh language and culture are respected, and efforts are made to provide Welsh speaking staff to people who want it. Written information regarding the service provided are available bilingually.

Leadership and Management

People can access written information about the service provided. The statement of purpose accurately describes the service provided. There is a service user guide available which details the service people can expect. The guide includes clear guidance for how to raise a complaint and how complaints are responded to, in line with the complaint procedures. Policies and procedures are in place to fulfil the aims of the statement of purpose.

People can be assured robust arrangements are in place to consistently monitor the quality of the service provided. Reports are available to show the RI undertakes formal visits to review the service provided. The report identifies areas of the service which can be further developed, and what action is required to facilitate improvements. Progress made is monitored at the following RI visit. The manager has arrangements in place to carry out monthly monitoring checks to ensure the service delivered is safe and effective. Reports are available to evidence the audit checks completed by the manager. The views of people who use the service are considered within formal quality of care reviews which take place twice a year. This means people are involved in developing and improving the service provided. The manager and RI are proactive in finding different ways of working with people and are committed to evolving the service so it can meet the needs of a wider population of people.

Staff are recruited safely and receive appropriate training relevant to their work. We looked at staff files and saw suitability checks are completed before new staff start to work at the service. Staff training records show staff can access mandatory training and some specific training related to the needs of the people who they support. Staff confirm they completed an induction and undertook shadow shifts when they started working at the service. Support is also provided for staff to undertake formal social care qualifications, which further enhances staff's knowledge base. Regular team meetings take place and staff receive one-to-one supervision support meetings with a senior staff member. Staff told us they enjoy their work. They also feel supported in their roles, feel able to raise any concerns with the manager and feel listened to. Some staff have worked at the service for several years, which means they are experienced and can provide a consistency of care to people.

Summary of Non-Compliance

Status	What each means
New	This non-compliance was identified at this inspection.
Reviewed	Compliance was reviewed at this inspection and was not achieved. The target date for compliance is in the future and will be tested at next inspection.
Not Achieved	Compliance was tested at this inspection and was not achieved.
Achieved	Compliance was tested at this inspection and was achieved.

We respond to non-compliance with regulations where poor outcomes for people, and / or risk to people’s well-being are identified by issuing Priority Action Notice (s).

The provider must take immediate steps to address this and make improvements. Where providers fail to take priority action by the target date we may escalate the matter to an Improvement and Enforcement Panel.

Priority Action Notice(s)

Regulation	Summary	Status
N/A	No non-compliance of this type was identified at this inspection	N/A

Where we find non-compliance with regulations but no immediate or significant risk for people using the service is identified we highlight these as Areas for Improvement.

We expect the provider to take action to rectify this and we will follow this up at the next inspection. Where the provider has failed to make the necessary improvements we will escalate the matter by issuing a Priority Action Notice.

Area(s) for Improvement

Regulation	Summary	Status
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N/A	No non-compliance of this type was identified at this inspection	N/A
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Date Published 29/09/2023

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Report to	Governance and Audit Committee
Date of meeting	31 January 2024
Lead Member / Officer	Gwyneth Ellis, Lead Member for Finance, Performance and Strategic Assets
Report author	Liz Thomas, Head of Finance and Audit
Title	1. Treasury Management Strategy Statement (TMSS) 2024/25 and Prudential Indicators 2024/25 to 2026/27 (Appendix 1) 2. Treasury Management (TM) Update Report 2023/24 (Appendix 2)

1 What is the report about?

- 1.1 The TMSS (Appendix 1) shows how the Council will manage its investments and its borrowing for the coming year and sets the policies within which the TM function operates. The TM Update Report (Appendix 2) provides details of the Council's TM activities during 2023/24.

2 What is the reason for making this report?

- 2.1 The Chartered Institute of Public Finance and Accountancy's Code of Practice on Treasury Management (the "CIPFA TM Code") requires the Council to approve the TMSS and Prudential Indicators annually. The Governance and Audit Committee is required to review this report before it is approved by Council on 27 February 2024. Furthermore, part of the Committee's role is to receive an update on the TM activities four times a year.

3 What are the Recommendations?

- 3.1 That the Committee reviews the TMSS for 2024/25 and the Prudential Indicators for

2024/25, 2025/26 and 2026/27 (Appendix 1).

- 3.2 That members note the TM update report (Appendix 2).
- 3.3 That the Committee confirms that it has read, understood and taken account of the Well-being Impact Assessment (Appendix 3) as part of its consideration.

4 Report details

Background

- 4.1 TM involves looking after the Council's cash which is a vital part of the Council's work because approximately £0.5bn passes through the Council's bank account every year.
- 4.2 At any one time, the Council normally has up to £40m in cash so it needs to make sure that the best rate of return possible is achieved without putting the cash at risk, which is why money is invested with a number of financial institutions.

When investing, the Council's priorities are to:

- keep money safe (security);
- make sure that the money comes back when it is needed (liquidity);
- make sure a decent rate of return is achieved (yield).

TMSS 2024/25

- 4.3 The TMSS for 2024/25 is set out in Appendix 1. There have been no major changes to the Strategy since last year. This report includes TM Prudential Indicators which set limits on the Council's TM activity as shown in Appendix 1 Annex A.

Quarter 3 TM update report

- 4.4 The TM update report (Appendix 2) provides details of the Council's TM activities during 2023/24 up to 31st December 2023.

Capital Prudential Indicators

- 4.5 The Capital related Prudential Indicators are included in the Capital Strategy Report which gives a high level, concise and comprehensible overview to all elected members of how capital expenditure, capital financing and treasury management activity contribute to the provision of the Council's services.

- 4.6 The Capital Strategy Report will be reported to Council in February alongside the Capital Plan and will include the following Capital related Prudential Indicators:

Estimates of Capital Expenditure and Financing

Ratio of Financing Costs to Net Revenue Stream

Capital Financing Requirement

Authorised Limit and Operational Boundary for External Debt

5 How does the decision contribute to the Corporate Priorities?

- 5.1 An efficient TM strategy allows the Council to minimise its borrowing costs and release funding for its investment priorities.

6 What will it cost and how will it affect other services?

- 6.1 There are no additional cost implications arising as a result of the setting of Prudential Indicators. The point of the TM Strategy is to obtain the best return within a properly managed risk framework.

7 What are the main conclusions of the Wellbeing Impact Assessment?

- 7.1 Financial planning and decision making should ensure that proper regard is given to the requirements of the Wellbeing of Future Generations Act and in particular, proper consideration of the long term impact of financial decisions, including the payback period and whole life costs of capital investment decisions, properly impact assessed budget proposals and long term debt and investment (treasury management) strategies. The principles of prudence, affordability and sustainability are already enshrined within the requirements of the Prudential Code and should underpin financial planning and decision making.
- 7.2 In the context of treasury management, the existing requirements to assess and report on the long term financial consequences of investment and borrowing

decisions using prudential indicators and long-term debt planning support the sustainability goals of the Wellbeing Act.

- 7.3 The Wellbeing Impact Assessment report is included in Appendix 3 and shows how an efficient Treasury Management strategy promotes the wellbeing goals of the Act.

8 What consultations have been carried out with Scrutiny and others?

- 8.1 The Council has consulted with its TM consultants, Arlingclose Ltd.

9 Chief Finance Officer Statement

- 9.1 TM involves looking after significant sums of cash so it is a vital part of the Council's work. It requires a sound strategy and appropriate controls to safeguard the Council's money, to ensure that reasonable returns on investments are achieved and that debt is effectively and prudently managed.

- 9.2 It is a requirement of the CIPFA Code of Practice on TM for Council to approve a TMSS each financial year.

10 What risks are there and is there anything we can do to reduce them?

- 10.1 There are inherent risks involved in any TM activity as outlined in the Strategy Statement. The Council has a risk management policy but it is impossible to eliminate these risks completely.

11 Power to make the Decision

- 11.1 The Local Government Act 2003 determines the requirement for local authorities to set Prudential Indicators and requires the Council to comply with the Prudential Code of Capital Finance for Local Authorities that has been produced by the Chartered Institute of Public Finance and Accountancy (CIPFA).

Denbighshire County Council

**Treasury Management Strategy Statement
and Investment Strategy 2024/25 to 2026/27**

Contents

- 1. Background**
- 2. Treasury Position**
- 3. Treasury Investment Strategy**
- 4. Borrowing Strategy**
- 5. Debt Rescheduling**
- 6. MRP Statement 2024/25**
- 7. Reporting Treasury Management Activity**
- 8. Other Items**

Annexes

- A. Prudential Indicators
- B. Interest Rate Outlook
- C. Glossary
- D. Liability Benchmark Chart
- E. Debt Maturity Profile

Treasury Management Strategy Statement and Investment Strategy 2024/25 to 2026/27

1 Background

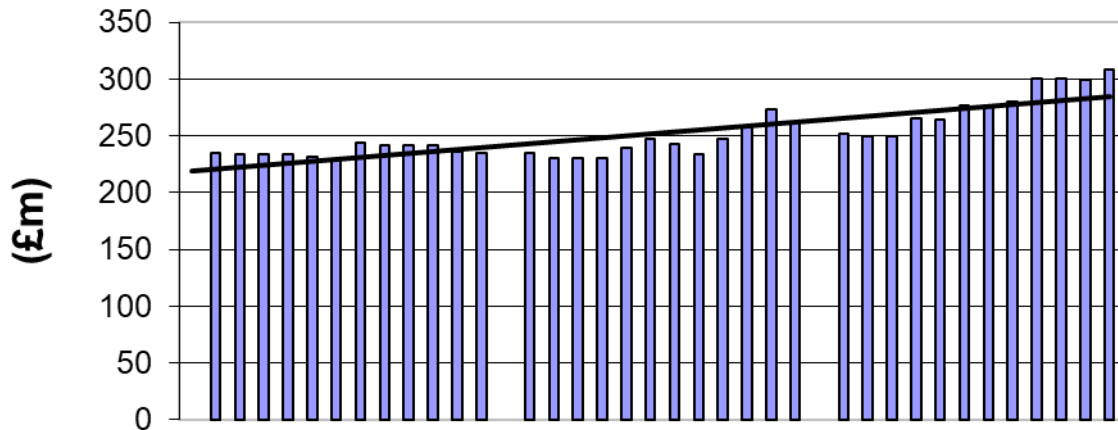
- 1.1 The Council is responsible for its treasury management decisions and activity which involves looking after the Council's cash. This is a vital part of the Council's work because approximately £0.5bn passes through the Council's bank account every year.
- 1.2 In December 2021, CIPFA published its revised Prudential Code and Treasury Management Code of Practice. The Code requires the Authority to approve a Treasury Management Strategy Statement (TMSS) before the start of each financial year. There is also now a requirement to provide quarterly treasury management update reports to members and this has been implemented during the 2023/24 financial year.
- 1.3 In addition, the Welsh Government (WG) issued revised *Guidance on Local Authority Investments* in November 2019 that requires the Authority to approve an investment strategy before the start of each financial year. It also requires the Authority to include details of any investments and loans which are not held for treasury management purposes. Following a review, the Authority has concluded that it doesn't have any non-treasury related arrangements which fall within the scope of this guidance.
- 1.4 This report fulfils the Authority's legal obligation under the *Local Government Act 2003* to have regard to both the CIPFA Code and the WG Guidance.
- 1.5 The purpose of the TMSS is to set the:
 - Treasury Management Strategy for 2024/25
 - Annual Investment Strategy for 2024/25
 - Prudential Indicators for 2024/25, 2025/26 and 2026/27 (Annex A)
 - Minimum Revenue Provision (MRP) Statement

2 Treasury Position

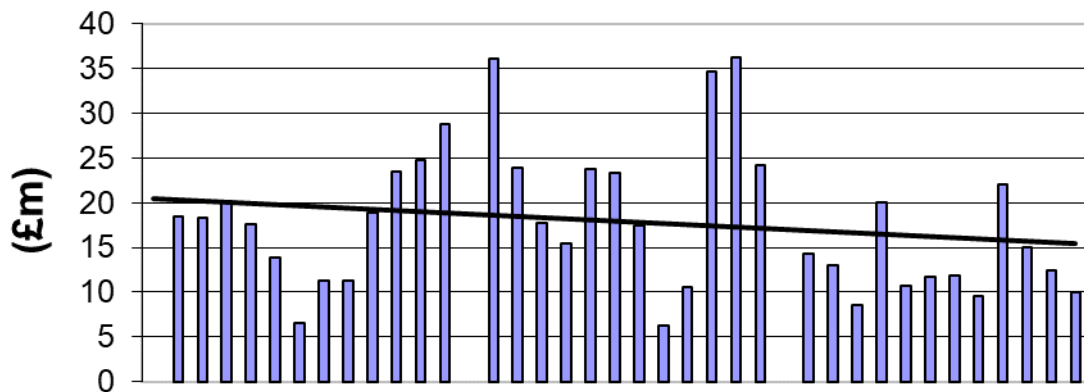
- 2.1 The levels of the Council's borrowing and investment balances over the last three years are shown in the graphs below. The first chart shows the Council's borrowing has increased over this period. The second chart shows a decrease in the amount of money which is available for investment.

**Treasury Management Strategy Statement
and Investment Strategy 2024/25 to 2026/27**

Borrowing Balances (2021/22 - 2023/24)



Investment Balances (2021/22 - 2023/24)



3 Treasury Investment Strategy

3.1 Both the CIPFA Code and the WG Guidance require the Authority to invest its treasury funds prudently, and to have regard to the security and liquidity of its investments before seeking the highest rate of return, or yield. The Authority’s objective when investing money is to strike an appropriate balance between risk and return, minimising the risk of incurring losses from defaults and the risk of receiving unsuitably low investment income.

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Treasury Management Strategy Statement and Investment Strategy 2024/25 to 2026/27

- 3.2 Given the ongoing risk and low returns from short-term unsecured bank investments, the Council will continue to hold a minimal amount of investments for short-term cash flow purposes and will continue to place a far greater emphasis on investing with the UK Government's Debt Management Office and other local authorities in order to minimise these risks.
- 3.3 The Authority may invest its surplus funds with any of the counterparty types in Table 1 below, subject to the cash limits (per counterparty) and the time limits shown.

Table 1: Treasury Investment Counterparties and Limits

Sector	Time limit	Counterparty limit
The UK Government	50 years	Unlimited
Local authorities & other government entities	25 years	£10m
Secured investments *	25 years	£10m
Banks (unsecured) *	13 months	£5m
Building societies (unsecured) *	13 months	£5m
Registered providers (unsecured) *	5 years	£5m
Money market funds *	n/a	£10m
Strategic pooled funds	n/a	£10m
Real estate investment trusts	n/a	£10m
Other investments *	5 years	£5m

*** Minimum Credit Rating:** Treasury investments in the sectors marked with an asterisk will only be made with entities whose lowest published long-term credit rating is no lower than A-. Where available, the credit rating relevant to the specific investment or class of investment is used, otherwise the counterparty credit rating is used. However, investment decisions are never made solely based on credit ratings, and all other relevant factors, including external advice, will be taken into account.

Government: Loans, bonds and bills issued or guaranteed by national governments, regional and local authorities and multilateral development banks. These investments are not subject to bail-in, and there is generally a lower risk of insolvency, although they are not zero risk. Investments with the UK Government are deemed to be zero credit risk due to its ability to create additional currency and therefore may be made in unlimited amounts for up to 50 years.

Treasury Management Strategy Statement and Investment Strategy 2024/25 to 2026/27

Secured investments: Investments secured on the borrower's assets, which limits the potential losses in the event of insolvency. The amount and quality of the security will be a key factor in the investment decision. Covered bonds and reverse repurchase agreements with banks and building societies are exempt from bail-in. Where there is no investment specific credit rating, but the collateral upon which the investment is secured has a credit rating, the higher of the collateral credit rating and the counterparty credit rating will be used. The combined secured and unsecured investments with any one counterparty will not exceed the cash limit for secured investments.

Banks and Building Societies (Unsecured): Accounts, deposits, certificates of deposit and senior unsecured bonds with banks and building societies, other than multilateral development banks. These investments are subject to the risk of credit loss via a bail-in should the regulator determine that the bank is failing or likely to fail.

