

Governance Committee

Monday, 26th September,
2022

at 5.00 pm

PLEASE NOTE TIME OF MEETING

Conference Room 3

This meeting is open to the public

Members of the Committee

Councillor Shields (Chair)
Councillor Denness
Councillor Furnell (Vice-Chair)
Councillor D Galton
Councillor White

Contacts

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Richard Ivory
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Senior Democratic Support Officer
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PUBLIC INFORMATION

Role of the Governance Committee

Information regarding the role of the Committee's is contained in Part 2 (Articles) of the Council's Constitution.

[02 Part 2 - Articles](#)

It includes at least one Councillor from each of the political groups represented on the Council, and at least one independent person, without voting rights, who is not a Councillor or an Officer of the Council.

Access – Access is available for disabled people. Please contact the Democratic Support Officer who will help to make any necessary arrangements.

Public Representations At the discretion of the Chair, members of the public may address the meeting on any report included on the agenda in which they have a relevant interest. Any member of the public wishing to address the meeting should advise the Democratic Support Officer (DSO) whose contact details are on the front sheet of the agenda

Southampton: Corporate Plan 2020-2025 sets out the four key outcomes:

- Communities, culture & homes - Celebrating the diversity of cultures within Southampton; enhancing our cultural and historical offer and using these to help transform our communities.
- Green City - Providing a sustainable, clean, healthy and safe environment for everyone. Nurturing green spaces and embracing our waterfront.
- Place shaping - Delivering a city for future generations. Using data, insight and vision to meet the current and future needs of the city.
- Wellbeing - Start well, live well, age well, die well; working with other partners and other services to make sure that customers get the right help at the right time

Smoking policy – The Council operates a no-smoking policy in all civic buildings.

Mobile Telephones:- Please switch your mobile telephones to silent whilst in the meeting

Use of Social Media:- The Council supports the video or audio recording of meetings open to the public, for either live or subsequent broadcast. However, if, in the Chair's opinion, a person filming or recording a meeting or taking photographs is interrupting proceedings or causing a disturbance, under the Council's Standing Orders the person can be ordered to stop their activity, or to leave the meeting. By entering the meeting room you are consenting to being recorded and to the use of those images and recordings for broadcasting and or/training purposes. The meeting may be recorded by the press or members of the public.

Any person or organisation filming, recording or broadcasting any meeting of the Council is responsible for any claims or other liability resulting from them doing so.

Details of the Council's Guidance on the recording of meetings is available on the Council's website.

Dates of Meetings: Municipal Year 2022/2023

2022	2023
13 June	13 February
25 July	24 April
26 September	
14 November	
12 December	

CONDUCT OF MEETING

Terms of Reference

The terms of reference of the Governance Committee are contained in Part 3 of the Council's Constitution.

[03 - Part 3 - Responsibility for Functions](#)

Rules of Procedure

The meeting is governed by the Council Procedure Rules as set out in Part 4 of the Constitution.

Business to be discussed

Only those items listed on the attached agenda may be considered at this meeting.

Quorum

The minimum number of appointed Members required to be in attendance to hold the meeting is 2.

DISCLOSURE OF INTERESTS

Members are required to disclose, in accordance with the Members' Code of Conduct, **both** the existence **and** nature of any "Disclosable Pecuniary Interest" or "Other Interest" they may have in relation to matters for consideration on this Agenda.

DISCLOSABLE PECUNIARY INTERESTS

A Member must regard himself or herself as having a Disclosable Pecuniary Interest in any matter that they or their spouse, partner, a person they are living with as husband or wife, or a person with whom they are living as if they were a civil partner in relation to:

- (i) Any employment, office, trade, profession or vocation carried on for profit or gain.
- (ii) Sponsorship:

Any payment or provision of any other financial benefit (other than from Southampton City Council) made or provided within the relevant period in respect of any expense incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

(iii) Any contract which is made between you / your spouse etc (or a body in which the you / your spouse etc has a beneficial interest) and Southampton City Council under which goods or services are to be provided or works are to be executed, and which has not been fully discharged.

(iv) Any beneficial interest in land which is within the area of Southampton.

(v) Any license (held alone or jointly with others) to occupy land in the area of Southampton for a month or longer.

(vi) Any tenancy where (to your knowledge) the landlord is Southampton City Council and the tenant is a body in which you / your spouse etc has a beneficial interests.

(vii) Any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of Southampton, and either:

- a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body, or
- b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you / your spouse etc has a beneficial interest that exceeds one hundredth of the total issued share capital of that class.

Other Interests

A Member must regard himself or herself as having an, 'Other Interest' in any membership of, or occupation of a position of general control or management in:

Any body to which they have been appointed or nominated by Southampton City Council

Any public authority or body exercising functions of a public nature

Any body directed to charitable purposes

Any body whose principal purpose includes the influence of public opinion or policy

Principles of Decision Making

All decisions of the Council will be made in accordance with the following principles:-

- proportionality (i.e. the action must be proportionate to the desired outcome);
- due consultation and the taking of professional advice from officers;
- respect for human rights;
- a presumption in favour of openness, accountability and transparency;
- setting out what options have been considered;
- setting out reasons for the decision; and
- clarity of aims and desired outcomes.

In exercising discretion, the decision maker must:

- understand the law that regulates the decision making power and gives effect to it. The decision-maker must direct itself properly in law;
- take into account all relevant matters (those matters which the law requires the authority as a matter of legal obligation to take into account);
- leave out of account irrelevant considerations;
- act for a proper purpose, exercising its powers for the public good;
- not reach a decision which no authority acting reasonably could reach, (also known as the "rationality" or "taking leave of your senses" principle);
- comply with the rule that local government finance is to be conducted on an annual basis. Save to the extent authorised by Parliament, 'live now, pay later' and forward funding are unlawful; and
- act with procedural propriety in accordance with the rules of fairness.

AGENDA

1 **APOLOGIES**

To receive any apologies.

2 **DISCLOSURE OF PERSONAL AND PECUNIARY INTERESTS**

In accordance with the Localism Act 2011, and the Council's Code of Conduct, Members to disclose any personal or pecuniary interests in any matter included on the agenda for this meeting.

NOTE: Members are reminded that, where applicable, they must complete the appropriate form recording details of any such interests and hand it to the Democratic Support Officer.

3 **STATEMENT FROM THE CHAIR**

4 **MINUTES OF PREVIOUS MEETING (INCLUDING MATTERS ARISING)**

(Pages 1 - 4)

To approve and sign as a correct record the Minutes of the meeting held on 27th July, 2022 and to deal with any matters arising, attached.

5 **FREEDOM OF INFORMATION, DATA PROTECTION & REGULATION OF INVESTIGATORY POWERS ACTS: ANNUAL REVIEW 2021-22** (Pages 5 - 54)

Report of the Director of Legal and Business Service detailing the statistical information for the financial year 2021-22 with regard to information governance. This report details statistical information on requests received under the Freedom of Information Act 2000 (FOIA), the Environmental Information Regulations 2004 (EIR), the UK General Data Protection Regulation (GDPR) and the Council's activity under the Regulation of Investigatory Powers Act 2000 (RIPA).

6 **ANNUAL REPORT ON LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN COMPLAINTS 2021-2022** (Pages 55 - 62)

Annual report of the Director of Legal and Business Services showing analysis and trends based on 2021 - 2022 Ombudsman complaints received and their outcomes.

7 **ANNUAL GOVERNANCE STATEMENT 2021-22** (Pages 63 - 82)

Report of the Executive Director Finance & Commercialisation and Section 151 Officer seeking to review and approve the draft Annual Governance Statement 2021-22.

8 **STATEMENT OF ACCOUNTS 2021/22** (Pages 83 - 90)

Report of the Executive Director for Finance, Commercialisation & S151 Officer seeking approval of the Statement of Accounts 2021/22 and changes made to the draft identified during the audit.

9 ANNUAL REPORT ON THE MEMBERS' CODE OF CONDUCT (Pages 91 - 96)

Report of the Director of Legal & Business Services detailing the Annual Report on Members' Code of Conduct

10 EXCLUSION OF THE PRESS AND PUBLIC - EXEMPT PAPERS INCLUDED IN THE FOLLOWING ITEM

To move that in accordance with the Council's Constitution, specifically the Access to Information Procedure Rules contained within the Constitution, the press and public be excluded from the meeting in respect of any consideration of the exempt appendix to the following Item.

The appendix is considered to be exempt from general publication based on Category 7(a) of paragraph 10.4 of the Council's Access to Information Procedure Rules. It is not the public interest to disclose this as it contains information about council contracts and contractors which may be deemed to be confidential and commercially sensitive.

11 STRATEGIC CONTRACTS ANNUAL REPORT (Pages 97 - 114)

Report of the Head of Supplier Management providing an overview of performance, governance and contractual matters relating to the Council's most strategically important contracts.

Thursday, 15th September 2022

Director, Legal and Business Services

GOVERNANCE COMMITTEE
MINUTES OF THE MEETING HELD ON 25 JULY 2022

Present: Councillors Shields (Chair), Furnell, White, Bunday and Stead

Apologies: Councillors Denness and D Galton

1. **APOLOGIES**

It was noted that following receipt of the temporary resignation of Councillors Denness and D Galton from the Committee the Service Director Legal and Business Operations acting under delegated powers, had appointed Councillors M Bunday and Stead to replace them for the purposes of this meeting.

2. **ELECTION OF VICE-CHAIR**

RESOLVED that Councillor Furnell be appointed as Vice-Chair for the 2022/23 Municipal Year.

3. **MINUTES OF PREVIOUS MEETING (INCLUDING MATTERS ARISING)**

RESOLVED: that the minutes for the Committee meeting on 25th April, 2022 be approved and signed as a correct record.

4. **ANNUAL GOVERNANCE STATEMENT**

The Committee considered and noted the report of the Cabinet Member for Finance and Change detailing the Annual Governance Statement (AGS). The purpose of the AGS was to provide an accurate representation of the corporate governance arrangements in place during the year and to identify areas where there are significant gaps or where improvements are required.

The Committee discussed the following and, where identified, requested further information for consideration at their next meeting in September:

- the impact of COVID on governance - the Committee noted the impact had reduced this year as changes to working practices put in place last year, showed there was less need for intervention;
- the new Council Plan which was still being developed;
- Hampshire County Council's Cabinet had recently considered a national review of the future development of economic partnerships and the full business case for the Freeport, both of which had significant impact on Southampton. It was agreed officers would report back on the future of LEPs and the County Plan;
- The timescale of the draft report containing the results of the Centre for Governance and Scrutiny's informal peer review of aspects of decision making and relationships between officers and members;

- Update on the People Strategy – consultation with the Cabinet Member and Unions was ongoing.

The Committee noted the following significant issues brought to their attention by the Risk and Insurance Manager:

- Succession planning and service resilience as featured on last year's AGS, identified inconsistencies of succession planning and service resilience the action for last year was to draw these together, look at good practise and come up with a strategy developing a consistent approach across the organisation. This had resulted in the adoption and rollout of the draft People Strategy and Talent Management Succession Planning Strategy by the end of September (Quarter 2) led by the HR and Organisational Development Team.
- CIPFA Financial Management Code concentrating this year on how the actions from the Head of Service self-assessments would be progressed through the wider Leadership team with a future report back to the Committee.
- Delivery of outcomes and value for money, with CIPFA guidance three issues were identified: benchmarking at a corporate level enabling a consistent approach to the use and access to information; developing and implementing a new benefits realisation framework; and contract delivery arrangements across the organisation.

RESOLVED:

- (i) To review and approve the draft 2021-22 AGS; and
- (ii) To note the 2020-21 AGS – Action Plan Status.

5. **DRAFT STATEMENT OF ACCOUNTS 2021-22**

The Committee considered and noted the report of the Executive Director for Finance, Commercialisation & S151 Officer detailing the Draft Statement of Accounts 2021/22.

The Committee discussed the following:

- The high percentage of budget funding received through fees and charges and the known risk this caused during the period of pandemic and any likely future economic concerns;
- Highlighted worsening performance levels and how risks would be reported through the annual budget process;
- Depletion of reserves and balances, in particular relating to the pressures on social care for adults and children, an area of recognised risk due to the high demand in Southampton. Monthly reports are taken to the Executive Management Board detailing the in-year position;
- Members Allowances - request to ensure the information published on the Council's website was updated; and
- Chief Officer pay – it was noted there was no legal requirement to publish costs associated with the employment of agency staff, however, notes were included in the budget to identify payments made.

RESOLVED:

- (i) To note that the draft Statement of Accounts 2021/22 had been signed by the S151 Officer and were presented for comment; and
- (ii) To note that the audited Statement of Accounts 2021/22 were expected to be presented to the Committee on 26th September 2022 for approval.

6. **REVIEW OF PRUDENTIAL LIMITS AND TREASURY MANAGEMENT OUTTURN 2021/22**

The Committee considered and noted the report of the Executive Director of Finance and Commercialisation & S151 Officer detailing the Treasury Management activities and performance for 2021/22 against the approved Prudential Indicators for External Debt and Treasury Management.

The Committee discussed the following:

- Inflationary impact on capital and interest rates;
- pressures of pay increases;
- Budget process 2022/23 starting with a deficit of £23m;
- Residual effects of Brexit;
- Increase in Public works – impacts on the capital programme (SEND, housing stock);
- Long term loan from HCC relating to the transfer of debt in 1997 at the creation of Southampton as a Unitary authority;
- Credit rating and how this would be managed now and in the future; and
- HRA borrowing up by about £30m relating to capital programme expenditure last year on fire safety, sprinkler works and ongoing maintenance works.

RESOLVED

- (i) To note the Treasury Management activities for 2021/22 and the outturn on the Prudential Indicators; and
- (ii) To note that the continued proactive approach to Treasury Management has led to reductions in borrowing costs and safeguarded investment income during the year.

7. **ANNUAL INTERNAL AUDIT OPINION 2021-22**

The Committee considered and noted the report of the Chief Internal Auditor detailing the Annual Internal Audit Opinion 2021-22.

The Committee discussed in particular debt arrears the reasons for these arrears, the recovery processes and procedures and the cost of living crisis and plans in place to manage this in the future.

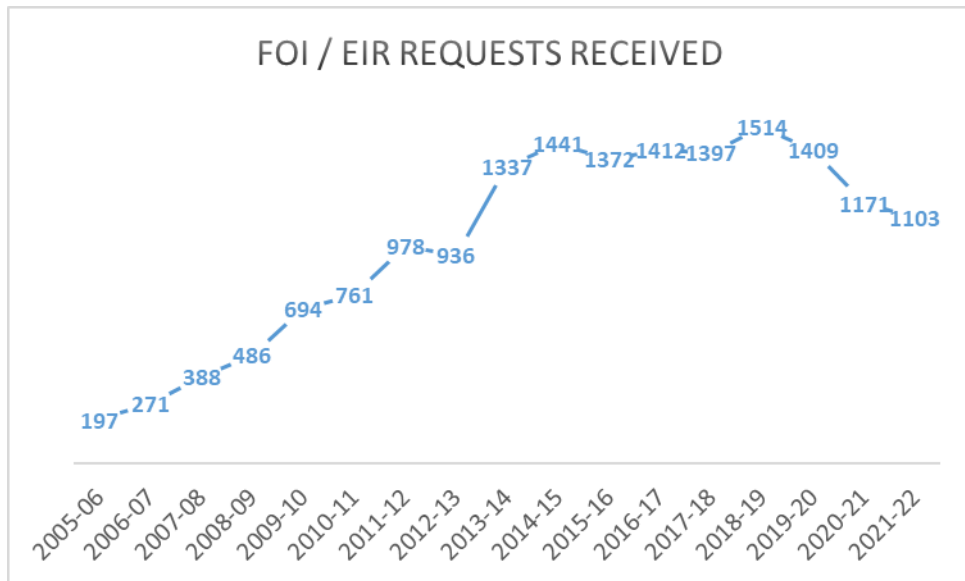
RESOLVED to note the Chief Internal Auditor's Annual Audit Opinion for 2021-22.

Agenda Item 5

DECISION-MAKER:		GOVERNANCE COMMITTEE	
SUBJECT:		FREEDOM OF INFORMATION, DATA PROTECTION & REGULATION OF INVESTIGATORY POWERS ACTS: ANNUAL REVIEW 2021-22	
DATE OF DECISION:		26 th September 2022	
REPORT OF:		Director of Legal and Business Services	
<u>CONTACT DETAILS</u>			
AUTHOR:	Name:	CHRIS THORNTON, DATA PROTECTION OFFICER	Tel: 023 8083 2627
	E-mail:	chris.thornton@southampton.gov.uk	
Director	Name:	RICHARD IVORY, DIRECTOR OF LEGAL AND BUSINESS SERVICES	Tel: 023 8083 2794
	E-mail:	Richard.ivery@southampton.gov.uk	
STATEMENT OF CONFIDENTIALITY			
None			
BRIEF SUMMARY			
A report detailing the statistical information for the financial year 2021-22 with regard to information governance. This report details statistical information on requests received under the Freedom of Information Act 2000 (FOIA), the Environmental Information Regulations 2004 (EIR), the UK General Data Protection Regulation (GDPR) and the Council's activity under the Regulation of Investigatory Powers Act 2000 (RIPA).			
RECOMMENDATIONS:			
	(i)	To note and comment on the update of the statistical information for the year 1 st April 2021 – 31 st March 2022 relating to: <ul style="list-style-type: none"> • FOIA and associated legislation • GDPR • RIPA 2000 	
	(ii)	To note the updated Corporate Surveillance Guidance document (August 2022) attached at appendix 1	
REASONS FOR REPORT RECOMMENDATIONS			
1.	To keep Members informed as to the impact of the legislation to the Council and to detail the form and type of information requests received in 2021-22.		
2.	To ensure that Members continue to be aware of the Council's statutory obligations and compliance performance.		