Registered Providers (Unsecured): Loans and bonds issued by, guaranteed by or secured on the assets of registered providers of social housing and registered social landlords, formerly known as housing associations. These bodies are regulated by the Regulator of Social Housing (in England), the Scottish Housing Regulator, the Welsh Government and the Department for Communities (in Northern Ireland). As providers of public services, they retain the likelihood of receiving government support if needed.

Money Market Funds: Pooled funds that offer same-day or short notice liquidity and very low or no price volatility by investing in short-term money markets. They have the advantage over bank accounts of providing wide diversification of investment risks, coupled with the services of a professional fund manager in return for a small fee.

Strategic Pooled Funds: Bond, equity and property funds that offer enhanced returns over the longer term but are more volatile in the short term. These allow the Authority to diversify into asset classes other than cash without the need to own and manage the underlying investments. Because these funds have no defined maturity date, but are available for withdrawal after a notice period, their performance and continued suitability in meeting the Authority's investment objectives will be monitored regularly.

Real Estate Investment Trusts: Shares in companies that invest mainly in real estate and pay the majority of their rental income to investors in a similar manner to pooled property funds. As with property funds, REITs offer enhanced returns over the longer term, but are more volatile especially as the share price reflects changing demand for the shares as well as changes in the value of the underlying properties.

Treasury Management Strategy Statement and Investment Strategy 2024/25 to 2026/27

Other investments: This category covers treasury investments not listed above, for example unsecured corporate bonds and company loans. Non-bank companies cannot be bailed-in but can become insolvent placing the Authority's investment at risk.

- 3.4 Natwest is the Council's banker and will continue to be used for operational and liquidity purposes by transferring cash in and out of the instant access account as required even if its credit rating falls below A-.
- 3.5 For a group of banks under the same ownership, the banking group limit is equal to the individual bank limit.
- 3.6 Credit ratings are obtained and monitored by the Authority's treasury advisers, who will notify changes in ratings as they occur. Where an entity has its credit rating downgraded so that it fails to meet the approved investment criteria then:
- no new investments will be made,
 - any existing investments that can be recalled or sold at no cost will be, and
 - full consideration will be given to the recall or sale of all other existing investments with the affected counterparty.
- 3.7 The Authority understands that credit ratings are good, but not perfect, predictors of investment default. Full regard will therefore be given to other available information on the credit quality of the organisations in which it invests, including credit default swap prices (the cost of banks insuring themselves against default), financial statements, information on potential government support, reports in the quality financial press and analysis and advice from the Council's treasury management adviser. No investments will be made with an organisation if there are substantive doubts about its credit quality, even though it may otherwise meet the above criteria.
- 3.8 When deteriorating financial market conditions affect the creditworthiness of all organisations, as happened in 2008 and 2020, this is not generally reflected in credit ratings, but can be seen in other market measures. In these circumstances, the Authority will restrict its investments to those organisations of higher credit quality and reduce the maximum duration of its investments to maintain the required level of security. If these restrictions mean that insufficient commercial organisations of high credit quality are available to invest the Authority's cash balances, then the surplus will be deposited with the UK Government, via the Debt Management Office or invested in government treasury bills for example, or with other local authorities. This will protect the principal sum invested.
- 3.9 **Specified Investments:** The WG Guidance defines specified investments as those:
- denominated in pound sterling,

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- due to be repaid within 12 months of arrangement unless the counterparty is a local authority,
- not defined as capital expenditure by legislation, and
- invested with one of:
 - the UK Government,
 - a UK local authority, parish council or community council, or
 - a body or investment scheme of “high credit quality”.

The Authority defines “high credit quality” organisations as those having a credit rating of A- or higher that are domiciled in the UK or a foreign country with a sovereign rating of AA+ or higher.

3.10 **Non-specified Investments:** Any investment not meeting the definition of a specified investment is classed as non-specified. The Authority does not intend to make any investments denominated in foreign currencies. Non-specified investments will therefore be limited to long-term investments, i.e. those that are due to mature 12 months or longer from the date of arrangement and investments with bodies and schemes not meeting the definition of high credit quality. Under this category, the Council has given three loans to Town Councils for capital purposes which are being paid back in instalments over the agreed terms.

Limits on non-specified investments are shown in Table 3 below.

Table 3: Non-Specified Investment Limits

	Cash limit
Total long-term investments	£10m
Total investments without credit ratings or rated below A- (except the UK government and UK local authorities)	£10m
Total investments (except pooled funds) with institutions domiciled in foreign countries rated below AA+	£10m
Total non-specified investments	£30m

4 Borrowing Strategy

- 4.1 The Council continues to undertake temporary borrowing from other local authorities as required to cover short-term cash flow requirements as this is a good source of readily available cash.
- 4.2 At the same time, the Council will also continue to monitor its cash position and interest rate levels to ensure that further long-term borrowing is undertaken at the optimal time to fund on-going capital commitments.
- 4.3 The approved sources of borrowing are listed below:

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- HM Treasury's PWLB lending facility (formerly the Public Works Loan Board)
- UK Infrastructure Bank Ltd
- any institution approved for investments
- any other bank or building society authorised to operate in the UK
- any other UK public sector body
- UK public and private sector pension funds (except Clwyd Pension Fund)
- capital market bond investors
- retail investors via a regulated peer-to-peer platform
- UK Municipal Bonds Agency plc and other special purpose companies created to enable local authority bond issues

5 Debt Rescheduling

- 5.1 The Council is able to pay off loans earlier than it has to and to replace them with cheaper loans in order to save money or to reduce the risk to the Council. Sometimes, these loans will be replaced and sometimes not, depending on market conditions and interest rates.
- 5.2 The lower interest rate environment and changes in the rules regarding the premature repayment of PWLB loans has adversely affected the scope to undertake meaningful debt rescheduling although occasional opportunities arise. Regularly updates on this are received from the Council's treasury management advisers so the position is kept under review.

6 Minimum Revenue Provision (MRP) Statement

- 6.1 The Council sets aside money each year to repay debt and this is known as the Minimum Revenue Provision (MRP).
- 6.2 There are four different methods of calculating MRP and the Council needs to say each year which methods it will use. This is known as the MRP Statement.
- 6.3 The MRP Statement is submitted to Council before the start of each financial year. If the terms of the original MRP Statement are revised during the year, a revised statement will be put to Council at that time.

6.4 MRP Statement

The Council will apply the Asset Life Method to calculate MRP on outstanding supported borrowing incurred up to 31 March 2017 using a straight-line calculation over 50 years.

Treasury Management Strategy Statement and Investment Strategy 2024/25 to 2026/27

The Council will apply the Asset Life Method to calculate MRP on supported borrowing incurred on or after 1 April 2017 using a straight-line calculation over an appropriate number of years, dependent on the period of time that the capital expenditure is likely to generate benefits.

The Council will apply the Asset Life Method to calculate MRP on all capital expenditure funded from unsupported borrowing.

These methods represent a continuation of last year's MRP policy.

- 6.5 MRP on housing assets funded through prudential borrowing is charged on a straight-line basis over 20 years for improvement works to comply with the Welsh Housing Quality Standards (WHQS) and for property appropriated by the HRA, and over 50 years for new build properties and for the loans used to buy the HRA out of the government subsidy scheme on 31st March 2015. For capital expenditure incurred before the introduction of the WHQS the authority charges MRP on a 2% reducing balance basis.

7 Reporting Treasury Management Activity

- 7.1 The Section 151 Officer (Chief Finance Officer) will report to the Governance and Audit Committee on treasury management activity / performance as follows:
- (a) The Treasury Management Strategy Statement and Prudential Indicators will be submitted to the Committee in January each year prior to approval by Council.
 - (b) Quarterly treasury management updates will be submitted to the Committee in January, April, July and October each year.
 - (c) An annual report on treasury activity will be submitted to the Committee in July each year for the preceding year prior to approval by Cabinet.

A treasury update showing the latest investment and borrowing position will be included in the monthly Revenue Monitoring report and borrowing will also be reported on in the Capital Plan to Council. The Capital Strategy Report will be reported to Council in February with the Capital Plan.

8 Other items

8.1 Investment Training

8.1.1 Member Training

Treasury Management Strategy Statement and Investment Strategy 2024/25 to 2026/27

The CIPFA Code of Practice on Treasury Management requires the Section 151 Officer to ensure that all members tasked with treasury management responsibilities, including scrutiny of the treasury management function, understand fully their roles and responsibilities. The last treasury management training session for all members was given on 18 January 2024.

The Council has nominated the Governance and Audit Committee as the committee which has responsibility for scrutiny of the treasury management function.

8.1.2 Staff Training

Staff attend training courses, seminars and conferences provided by Arlingclose and CIPFA. There is a team of four members of staff who cover TM duties on a rota basis to ensure that their knowledge is kept up to date. An additional member of staff will be added to the TM rota soon and he will be given full training before he starts his duties. These members of staff are also members of professional accountancy bodies including the Chartered Institute of Public Finance and Accountancy (CIPFA) and the Association of Accounting Technicians (AAT). The operational processes which staff must follow are shown within the Treasury Management Practices (TMPs) which have been updated recently.

8.2 Treasury Management Advisers

The Council uses Arlingclose Ltd as treasury management advisers and receives the following services:

- Credit advice
- Investment advice
- Borrowing advice
- Technical accounting advice
- Economic & interest rate forecasts
- Workshops and training events

The Council maintains the quality of the service with its advisers by holding quarterly strategy meetings and tendering every 5 years. The Council's current contract has just been renewed from 1 January 2024.

8.3 Markets in Financial Instruments Directive (MIFID)

8.3.1 Under the Markets in Financial Instruments Directive (MIFID), local authorities can be classed as professional clients if they have at least a £10m investment balance and staff with relevant experience. Local

Treasury Management Strategy Statement and Investment Strategy 2024/25 to 2026/27

authorities not meeting the criteria have been reclassified as retail clients. Retail clients have greater protection when placing investments because there is a requirement for firms to ensure that investments are suitable for the client. Professional clients are assumed to have greater knowledge and therefore need less protection.

- 8.3.2 The Council is not in a position to be classed as a professional client because it does not have an investment balance which is consistently above £10m so it is classified as a retail client. In practice, this does not have an impact on the Council's treasury management activities which consist of cash deposits or loans which are outside the scope of MIFID. The Council's investment advisers, Arlingclose, have continued to advise retail clients as they have a retail adviser who is able to advise on any investment products which come under the scope of MIFID such as shares and bonds.

8.4 Investment of Money Borrowed in Advance of Need

The Authority may, from time to time, borrow in advance of need, where this is expected to provide the best long-term value for money. Since amounts borrowed will be invested until spent, the Authority is aware that it will be exposed to the risk of loss of the borrowed sums, and the risk that investment and borrowing interest rates may change in the intervening period. These risks will be managed as part of the Authority's overall management of its treasury risks.

The total amount borrowed will not exceed the authorised borrowing limit. The maximum period between borrowing and expenditure is expected to be three years, although the Authority is not required to link particular loans with particular items of expenditure.

8.5 Policy on Use of Financial Derivatives

In the absence of any explicit legal power to do so, the Authority will not use standalone financial derivatives (such as swaps, forwards, futures and options). Derivatives embedded into loans and investments, including pooled funds and forward starting transactions, may be used, and the risks that they present will be managed in line with the overall treasury risk management strategy.

8.6 Housing Revenue Account (HRA)

The Council operates one loans pool for the Council Fund and the HRA. A proportion of the Council's investment and debt interest is apportioned to the HRA at year end. The amount of HRA investment interest is calculated by applying the Council's average investment interest rate to the HRA's average notional cash balance.

**Treasury Management Strategy Statement
and Investment Strategy 2024/25 to 2026/27**

ANNEX A

PRUDENTIAL INDICATORS 2024/25 TO 2026/27

**Treasury Management Strategy Statement
and Investment Strategy 2024/25 to 2026/27**

1 Upper Limits for Fixed Interest Rate Exposure and Variable Interest Rate Exposure

1.1 These indicators allow the Council to manage the extent to which it is exposed to changes in interest rates. This Council calculates these limits on a net interest paid basis (i.e. interest paid on fixed rate debt net of interest received on fixed rate investments).

1.2 The upper limit for variable rate exposure has been set to ensure that the Council is not exposed to interest rate rises which could adversely impact on the revenue budget. The limit allows for the use of variable rate debt to offset exposure to changes in short-term rates on investments.

	2023/24 Approved %	2024/25 Estimate %	2025/26 Estimate %	2026/27 Estimate %
Upper Limit for Fixed Interest Rate Exposure	100	100	100	100
Upper Limit for Variable Rate Exposure	40	40	40	40

1.3 The limits above provide the necessary flexibility within which decisions will be made for drawing down new loans on a fixed or variable rate basis; the decisions will ultimately be determined by expectations of anticipated interest rate movements as set out in the Council’s treasury management strategy.

2 Maturity Structure of Fixed Rate borrowing

2.1 This indicator highlights the existence of any large concentrations of fixed rate debt needing to be replaced at times of uncertainty over interest rates and is designed to protect against excessive exposures to interest rate changes in any one period, in particular in the course of the next ten years.

2.2 It is calculated as the amount of projected borrowing that is fixed rate maturing in each period as a percentage of total projected borrowing that is fixed rate. The maturity of borrowing is determined by reference to the earliest date on which the lender can require payment.

Maturity structure of fixed rate borrowing	Actual %	Lower Limit %	Upper Limit %
under 12 months	4.55	0	40
12 months and within 24 months	4.33	0	40
24 months and within 5 years	12.45	0	40
5 years and within 10 years	17.90	0	40

**Treasury Management Strategy Statement
and Investment Strategy 2024/25 to 2026/27**

10 years and above	60.77	30	100
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3 Credit Risk

- 3.1 The Council considers security, liquidity and yield, in that order, when making investment decisions.
- 3.2 Credit ratings remain an important element of assessing credit risk, but they are not a sole feature in the Council’s assessment of counterparty credit risk.
- 3.3 The Council also considers alternative assessments of credit strength, and information on corporate developments of and market sentiment towards counterparties. The following key tools are used to assess credit risk:
- Published credit ratings of the financial institution (minimum A- or equivalent) and its sovereign (minimum AA+ or equivalent for non-UK sovereigns);
 - Sovereign support mechanisms;
 - Credit default swaps (where quoted);
 - Share prices (where available);
 - Economic fundamentals, such as a country’s net debt as a percentage of its GDP;
 - Corporate developments, news, articles, markets sentiment and momentum;
 - Subjective overlay.
- 3.4 The only indicators with prescriptive values are credit ratings. Other indicators of creditworthiness are considered in relative rather than absolute terms.

4 Upper Limit for total principal sums invested over 1 year

- 4.1 The purpose of this limit is to contain exposure to the possibility of loss that may arise as a result of the Council having to seek early repayment of the sums invested.

Upper Limit for total principal sums invested over 1 year	2023/24 Approved £m	2024/25 Estimate £m	2025/26 Estimate £m	2026/27 Estimate £m
	10.00	10.00	10.00	10.00

5 Liability Benchmark

- 5.1 To compare the Council’s actual borrowing against an alternative strategy, a liability benchmark has been calculated showing the lowest risk level of borrowing. This assumes that cash and investment balances are kept to a

Treasury Management Strategy Statement and Investment Strategy 2024/25 to 2026/27

minimum level of £10m at each year-end to maintain sufficient liquidity but minimise credit risk.

	2022/23 Actual £m	2023/24 Estimate £m	2024/25 Forecast £m	2025/26 Forecast £m	2026/27 Forecast £m
Loans CFR	305	364	415	438	461
Less: Balance Sheet Resources	-82	-62	-54	-53	-53
Net Loans Requirement	223	302	361	385	408
Plus: Liquidity Allowance	24	10	10	10	10
Liability Benchmark	247	312	371	395	418

- 5.2 The liability benchmark is an important tool to help establish whether the Council is likely to be a long-term borrower or long-term investor in the future, and so shape its strategic focus and decision making. The liability benchmark itself represents an estimate of the cumulative amount of external borrowing the Council must hold to fund its current capital and revenue plans while keeping treasury investments at the minimum level required to manage day-to-day cash flow.
- 5.3 This is shown in the liability benchmark chart in Annex D together with the Council's debt maturity profile in Annex E.