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED							
3.	The alternative to bringing this report before members is to not report the yearly analysis. This was rejected because it is considered to be good governance to report such matters to Members, provides an audit trail to demonstrate to the Information Commissioner that the Council has a robust structure in place to comply with the legislation, and to maintain the profile of information law requirements and resource implication within the organisation.						
DETAIL (Including consultation carried out)							
4.	This report will be published on the Council's website						
	FOIA						
5.	FOIA and EIR gives separate rights to request information and environmental information from public authorities. Responses must be issued within 20 working days.						
6.	Under the FOIA and associated legislation, anybody may request information from a public authority with functions in England, Wales and/or Northern Ireland. Subject to exemptions, the FOIA confers two statutory rights on applicants: <p style="margin-left: 40px;">(i) The right to be told whether or not the public authority holds that information; and</p> <p style="margin-left: 40px;">(ii) The right to have that information communicated to them</p>						
7.	There are two types of exemptions that may apply to requests for information – absolute and qualified.						
8.	Information that falls into a particular exemption category, for example information relating to commercial interests, will have to be disclosed unless it can be successfully argued that the public interest in withholding it is greater than the public interest in releasing it. Such exemptions are known as qualified exemptions.						
9.	Where information falls within the terms of an absolute exemption, for example, information reasonably accessible by other means or information contained in court records, a public authority may withhold the information without considering any public interest arguments.						
10.	For 2021-22, the Council received 1103 requests, broken down as follows: <table border="1" style="margin-left: 40px; width: 100%;"> <thead> <tr> <th>Total Requests</th> <th>FOI Requests</th> <th>EIR Requests</th> </tr> </thead> <tbody> <tr> <td>1103</td> <td>898</td> <td>205</td> </tr> </tbody> </table>	Total Requests	FOI Requests	EIR Requests	1103	898	205
Total Requests	FOI Requests	EIR Requests					
1103	898	205					

11. This represents a drop in previous years, which can still be attributed to the COVID-19 pandemic.



This is supported by the number of requests received since April 2022, which is approximately a 16% increase on the 2021-22 figures.

12. The Directorate breakdown of the requests is as follows:

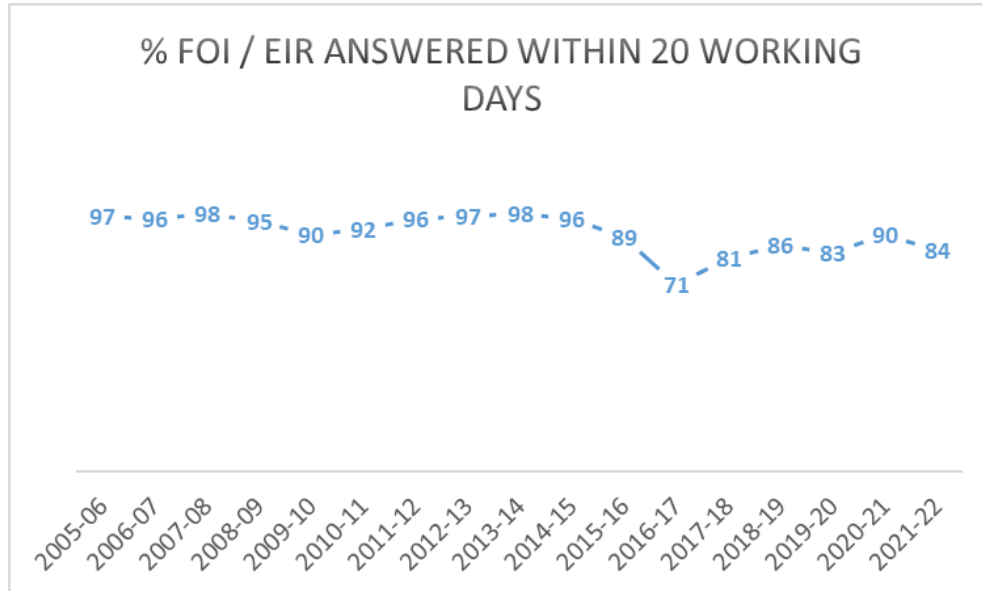
Directorate	No. Rec'd	Responded On Time	Responded Late	Av. Days Taken
Communities, Culture, and Homes	284	91%	9%	13
Place	278	85%	15%	17
Wellbeing (Children and Learning)	194	71%	29%	25
Finance	135	91%	9%	11
Business Services	111	82%	18%	18
Wellbeing (Health and Adults)	99	83%	17%	17
Not allocated to Directorate	2	N/A	N/A	N/A
Grand Total	1103	84%	16%	17

Compliance is calculated from the requests *responded to* within the year. This may include requests *received* in the previous year.

Requests are not allocated to a directorate when it is not clear what information is sought from the request. Clarification is requested, and if this is not received within 3 months, the request is deemed to be lapsed.

13. During the year, 84% of all monitored FOI and EIR requests were responded to with within the statutory deadline of 20 working days. This is a decrease on the previous year, most likely due to the Council still prioritising its pandemic response.

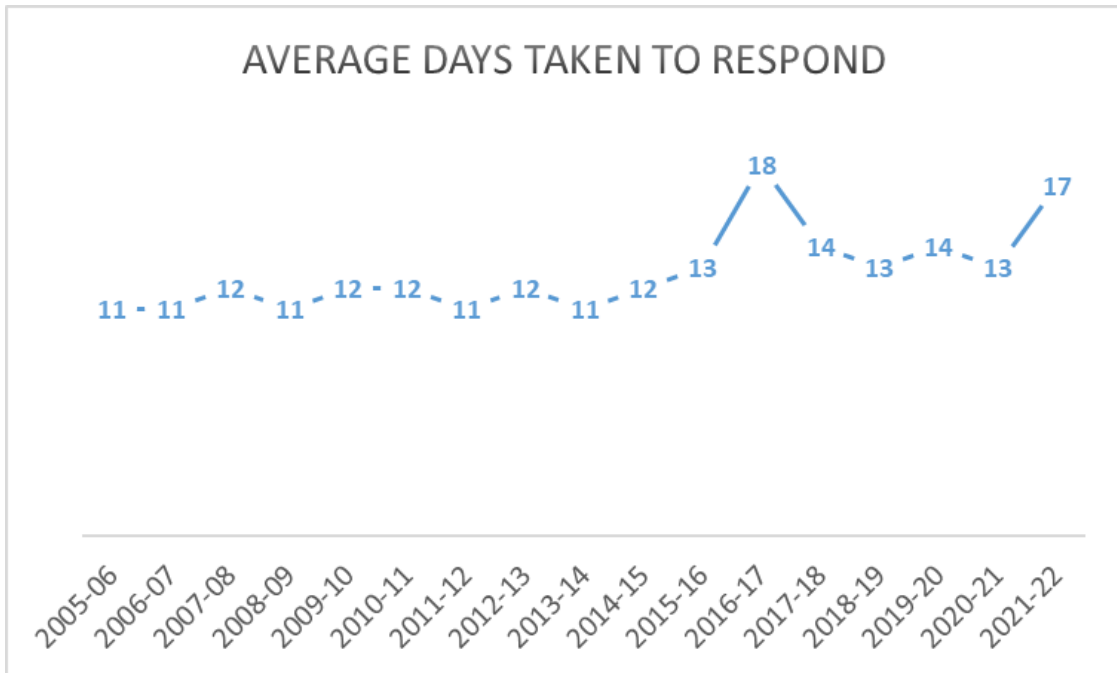
The Council's target rate for responses is 90%.



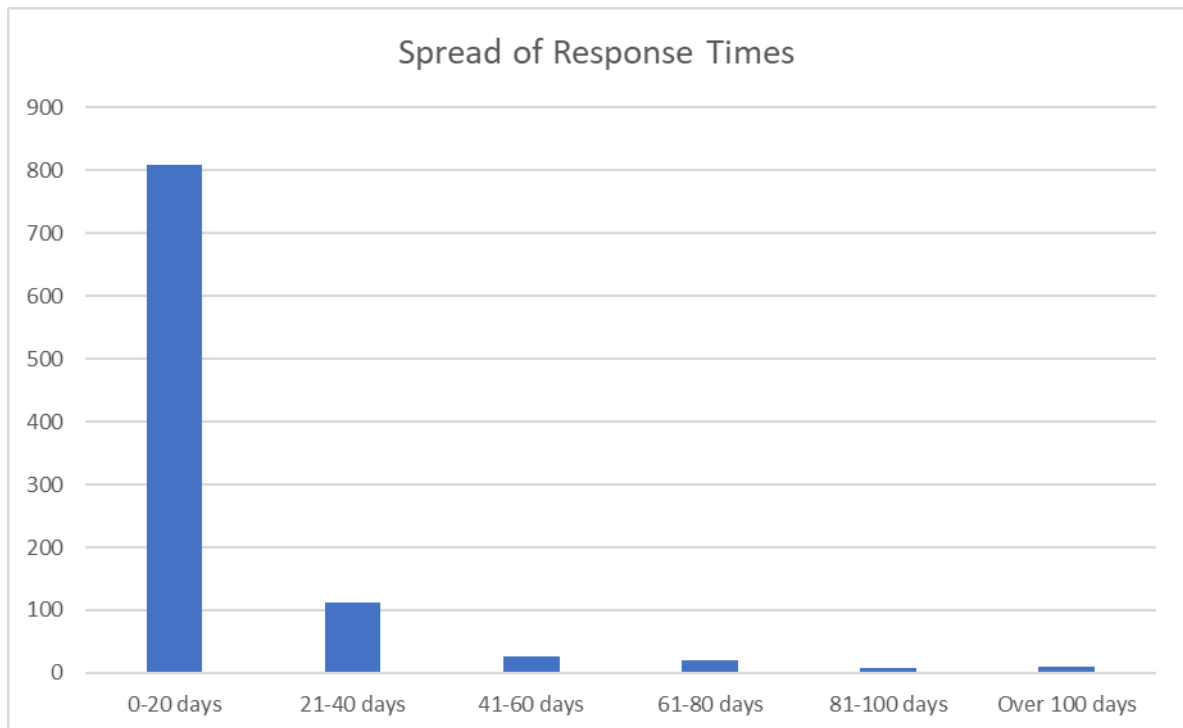
14. Reasons why a request might not be answered within the statutory timeframe are as follows:

- Requests not being referred to the Corporate Legal team when received by the service area
- Service areas experiencing high workloads for other statutory services, that have a higher priority.
- Requests being initially allocated to the incorrect service area, and this does not become apparent until near the end of the deadline.
- Human / administrative errors.
- The complexity of the request – for example, if there are a large number of components to the response that need to be compiled to respond in full, but a costs limits/staff time exemption can't be applied, more than one exemption needs to be applied, or a large amount of redaction is required (this can't be considered in the costs limits).
- The request contains inaccuracies - for example, if a response is initially sent out on time but is later identified to contain errors, a revised response should be sent and it is likely that such instances will take us past the deadlines.
- Staff absence, particularly if the service area holding the data is a small team, or the request needs approval from a particular individual
- Representations are sought from third parties regarding the request (e.g. those that might have commercial interests in the data being released).

15. The average days taken to respond has increased to 17 days, which represents the second highest average since the FOIA came into force.



16. However, the vast majority of requests were responded to within the 20-working day period:



17.	<p>Reasons for delays in the requests that exceeded 100 days included:</p> <ul style="list-style-type: none"> • Service areas failing to respond within the initial timeframe, and the majority of their engagement with the requests coming after the deadline date. This was the case for most of the requests that went this late last year. • Inaccuracies in the data initially sent to the requester, meaning that a revised response was required. • Workloads and staffing issues within the service areas, notably Children’s Services <p>For the other requests that went overdue, there were more varied reasons. For example, Corporate Legal identified an issue with Outlook incorrectly determining several email requests coming into the FOI inbox as “spam”, which were then placed in the junk folder. However, the mail filter settings have since been reconfigured, and a process has been put in place to ensure the junk mail folder is checked regularly.</p> <p>Corporate Legal has also introduced a new escalation process, where the relevant Information Asset Owners and Administrators (Division and Service Heads) are copied into correspondence regarding requests that may miss the statutory deadline unless urgent action is taken.</p>								
18.	<p>Under FOIA, where the cost of responding to the request will exceed the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (which is currently set at £450 for local authorities), the Council may refuse to comply with it. For 2021-22, the Council issued 69 Refusal Notices on fees grounds, which represents an increase, with 58 being issued last year.</p>								
19.	<p>When applying the fees exemption, the service area looks at the amount of time it would take to locate the information sought. If the fee limit is exceeded, it is usually because individual records or files have to be searched (i.e. the information requested doesn’t form part of a reportable field).</p> <p>The service area would be asked to do a sample search, which would give the Council an estimate / average time, which is then used to calculate the total time. E.g. if searching one file would take 5 minutes on average, searching 250 files would take 1250 minutes, which equates to 20.8 hours (and over the 18 hour fee limit).</p> <p>Each “item” requested needs to be looked at separately, however, which is why the Council might issue a partial response (some of the information can be disclosed within 18 hours, and some cannot).</p>								
20.	<p>The breakdown of the request outcomes is as follows:</p> <table border="1" data-bbox="245 1697 1458 1883"> <thead> <tr> <th>Outcome</th> <th>No. of Requests</th> </tr> </thead> <tbody> <tr> <td>Fully Answered</td> <td>824</td> </tr> <tr> <td>Refused or Part Refused</td> <td>101</td> </tr> <tr> <td>Lapsed or Withdrawn</td> <td>173</td> </tr> </tbody> </table> <p>As of drafting this report, there are currently 5 active FOI requests received in 2021-22.</p>	Outcome	No. of Requests	Fully Answered	824	Refused or Part Refused	101	Lapsed or Withdrawn	173
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	<p>Fully answered requests include those where information is not held, or an exemption has been applied. This would still be classed as being fully answered.</p> <p>Refused or part-refused requests are where the request has been refused in its entirety, or only certain elements have been refused (e.g. on cost grounds). Other reasons for refusal will be because the request is vexatious or repetitive in nature.</p> <p>Lapsed or withdrawn requests are where the requester has actively withdrawn their request, or has not come back with clarification when asked within 3 months.</p>																						
21.	11 individuals requested internal reviews regarding decisions made to withhold, partially withhold information requested, or where they were generally unhappy with how their request was handled.																						
22.	<p>The themes of the internal reviews were as follows:</p> <ul style="list-style-type: none"> • The requester was unhappy that their request has been deemed to be vexatious • The requester was unhappy with the request being refused on the grounds of cost (i.e. they were not satisfied with the Council's estimate) • The requester was unhappy with the Council's application of an exemption to withhold information (e.g. commercial interests). • The requester was not satisfied that all information within scope of their request had been provided. 																						
23.	This year, 1 appeal was made to the ICO as a result of the Council's decision in respect of their internal review. This appeal is still ongoing, but is in relation to a late request, where the requester was not satisfied that a full response was received.																						
24.	<p>As with all years, types of requests have been varied and covered every service area of the Council, including budget, HR, council tax and business rates data, schools, highways maintenance, and social services.</p> <p>The top ten request subjects ranked in order of popularity are as follows:</p> <table border="1"> <thead> <tr> <th>Service Area</th> <th>No.</th> </tr> </thead> <tbody> <tr> <td>Schools and Education</td> <td>49</td> </tr> <tr> <td>Council and community housing</td> <td>47</td> </tr> <tr> <td>Parking</td> <td>43</td> </tr> <tr> <td>Children and young people social care</td> <td>38</td> </tr> <tr> <td>Procurement</td> <td>38</td> </tr> <tr> <td>Environmental health</td> <td>34</td> </tr> <tr> <td>Human resources</td> <td>33</td> </tr> <tr> <td>Highways</td> <td>32</td> </tr> <tr> <td>Highway maintenance</td> <td>30</td> </tr> <tr> <td>Information communication technology</td> <td>28</td> </tr> </tbody> </table>	Service Area	No.	Schools and Education	49	Council and community housing	47	Parking	43	Children and young people social care	38	Procurement	38	Environmental health	34	Human resources	33	Highways	32	Highway maintenance	30	Information communication technology	28
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Highway maintenance	30																						
Information communication technology	28																						

25.	<p>The breakdown of requester type is as follows:</p> <table border="1" data-bbox="247 280 1460 515"> <thead> <tr> <th data-bbox="247 280 853 324">Requester Category</th> <th data-bbox="853 280 1460 324">% of Requests</th> </tr> </thead> <tbody> <tr> <td data-bbox="247 324 853 369">Private Citizens</td> <td data-bbox="853 324 1460 369">60%</td> </tr> <tr> <td data-bbox="247 369 853 414">Companies / Businesses</td> <td data-bbox="853 369 1460 414">19%</td> </tr> <tr> <td data-bbox="247 414 853 459">Media</td> <td data-bbox="853 414 1460 459">11%</td> </tr> <tr> <td data-bbox="247 459 853 515">Remainder</td> <td data-bbox="853 459 1460 515">10%</td> </tr> </tbody> </table> <p>The remaining requests came from a combination of charities, students, researchers, lobby groups, MPs / Members and other Councils etc.</p>	Requester Category	% of Requests	Private Citizens	60%	Companies / Businesses	19%	Media	11%	Remainder	10%
Requester Category	% of Requests										
Private Citizens	60%										
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Media	11%										
Remainder	10%										
26.	<p>Previously, Members requested information as to how much time and resources each Service spends on dealing with requests. Research from Parliamentary post-legislative scrutiny of the Act indicates “the best-performing local authorities took between 1 and 6 hours for each request”. We can estimate that our time spend on requests is comparable to this and using the £25 per hour rate that the Act allows us to charge for staff time when refusing requests, we can estimate that each request costs the Council between £25 and £150 to respond on average.</p>										
27.	<p>As Corporate Legal accurately time-record, we are able to detail how much time it takes to log, monitor, and give advice on requests. For 2021-22, the total time the Corporate Legal team spent dealing with FOI / EIR requests was 1052 hours, meaning the average time taken per request was just under 1 hour. Most requests (around 58%) take around half an hour to action within the Corporate Legal Team but, where detailed exemptions and redactions are needed, this can increase time taken on a single request for very complex cases.</p> <p>For example, the Corporate Legal time spent just over 20 hours on one single request in 2021-22. The average therefore predominantly represents the time taken for detailed application of legal tests to requests where the Council seeks to withhold certain information from release.</p>										
28.	<p>It should be stressed that this figure does not include the time taken for Business Support or the service areas to locate, collate, and send out the information requested and the Council does not have a mechanism for capturing that resource cost (which comprises the bulk of any cost to the Council).</p>										
29.	<p>In the Corporate Legal team there are now 3 FTE member of staff dedicated to providing advice and monitoring compliance with information law. Other members of Legal Services and apprentices support this function when their capacity allows it. These 3 FTE staff attributed to 1026 of the hours Corporate Legal spent processing FOI requests, with other members of Corporate Legal contributing the remaining 26 hours.</p>										
GENERAL DATA PROTECTION REGULATION											
30.	<p>The GDPR gives individuals the right to know what information is held about them, along with other rights, and provides a framework to ensure that personal information is handled properly.</p>										

31. Under the GDPR, an individual is entitled to access personal data held by an organisation, of which that individual is the data subject. Such requests for information are known as subject access requests. Other requests available under the GDPR are:

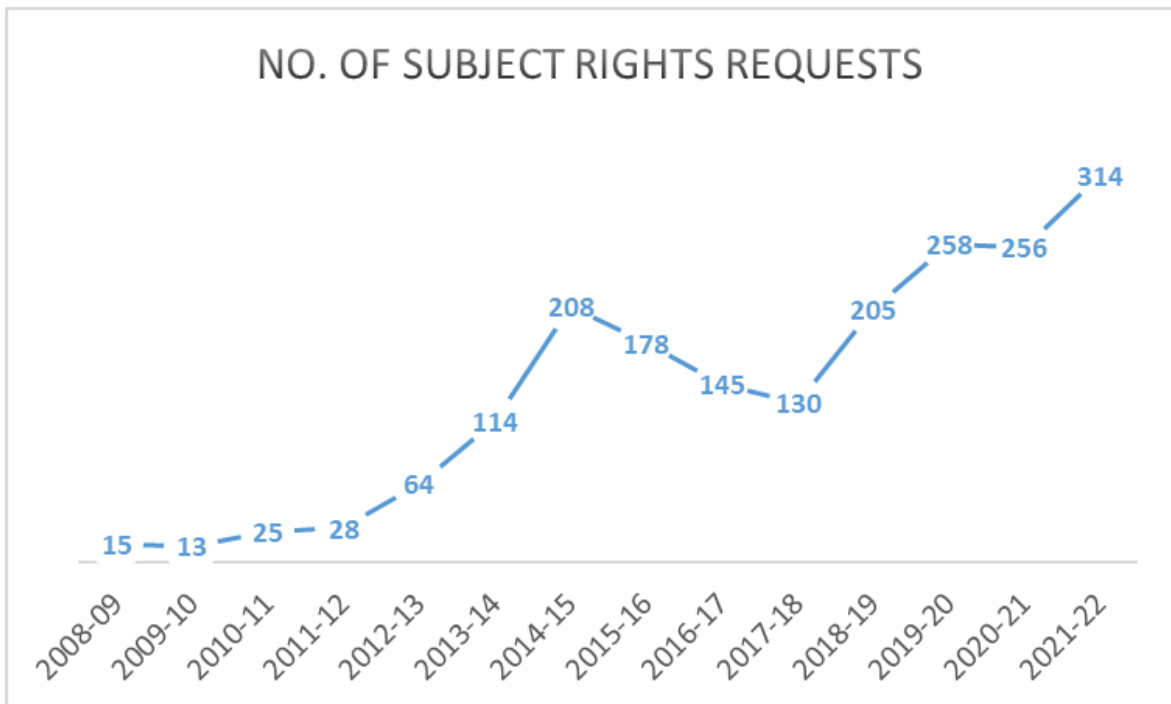
- Rectification
- Erasure
- Restriction
- Object
- Portability

The Council has to respond to such requests within one calendar month.

32. For the year 202-22, the Council received 314 rights requests, broken down as follows:

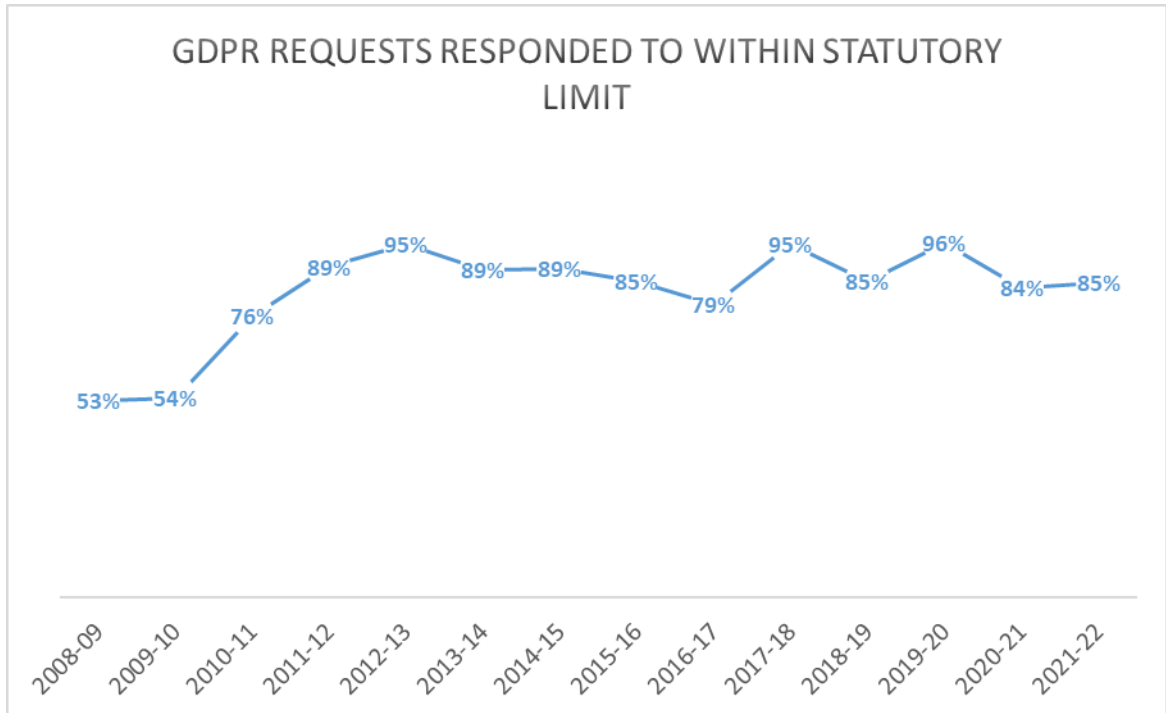
Request Type	No. Received
Subject Access	271
Erasure	23
Rectification	15
Objection	5

33. This represents an increase on last year, and the Council have continued to receive an increasing number of such requests since the introduction of the GDPR in 2018.



2021-22 has also seen an increase in requests other than subject access (such as objection and rectification requests), as the public (and companies) become more aware of these rights.

34. 85% of the requests were responded to within the statutory timescales compared with 84% last year. Again, the Council's target is 90% compliance.



This reduction can be attributed to the number of requests received by Children and Learning, who often have reduced capacity to deal with these complex requests. Also, as most of the requests involve social care data, the service areas holding this information were most affected by the pandemic.

35. The Directorate breakdown is as follows:

	No. Rec'd	Responded on time	Responded Late	Av. Days Taken
Wellbeing (Children and Learning)	183	82%	18%	49
Communities, Culture, and Homes	40	89%	11%	23
Finance	36	100%	0%	17
Wellbeing (Health and Adults)	22	93%	7%	33
Business Services	16	100%	0%	27
Place	10	100%	0%	22
Not allocated to Directorate	7	N/A	N/A	N/A
Grand Total	314	85%	15%	41

Compliance is calculated from the requests *responded to* within the year. This may include requests *received* in the previous year.

Requests are not allocated to a directorate when it is not clear what information is sought from the request. Clarification is requested, and if this is not received within 3 months, the request is deemed to be lapsed.

36. The vast majority of requests were responded to within the one-month period.

Response Time Period	Number of Requests
1-30 days	120
31-60 days	30
61-90 days	15
91-120 days	15
121-150 days	5
151-180 days	5
Over 180 days	5

It should be noted with SARs that the GDPR enables the Council to extend the deadline up to 90 days, if the request is particularly complex. As such, those that took up to 90 days may not necessarily be “late”.

37. The delays generally occurred within the Children and Learning, which is to be expected as they receive the largest volume of requests. For requests that took over 100 days to respond to, the main themes were:

- Issues / delay in replacing and training the Children’s “Single Point of Contact” (SPOC) officer, a key member of staff who co-ordinates the responses to such requests.
- The introduction of CareDirector, and staff familiarising themselves with the different search / reporting functions and the storage of data.
- Complex requests, where there were concerns around the requesters’ parental responsibility / ability to make a request on behalf of a child, and risks around disclosure of the child’s personal data.
- Requests involving a large volume of historic records. In most cases, the Council were able to give a partial disclosure on or just after the statutory deadline and then would provide a monthly disclosure bundle until the SAR was complete.
- Carrying out necessary checks on disclosure regarding redactions

38.	<p>11 individuals requested internal reviews regarding decisions made to withhold, partially withhold information requested, or where they were generally unhappy with how their request was handled.</p> <p>The themes of the reviews are as follows:</p> <ul style="list-style-type: none"> • The requester was not satisfied that the Council had disclosed all information it held on them • The requester was not happy with the delays in responding, and / or the application of the 2-month extension • The requester did not agree with the Council’s interpretation of what constituted their “personal data”. • The requester was not happy with the redactions applied to the documents provided 								
39.	<p>There were 2 occasions where the ICO contacted the Council in light of concerns they had about how a request was handled. One complaint was in respect of a late reply to a subject access request, and the other surrounded the Council’s decision to delete data that the individual believe should have been retained.</p> <p>Both complaints were addressed with not further action from the Commissioner.</p>								
40.	<p>Sometimes, there is a requirement to disclose personal data which might otherwise be in breach of the GDPR. Where an exemption from the non-disclosure provisions applies, such disclosure is not in breach of the GDPR.</p> <p>Examples of exemptions include crime and taxation and disclosures required by law or made in connection with legal proceedings. Such requests are typically made to the Council by regulatory authorities such as the police, the Department of Work and Pensions and so on as part of their investigations.</p>								
41.	<p>For the year 2021-22 the Council received 343 requests for data from such third-party organisations compared to 331 in the previous year.</p> <p>The top three requester types are as follows:</p> <table border="1" data-bbox="247 1294 766 1456"> <thead> <tr> <th>Type</th> <th>Requests</th> </tr> </thead> <tbody> <tr> <td>Police</td> <td>141</td> </tr> <tr> <td>Local Authority</td> <td>105</td> </tr> <tr> <td>Government Agency</td> <td>54</td> </tr> </tbody> </table>	Type	Requests	Police	141	Local Authority	105	Government Agency	54
Type	Requests								
Police	141								
Local Authority	105								
Government Agency	54								
42.	<p>In addition to these requests, the CCTV control room (City Watch) and Licensing Team received 1086 and 117 third party requests respectively (the majority of the Licensing requests were for footage from the vehicle Taxi Cameras). These requests are regulated by information sharing agreements, which removes the requirement to have each one authorised by Corporate Legal.</p>								
DATA SECURITY INCIDENTS									
43.	<p>During 2021-22, 204 data security incidents were reported to the Corporate Legal team, which represents a slight drop from last year’s 209 reported incidents.</p> <p>79% of these 204 were determined to be actual data breaches upon investigation, with the most common cause (49% of incidents) being data sent electronically to incorrect recipients.</p> <p>It should be noted that a “breach” could include an internal disclosure of information to the wrong member of staff, but as this information has not been shared externally, the detriment to the data subject would be deemed to be minimal.</p>								