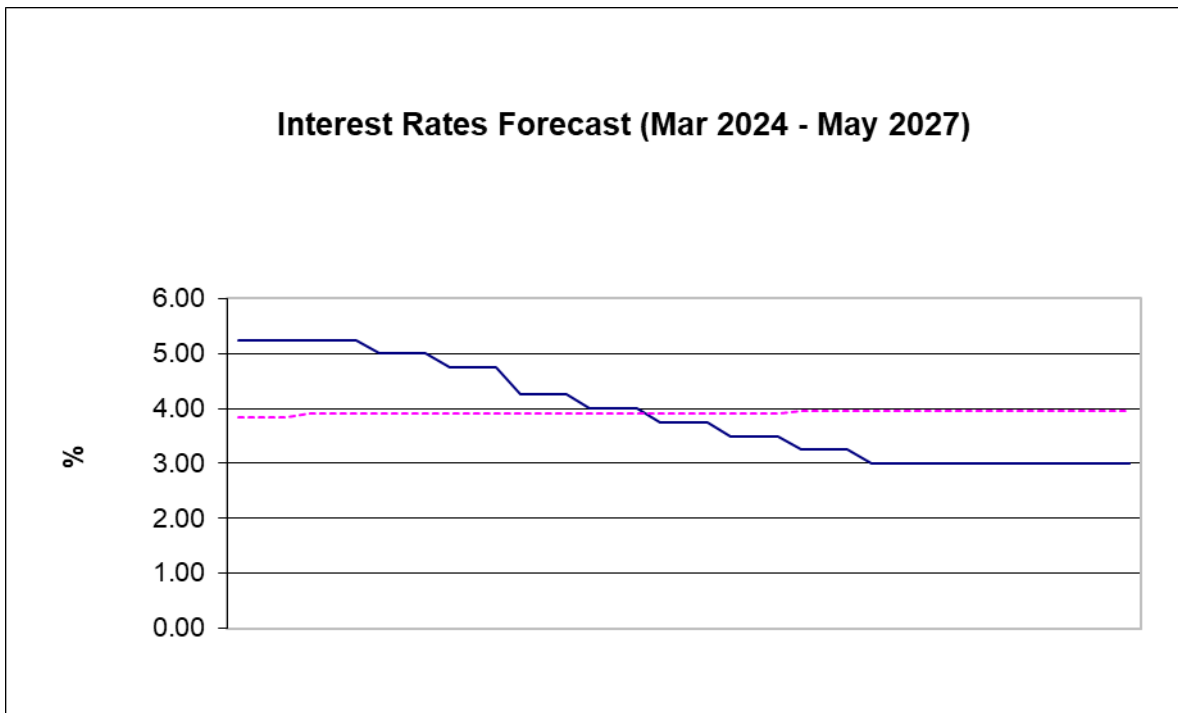
ANNEX B

INTEREST RATES FORECAST

Treasury Management Strategy Statement and Investment Strategy 2024/25 to 2026/27

The graph below shows the interest rate forecast for the Official UK Bank Rate and the 50 year GILT rate from March 2024 to May 2027. The Official Bank Rate influences the rate at which the Council can invest. The GILT rate is the rate at which the Government borrows money and therefore this affects the rate at which the Council can borrow from the PWLB, which is approximately 1% above GILT rates, and the UK Infrastructure Bank which is approximately 0.4% above GILT rates.

As the graph shows, it is slightly more expensive to borrow than to invest at the moment with the Official UK Bank Rate expected to decrease.



—— Official Bank Rate
- - - - 50-yr GILT Rate

ANNEX C

GLOSSARY – Useful guide to treasury management terms and acronyms

Treasury Management Strategy Statement and Investment Strategy 2024/25 to 2026/27

BANK OF ENGLAND	UK's Central Bank
BANK RATE	Bank of England Interest Rate (also known as Base Rate)
CPI	Consumer Price Index – a measure of the increase in prices
RPI	Retail Price Index – a measure of the increase in prices
DMO	Debt Management Office – issuer of gilts on behalf of HM Treasury
FSA	Financial Services Authority - the UK financial watchdog
GDP	Gross Domestic Product – a measure of financial output of the UK
LIBID	London Interbank Bid Rate - International rate that banks lend to other banks
LIBOR	London Interbank Offer Rate – International rate that banks borrow from other banks (the most widely used benchmark or reference for short term interest rates)
PWLB	Public Works Loan Board – a Government department that lends money to Public Sector Organisations
MPC	Monetary Policy Committee - the committee of the Bank of England that sets the Bank Rate
LONG-TERM RATES	Interest rates on borrowing more than 12 months duration
SHORT-TERM RATES	Interest rates on borrowing less than 12 months duration
BOND (GENERAL)	An investment in which an investor loans money to a public or private company that borrows the funds for a defined period of time at a fixed interest rate
GOVERNMENT BOND	A type of bond issued by a national government generally with a promise to pay periodic interest payments and to repay the face value on the maturity date
CORPORATE BOND	A type of bond issued by a corporation to raise money in order to expand its business

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COVERED BOND	A corporate bond issued by a financial institution but with an extra layer of protection for investors whereby the investor has recourse to a pool of assets that secures or “covers” the bond if the financial institution becomes insolvent
GILT	A bond that is issued by the British government which is classed as a low risk investment as the capital investment is guaranteed by the government
REPO	A repurchase agreement involving the selling of a security (usually bonds or gilts) with the agreement to buy it back at a higher price at a specific future date For the party selling the security (and agreeing to repurchase it in the future) it is a REPO For the party on the other end of the transaction e.g. the local authority (buying the security and agreeing to sell in the future) it is a reverse REPO
FTSE 100	Financial Times Stock Exchange 100 - An index composed of the 100 largest companies listed on the London Stock Exchange which provides a good indication of the performance of major UK companies

Treasury Management (TM) Update Report

1 Economic Outlook

- 1.1 The impact on the UK from higher interest rates and inflation, a weakening economic outlook, an uncertain political climate due to an upcoming general election, together with war in Ukraine and the Middle East, will be major influences on the Authority's treasury management strategy for 2024/25.

2 Investment Strategy

- 2.1 Given the ongoing risk from short-term unsecured bank investments, the Council has placed a greater emphasis on investing with the UK Government's Debt Management Office (DMO) in order to minimise these risks. The majority of our investment cash is therefore placed with the DMO on a short-term basis to meet monthly outgoings and the remainder with an instant access call account up to a maximum limit of £5m.
- 2.2 The Council's cash flow position is monitored constantly with a view to undertake further borrowing as required over the next few months as the level of our investment cash decreases.

3 Borrowing Strategy

- 3.1 Long-term interest rates have begun to reduce from their peak in the middle of 2023. With advice from Arlingclose, the Council has therefore secured £26m borrowing so far in 2023-24 from the Public Works Loan Board (PWLB) to fund on-going capital commitments. The Council was able to use a discounted rate for this borrowing as it was undertaken to fund past and current Housing Revenue Account spend. The Council will continue to monitor its cash position and interest rate levels to ensure that further long-term borrowing is undertaken at the optimal time to fund on-going capital commitments.
- 3.2 Analysis of the Balance Sheet projections shows that the Council is likely to have a significant borrowing requirement in the future so there is a need to continue to fund this borrowing requirement through a mix of temporary loans from other local authorities and long-term borrowing. This is reviewed and discussed monthly in the Capital and Treasury Management update meeting.
- 3.3 The Council currently has 9 temporary loans from other local authorities for £50m in total over a 12-month period. This total is made up of £10m which is repayable in January, £10m in March, £15m in July and £15m in September / October. When the loans are repaid, we will review interest rates and the Council's cash flow position to

determine if further borrowing is required, and whether this should be temporary or long-term.

4 Long-term borrowing

4.1 PWLB update

We are required to submit annually a detailed 3-year capital expenditure plan to the PWLB with confirmation of the purpose of our capital expenditure. In particular, we have to confirm that we are not planning to purchase 'investment assets primarily for yield' in the current or next two financial years. We have been able to give this assurance so we can continue to take advantage of PWLB borrowing at low rates.

4.2 UK Infrastructure Bank (UKIB)

The UK Infrastructure Bank was established in 2021 and is wholly owned and backed by HM Treasury. It offers finance to local authorities across the UK for high-value and complex economic infrastructure projects at rates currently lower than PWLB. We are currently applying to borrow from the UKIB to fund our coastal defence schemes.

5 Controls

5.1 Prudential Indicators

The Council sets prudential indicators which set boundaries within which its treasury management activity operates. The indicators are calculated to demonstrate that the Council's borrowing is affordable and include measures that show the impact of capital and borrowing decisions over the medium-term. The Council has remained within all of its borrowing and investment limits for 2023/24 as stated in the TM Strategy Statement and the Capital Strategy Report agreed by Council in February 2023. The Council has not deviated from the Capital related indicators either.

5.2 The Capital related Prudential Indicators are included in the Capital Strategy Report. This report is intended to give a high level, concise and comprehensible overview to all elected members of how capital expenditure, capital financing and treasury management activity contribute to the provision of the Council's services.

5.3 The Capital Strategy Report was included with the Capital Plan report to Council in February 2023 and included the following Capital related Prudential Indicators:

Estimates of Capital Expenditure and Financing

Ratio of Financing Costs to Net Revenue Stream
Capital Financing Requirement
Authorised Limit and Operational Boundary for External Debt

5.4 Audit Reviews

The last Internal Audit review undertaken in December 2023 found effective controls in place with good examples of working practices identified. A high assurance rating was awarded which shows that risks and controls are well-managed and objectives are being achieved. The next Internal Audit review is due in Autumn 2024.

6 Future

6.1 TM Strategy for next six months

As planned capital expenditure is incurred, the Council will continue to monitor its cash flow position to ensure that temporary borrowing is undertaken if required. The Council will also monitor market conditions and interest rate levels to ensure that long-term borrowing is undertaken at the optimal time in line with the TM strategy.

6.2 Staffing Changes

One employee has been added to the TM rota to provide additional cover and he is currently receiving training in his TM duties.

6.3 Medium-Term Capital Strategy

Work is continuing to develop a medium-term strategy for capital. This will help identify projects that we are planning to develop and invest in over a 5 to 10 year period but have not yet gone through the approval process. This will impact on the level of borrowing that the Council will require to undertake over the coming years. To complement and aid this work a new capital approval process has been developed which was reviewed by the Governance and Audit Committee and approved by Cabinet in December 2022. This included setting up a new Capital Scrutiny Group from April 2023, the papers of which are available to all Members.

6.4 Reports

The next report will be the TM Update Report 2023/24 which will be reported to the Governance and Audit Committee in April.

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Treasury Management Strategy Statement 2024/25: Well-being Impact Assessment Report

This report summarises the likely impact of the proposal on the social, economic, environmental and cultural well-being of Denbighshire, Wales and the world.

Assessment Number: 148

Brief description: The Treasury Management strategy for 2024/25.

Date Completed: 09/01/2024 10:27:42 Version: 33

Completed by: Rhys Ifor Jones

Responsible Service: Finance and Audit Services

Localities affected by the proposal: Whole County,

Who will be affected by the proposal? Proposals have little or no direct impact on the vast majority of residents as the strategy involves managing the Council's investments and borrowing.

Was this impact assessment completed as a group? No

Summary and Conclusion

Before we look in detail at the contribution and impact of the proposal, it is important to consider how the proposal is applying the sustainable development principle. This means that we must act "in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs."

Score for the sustainability of the approach

2 out of 4 stars

Actual score : 23 / 36.

Summary for each Sustainable Development principle

Long term

The impact of this report is neutral in this particular area.

Prevention

The impact of this report is neutral in this particular area.

Integration

The impact of this report is neutral in this particular area.

Collaboration

The impact of this report is neutral in this particular area.

Involvement

The impact of this report is neutral in this particular area.

Summary of impact

Well-being Goals	Overall Impact
A prosperous Denbighshire	Positive
A resilient Denbighshire	Positive
A healthier Denbighshire	Neutral
A more equal Denbighshire	Neutral
A Denbighshire of cohesive communities	Neutral
A Denbighshire of vibrant culture and thriving Welsh language	Neutral
A globally responsible Denbighshire	Neutral

Main conclusions

An effective Treasury Management strategy ensures that the Council's investment and borrowing decisions will contribute towards the goal of maximising income and minimising costs which supports efficient service delivery.

The likely impact on Denbighshire, Wales and the world.

A prosperous Denbighshire

Overall Impact

Positive

Justification for impact

An effective Treasury Management strategy ensures that the Council's investment and borrowing decisions will contribute towards the goal of maximising income and minimising costs which supports efficient service delivery.

Further actions required

Sound financial planning and efficient long term treasury management strategies ensure that the positive impact of this report on the County's prosperity is maximised.

Positive impacts identified:

A low carbon society

Not applicable

Quality communications, infrastructure and transport

Financial planning and decision making ensures that proper consideration of the long term impact of financial decisions is given, including the payback period and whole life costs of capital investment decisions, properly impact assessed budget proposals and long term debt and investment (treasury management) strategies.

Economic development

The Treasury Management strategy and Prudential Indicators ensure that the Council's cash is safeguarded as much as possible by making investments in banks recommended in the annual strategy statement.

Quality skills for the long term

The strategy ensures that the Council's borrowing is monitored and is within set limits and is affordable. It identifies current financing requirements for the Capital Plan and estimates the proposed capital requirements for the next three financial years.

Quality jobs for the long term

Sound investment and borrowing decisions relating to the Council's cash will maximise the Council's income within the guidelines set in the Treasury Management strategy.

Childcare

The Prudential Indicators are a statutory requirement which demonstrate the affordability of our plans and contribute towards the overall financial wellbeing of Denbighshire.

Negative impacts identified:

A low carbon society

Not applicable

Quality communications, infrastructure and transport

Not applicable

Economic development

Not applicable

Quality skills for the long term

Not applicable

Quality jobs for the long term

Not applicable

Childcare

Not applicable

A resilient Denbighshire

Overall Impact

Positive

Justification for impact

A sound Treasury Management strategy ensures that the Council's cash is secure and new borrowing is affordable. It also enables the Council to react quickly to market volatility by continual monitoring of the financial institutions throughout the year.

Further actions required

Good investment decisions will help the Council to develop more efficient working practices which will use less resources which will help to maximise the positive impact of this report on the County's resilience.

Positive impacts identified:

Biodiversity and the natural environment

Not applicable

Biodiversity in the built environment

Not applicable

Reducing waste, reusing and recycling

Good investment decisions will help the Council to develop more efficient working practices which will use less resources.

Reduced energy/fuel consumption

The strategy is set at the start of the financial year but it is monitored carefully throughout the year to ensure that the Council reacts quickly to any market volatility and the impact on the banking institutions.

People's awareness of the environment and biodiversity

Not applicable

Flood risk management

Not applicable

Negative impacts identified:

Biodiversity and the natural environment

Not applicable

Biodiversity in the built environment

Not applicable

Reducing waste, reusing and recycling

Not applicable

Reduced energy/fuel consumption

Not applicable

People's awareness of the environment and biodiversity

Not applicable

Flood risk management

Not applicable

A healthier Denbighshire

Overall Impact

Neutral

Justification for impact

Proposals have little or no direct impact on the vast majority of residents as the strategy involves managing the Council's investments and borrowing.

Further actions required

The impact of this report is neutral in this particular area so this is not applicable.

Positive impacts identified:

A social and physical environment that encourage and support health and well-being

Not applicable

Access to good quality, healthy food

Not applicable

People's emotional and mental well-being

Not applicable

Access to healthcare

Not applicable

Participation in leisure opportunities

The strategy contributes to the overall financial health of Denbighshire and therefore supports the delivery of the annual budget.

Negative impacts identified:

A social and physical environment that encourage and support health and well-being

Not applicable

Access to good quality, healthy food

Not applicable

People's emotional and mental well-being

Not applicable

Access to healthcare

Not applicable

Participation in leisure opportunities

Not applicable

A more equal Denbighshire

Overall Impact

Neutral

Justification for impact

A good treasury management strategy contributes to the overall financial resilience of the Council and supports the on-going work of the Authority without impacting on residents.

Further actions required

The impact of this report is neutral in this particular area so this is not applicable.

Positive impacts identified:

Improving the well-being of people with protected characteristics. The nine protected characteristics are: age; disability; gender reassignment; marriage or civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation

Not applicable

People who suffer discrimination or disadvantage

Not applicable

People affected by socio-economic disadvantage and unequal outcomes

An efficient treasury management strategy contributes to the financial resilience of the Council and supports service delivery.

Areas affected by socio-economic disadvantage

Not applicable

Negative impacts identified:

Improving the well-being of people with protected characteristics. The nine protected characteristics are: age; disability; gender reassignment; marriage or civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation

Not applicable

People who suffer discrimination or disadvantage

Not applicable

People affected by socio-economic disadvantage and unequal outcomes

Not applicable

Areas affected by socio-economic disadvantage

Not applicable

A Denbighshire of cohesive communities

Overall Impact

Neutral

Justification for impact

A good treasury management strategy contributes to the overall financial resilience of the Council and supports the on-going work of the Authority without impacting on residents.

Further actions required

The impact of this report is neutral in this particular area so this is not applicable.

Positive impacts identified:

Safe communities and individuals

Not applicable

Community participation and resilience

Not applicable

The attractiveness of the area

Not applicable

Connected communities

Not applicable

Rural resilience

Not applicable

Negative impacts identified:

Safe communities and individuals

Not applicable

Community participation and resilience

Not applicable

The attractiveness of the area

Not applicable

Connected communities

Not applicable

Rural resilience

Not applicable

A Denbighshire of vibrant culture and thriving Welsh language

Overall Impact

Neutral

Justification for impact

A good treasury management strategy contributes to the overall financial resilience of the Council and supports the on-going work of the Authority. It has no direct impact on the language and the culture because any treasury management decisions are based on the treasury strategy and advice from financial consultants.

Further actions required

The impact of this report is neutral in this particular area so this is not applicable.

Positive impacts identified:

People using Welsh

Not applicable

Promoting the Welsh language

Not applicable

Culture and heritage

Not applicable

Negative impacts identified:

People using Welsh

Not applicable

Promoting the Welsh language

Not applicable

Culture and heritage

Not applicable

A globally responsible Denbighshire

Overall Impact

Neutral

Justification for impact

A good treasury management strategy contributes to the overall financial resilience of the Council and supports the on-going work of the Authority. It has no direct impact on the local area.

Further actions required

The impact of this report is neutral in this particular area so this is not applicable.

Positive impacts identified:

Local, national, international supply chains

Not applicable

Human rights

All investments are undertaken from national institutions in line with the strategy and financial advice. The strategy determines the institutions with the minimum credit rating which the Authority is permitted to invest with.

Broader service provision in the local area or the region

All borrowing is undertaken from central Government as detailed in the strategy and in line with other local authorities.

Reducing climate change

Not applicable

Negative impacts identified:

Local, national, international supply chains

Not applicable

Human rights

Not applicable

Broader service provision in the local area or the region

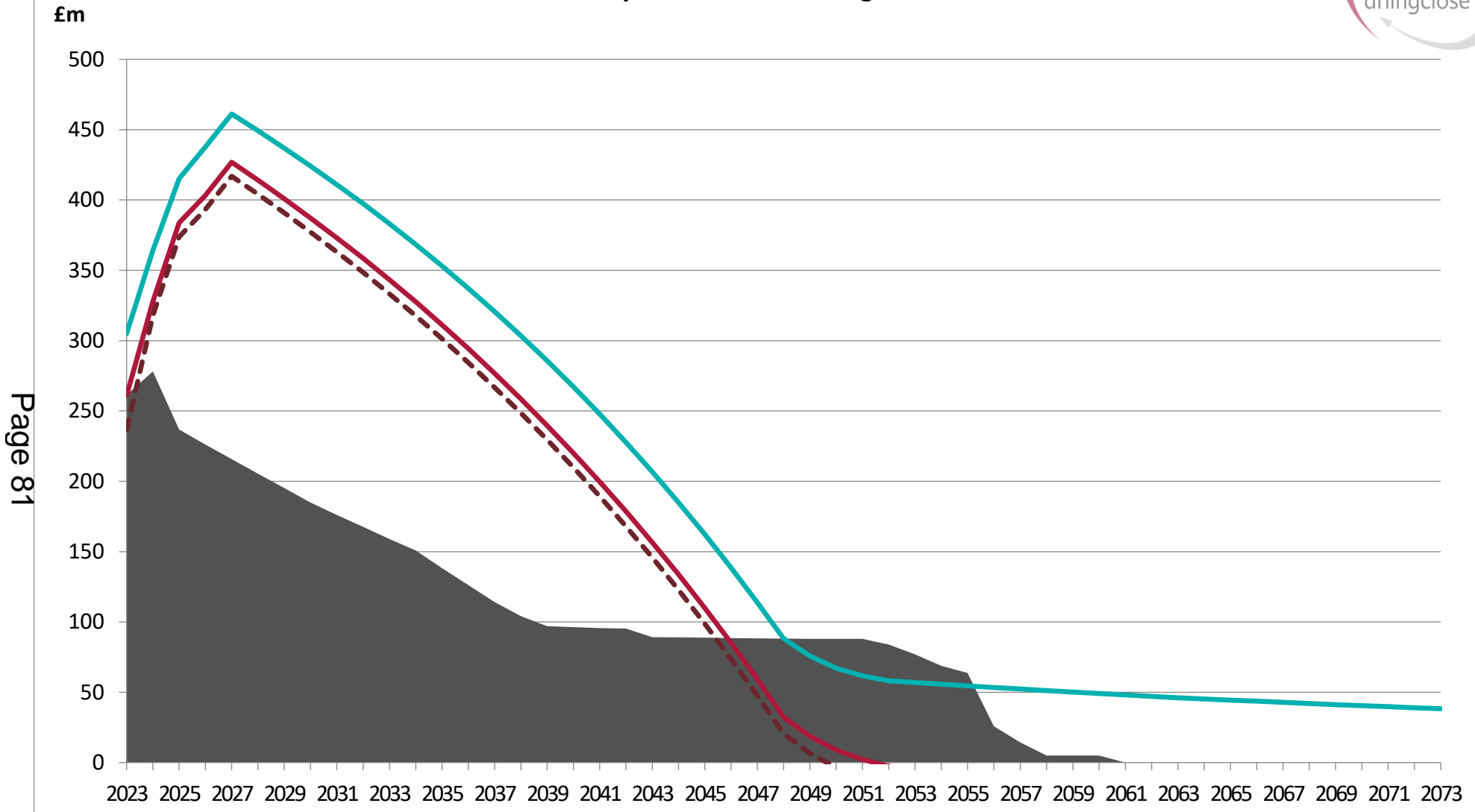
Not applicable

Reducing climate change

Not applicable

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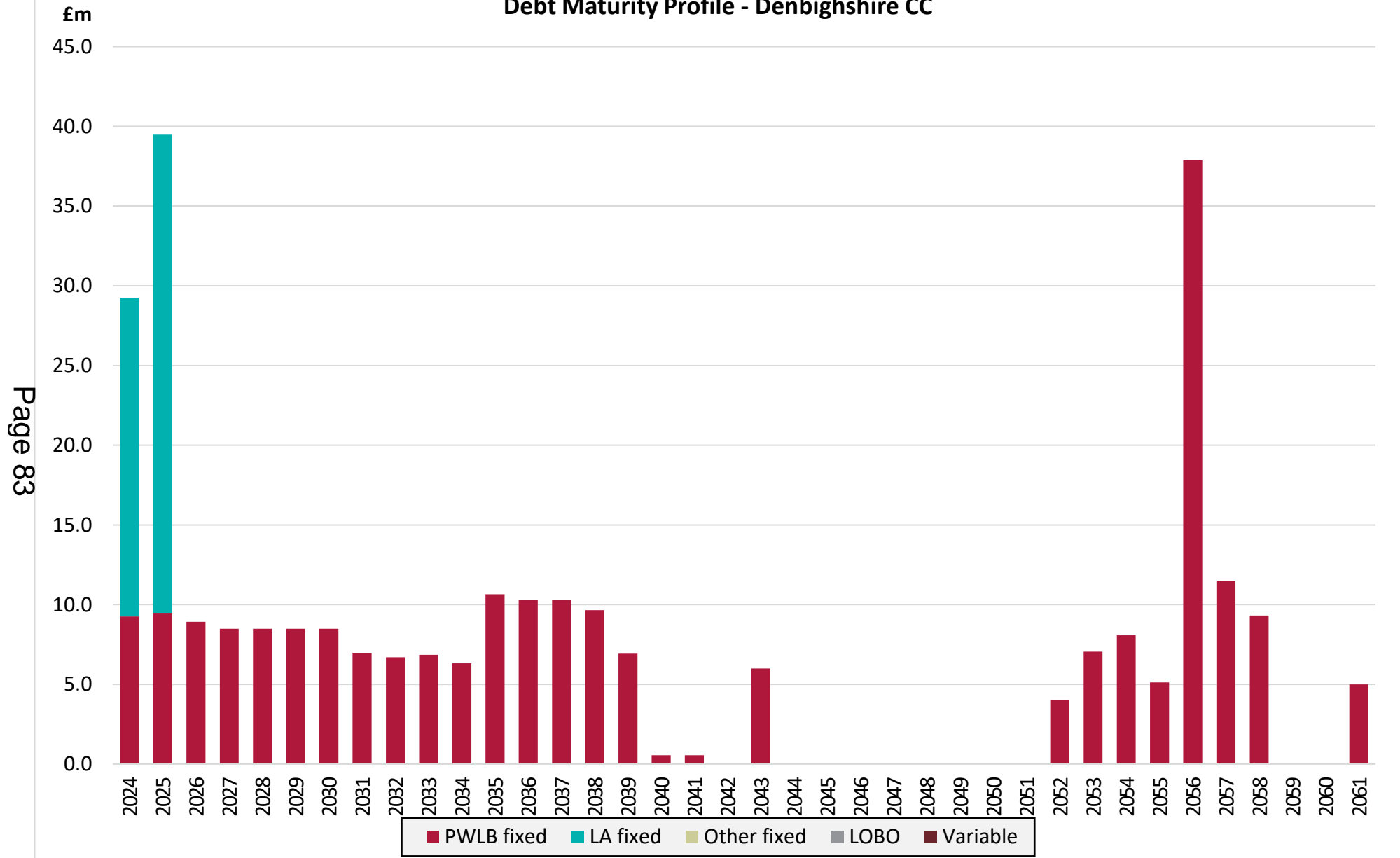


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Debt Maturity Profile - Denbighshire CC



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Report to	Governance and Audit Committee
Date of meeting	30 th January 2024
Lead Member / Officer	Gary Williams, Corporate Director: Governance and Business, RIPA Senior Responsible Officer.
Report author	Lisa Jones, Legal Services Manager
Title	RIPA Annual Report

1. What is the report about?

This is the annual report to the Governance and Audit Committee on the Council's use of its powers of surveillance under RIPA (Regulation of Investigatory Powers Act 2000)

2. What is the reason for making this report?

The Home Office Codes of Practice relating to the use of these powers recommend that local authorities should report on their surveillance powers on a regular basis.

3. What are the Recommendations?

That the Committee receives and acknowledges the report and provides any comments in respect of its contents and the attached policy document.

4. Report details

- 4.1. The Committee is familiar with the Annual Report on RIPA that is brought to Members where a summary of activity and governance arrangements around this area is provided to Members.
- 4.2. The level of RIPA activity, which relates only to 'covert' surveillance, rather than 'overt' surveillance, has reduced dramatically over the past ten years to the point now where little or no covert surveillance is taking place. The Council will

utilise its RIPA powers only as a very last resort and this means where all other means of gathering the evidence has been considered and explored. In the event of a RIPA application being taken forward there are legal hurdles in which to overcome before the surveillance can take place which includes a detailed application form completed by the applicant, a face to face meeting with one of the Council's Authorising Officers (a member of CET) and then attendance for formal approval from the Magistrates Court. Irrespective of the process, one of the reasons for a reduction in this activity is that the Council has other transparent methods in place in a world where public bodies share more data than they may have done previously as a way of combatting fraud and crime.

- 4.3. Since the last Annual Report to the Committee there has been no covert surveillance activity conducted, and this is a trend that is the same throughout all local authorities.
- 4.4. The two main areas where the Council is more likely to require a RIPA authorisation is in respect of underage sales and fly tipping. However, the Council is required to consider other less intrusive means of preventing or combatting such activities such as signage or working transparently with publicans and off licences to ensure they are complying with their duties on alcohol sales.
- 4.5. The Investigatory Powers Commissioners' Office is the regulatory body responsible for oversight of investigatory powers by public authorities. The Council was last inspected by one of the Commissioner's Chief Inspectors, Graham Wright, in February and March 2021 and a copy of that Inspection Report was presented to members of this Committee in June 2021 and available for members on the Council's Committee section of the website.
- 4.6. The Home Office Covert Surveillance and Property Interference Code of Practice requires the Senior Responsible Officer for RIPA to provide Elected Members with an annual report on whether the Council's RIPA policy is fit for purpose and to report the level of covert surveillance activity. The inspection in 2021 confirmed that the Inspector had reviewed the Council's RIPA Policy and advised it provided very accurate, complete and practical advice and guidance to practitioners. The policy was amended slightly at the time to accord with recommendations made by the Inspector.

4.7. Refresher training to Investigating Officers and Authorising Officers is an area that the Regulator is particularly keen on seeing implemented; this is best delivered in a face to face to setting as there are practical scenarios which will be worked through and are better delivered in a face to face interactive session. A training event was last held in November 2022 for officers who need to be aware of the Council's Policy and Procedures and the human rights considerations in relation to privacy that the function requires. The Inspector in 2021 was sighted on the proposed slides and training materials and was satisfied that they were of the appropriate standard.

5. How does the decision contribute to the Corporate Priorities?

This area of practice supports cleaner and safer places to live and visit and the Councils environmental ambitions and priorities. Fraudulent activity, which can impact on Councils' revenue and budgets, may necessitate taking surveillance action.

6. What will it cost and how will it affect other services?

The costs are met within existing resources, including the training events, as this is prepared and delivered in house in a bespoke manner.

7. What are the main conclusions of the Well-being Impact Assessment?

A well-being impact assessment is not required for this report and decision.

8. What consultations have been carried out with Scrutiny and others?

There has not been any formal consultation in respect of this report.

9. Chief Finance Officer Statement

Not required.

10. What risks are there and is there anything we can do to reduce them?

A Council that has a robust policy and supporting governance framework around the policy is less likely to fall foul of RIPA and the right to respect for one's private and family life. Evidence gathered in a compliant manner can be used in court proceedings and may not be relied upon if not obtained lawfully. It is therefore essential that council staff follow advice and policy in this area.

11. Power to make the decision

Regulation of Investigatory Powers Act 2000 and related Codes of Practice.



DENBIGHSHIRE COUNTY COUNCIL

Corporate Policy & Procedures **For Denbighshire County Council Employees on** **the Regulation of Investigatory Powers Act 2000**

THE REGULATION OF INVESTIGATORY POWERS ACT 2000

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FOREWORD

This Corporate Policy and Procedures has been produced for the use of Denbighshire County Council Employees and any relevant contractors employed by the Council. All relevant Council contracts will includes a term that this policy is to be observed by any Contractor acting on behalf of the Council. Its provisions must be followed, where they apply, by all Officers. In addition, all employees must use only the Authorising Forms that are available on the Home Office website for authorisation purposes.

This policy has been developed in consultation with representatives from across the departments performing surveillance. This policy replaces any previous policy and procedures. A copy of this policy together with the Home Office Codes of Practice and the Investigatory Powers Tribunal leaflets will be made available for public inspection at Council offices. The policy is also available on the Council's website.