44.	<p>The Council records the “severity” of the incidents reported, determined by a number of factors, including the nature of the information involved, the volume of data, and the possible harm the breach might cause to individuals involved. Any incident receiving a severity rating over 1 was considered to require a full investigation and remediation report.</p> <p>For 2021-22, the average severity of incidents determined to be actual breaches was 0.8.</p>
45.	<p>One of the data breaches were considered sufficiently serious to be reported to the Information Commissioner’s Office. This involved the verbal disclosure of sensitive information about an individual, which lead to the individual being relocated due to a potential risk to their safety.</p> <p>The disclosure was not explicit, and the ICO deemed that no further action was needed, as the incident had been adequately addressed by the Council.</p>
46.	<p>In all of these, the ICO considered that no further action was necessary as the Council had put into action adequate and robust remediation plans to address the risks to the individual, and ensure that such errors do not reoccur.</p>
	<p>NHS TOOLKIT</p>
47.	<p>In order to share information with our health partners, the Council has to provide annual assurance as to the standard of its information governance compliance. In the absence of any service information governance lead, the Corporate Legal Team again assumed short-term responsibility for collation of the Toolkit evidence. The Council was self-assessed at being 100% compliant with the mandatory evidence requirements, and the Council’s response was subsequently audited by NHS Digital, who confirmed that Southampton City Council could provide data security assurance to its health partners.</p>
	<p>RIPA</p>
48.	<p>Under RIPA, the Council as a public authority is permitted to carry out directed surveillance, the use of covert human intelligence sources and to obtain communications data if it is both necessary for the purpose of preventing or detecting crime and/or disorder and the proposed form and manner of the activity is proportionate to the alleged offence.</p>
49.	<p>There were no authorisations made under RIPA in 2021-22.</p>
50.	<p>Examples of activity authorised in previous years include covert surveillance of a victim’s home to detect acts of criminality, directed surveillance of individuals who were involved in fraudulent activities and a Covert Human Intelligence Source (‘CHIS’) was used to form an online relationship with a suspect to make a test purchase of suspected counterfeit goods.</p>
51.	<p>The Council is required to formally appoint a ‘Senior Responsible Officer’ for RIPA. The Director of Legal & Business Services is the officer who undertakes this role. The Senior Responsible Officer has responsibility for maintaining the central record of authorisations; the integrity of the RIPA process within their authority; compliance with the Act and Codes of Practice; oversight of the reporting errors to the Surveillance Commissioner; engagement with inspectors from the Office of Surveillance Commissioners and implementation of any subsequent action plan.</p>

52.	<p>Training for Council officers involved in RIPA processes is regularly undertaken and is delivered by the Corporate Legal Team. Our documentation, procedures and training are also used as ‘best practice’ by a number of other local authorities and we regularly provide training for partner authorities on request. This year we delivered six training sessions to officers at Eastleigh Borough Council.</p>																
53.	<p>The Investigatory Powers Commissioner’s Office (formerly the Office of Surveillance Commissioners) carried out its most recent inspection of the Council’s management of covert activities in 2019, with the next inspection due in December 2022.</p> <p>In his report of December 2019, The Rt. Hon. Sir Brian Leveson, the Investigatory Powers Commissioner, noted:</p> <p>“(My) observations highlight good practice within (your) organisation and this has clearly resulted largely from a conscientious approach and internal oversight and the provision of regular training by Mr Ivory and Mrs Horspool. Both have been inspected in this regard for many years and are not found wanting”</p>																
54.	<p>The Council’s reviewed and updated Corporate Surveillance Guidance for 2022 is attached at appendix 1. It includes an enhanced paragraph (at paragraph 13) detailing strict arrangements for the retention and destruction of RIPA material.</p>																
DATA PROTECTION IMPACT ASSESSMENTS																	
55.	<p>Under Council policy, a Data Protection Impact Assessment (or DPIA) must be carried out for new projects.</p> <p>Carrying out a DPIA enables the Council to identify and address any privacy risks at an early stage, ensure a “privacy by design approach, and adhere to the accountability principle of the GDPR.</p>																
56.	<p>In 2021-22, the Council conducted 128 DPIAs, which is a slight increase on the previous year. This still represents a drop from pre-pandemic levels, but the DPIA process is still embedded within project management and procurement, giving Corporate Legal oversight with regard to any privacy risks associated with new endeavours, and ensuring a “privacy by design” approach.</p> <div data-bbox="376 1364 1353 1946" style="text-align: center;"> <table border="1" style="margin-left: auto; margin-right: auto;"> <caption>DPIAS UNDERTAKEN</caption> <thead> <tr> <th>Financial Year</th> <th>Number of DPIAs Undertaken</th> </tr> </thead> <tbody> <tr> <td>2015-16</td> <td>15</td> </tr> <tr> <td>2016-17</td> <td>26</td> </tr> <tr> <td>2017-18</td> <td>48</td> </tr> <tr> <td>2018-19</td> <td>139</td> </tr> <tr> <td>2019-20</td> <td>169</td> </tr> <tr> <td>2020-21</td> <td>125</td> </tr> <tr> <td>2021-22</td> <td>128</td> </tr> </tbody> </table> </div>	Financial Year	Number of DPIAs Undertaken	2015-16	15	2016-17	26	2017-18	48	2018-19	139	2019-20	169	2020-21	125	2021-22	128
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2021-22	128																

RESOURCE IMPLICATIONS	
<u>Capital/Revenue</u>	
57.	None directly related to this report. The administration of information law within the authority is managed within corporate budgets, but ensuring that the Council performs to an acceptable information governance standard and complies with the new statutory standards imposed by the GDPR and DPA18 places increased pressure on finite and already stretched resources.
<u>Property/Other</u>	
58.	None directly related to the report.
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
59.	The statutory obligations relating to information law are detailed in the body of this report.
<u>Other Legal Implications:</u>	
60.	None directly related to this report.
RISK MANAGEMENT IMPLICATIONS	
61.	The potential impact of the decision in terms of finance, service delivery and reputation is considered to be low. Although the report does highlight potential future pressures on service delivery with the advent of the GDPR, the decision of members in this report is to note the performance of the Council in terms of information governance for 2021-22.
POLICY FRAMEWORK IMPLICATIONS	
62.	The information contained in this report is consistent with and not contrary to the Council's policy framework.

KEY DECISION?	No
WARDS/COMMUNITIES AFFECTED:	None
<u>SUPPORTING DOCUMENTATION</u>	
Appendices	
1.	Corporate Surveillance Guidance – August 2022
Documents In Members' Rooms None	
1.	None
Equality Impact Assessment	
Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.	No
Data Protection Impact Assessment	
Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out.	No

Other Background Documents None		
Other Background documents available for inspection at:		
Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)	
1.	None	

**Southampton City Council
Corporate Surveillance Guidance
The Regulation of Investigatory Powers Act
2000
August 2022**



Southampton City Council
Corporate Surveillance Guidance
The Regulation of Investigatory Powers Act 2000
August 2022

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Corporate Surveillance Guidance			
Version	17.0	Approved by	Director of Legal & Business Services
Date last amended	27 th July 2020	Approval date	26 th September 2022
Lead officer	Tracy Horspool, Senior Solicitor (Corporate)	Review date	26 th September 2023
Contact	information@southampton.gov.uk	Effective date	26 th September 2022

1. Introduction

1.1 Summary

The Regulation of Investigatory Powers Act 2000 ('RIPA') brought into force the regulation of covert investigation by a number of bodies, including local authorities. RIPA regulates a number of investigative procedures, the most recent of which is the access to communications data.

This document is intended to provide officers with guidance on the use of covert surveillance, Covert Human Intelligence Sources ('Sources') and the obtaining and disclosure of communications data under RIPA. Officers must take into account the Codes of Practice issued under RIPA (RIPA and the Codes of Practice may be found at www.security.homeoffice.gov.uk).

1.2 Background

The Human Rights Act 1998 requires the Council, and organisations working on its behalf, pursuant to Article 8 of the European Convention, to respect the private and family life of a citizen, his home and his correspondence.

The European Convention did not, however, make this an absolute right, but a qualified right. Accordingly, in certain circumstances, the Council may interfere in the citizen's right mentioned above, if such interference is:

- (a) in accordance with the law
- (b) necessary (as defined in this document); and
- (c) proportionate (as defined in this document).

RIPA provides a statutory mechanism for authorising certain types of surveillance. It seeks to ensure that any interference with an individual's right under Article 8 of the European Convention is necessary and proportionate. In doing so, RIPA seeks to ensure both the public interest and the human rights of individuals are suitably balanced.