In addition a copy of this document will be readily available to all employees, and a copy may be found on the Denbighshire Information Centre. This Policy has been produced in English and Welsh, and any comments or observations on its contents may be made to the Head of Legal and Democratic Services /Monitoring Officer who also acts as the Council's Senior Responsible Officer in respect of RIPA.

If you are unclear as regards any aspect of this document, you should contact the Head of Legal, HR and Democratic Services.

Any minor amendments to this policy will require the approval of the RIPA Working Group. Any substantial amendments to policy will require additional approval of the Council's Corporate Governance Committee and Cabinet.

January 2021

CHAPTER 1: INTRODUCTION

1.1 The Human Rights Act 1998 became part of UK law on the 2nd October 2000, making it unlawful for a "public authority" (which includes a Local Authority) to breach any Article of the European Convention on Human Rights. The Act also made provision for any person who has suffered as a result of a breach of the European Convention on Human Rights to seek redress within the UK domestic courts, without having to pursue a claim via the lengthy and costly process of the European Court of Human Rights in Strasbourg.

Article 8 of the Convention on Human Rights has a significant impact upon Local Authorities and the ways in which they operate. The Article states that:

"everyone has the right to respect for his private and family life, his home and his correspondence"

Essentially, the "public authority" must not in any way interfere with the exercise of this right except as in accordance with the law and is necessary in a democratic society in the interests of any of the following:-

- National Security
- Public Safety
- The Economic well-being of the Country
- The Prevention of Crime and Disorder
- The Protection of Health or Morals
- Protection of the Rights and Freedoms of Others

In addition, any interference with the Article 8 rights should be a proportionate interference in the circumstances.

Since the 5th January 2004 the only ground on which a local authority can now authorise Directed Surveillance is for the purpose of preventing or detecting crime or of preventing disorder. Subsequent changes in legislation now also stipulate that the 'serious crime' test needs to be met; see section 2.7 of this policy.

1.2 Whenever a person undertakes covert surveillance on behalf of a Local Authority, they are placing themselves at risk of breaching Article 8 of the European Convention on Human Rights, unless that surveillance can be justified on the basis that it is conducted in accordance with the law, is necessary for the purpose listed above (ie the prevention or detection of crime or disorder), and is a proportionate action to take.

1.3 The Regulation of Investigatory Powers Act 2000 (RIPA) was passed by Parliament and came into force on the 25th September 2000. This Act regulates covert surveillance and investigations by a number of bodies - including Local Authorities. One of the main purposes of the Act is to ensure that the human rights of any person who is the subject of covert surveillance is protected. However the Act also ensures that law enforcement officers and agencies have the powers they need to do their job properly and to carry out surveillance effectively.

1.4 The purpose of this document is to explain the impact of RIPA upon Denbighshire County Council's procedures in respect of surveillance activity and to provide employees with an understanding of the circumstances where the Act's provisions might apply. This document provides officers with guidance in respect of the procedures that should be followed when covert surveillance is undertaken. This policy should be read in conjunction with the latest Codes of Practice issued by the Home Office and Officers should have regard to the Codes when considering the exercise of their surveillance powers under RIPA 2000. The Codes which are relevant to a Local Authority are:

- Covert Surveillance and Property Interference Revised Code of Practice 2018
- Covert Human Intelligence Sources Code of Practice 2018

Copies of these codes of practice can be obtained from any Authorising Officer listed in chapter 3, from the Councils Legal department or directly from the Home Office website at www.homeoffice.gov.uk

The Council should also have regard to the following revised Procedures:

- Information Commissioner's Code In the Picture – A Data Protection Code of Practice for Surveillance Cameras and Personal Information.
- Home Office Surveillance Camera Code of Practice.

1.5 It is important to note that if any covert surveillance work is conducted by the Council and it falls within the provisions of RIPA then the authorisation procedures described in Chapter 3 must be followed before the surveillance occurs. Failure to do so may result in disciplinary proceedings. Obtaining proper authorisation for surveillance will assist in protecting the Council and its officers against complaints of interference with an individual's human rights, and will also protect the admissibility of any evidence gained from such surveillance in a Court of Law.

1.6 Access to Communications Data

In addition, the Council has powers to gain access to communications data. This is information held by telecommunication or postal service providers about the use of their services by persons who are the subject of a criminal investigation. In exercising these powers Officers must have full regard to the Codes of Practice issued by the Home Office:

Code of Practice for the acquisition and disclosure of communications data (March 2015) and Code of Practice for retention of communications data (March 2015) available on www.homeoffice.gov.uk or from the Councils' nominated Single Point of Contract (SPOC).

As for Covert Surveillance, access to communications data must be authorised by a Designated Authorising Officer and obtained via the Councils' SPOC. Specific guidance on these procedures is contained in Chapter 5.

1.7 Encryption

Part 3 of RIPA 2000 came into force in October 2007 to provide a statutory framework allowing all public authorities to require electronic information which they have obtained lawfully or are likely to be obtained lawfully to be put into an 'intelligible form', to acquire the means to gain access to protected information and put that information into 'intelligible form'. For example, where the Council seize a laptop, which may contain protected information that could assist in a prosecution. This is achieved through the assistance of 'NTAC' (National Technical Assistance Centre), who must be approached at the earliest opportunity if the Council are considering the use of these powers. In practice a case is put forward to NTAC, who will provide feasibility and costings of the exercise. NTAC will support the Council in the process to ensure the exercise of these Part 3 powers are undertaken appropriately.

The Investigation of Protected Electronic Information Revised Code of Practice (August 2018) refers to NTAC as the 'guardian and gatekeeper' of the use of Part 3 and any Officer considering the use of these powers should refer to the Home Office Code of Practice available on the Home Office website – www.homeoffice.gov.uk

Specific guidance on these procedures is contained in Chapter 5.

CHAPTER 2: DEFINITIONS OF THE MAIN SURVEILLANCE TECHNIQUES REGULATED BY RIPA

2.1 Surveillance

The Act defines “surveillance” as monitoring, observing or listening to persons, watching or following their movements, listening to their conversations or their other activities or communications. It can also encompass recording anything that is monitored, observed or listened to during the course of surveillance. Surveillance may, or may not, be conducted with the assistance of a device.

For example, the installation of CCTV cameras in order to generally observe activity in a particular area will not be “surveillance” unless the CCTV camera is being used to target a specific person, persons or operation. In cases of uncertainty, officers should seek advice from their department’s Authorising Officers who will in turn consult with the Head of Legal and Democratic Services should they require further clarification or guidance.

2.2 Covert Surveillance

Surveillance will be “covert” if it is carried out in a manner calculated to ensure that the person(s) subject to the surveillance are unaware that it is or may be taking place. If surveillance is open and not hidden for the subjects of the surveillance, the surveillance will not generally be covert. Please note that RIPA applies only to covert surveillance so it is vital to consider initially whether or not you are conducting covert surveillance.

2.3 Intrusive Surveillance

This is a form of covert surveillance that is regulated by RIPA.

Intrusive surveillance is defined in the Act as covert surveillance (see 2.2 above) that is carried out in relation to anything taking place on any residential premises or in any private vehicle, and it involves the presence of an individual in the premises or in the vehicle or is carried out by means of a surveillance device.

It is imperative to note that Local Authorities are not empowered by RIPA to carry out intrusive surveillance. If a Local Authority does carry out this type of surveillance, it will be acting beyond the scope of its powers. If you think that your proposed surveillance activity could fall within the definition of “intrusive surveillance” you must not proceed with the surveillance. If you need help in determining whether or not you could be conducting intrusive surveillance seek advice from the Head of Legal and Democratic Services.

2.4 Directed Surveillance

This is a crucial method of surveillance which affects Local Authorities. This is surveillance that is covert, but is not intrusive and is undertaken for the purposes of a specific investigation or operation. The surveillance is undertaken in such a manner that it is likely to result in obtaining “private information” about a person or persons. Directed surveillance involves the observation of a person or persons with the intention of gathering private information about them to produce a detailed picture of their life, activities and/or,

associates. It will not include entry upon or interference with property, but may include the use of photographic and video equipment (including CCTV).

Before conducting directed surveillance, you need to consider the meaning of “private information”. Private information will include any information relating to a person’s private or family life, and is therefore a very wide definition. The 2000 Act states that private information includes any information relating to a person’s private or family life. *Private information should be taken generally to include any aspect of a person’s private or personal relationship with others, including family and professional or business relationships.*

Whilst a person may have a reduced expectation of privacy when in a public place, covert surveillance of that person’s activities in public may still result in the obtaining of private information. This is likely to be the case where that person has a reasonable expectation of privacy even though acting in public and where a record is being made by a public authority of that person’s activities for future consideration or analysis. Surveillance of publicly accessible areas of the internet should be treated in a similar way, recognising that there may be an expectation of privacy over information which is on the internet, particularly when accessing information on social media or forum type websites.

Private life considerations are particularly likely to arise if several records are to be analysed together in order to establish, for example, a pattern of behaviour, or one or more pieces of information (whether or not available in the public domain) are covertly (or in some cases overtly) obtained for the purposes of making a permanent record about a person or for subsequent data processing to generate further information. In such circumstances, the totality of information gleaned may constitute private information even if individual records do not. Where such conduct includes surveillance, a directed surveillance authorisation may be considered appropriate.

Private information may include personal data, such as names, telephone numbers and address details. Where such information is acquired by means of covert surveillance of a person having a reasonable expectation of privacy, a directed surveillance authorisation is appropriate.

The Covert Surveillance and Property Interference Revised Code of Practice (August 2018) gives practical examples of what is private information and officers may wish to consult pages 15 to 17 of that document which is available on the Home Office RIPA pages of their website.

Use of Social Networking Sites (SNS)

Use of the internet and SNS can provide useful information as part of an Investigation however it is important that these are used lawfully.

It is not possible to provide a definitive list of SNS; but it does include sites such as Facebook, Twitter, LinkedIn, Instagram, YouTube and blogs. It is possible to obtain private information when accessing websites used to advertise goods and services. You must therefore be mindful to the fact that the use of the internet and SNS may potentially mount to directed surveillance and require authorisation.

If you decide it is necessary to access an individual’s social networking profile / page in order to take an initial view as to whether there is any substance to an allegation or a matter being investigated; this initial viewing must be reasonable and proportionate. For

example, it would not be reasonable or proportionate to spend a substantial amount of time searching through the pages of an online profile or to extract and record any material, in the event it may prove useful for your investigation.

Individuals have a reasonable expectation of privacy. Repeated viewing of an individual's online presence or where material is systematically extracted and recorded is likely to require authorisation for directed surveillance irrespective of whether privacy settings are available and applied.

The examples below are taken from paragraph 3.15 of the Covert Surveillance and Property Interference Revised Code of Practice 2018;

Example 1: A police officer undertakes a simple internet search on a name, address or telephone number to find out whether a subject of interest has an online presence. This is unlikely to need an authorisation. However, if having found an individual's social media profile or identity, it is decided to monitor it or extract information from it for retention in a record because it is relevant to an investigation or operation, authorisation should then be considered.

Example 2: A customs officer makes an initial examination of an individual's online profile to establish whether they are of relevance to an investigation. This is unlikely to need an authorisation. However, if during that visit it is intended to extract and record information to establish a profile including information such as identity, pattern of life, habits, intentions or associations, it may be advisable to have in place an authorisation even for that single visit. (As set out in the following paragraph, the purpose of the visit may be relevant as to whether an authorisation should be sought.)

Example 3: A public authority undertakes general monitoring of the internet in circumstances where it is not part of a specific, ongoing investigation or operation to identify themes, trends, possible indicators of criminality or other factors that may influence operational strategies or deployments. This activity does not require RIPA authorisation. However, when this activity leads to the discovery of previously unknown subjects of interest, once it is decided to monitor those individuals as part of an ongoing operation or investigation, authorisation should be considered.

Officers should consult paragraphs 3.10 – 3.17 of the revised Code of Practice for Covert Surveillance and Property Interference 2018, for further advice should consult the RIPA Senior Responsible Officer.

Surveillance is directed surveillance if the following are all true:

- It is covert, but not intrusive surveillance
- It is conducted for the purposes of a specific investigation or operation
- It is likely to result in the obtaining of private information about a person (whether or not one specifically identified for the purposes of the investigation or operation)
- Its is conducted otherwise than by way of an immediate response to events or circumstances the nature of which is such that it would not be reasonably practicable for an authorisation under Part II of the 2000 Act to be sought.
- Thus the **planned** covert surveillance of a specific person, where not intrusive, would constitute directed surveillance if such surveillance is likely to result in the obtaining of private information about that, or any other person.

Please note that directed surveillance would not cover an immediate response to events (eg: detecting something suspicious by chance and continuing to watch). Though in these circumstances applicants must have regard to paragraph 4.17 and the urgency procedures if you *continue* to watch when you ought to have obtained an urgent oral authorisation.

All reasonable alternative methods to resolve a situation such as interview, changing methods of working or levels of security if appropriate for example, should be attempted first.

Where the subject of the covert surveillance is an employee of the Council, subject to the investigation of a criminal matter, the Head of Legal, HR and Democratic Services must be informed.

2.5 Covert Human Intelligence Sources

Covert Human Intelligent Sources (CHIS) is another crucial definition within RIPA which could affect a Local Authority's activities. A person will be a CHIS if he or she establishes or maintains a personal or other relationship with a person for the covert purpose of:

- Obtaining information relating to another person or
- Accessing information about another person, or
- Disclosing information obtained by the use of or as a consequence of such a relationship.

A purpose will be "covert" in this respect if the relationship is conducted in such a manner so that one of the parties to the relationship is unaware of the purpose behind that relationship.

An example of this type of surveillance might occur where a professional obtains information about a person without that person understanding the real reason why that information is being collected and without knowing that a professional is seeking to obtain the information in question. This will encompass the use of professional witnesses to obtain information and evidence.

a) Test Purchases

These do not usually require the use of a CHIS because carrying out a test purchase will not usually require the purchaser to establish a relationship with the supplier with the covert purpose of obtaining information. Be aware however, that developing a relationship with a person in a shop to collect information about the seller's suppliers of an illegal product, would involve the use of CHIS.

b) Anti-Social behaviour activities

Persons who complain about anti-social behaviour and are asked to keep a noise log will not normally be a CHIS because they aren't required to establish or maintain a relationship for a covert purpose. (Where the however the complaint is requested to record personal information in the form of a detailed diary, on those carrying out the anti social behaviour, there is the possibility that such persons could be regarded as carrying out directed surveillance, acting as our agents, for which an authorisation

may be required depending on the circumstances. If in doubt, seek advice from the Head of Legal and Democratic Services)

2.6 Persons used as a CHIS

The Council can use a CHIS if RIPA authorisation procedures as detailed in Chapter 3 are followed. However, Officers should always consider whether or not the person to be employed as a CHIS is a suitable person, taking the following into account:-

a) Juvenile Sources

Special safeguards apply to the use of persons under 18 years of age. Only the Chief Executive (or a Corporate Director in the Chief Executive's absence) can authorise the use of a juvenile source. A child under 16 years of age must never be used to give information about his/her parent.

b) Vulnerable Individuals

These are persons who are or may be in need of community care because of age, illness or other disability. Use of such sources should be avoided and in any event, may only be authorised by the Chief Executive (or Corporate Director in the Chief Executive's absence)

It is **not** the Council's normal procedure to recruit a CHIS though it is recognised that some rare circumstances may give rise to this necessity. In these circumstances, Authorising Officers should consider obtaining advice from the Head of Legal, HR and Democratic Services prior to authorisation.

2.7 What you need to do before you undertake any surveillance.....

Before any Council officer undertakes surveillance of any individual or individuals they must first assess whether the activity falls within RIPA.

The following questions may help you decide.....

(a) Is the surveillance "covert?"

If the investigation and activities are open and are not hidden from the subjects of the investigation then the surveillance will probably not be covert, and the RIPA provisions will not apply. You do not need to obtain authorisation as outlined in Chapter 3 of this Corporate Policy and Procedures if the proposed surveillance is not covert. (See section 2.2 to help you decide this).

(b) Is the surveillance conducted for the purposes of a specific investigation or operation?