If the correct procedures are not followed, evidence may be disallowed by the courts, a complaint of maladministration could be made to the Ombudsman, and/or the Council could be ordered to pay compensation. It is essential, therefore, that all

involved with RIPA comply with this document and any further guidance that may be issued, from time to time, by the Director of Legal & Business Services.

Each officer of the Council with responsibilities for the conduct of investigations, shall, before carrying out any investigation involving RIPA, undertake appropriate training to ensure that investigations and operations that he/she carries out will be conducted lawfully.

The Director of Legal & Business Services, is appointed as the senior responsible officer to ensure the integrity of the process within the Council and its compliance with RIPA; to have oversight of reporting of errors to the relevant oversight commissioner; responsibility for engagement with the Investigatory Powers Commissioner's Office when they conduct their inspections and where necessary, oversight of the implementation of any post-inspection action plan. The senior responsible officer will also ensure that Members regularly review the Council's use of RIPA.

1.3 *Review*

RIPA and this document are important for the effective and efficient operation of the Council's actions with regard to surveillance. This document will, therefore be kept under yearly review by the Director of Legal & Business Services.

Authorising Officers must bring any suggestions for continuous improvement of this document to the attention of the Director of Legal & Business Services, at the earliest possible opportunity.

1.4 *Scope*

RIPA covers the authorisation of directed surveillance, the authorisation of sources and the authorisation of the obtaining of communications data. Communications data includes information relating to the use of a postal service or telecommunications system but does not include the contents of the communication itself, contents of e-mails or interaction with websites. An authorisation under RIPA will provide lawful authority for the investigating officer to carry out surveillance.

In terms of monitoring e-mails and internet usage, it is important to recognise the interplay and overlaps with the Council's e-mail and internet policies and guidance, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 and the Data Protection Act 2018. RIPA forms should be used where relevant and they will only be relevant where the criteria listed on the forms are fully met.

2. General

2.1 *Definition of Surveillance*

'Surveillance' includes:

- a) monitoring, observing or listening to persons, their movements, their conversations or their other activities or communication;
- b) recording anything monitored, observed or listened to in the course of surveillance; and
- c) surveillance by or with the assistance of a surveillance device.

Surveillance includes the interception of postal and telephone communications where the sender or recipient consents to the reading of or listening to or recording of the communication. This is a form of directed surveillance.

2.2 *Confidential Material*

Particular care should be taken in cases where the subject of the investigation or operation might reasonably expect a high degree of privacy, or where confidential information is involved. Confidential information consists of matters subject to legal privilege, confidential personal information, confidential journalistic material and communications between an MP and a constituent.

Applications in which the surveillance is likely to result in the acquisition of confidential material will only be considered in exceptional and compelling circumstances with full regard to the proportionality issues this raises.

The Authorising Officer shall give the fullest consideration to any cases where the subject of the surveillance might reasonably expect a high degree of privacy, for instance in his or her home.

Where a likely consequence of surveillance would result in the acquisition of confidential material, the investigating officer must seek authority from the Chief Executive, or, in his absence, the Director of Legal & Business Services.

3. Directed and intrusive surveillance

3.1 *Directed Surveillance*

Directed surveillance is surveillance which is covert, but not intrusive, and undertaken:

- a) for the purposes of a specific investigation or specific operation;
- b) in such a manner as 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); and
- c) 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 RIPA to be sought for the carrying out of the surveillance.

3.2 *Intrusive Surveillance*

That surveillance becomes intrusive if the covert surveillance:

- a) is carried out by means of a surveillance device in relation to anything taking place on any residential premises or in any private vehicle; or
- b) is carried out without that device being present on the premises or in the vehicle, is not intrusive unless the device is such that it consistently provides information of the same quality and detail as might be expected to be obtained from a device actually present on the premises or in the vehicle, or
- c) is carried out in places ordinarily used for legal consultation, at a time when they are being used for such consultations

Therefore, directed surveillance turns into intrusive surveillance if it is carried out involving anything that occurs on residential premises or any private vehicle and involves the presence of someone on the premises or in the vehicle or is carried out by means of a surveillance device **OR** when directed surveillance is carried out in places ordinarily used for legal consultation, at a time when they are being used for such consultations.

For intrusive surveillance relating to residential premises or private vehicles, if any device used is not on the premises or in the vehicle, it is only intrusive surveillance if it consistently produces information of the same quality as if it were.

Where covert surveillance is carried out by a device designed or adapted principally for the purpose of providing information about the location of a vehicle, the activity is directed surveillance.

Commercial premises and vehicles are therefore excluded from intrusive surveillance. Currently, local authorities are **not** authorised to carry out intrusive surveillance.

4. Identifying directed surveillance

Ask yourself the following questions:

4.1 *Is the surveillance covert?*

Covert surveillance is any surveillance that is carried out in a manner calculated to ensure that the persons subject to the surveillance are unaware that it is or may be taking place.

If your activities are not hidden from the subjects of your investigation, you are not within the RIPA framework at all. In many cases, Officers will be behaving in the same way as a normal member of the public (e.g. in the case of most test purchases), and/or will be going about Council business openly (e.g. a market inspector walking through markets).

Similarly, surveillance will be overt if the subject has been told it will happen (e.g. where a noisemaker is warned (preferably in writing) that noise will be recorded if the noise continues, or where an entertainment licence is issued subject to conditions, and the licensee is told that officers may visit without notice or identifying themselves to the owner/proprietor to check that conditions are being met).

It should be noted that if the same outcome can be achieved by overt means then those means need to be fully explored in the first instance. Covert surveillance must only be undertaken when there is no less invasive way of achieving the outcome.

4.2 Is the surveillance for the purposes of a specific investigation or a specific operation?

Although, the provisions of the Act do not normally cover the use of overt CCTV surveillance systems, since members of the public are aware that such systems are in use, there may be occasions when public authorities use overt CCTV systems for the purposes of a specific investigation or operation. For example, if the CCTV cameras are targeting a particular known offender. In such cases, authorisation for directed surveillance may be necessary.

4.3 Is the surveillance in such a manner that is likely to result in the obtaining of private information about a person?

Private information includes any information relating to a person's private or family life. The concept of private information should be broadly interpreted to include an individual's private or personal relationship with others. It includes an individual's business and family relationships. Family life itself should be treated as extending beyond the formal relationships created by marriage.

4.4 Is the surveillance otherwise than by way of an immediate response to events or circumstances where it is not reasonably practicable to get authorisation?

Directed surveillance does not include covert surveillance carried out by way of an immediate response to events or circumstances which, by their very nature, could not have been foreseen. For example, a police officer would not require an authorisation to conceal himself and observe a suspicious person that he came across in the course of a patrol.

However, if as a result of that immediate response, you undertake a specific investigation you will need authorisation.

5. Covert human intelligence sources

5.1 Definition

A person is a source if:

- a) he establishes or maintains a personal or other relationship with a person for the covert purpose of facilitating the doing of anything falling within paragraph (b) or (c);
- b) he covertly uses such a relationship to obtain information or to provide access to any information to another person; or

- c) he covertly discloses information obtained by the use of such a relationship or as a consequence of the existence of such a relationship.

A source may include those referred to as agents, informants and officers working undercover.

A purpose is covert, in relation to the establishment or maintenance of a personal or other relationship, if and only if, the relationship is conducted in a manner that is calculated to ensure that one of the parties to the relationship is unaware of the purpose.

A relationship is used covertly, and information obtained is disclosed covertly, if and only if it is used or disclosed in a manner that is calculated to ensure that one of the parties to the relationship is unaware of the use or disclosure in question.

The use of a source involves inducing, asking or assisting a person to engage in the conduct of a source, or to obtain information by means of the conduct of such a source.

This covers the use of professional witnesses to obtain information and evidence. For example, it will include professional witnesses retained by Housing to pose as tenants to obtain information and evidence against alleged nuisance perpetrators.

Carrying out test purchases will not require the purchaser to establish a relationship with the supplier with the covert purpose of obtaining information and, therefore, the purchaser will not normally be a CHIS. For example, authorisation would not normally be required for test purchases carried out in the ordinary course of business (e.g. walking into a shop and purchasing a product over the counter).

By contrast, developing a relationship with a person in the shop, to obtain information about the seller's suppliers of an illegal product will require authorisation as a CHIS. Similarly, using mobile hidden recording devices or CCTV cameras to record what is going on in the shop, or an adult is observing a juvenile test purchase, this will require authorisation as directed surveillance. In all cases, a prior risk assessment is essential in relation to any young person used for a test purchase.

The Code of Practice states that the provisions of RIPA are not intended to apply in circumstances where members of the public volunteer information to the police or other authorities, as part of their normal civic duties, or to contact numbers set up to receive information (such as Crimestoppers, Customs Confidential, the Anti Terrorist Hotline, or the Security Service Public Telephone Number). Members of the public acting in this way would not generally be regarded as sources.

It should be noted, however, that if the information provided is recorded as potentially useful or actionable, there is potential duty of care to the individual and the onus is on the public authority to manage human sources properly. Authorising Officers should be alive to the possibility of 'status drift'. Authorising Officers, when deciding whether to grant an authorisation, should take account of the difference between a volunteer of information already known to the individual and the relevance of the exploitation of a relationship for a covert purpose.

An authorisation under RIPA will provide lawful authority for the use of a source.

5.2 Security and Welfare

Only the Chief Executive or, in his absence, the Director of Legal & Business Services, is able to authorise the use of vulnerable individuals and juvenile sources. The Authorising Officer shall have regard to the special safeguards and provisions that apply to vulnerable individuals and juvenile sources, more particularly set out in the Covert Human Intelligence Source Code of Practice at www.security.homeoffice.gov.uk.