Consider CCTV cameras that are regularly visible to anybody walking around a Council office as an example. The cameras will be used to monitor what is generally happening in that Council office and will not be used for the purposes of a specific investigation or operation unless those cameras are used to target a known particular individual and are used to monitor his particular activities.

(c) Will the surveillance reveal private information?

If the surveillance is likely to result in obtaining “private information” (see section 2.4), about a person, RIPA may apply and you will need formal authorisation to carry out that surveillance.

(d) Does the criminal offence that is being investigated punishable, whether on summary (magistrates) or indictment (Crown Court) by a maximum term or **at least 6 months imprisonment, or would constitute an offence under sections 146, 147 or 147A of the Licensing Act 2003 or s.7 of the Children and Young Persons Act 1933 (sale of tobacco and alcohol to underage children)?** If the criminal offence does not meet this criteria, known as the ‘Serious Crime Test”, then the Council does **not** have the powers to conduct the covert surveillance. Please speak to a legal officer if you have any doubts.

If you have answered “yes” to Questions (a) to (d), you will probably be carrying out RIPA regulated surveillance and should therefore seek authorisation as outlined in Chapter 3. If you are unsure as to whether their surveillance will be covert or covered by the Act, you must seek advice from the Head of Legal, HR and Democratic Services before any surveillance is carried out. If in doubt, follow the authorisation procedure outlined in Chapter 3 of this Corporate Policy and Procedures.

CHAPTER 3: PROCEDURES FOR AUTHORISING COVERT SURVEILLANCE

- 3.1** If, having considered the matters outlined in Chapter 2, you decide that will be conducting surveillance activities covered by RIPA, you must seek authorisation in accordance with the procedures outlined in this chapter. Deciding when authorisation is required involves making a judgement based upon the particular circumstances of each case. If you are in doubt, it is always safer to get authorisation. Alternatively, seek advice as soon as possible from the Head of Legal, HR and Democratic Services.

The Protection of Freedoms Act 2012 now provides that a local authority who wishes to use directed surveillance, acquire communications data or the use of a CHIS under RIPA will need (in addition to an Officer granting authorisation as set out below) to then obtain an order approving the grant or it's renewal, from the Magistrates Court. (a Justice of the Peace, namely a single Stipendiary Magistrate or a Lay Magistrate) before the authorisation can take effect. The standard template for making this application is set out in Appendix 3. The local authority shall following approval by the Authorising Officer, contact the administration team at the Magistrates Court by telephone to arrange a hearing, which shall be in private. A copy of the original RIPA application form duly signed by the AO must be attached. There is further detailed guidance in the Home Office guidance to local authorities in England and Wales on the judicial approval process for RIPA and the crime threshold for directed surveillance (October 2012) available on the Home Office RIPA pages.

Following the changes in 2012 which requires the Council to involve the Magistrates', the effective time is that at which the authorisation is approved by the Magistrate and not the time authorisation is given by the authorising officer.

The decision on who shall appear before the Magistrates is one for the Local Authority; the Home Office guidance expects that it is appropriate for the Investigating Officer to attend as opposed to a Solicitor given they will know most about the matter under investigation, and to keep legal costs down. In respect of applications for Communications Data, the SPOC may attend, subject to any arrangements that are in place with the National Anti Fraud Network (NAFN).

All covert operations should involve a consideration of the health and safety implications involved and an assessment of risk to be undertaken eg such as the need for Investigating Officers to attend in pairs in some circumstances or any necessary precautions which should be in place before embarking on a covert operation. Additionally, the issue of the Council's insurance position may need to be ascertained in advance of the operation.

- 3.2** The following officers may act as authoring officers for the purposes of RIPA.

Chief Executive only in respect of juveniles/confidential information (or in his/her absence the person acting as the Head of Paid Service)

Corporate Director: Economy and Public Realm

Corporate Director: Communities

s.151 Officer

Monitoring Officer/Senior Responsible Officer only where another Authorising Officer is unavailable to grant an authorisation.

The list may be amended at any time by the Chief Executive and in accordance with The RIPA (Directed Surveillance and CHIS) Order 2010 SI 2010/521. An Investigating Officer should in the first instance attempt to seek authorisation from the Authorising Officer for their department. However if this is impracticable, an authorisation may be sought from any Authorising Officer listed above.

- 3.3. Authorising Officers should not be responsible for authorising their own activities; however it is recognised that this may sometimes be unavoidable where it is necessary to act urgently. Such instances should however be kept to a minimum. In these circumstances this particular authorisation must be drawn to the attention of the IPCO Inspector and the Central Record will reflect this activity for ease of reference.
- 3.4 Only the forms found on the Home Office website (RIPA page) can be used for authorisation under this policy. Authorising Officers may authorise covert surveillance only where it is considered necessary in accordance with the relevant purpose of preventing or detecting crime or of preventing disorder and where the extent and nature of the surveillance is proportionate to the aim sought. Authorising Officers will need to be satisfied that any intrusion into an individual's private life can be justified and that the intrusion is essential to the success of an investigation. If the investigation can be furthered without having to resort to covert surveillance techniques, then the use of RIPA should be avoided. It is helpful for applicants to explain what overt measures have been tried or ruled out, before resorting to covert techniques. Authorising Officers should refuse a premature application in these circumstances. In order to ensure that Authorising Officers have enough information to make sensible and informed decisions, officers applying for authorisation should submit a detailed application form to the Authorising Officer..
- 3.5 Where surveillance is deemed to be necessary, it must be authorised in accordance with the provisions of this Chapter before it is carried out. Proper authorisation should render the Council in a stronger position if challenged on the grounds that it is breached human rights legislation. If authorised and conducted accordingly, the activity is lawful for all purposes (paragraph 27 RIPA)
- 3.6 Authorising Directed Surveillance

An Authorising Officer will not grant authorisation to an officer to conduct directed surveillance unless he or she *believes* that the authorisation is **necessary** on the relevant ground and also that the surveillance is **proportionate** to the aim sought. Authorising Officers need to have in mind that directed surveillance is an interference with a persons Article 8 rights and that this is only justifiable if it is necessary and proportionate for these activities to take place. If not satisfied, the Authorising Officer must refuse authorisation.

An Authorising Officer must not add to the parts of an application which is completed by the investigating officer or applicant, the content of which must be exclusive to the applicant. The applicant must not in any circumstances complete the parts of the application which is exclusively the Authorising Officer. The applicant's role in the application stops at that part of the form. If further matters are however discussed with the applicant, the Authorising Officer, as a matter of good practice, should mention these discussions in his authorising statement.

The Home Office Code of Practice specifically refers to the following in respect of 'necessity' and 'proportionality':

"If the activities are deemed necessary on one or more of the statutory grounds, the person granting the authorisation or issuing the warrant must also believe that they are proportionate to what is sought to be achieved in carrying them out. This involved 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 or warrant 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 the proposed 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 Authorising Officer will therefore carry out a balancing exercise and this needs to be demonstrated on paper, even though the Authorising Officer may well have conducted this exercise in his or her mind. They also may state which matters they personally consider attract greater weight.

The Authorising Officer should take into account the risk that the operation presents to collateral intrusion (intruding upon the privacy of persons who aren't the subject of the investigation). This could affect whether or not an operation is proportionate. The applicant, if collateral intrusion has been identified, must show why the intrusion is in fact justified.

In no circumstances will any covert operation be given backdated authorisation after commencement. Embarking on covert surveillance without authorisation or conducting covert surveillance outside the scope of the authorisation will not provide the protective umbrella of RIPA and may result in disciplinary action being taken against the Officers involved.

The Authorising Officer must set a review date for reconsidering the authorisation, ensure that all forms are completed satisfactorily and that the requirements in 3.8 are complied with. All forms must be submitted to the Head of Legal and Democratic Services department within 3 working days of the authorisation. It is the responsibility of the Authorising Officer, to send the authorisation form, and to consider the most appropriate method of delivery. For high risk operations, where the safety of an individual is concerned, hand delivery may be the only safe and sensible method.

Finally, the **Authorising Officer must allocate a Unique Reference Number** to the application as follows:-

Year/Department/Number of Application - The URN is available from the Head of Legal, HR and Democratic Services' department.

3.7 Equipment

Surveillance equipment will only be installed with the necessary authorisation of the Authorising Officer. The type of equipment used must be documented on the application and also on the Authorising Officer's statement. Those investigating the matter need to be clear what equipment they have authorisation to utilise.

Any surveillance equipment located in occupied residential premises must only be as a result of the express written permission of the tenant or owner occupier.

An inventory of the Council's surveillance equipment is kept by the Authorising Officers of the respective departments. Any purchasing of further surveillance equipment, the respective Authorising Officers must be informed in order for the inventory to be kept up to date.

Any use of this equipment must be documented in the inventory which should make reference to the URN only for security and confidentiality purposes.

Additionally, any surveillance equipment must be kept securely in Council premises.

3.8 Evidence

Any information or recorded evidence will be stored securely and disclosure/access to this evidence will be to those Officers to whom disclosure is necessary such as those Authorising Officers, Investigating Officers and Legal Officers involved in the process or prosecution. Any requests for disclosure to third party agencies will be dealt with via the Authorising Officers, who may seek the advice of the Head of Legal, HR and Democratic Services' department if necessary. Generally disclosure will only be permitted to other law enforcement agencies such as the DWP or the police, to the Subject's legal advisors or to the Subject themselves. Consideration will always be given to the redaction of any third party information, whether written, visual or audio, and also on any possible prejudice to any criminal proceedings, of the Council or another law enforcement agency.

The Data Protection Act 2018 requires the Council to ensure the personal data is stored securely and is not kept for longer than is necessary. See also Chapter 9 of the Covert Surveillance and Property Interference Code of Practice August 2018. Ultimately, it is the Authorising Officer, who owns the product that is obtained, and therefore is responsible for the security of the information.

Tapes and storage

Planning and Public Protection :

Handling Recorded Evidence Obtained by Means of Surveillance

The original recording will be copied, then sealed in an evidence bag and numbered. This will be the 'Master Copy' and handed to the Assistant Head of Service or the Section Manager who will store the 'Master Copy' securely.

The copy disc/tape will become the 'Working Copy' and should this become lost or damaged then application will be made to the Magistrates' Clerk for permission to duplicate the 'Master Copy'. Resealing of the Master Copy will be carried out in front of the Magistrates Clerk.

An entry should be made in the Office Evidence Book for the Master Copy which should include details of the date when handed to the senior officer, together with the identity number on the evidence bag.

The Master Copy should only be removed from storage for production as evidence in court proceedings or as described above.

Where evidence is revealed of an offence and the Authority decide to institute proceedings the following time limits for retention of the recording will apply:

Upon conviction - the recording will be retained for the duration of the case and for two years thereafter.

If no conviction then the recording will be destroyed within 28 days.

Where the Authority decide to offer a formal caution in accordance with Home Office Guidelines, the recording will be retained for two years from the date of the acceptance of the formal caution.

Where it is decided that no formal action will be instituted the recording will be destroyed forthwith, likewise after the expiry of the RIPA where no offence is shown the recording will be destroyed.

Destruction of the recording will be by breaking the disc or cutting it into pieces and an entry made in the Office Evidence Book of the date of destruction and the name of the officer who carried out the destruction.

3.9 Authorising Covert Human Intelligent Sources (CHIS)

When an Authorising Officer is considering authorising the use of a CHIS, he or she must consider the grounds referred to in respect of directed surveillance (3.6 above) and also ensure that arrangements are in place to deal with the following matters:-

- That there is an employee of the Council with day to day responsibility for dealing with the source and for the source's security and welfare (the handler) There must also be a senior officer who has general oversight of the use made of the source, who will in particular have regard for the CHIS safety (the Controller). A full risk assessment must take place, which will be reviewed throughout the recruitment of the CHIS.
- That there is an officer responsible for maintaining a record of the use made of the source
- Consider any adverse impact on Community confidence that may result from the use, conduct or information sought.
- That records disclosing the identity of the source will not be made available to others except strictly on a need to know basis.

Additionally, The RIPA (Source Records) Regulations 2000 (SI 2000/2725) provides for mandatory record keeping in respect of a CHIS :

- The identity of the source
- The identity, where known, used by the source

- Any relevant investigating authority other than the authority maintaining the records
- The means by which the source is referred to within each relevant investigating authority
- Any other significant information connected with the security and welfare of the source
- Any confirmation made by a person granting or renewing an authorisation for the conduct or use of a source that relevant information has been considered and that any identified risks to the security and welfare of the source have where appropriate been properly explained to and understood by the source
- The date when, and the circumstances in which, the source was recruited,
- The identifies of the persons who will act as handler, controller and person responsible for maintaining records of the use of the source
- The periods during which those persons have discharged those responsibilities
- The tasks given to the source and the demands made of him in relation to his activities as a source
- All contacts or communications between the source and the Council's handler
- The information obtained by the Council by the conduct or use of the source
- Any dissemination by that authority of information obtained in that way
- Any payment benefit or reward made or provided to the source (other than where the source is a council employee acting as an undercover operative).

The Home Office 'Covert Human Intelligence Sources' Code of Practice August 2018 in respect of CHIS provides for the additional records to be kept for the use of CHIS, and Officers are strongly recommended that this Code is referred to when considering the use of a CHIS and throughout the process.

In respect of CHIS whom are juveniles or the mentally impaired, this can only be authorised by the Chief Executive or in their absence a Corporate Director.

3.10 Making sure your authorisations are correct.

As good practice, you should always ensure that each separate authorisation complies with the following points:-

- (a) record all applications and approvals for authorisations in writing in the format of the forms available on the Home Office website.
- (b) approach each authorisation on an individual basis - apply your mind to the circumstances of the individual case. In respect of Directed Surveillance make full use of the Checklist (at Appendix 1) as you go through the form, if necessary. As a rule of thumb completion of the application form by an Investigating Officer should take at least one hour, given the detail that is required in most cases.
- (c) complete one form for each type of authorisation. Distinguish clearly between directed surveillance and covert human intelligent sources and consider whether any collateral intrusion or interference with a privacy of persons other than the subject of a surveillance is likely to arise. You need to describe in the application forms how collateral intrusion is justified in each particular case.
- (d) include an assessment of the risk of any collateral intrusion or interference. The Authorising Officer must take this into account particularly when considering whether the surveillance is proportionate to the ends hoped for.

- (e) those carrying out surveillance must inform the Authorising Officer if the operation or investigation unexpectedly interferes with the privacy of other individuals who are not the original subjects of the investigation or are not covered by the authorisation. No retrospective application can be made and Investigating Officers should consider the need for a fresh application.
- (f) Review authorisations regularly, and diarise dates for expiry and renewals!!! (See chapter 4).

3.11 Confidential Information

Particular care should be taken when any act of surveillance is likely to result in obtaining confidential information. RIPA does not provide for any special protection for confidential material but such information will cover matters subject to legal professional privilege, confidential personal information or confidential journalistic information. Confidential personal information is information that is held in confidence relating to the physical, mental or spiritual counselling concerning an individual (whether living or dead) who can be identified from it.

Please bear in mind that such information is particularly sensitive and that it will be subject to additional safeguards.

Any application for authorisation likely to result in the acquisition of confidential material should include an assessment of how likely it is that confidential material will be acquired. Special care should be taken when the target of the investigation is likely to be involved in handling confidential information. Such applications should only be considered in very exceptional and compelling circumstances with full consideration given to the proportionality issues that it raises. Officers should always seek advice from the Head of Legal, HR and Democratic Services in these instances.

Please note that it is only the Chief Executive (or in his absence, the Acting Head of Paid Service) who is able to act as an Authorising Officer where an operation is likely to result in obtaining confidential information.

3.12 Central Register of Covert Surveillance.

The Head of Legal, HR and Democratic Services will maintain the central register of all requests and authorisations including any request that has been denied by an Authorising Officer. The records in this Central Register will be kept for three years from the date of the authorisation in accordance with the Home Office Code. This record will be made available to the relevant Commissioner or Inspector on request. The central record will also contain, in accordance with the Code of Practice, a copy of the complete application and authorisation. Any subsequent renewal, review or cancellation must also be submitted.

The Head of Legal, HR and Democratic Services must be informed by email in advance that a RIPA form is to be dispatched to the Central Record. All RIPA forms must be sent to the Head of Legal, HR and Democratic Services department within 3 working days of authorisation being granted. The receipt of the RIPA form must be acknowledged by the Head of Legal, HR and Democratic Services department by email. The Central record will be updated upon receipt from the information contained on the form.

The sender must consider the most secure method of delivery of the RIPA form in line

with the type of surveillance and risk. Eg a major joint covert surveillance operation with another enforcement agency, where hand delivery of the form would be appropriate. The documents must be secure and marked private and confidential.

In respect of joint operations with other agencies, one party will lead on obtaining the authorisation, but all the parties will need to see the detail of the authorisation. (R v Sutherland). Those carrying out the investigation, need to be aware of the limits of an authorisation.

3.13 Internal Oversight Arrangements.

The Head of Legal, HR and Democratic Services will be responsible for the monitoring of the authorisations, renewals, reviews and cancellations. Monitoring will take the form of a random selection of forms quarterly, using the Quality Assurance Checklist as a basis. In addition, the Head of Legal, HR and Democratic Services will consider the lawfulness of the authorisation, in particular the necessity and proportionality issues upon receipt of each form, whilst the information required for the central record is inputted.

The outcome of the monitoring will be reported mid year in a short report with the Head of Legal, HR and Democratic Services producing a more detailed Annual Review Report. The Annual Review Report will be reported to the Council's Corporate Governance Committee by the Monitoring Officer/RIPA Senior Responsible Officer.

CHAPTER 4: DURATION, REVIEW AND CANCELLATION OF AUTHORISATIONS

- 4.1** Authorising directed surveillance or the use of a CHIS is not a decision that should be taken lightly - it is after all, surveillance that interferes with people's privacy. On that basis, a regular review of authorisations must be carried out in order to assess the need for such surveillance to continue. The results of reviews should be kept and recorded safely.
- 4.2** Please note that there are time limits upon the length of any authorisations granted under RIPA. The length of authorisation will depend on the type of surveillance activity involved:
- (a) Directed Surveillance - in all cases 3 months from the date the authorisation should be given, or the date of the latest renewal . **Please not that since the changes introduced in 2012 and the involvement of the Magistrates', the effective time is that at which the authorisation is approved by the Magistrates and not the time authorisation is given by the authorising officer.** Directed Surveillance authorisations do not expire. Under s.45 there is a requirement on the person granting or renewing an authorisation to cancel if he is satisfied that the relevant requirements are no longer satisfied. Even where you believe the authorisation is needed for the full statutory 3 months, the authorisation still needs to be cancelled, it will not expire at the end of the 3 months. On this point the Surveillance Commissioners are very clear. Therefore grant each application for 3 months, then set a review date to cancel or renew during this 3 month time limit. If the evidence is obtained prior to the renew date and no further directed surveillance is necessary, the authorisation must be cancelled.
- (b) CHIS - 12 months from the date the authorisation was given, or the date of the renewal. Urgent oral authorisations last initially for 72 hours. In the case of a vulnerable individual eg a juvenile the duration will be for a maximum duration of four months from the time of grant or renewal and the authorisation should be subject to at least monthly reviews.
- 4.3** All authorisations must be cancelled either when they are no longer necessary or proportionate.

CHAPTER 5 ACCESS TO COMMUNICATIONS DATA and THE INVESTIGATION OF PROTECTED ELECTRONIC INFORMATION .

5.1 Access to Communications Data

Local Authorities can acquire limited information in respect of subscriber details and service data. It does NOT allow Local Authorities to intercept, record or otherwise monitor communications data. **The sole grounds to permit access to communications data, for a Local Authority, is for the purposes of either "preventing or detecting crime, or of preventing disorder".**

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

A strict necessity test must be applied before any consideration is given to requesting communications data. **Any application must be legal, necessary** (a last resort) **& proportionate**. 'Proportionate' includes 'collateral intrusion', as the data provided may invade a third parties' privacy and should, so far as is possible, be minimised.

The overall responsibility for obtaining communication data rests with the Senior Responsible Officer (SRO), who is the Head of Legal, HR and Democratic Services

A Designated Person (DP), who authorises a communication data application must be, at least, a Service Manager

A Single Point of Contact (SPoC) must be accredited by the Home Office, after undergoing accredited training & have proved their competency, by exam. The Council currently uses the National Anti-Fraud Network for this aspect of investigation.

CSPs (Communication Service Providers) have access to the Home Office's relevant database of accredited SPoCs to ensure the validity of any Notice to provide data.

Procedure for obtaining telecommunications data

Applications to obtain telecommunications data must be submitted to a Home Office accredited Single Point of Contact (SPOC). The Council uses the services of NAFN (the National Anti-fraud Network) for this purpose.

Officers may make the application by accessing the NAFN website. They must therefore be appropriately registered on the NAFN website.

There are full instructions on how to submit an application in the Guidance Manual on the NAFN website. In addition, NAFN have produced a "RIPA Toolkit" for registered users.

The application will first be vetted by NAFN for consistency, before being forwarded by NAFN to the Council's Designated Persons for the purposes of approving the online application.

The Council's Designated Persons are the Public Protection Manager and the Trading Standards Manager. In the future, these roles may be extended (or limited to) Corporate Directors, CEO, and the Council's Monitoring Officer. NAFN will inform the Designated Persons jointly once the application is ready to be reviewed by the Designated Persons.

The relevant Designated Person will then access the restricted area of the NAFN website using a special code, in order to review and approve the application. When approving the application, the Designated Person must be satisfied that the acquiring of the information is necessary and proportionate.

Approvals are documented by the Designated Person completing the online document and resubmitting it by following the steps outlined on the site by NAFN. This online documentation is retained by NAFN who are inspected and audited by the IOCCO.

When submitting an online application, the officer must also inform their Team Manager AND the Designated Person (if different), in order that the Director is aware that the NAFN application is pending.

Acquisition & Disclosure of Communications Data

More information for officers is available in the document "*Guidance for Applicants & Designated Persons Considering Necessity & Proportionality*", produced by the Data Communications Group, is available on the Home Office's website

Although the Council subscribes to NAFN, officers may wish to familiarise themselves with the Home Office 'Acquisition and Disclosure of Communications Data' Code of Practice and Retention of Communications Data Code of Practice March 2015.

<http://www.homeoffice.gov.uk/publications/counter-terrorism/ripa-forms/code-of-practice-acquisition?view=Binary>

5.2 Encryption – the investigation of protected electronic information.

The power under s.49(1) of RIPA describes the means by which protected information has come into the possession of any person within a public authority. This is likely to include as regards the Council, protected information obtained under an authorisation under Part 2 of RIPA 2000, under Chapter 1, Part 2 of RIPA 2000 (communications data), or obtained by the Council in the exercise of their statutory duties.

Specifically, the provisions of these Part 3 powers are:

- Power to require disclosure of protected information in an intelligible form. (s.49)
- Power to require disclosure of the means to access protected information. (s.50 (3) (c))
- Power to require disclosure of the means of putting protected information into an intelligible form (section 50 (3)(c))

No person can seek to obtain appropriate permission until the approval of the National Technical Assistance Centre has been obtained. NTAC should be consulted in the first instance by email on ripaii@ntac.gsi.gov.uk

Permission will not be granted by the permission, cannot give permission unless the protected information has been obtained lawfully.

CHAPTER 6: CCTV

6.1 The Covert Surveillance and Property Interference revised Code of Practice (August 2018) at paragraph 3.39 states: *Where overt CCTV, ANPR or other overt surveillance cameras are used in a covert and pre-planned manner as part of a specific investigation or operation, for the surveillance of a specific person or group of people, a directed surveillance authorisation should be considered. Such covert surveillance is likely to result in the obtaining of private information about a person (namely a record of their movements and activities) and therefore falls properly within the definition of directed surveillance. The use of the CCTV, ANPR or other overt surveillance cameras in these circumstances goes beyond their intended use for the general prevention or detection of crime and protection of the public.*

6.2 The CCTV control room may on occasions be asked to carry out covert surveillance on behalf of the Council's or other law enforcement agencies, usually the police. This will be in accordance with the protocol the Council has with the police. Such requests to carry out directed surveillance must be supported by a RIPA authorisation, signed by an Authorising Officer, from the enforcement agency concerned and provided to the Council's CCTV Superintendent. It is the Authorising Officers statement that the Council's CCTV control room will require, if the other law enforcement agency do not wish for reasons of confidentiality, to provide the full details of the investigating officers application to the control room staff. For example it is not usually essential that the CCTV be provided with the personal information of the subject under surveillance, it is the scope of the actual surveillance itself that is essential. A copy of the original (whether or not redacted) is acceptable either in person or via the agency email.

The CCTV control room manager shall be provided with copies of any review or cancellation of any authorisation, this includes any Council or other law enforcement agency authorisations, subject to any redactions that the enforcement agency wish to make such as personal information.

This requirement will not apply if the directed surveillance is an immediate response to events or circumstances the nature of which is such that it would not be reasonably practicable for an authorisation to be sought.

6.3 In respect of applications from internal Council services to conduct covert surveillance via CCTV, the same process shall be followed as if the enforcement agency were external. No covert surveillance shall take place unless the CCTV control room personnel have sight of a copy of the original signed authorisation (redacted if necessary) and a copy of the Magistrates Order signing off the authorisation (again this may be redacted).

6.4 Copies of any authorisations (redacted or otherwise) shall be retained securely in line with the Data Protection Act 2018 at the CCTV control room and retained in accordance with Home Office retention guidelines and this policy.

6.5 You should familiarise yourself with the Home Office Surveillance Camera Code of Practice and the Information Commissioner's code ("In the Picture – A Data Protection Code of Practice for Surveillance Cameras and Personal Information"). Copies available from the Council's Legal Department.

CHAPTER 7: SCRUTINY AND COMPLAINTS.

- 7.1** The Investigatory Powers Commissioner's Office (IPCO) has a duty to review the exercise and performance of Council departments in respect of their activities under RIPA. The IPCO will regularly inspect the Council in order to ensure that it is complying with statutory functions and duties. This will include scrutiny of authorisations of directed surveillance and CHIS and some activities relating to the investigation of protected electronic information. The latter activity is also overseen by the Interception of Communications Commissioner in part, who will also oversee activities carried out under the Access to Communications regime.
- 7.2** An Investigatory Powers Tribunal has been established in order to consider complaints made under the 2000 Act. The Tribunal is empowered to order bodies who breach the provisions relating to covert surveillance to pay compensation. Claims must be brought within one year of the alleged breach, although there are provisions which enable the tribunal to extend that period. A person may also complain to the Investigatory Powers Tribunal whose address is:-
- Investigatory Powers Tribunal,
PO Box 33220,
London
SW1H 9ZQ.
Tel: 0207 0353711
- 7.3** Any person who reasonably believes they have been adversely affected by any surveillance activity carried out by on behalf of the Council may either complain to the Monitoring Officer of the Council who will then investigate the complaint, or make a complaint of maladministration to the Ombudsman.
- 7.4** Clearly, any form of sanctions exercised against the Council, could result in damaging the County Council's reputation and generate adverse media publicity. This is quite apart from any financial implications that could arise. On that basis, it is imperative that all Officers are familiar with the possible (and quite serious) implications that could arise if the guidance offered by this Policy isn't adhered to.
- 7.5** The Legal, HR and Democratic Services department, additionally report the Council's use of these powers at least annually to the Council's Corporate Governance Committee in order to ensure that the powers are being used consistently and that the policy remains fit for purpose.

This policy will be reviewed no later than January 2024



REGULATION OF INVESTIGATORY POWERS ACT 2000

Direct Surveillance Form – Quality Assurance Checklist

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- 1. Has the application been allocated a Unique Reference Number? Is this inserted on all pages?**

- 2. Are the full details of the Investigating Officer, Investigation Name (if applicable) and Authorising Officer inserted on page 1?**

- 3. Does Box 2 (page 2) contain a full, clear explanation of the nature of the investigation and the intelligence that has led to it? Would a person with no prior knowledge of the case understand what this investigation is? If possible include relevant legislation that gives you the power to prosecute or duty to carry out the investigation.**

- 4. Does Box 3 (page 2) contain a detailed description of the surveillance to be undertaken and the equipment to be used?**
ie what is going to be done? Who is going to do it? Where they are going to do it? When they are going to do it? How they will do it? Eg specific times/public or private vehicle/type of equipment/staff involved etc. Investigating Officer to consider (if appropriate) attaching a plan/map providing the Authorising officer with the full picture.

- 5. Does Box 4 (page 2) provide the names, addresses and dates of birth (if known) of the subjects of the surveillance? If you do not know the identity say so.**

- 6. Does Box 5 (page 2) explain in sufficient detail what the desired outcome of the surveillance is?**

The Investigating Officer should include all the separate pieces of information hoping to be obtained eg where the offender is dumping illegal waste, who it is that employs him and when this is taking place.

7. Box 6 – The only purpose Local Authorities can now use is the ‘prevention or detection of crime or of preventing disorder’ All other grounds must be deleted.

Is this the only purpose stated in this box?

8. Does Box 7 (page 3) explain why the surveillance is necessary? Provide detail of other means of obtaining the evidence that have been tried? Does it explain why overt surveillance is inadequate?

Factors to include will be: the specific offence, its seriousness, any other evidence you have that links the target with the offender which requires corroboration through surveillance.

9. Does Box 8 (page 3) identify who else may be affected by surveillance (collateral intrusion) & explain the steps taken to minimise this? Even if you cannot minimise you need to show you have considered it.

10. Does Box 9 (page 4) describe how the surveillance is proportionate, when balanced against the desired outcome? ie balance the intrusiveness on the target and others against the need for the activity in operational terms. Does it say why the desired outcome cannot be achieved in a less intrusive way?

Demonstrate proportionality by showing you have considered:

- *Can you use less intrusive/overt methods?*
- *Other means used already?*
- *What could be done to lessen the impact on the target eg the amount of information to be gathered, the way the surveillance is carried out, the impact of surveillance on the subject, timing etc.*

Balance this proportionality against:

- *What the surveillance will achieve?*
- *Nature and seriousness of the offence.*
- *Impact of the offence on the victims and community.*
- *The effect the offences have on the public purse.*

11. Does Box 10 (page 4) identify whether

**‘Confidential Information’ will be likely to be obtained? Eg where following someone you are likely to end up at a church or GP surgery.
*NB If so, this can only be authorised by the Chief Executive and Box 14 (page 6) completed**

12. Do Boxes 12 & 13 (page 5) contain the Authorising Officer’s full statements as to why they believe the surveillance is necessary & proportionate and give full details of the proposed surveillance. Has the AO considered the application objectively?

The 5 ‘W’s must be considered – the Investigating Officer needs to be clear what they can and cannot do. The AO may set out matters in the application that they have given particular weight to when considering necessity and proportionality. If the application is unclear and there is insufficient detail the AO should consider rejecting.

13. On page 6, has the Authorising Officer –
- **signed, dated and completed the authorisation**
- **inserted the date of the first review?**
- **completed the expiry date and time of the authorisation?**

14. On page 17, if this was an urgent authorisation, has the Authorising Officer completed Box 15?

Completed forms must be sent to Legal Services department within 3 working days of authorisation. If the hard copy is sent consider the most secure form of transit (eg hand delivery if possible) and put the Officer holding the Central Record on notice that the authorisation is being dispatched and confirmation of the URN.

APPENDIX 2

STRICTLY CONFIDENTIAL

Denbighshire County Council RIPA CHIS RISK ASSESSMENT FORM

RISK ASSESSMENT FOR THE USE OF COVERT HUMAN INTELLIGENCE SOURCE
THIS FORM IS TO BE SUBMITTED TO LEGAL SERVICES WITH THE CHIS FORM. ALL CHIS
FORMS MUST BE HAND DELIVERED AND NOT SENT IN THE INTERNAL POST

Name of source :

Unique reference number:

Is the identity used by the source different to the above?

CHIS pseudonym

Handler details and date duties commenced:

Controller details and date duties commenced:

Is the source working for any other investigation authority? If so by what identity?

Assess and detail the nature and magnitude of any risk connected with the use of the source:

This will include all considerations including risks to the source personally and operational or ethical risks in using the source :

Detail any arrangements made to minimise the risk:

If the source is under 18 detail the arrangements made to satisfy the RIPA (Juveniles) Order 2000:

Authorising Officers' comments on the above arrangements:

Does the Authorising Officer consider that any identified risks are justified? YES/NO and give details:

Have the identified risks been properly explained to, and understood by the source? YES/NO

Date and circumstances in which source was recruited. Give dates when handler and controller commenced duties and any changes to these.

The following officer will be responsible for recording use of the source:

Has the Authority passed the information by the source to anyone else? Give details.

Has the Source been offered or received payment, benefit or reward? Give details.

Detail the tasks given to the Source:

Detail dates of contact with source and notes of information obtained:

Appendix 3

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

Local authority:.....

Local authority department:.....

Offence under investigation:.....

Address of premises or identity of subject:.....

.....

.....

Covert technique requested: (tick one and specify details)

Communications Data

Covert Human Intelligence Source

Directed Surveillance

Summary of details

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Note: this application should be read in conjunction with the attached RIPA authorisation/RIPA application or notice.

Investigating Officer:.....

Authorising Officer/Designated Person:.....

Officer(s) appearing before JP:.....

Address of applicant department:.....

.....

Contact telephone number:.....

Contact email address (optional):.....

Local authority reference:.....

Number of pages:.....

ATTACHED TO THIS APPLICATION IS: COPY OF THE ORIGINAL SIGNED RIPA APPLICATION.

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

Magistrates' court:.....

Having considered the application, I (tick one):

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

Notes

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Reasons

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.....

Signed:

Date:

Time:

Full name:

Address of magistrates' court:

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Meeting	Item (description / title)		Purpose of report	Decision required (yes/no)	Author – contact officer
6 March 24	1	Issues Referred by Scrutiny Committees (if any)	To receive and issues raised at Scrutiny		Rhian Evans/ Karen Evans – Scrutiny Co-ordinator
	2	Recent External Regulatory Reports Received (if any)	To consider any reports received		Helen Vaughan-Evans – Head of Corporate Support Services Performance, Digital and Assets
	3	Internal Audit Update	To update committee on Internal Audit's latest progress		Chief Internal Auditor
	4	Forward Work Programme			Democratic Services
		Reports			
	5	Annual report on the Constitution			Gary Williams – Monitoring Officer
	6	Joint Partnership Working			Chief Internal Auditor
	7	Statement of Accounts Closedown			Head of Finance/ Audit Wales
24 April 24	1	Issues Referred by Scrutiny Committees (if any)	To receive and issues raised at Scrutiny		Rhian Evans/ Karen Evans – Scrutiny Co-ordinator
	2	Recent External Regulatory Reports Received (if any)	To consider any reports received		Helen Vaughan-Evans – Head of Corporate Support Services Performance, Digital and Assets
	3	Forward Work Programme			Democratic Services

Meeting	Item (description / title)		Purpose of report	Decision required (yes/no)	Author – contact officer
		Reports			
	4	Treasury Management Update Report			Head of Finance
	5	Council's Performance Management Guide	Updates required after a few developments in organisational structure, reporting frequency, and legislation.		Helen Vaughan-Evans – Head of Corporate Support Services Performance, Digital and Assets/ Iolo McGregor - Strategic Planning and Performance Team Leader, Strategic Planning.
	6	Net Carbon Zero	To receive an update on the Council's progress on becoming Net Carbon Zero		Helen Vaughan-Evans – Head of Corporate Support Services Performance, Digital and Assets / Liz Wilcox-Jones
12 June 24	1	Issues Referred by Scrutiny Committees (if any)	To receive and issues raised at Scrutiny		Rhian Evans/ Karen Evans – Scrutiny Co-ordinator
	2	Recent External Regulatory Reports Received (if any)	To consider any reports received		Helen Vaughan-Evans – Head of Corporate Support Services Performance, Digital and Assets
	3	Internal Audit Update	To update committee on Internal Audit's latest progress		Chief Internal Auditor
	4	Forward Work Programme			Democratic Services

Meeting		Item (description / title)	Purpose of report	Decision required (yes/no)	Author – contact officer
		Reports			
	5	Internal Audit Annual Charter and Strategy			Chief Internal Auditor
	6	Annual Governance Statement			Chief Internal Auditor
	7	Internal Audit Annual report			Chief Internal Auditor
	8	Performance Self-Assessment			Helen Vaughan-Evans – Head of Corporate Support Services Performance, Digital and Assets/ Iolo McGregor
24 July 24	1	Issues Referred by Scrutiny Committees (if any)	To receive and issues raised at Scrutiny		Rhian Evans/ Karen Evans – Scrutiny Co-ordinator
	2	Recent External Regulatory Reports Received (if any)	To consider any reports received		Helen Vaughan-Evans – Head of Corporate Support Services Performance, Digital and Assets
	3	Forward Work Programme			Democratic Services
		Reports			
	4	Annual Governance and Audit Report			Chief Internal Auditor
Information	5	Annual Complaints Process report			Kevin Roberts

Meeting	Item (description / title)		Purpose of report	Decision required (yes/no)	Author – contact officer
	6	Treasury Management Update and Review			Head of Finance
25 Sept 24	1	Issues Referred by Scrutiny Committees (if any)	To receive and issues raised at Scrutiny		Rhian Evans/ Karen Evans – Scrutiny Co-ordinator
	2	Recent External Regulatory Reports Received (if any)	To consider any reports received		Helen Vaughan-Evans – Head of Corporate Support Services Performance, Digital and Assets
	3	Internal Audit Update	To update committee on Internal Audit's latest progress		Chief Internal Auditor
	4	Forward Work Programme			Democratic Services
		Reports			
Information	5	Annual Health and Safety			Corporate Health and Safety Manager
information	6	Annual Property Compliance report			Sarah Wainwright
20 Nov 24	1	Issues Referred by Scrutiny Committees (if any)	To receive and issues raised at Scrutiny		Rhian Evans/ Karen Evans – Scrutiny Co-ordinator
	2	Recent External Regulatory Reports Received (if any)	To consider any reports received		Helen Vaughan-Evans – Head of Corporate Support

Meeting	Item (description / title)		Purpose of report	Decision required (yes/no)	Author – contact officer
					Services Performance, Digital and Assets
	3	Forward Work Programme			Democratic Services
		Reports			
Information	4	Annual Whistleblowing			Gary Williams – Monitoring Officer
Information	5	Annual RIPA			Gary Williams – Monitoring Officer
	6	Annual Treasury Management Update Report			Head of Finance
Information	7	Annual SIRO report			Helen Vaughan-Evans – Head of Corporate Support Services Performance, Digital and Assets
	8	Corporate Risk Register Review			Helen Vaughan-Evans – Head of Corporate Support Services Performance, Digital and Assets / Heidi Barton-Price

FUTURE ITEMS			
	1	Updates of Commissioning of older peoples care home placements.	Nicola Stubbins – To present to committee when an update is available.

	2	Internal Audit – Follow up report – Exceptions and Exemptions	Chief Internal Auditor to update members following the Internal Audit report
	3	Capital Projects -Contingency Report	Head of Finance
	4	Changes to the Committee’s Terms of Reference	Monitoring Officer

NB The exact date of publication of occasional reports by for example Wales Audit Office or Annual Reports by the Ombudsman are not presently known. They will be assigned a meeting date as soon as practicable.

Date Updated : 12/01/2024 SJ

FUTURE TRAINING DATES

<u>Date and Time</u>	<u>Topic</u>	<u>Officer</u>
TBC	Assurance Rating	Chief Internal Auditor



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Communications

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Date: 17 August 2023

Cllr. Jason McLellan
Denbighshire County Council
By Email only: jason.mclellan@denbighshire.gov.uk

Annual Letter 2022/23

Dear Councillor McLellan

I am pleased to provide you with the Annual letter (2022/23) for Denbighshire County Council which deals with complaints relating to maladministration and service failure, complaints relating to alleged breaches of the Code of Conduct for Councillors and the actions being taken to improve public services.

This letter coincides with my Annual Report – “[A year of change – a year of challenge](#)” – a sentiment which will no doubt resonate with public bodies across Wales. My office has seen another increase in the number of people asking for our help – up 3% overall compared to the previous year, and my office now receives double the number of cases we received a decade ago.

In the last year, I have met with public bodies across Wales – speaking about our casework, our recommendations, and our proactive powers. The current climate will continue to provide challenges for public services, but I am grateful for the positive and productive way in which local authorities continue to engage with my office.

1,020 complaints were referred to us regarding local authorities last year - a reduction of 11% compared to the previous year. During this period, we intervened in (upheld, settled or resolved at an early stage) 13% of local authority complaints.

We received fewer Code of Conduct complaints in 22/23 compared to the previous year, relating to both Principal Councils and Town and Community Councils. My role is such that I do not make final findings about breaches of the Code of Conduct. Instead, where investigations find the most serious concerns, these are referred to the Standards Committee of the relevant local authority, or the

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Adjudication Panel for Wales. In 2022/23, the Ombudsman made 12 such referrals – a welcome reduction from 20 last year.

Supporting improvement of public services

Despite the challenges of last year, we have pushed forward with our proactive improvement work and launched a new Service Quality process to ensure we deliver the standards we expect.

Last year, we began work on our second wider Own Initiative investigation – this time looking into carers assessments within local authorities. This investigation will take place throughout the coming year, and we look forward to sharing our findings with all local authorities – not just those involved in the investigation.

The Complaints Standards Authority (CSA) continued its work with public bodies in Wales last year, with more than 50 public bodies now operating our model policy. We've also now provided more than 400 training sessions since we started, with local authorities, in September 2020.

We continued our work to publish complaints statistics into a second year, with data now published twice a year. This data allows us to see information with greater context – for example, last year 10% of Denbighshire County Council's complaints were referred to PSOW.

I would encourage Denbighshire County Council, and specifically your Audit and Governance Committee, to use this data to better understand your performance on complaints and consider how well good complaints handling is embedded throughout the Authority.

Further to this letter can I ask that your Council takes the following actions:

- Present my Annual Letter to the Cabinet and to the Governance and Audit Committee at the next available opportunity and notify me of when these meetings will take place.
- Continue to engage with our Complaints Standards work, accessing training for your staff, fully implementing the model policy, and providing accurate and timely complaints data.
- Inform me of the outcome of the Council's considerations and proposed actions on the above matters at the earliest opportunity.

Yours sincerely,



Michelle Morris
Public Services Ombudsman

cc. Graham Boase, Chief Executive, Denbighshire County Council.
By Email only: graham.boase@denbighshire.gov.uk



Factsheet

Appendix A - Complaints Received

Local Authority	Complaints Received	Received per 1000 residents
Blaenau Gwent County Borough Council	16	0.24
Bridgend County Borough Council	55	0.38
Caerphilly County Borough Council	49	0.28
Cardiff Council*	142	0.39
Carmarthenshire County Council	53	0.28
Ceredigion County Council	35	0.49
Conwy County Borough Council	31	0.27
Denbighshire County Council	32	0.33
Flintshire County Council	65	0.42
Cyngor Gwynedd	36	0.31
Isle of Anglesey County Council	25	0.36
Merthyr Tydfil County Borough Council	17	0.29
Monmouthshire County Council	23	0.25
Neath Port Talbot Council	39	0.27
Newport City Council	42	0.26
Pembrokeshire County Council	44	0.36
Powys County Council	38	0.29
Rhondda Cynon Taf County Borough Council**	54	0.23
Swansea Council	94	0.39
Torfaen County Borough Council	16	0.17
Vale of Glamorgan Council	49	0.37
Wrexham County Borough Council	65	0.48
Total	1020	0.33
* inc 9 Rent Smart Wales		
** inc 2 South Wales Parking Group		



Appendix B - Received by Subject

Denbighshire County Council	Complaints Received	% share
Adult Social Services	2	6%
Benefits Administration	1	3%
Children's Social Services	2	6%
Community Facilities, Recreation and Leisure	0	0%
Complaints Handling	4	13%
Covid19	0	0%
Education	8	25%
Environment and Environmental Health	2	6%
Finance and Taxation	2	6%
Housing	5	16%
Licensing	0	0%
Planning and Building Control	3	9%
Roads and Transport	0	0%
Various Other	3	9%
Total	32	



Appendix C - Complaint Outcomes
(* denotes intervention)

Denbighshire County Council		% Share
Out of Jurisdiction	7	21%
Premature	10	30%
Other cases closed after initial consideration	14	42%
Early Resolution/ voluntary settlement*	2	6%
Discontinued	0	0%
Other Reports - Not Upheld	0	0%
Other Reports Upheld*	0	0%
Public Interest Reports*	0	0%
Special Interest Reports*	0	0%
Total	33	



Appendix D - Cases with PSOW Intervention

	No. of interventions	No. of closures	% of interventions
Blaenau Gwent County Borough Council	0	16	0%
Bridgend County Borough Council	5	57	9%
Caerphilly County Borough Council	6	52	12%
Cardiff Council	25	145	17%
Cardiff Council - Rent Smart Wales	1	9	11%
Carmarthenshire County Council	7	60	12%
Ceredigion County Council	13	44	30%
Conwy County Borough Council	5	35	14%
Denbighshire County Council	2	33	6%
Flintshire County Council	5	70	7%
Cyngor Gwynedd	5	33	15%
Isle of Anglesey County Council	5	25	20%
Merthyr Tydfil County Borough Council	1	18	6%
Monmouthshire County Council	1	22	5%
Neath Port Talbot Council	7	38	18%
Newport City Council	8	48	17%
Pembrokeshire County Council	3	45	7%
Powys County Council	8	44	18%
Rhondda Cynon Taf County Borough Council	2	54	4%
Rhondda Cynon Taf County Borough Council - South Wales Parking Group	0	2	0%
Swansea Council	10	99	10%
Torfaen County Borough Council	1	17	6%
Vale of Glamorgan Council	15	53	28%
Wrexham County Borough Council	6	67	9%
Total	141	1086	13%



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Appendix E - Code of Conduct Complaints

Denbighshire County Council

Decision not to investigate	0
Discontinued	5
No evidence of breach	0
No action necessary	0
Refer to Adjudication Panel	0
Refer to Standards Committee	0
Total	5

Investigations
Page 139

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Appendix F - Town/Community Council Code of Complaints

Town/Community Council	Decision not to investigate	Investigations				Total
		Discontinued	No evidence of breach	No action necessary	Refer to Adjudication Panel	
Bodelwyddan Town Council	0	0	0	0	0	0
Corwen Town Council	4	0	0	0	0	4
Llandrillo Community Council	0	0	0	0	0	0
Llanferres Community Council	1	0	0	0	0	1
Llangollen Town Council	1	0	0	0	0	1
Rhuddlan Town Council	3	0	0	0	0	3
Ruthin Town Council	0	0	0	0	0	0
Towyn & Kinmel Bay Town Council	2	0	0	0	0	2

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Information Sheet

Appendix A shows the number of complaints received by PSOW for all Local Authorities in 2022/23. These complaints are contextualised by the population of each authority.

Appendix B shows the categorisation of each complaint received, and what proportion of received complaints represents for the Local Authority.

Appendix C shows outcomes of the complaints which PSOW closed for the Local Authority in 2022/23. This table shows both the volume, and the proportion that each outcome represents for the Local Authority.

Appendix D shows Intervention Rates for all Local Authorities in 2022/23. An intervention is categorised by either an upheld complaint (either public interest or non-public interest), an early resolution, or a voluntary settlement.

Appendix E shows the outcomes of Code Of Conduct complaints closed by PSOW related to Local Authority in 2022/23. This table shows both the volume, and the proportion that each outcome represents for the Local Authority.

Appendix F shows the outcomes of Code of Conduct complaints closed by PSOW related to Town and Community Councils in the Local Authority's area in 2022/23. This table shows both the volume, and the proportion that each outcome represents for each Town or Community Council.

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