The Authorising Officer shall ensure that arrangements are in place for the proper oversight and management of sources, including appointing individual officers for each source. The person responsible for the day-to-day contact between the public authority and the source will usually be of a rank or position below that of the Authorising Officer.

Officers using a source shall consider the safety and welfare of that source (even after cancellation of the authorisation), and the foreseeable consequences to others of the tasks they are asked to carry out. The Authorising Officer shall carry out a risk assessment before authorising the source.

6. Covert surveillance of social networking sites (SNS)

6.1 Even though data may be deemed published and no longer under the control of the author, it is unwise to regard it as 'open source' or publicly available. The author has a reasonable expectation of privacy if access controls are applied. In some cases, data may be deemed private communication still in transmission.

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

6.3 Officers must not:

- Set up a false identity for a covert purpose without authorisation
- Adopt the identity of a person known, or likely to be known, to the subject of interest or users of the site without authorisation and without the consent of the person of the person whose identity is used, and without considering the protection of that person. The consent must be explicit.
- Use their personal social network login details to view individuals under investigation

6.4 In deciding whether online surveillance should be regarded as covert, consideration should be given to the likelihood of the subject(s) knowing that the surveillance is or may be taking place. Use of the internet itself may be considered as adopting a surveillance technique calculated to ensure that the subject is unaware of it, even if no further steps are taken to conceal the activity. Conversely, if reasonable steps have been taken to inform the public or particular individuals that the surveillance is or may be taking place, this can be regarded as overt and a directed surveillance authorisation will not normally be available.

6.5 As set out in paragraph 6.6 below, depending on the nature of the online platform, there may be a reduced expectation of privacy where information relating to a person or group of people is made openly available within the public domain, however in some circumstances privacy implications still apply. This is because the intention when making such information available was not for it to be used for a covert purpose such as investigative activity. This is regardless of whether a user of a website or social media platform has sought to protect such information by restricting its access by activating privacy settings.

6.6 Where information about an individual is placed on a publicly accessible database, for example the telephone directory or Companies House, which is commonly used and known to be accessible to all, they are unlikely to have any reasonable expectation of privacy over the monitoring by public authorities of that information. Individuals who post information on social media networks and other websites whose purpose is to communicate messages to a wide audience are also less likely to hold a reasonable expectation of privacy in relation to that information.

6.7 Whether the Council interferes with a person's private life includes a consideration of the nature of the Council's activity in relation to that information. Simple reconnaissance of such sites (i.e. preliminary examination with a view to establishing whether the site or its contents are of interest) is unlikely to interfere with a person's reasonably held expectation of privacy and therefore is not likely to require a directed surveillance authorisation. But where the Council is systematically collecting and recording information about a particular person or group, a directed surveillance authorisation should be considered. These considerations apply regardless of when the information was shared online.

Example 1: A simple internet search on a name, address or telephone number to find out whether a subject of interest has an online presence 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: Initial examination of an individual's online profile to establish whether they are of relevance to an investigation is unlikely to need an authorisation. Visiting a website would not normally amount to surveillance, but 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: General monitoring of the internet in circumstances where it is not part of a specific, ongoing investigation or operation does not require RIPA authorisation. This includes any monitoring that is intended to identify themes, trends, possible indicators of criminality or other factors that may influence operational strategies or deployments. It may also include the discovery of previously unknown subjects of interest, but once it is decided to monitor those individuals as part of an ongoing operation or investigation, authorisation should be considered.

6.8 In order to determine whether a directed surveillance authorisation should be sought for accessing information on a website as part of a covert investigation or operation, it is necessary to look at the intended purpose and scope of the online activity it is proposed to undertake. Factors that should be considered in establishing whether a directed surveillance authorisation is required include:

- Whether the investigation or research is directed towards an individual or organisation;
- Whether it is likely to result in obtaining private information about a person or group of people;
- Whether it is likely to involve visiting internet sites to build up an intelligence picture or profile;
- Whether the information obtained will be recorded and retained;
- Whether the information is likely to provide an observer with a pattern of lifestyle;
- Whether the information is being combined with other sources of information or intelligence, which amounts to information relating to a person's private life;
- Whether the investigation or research is part of an ongoing piece of work involving repeated viewing of the subject(s);
- Whether it is likely to involve identifying and recording information about third parties, such as friends and family members of the subject of interest, or information posted by third parties, that may include private information and therefore constitute collateral intrusion into the privacy of these third parties.

6.9 Internet searches carried out by a third party on behalf of a public authority, or with the use of a search tool, may still require a directed surveillance authorisation

Example: Researchers within a public authority using automated monitoring tools to search for common terminology used online for illegal purposes will not normally require a directed surveillance authorisation. Similarly, general analysis of data by public authorities either directly or through a third party for predictive purposes (e.g. identifying crime hotspots or analysing trends) is not usually directed surveillance. In such cases, the focus on individuals or groups is likely to be sufficiently cursory that it would not meet the definition of surveillance. But officers should be aware of the possibility that the broad thematic research may evolve, and that authorisation may be appropriate at the point where it begins to focus on specific individuals or groups. If specific names or other identifiers of an individual or group are applied to the search or analysis, an authorisation should be considered.

6.10 Each viewing of a company or an individual's Social Media profile for the purpose of investigation or evidence gathering must be notified to the senior responsible officer and will be recorded on the log held by the Corporate Legal Team. All Authorising Officers have access to view the log on Sharepoint.

7. Communications data

7.1 *Definition*

This covers any conduct in relation to a postal service or telecommunications system for obtaining communications data and the disclosure to any person of such data. For these purposes, communications data includes information relating to the use of a postal service or telecommunications system but does not include the contents of the communication itself, content of emails or interaction with websites.

Communications data includes subscribers details, names and addresses and telephone numbers of those contacted, billing addresses, account information, web addresses visited etc.

The Investigatory Powers Act 2016 (IPA) created new Communications Data terminology. Communications Data now comprises 'Entity Data' and 'Events Data'.

Entity Data broadly replaces 'Subscriber Data' under RIPA, s21(4)(c), e.g name of subscriber, address for billing, contact telephone number, subscriber account information etc.

Events Data identifies or describes events which consist of one or more entities engaging in an activity at a specific time or times. It includes call histories and activity, including itemized records of telephone calls, internet connections, dates and times/duration of calls etc. Event data refers to both 'Traffic Data' (S21(4)(a)) and 'Service Use Information' (S21(4)(b)) under RIPA. Where the purpose of the acquisition is to prevent or detect crime and the data required is Events data, the offence or conduct of the offence being investigated must meet at least one of the definitions of serious crime.

7.2 *Serious Crime threshold*

From 1st November 2018, an amendment to RIPA came into force adding a serious crime threshold to the acquisition of service or traffic data. This means that where an application is for the crime statutory purpose (S60A(7)(b)) to acquire event data, the crime must be a serious crime.

7.3 *Definition of Serious Crime*

- 12 months (or more) imprisonment
 - an offence that is capable of attracting a prison sentence of 12 months or more
- Corporate Body
 - an offence by a person who is not an individual
- S81 Offence
 - an offence falling within the definition of serious crime in S81(3)(b) of the IPA where the conduct involves the use of violence, results in substantial financial gain or is by a large number of persons in pursuit of a common

purpose

- Communication Offence
 - an offence which involves, as an integral part of it, the sending of a communication
- Breach of Privacy
 - an offence which involves, as an integral part of it, a breach of a person's privacy

8. Authorisation procedure

8.1 General

Authorisation is required for the use of directed surveillance, for the conduct and use of sources and for the conduct in relation to a postal service or telecommunication system and the disclosure to any person of such data. Authorisation for directed surveillance can only be granted if the purpose of the surveillance is the prevention or detection of crime(s) punishable by 6 months imprisonment or more, or relates to the sale or alcohol or tobacco to underage persons.

All applications for authorisation of directed surveillance or for the conduct and use of any source must be referred to the RIPA Co-Ordinator (Senior Solicitor-Corporate legal Team) before submission by the Co-Ordinator to an Authorising Officer for consideration.

If the authorisation is provisionally approved by the Authorising Officer, each provisional authorisation then needs to receive judicial approval before being acted upon. Once approved, the original authorisation and accompanying paperwork must be forwarded to the RIPA Co-Ordinator (Senior Solicitor – Corporate Legal Team) to allocate the application a Unique Reference Number (URN) and for key details to be entered onto the central register. For further detail, see paragraph 12.1.

Any officer wishing to engage in conduct in relation to a postal service and telecommunication system for obtaining communications data and the disclosure to any person of such data must also seek authorisation, the procedure of which differs slightly and is outlined in paragraph 8.5.

8.2 Who can give Provisional Authorisations?

By law, the 'Authorising Officer' for local authority purposes is any assistant Chief Officer, assistant Head of Service, service manager or equivalent. An Authorising Officer may grant a provisional authorisation, but this authorisation will not take effect until it receives judicial approval (See paragraph 7.4). More senior officers within a Council may also give provisional authorisations in the circumstances to those whom they are senior. Please note that certain provisional authorisations, namely those relating to confidential information, vulnerable individuals and juvenile sources, can

only be granted by the Chief Executive, or, in his genuine absence, the Director of Legal & Business Operations.

The Council's authorised posts are listed in [Appendix 1](#). This appendix will be kept up to date by the Director of Legal & Business Operations and added to as needs require. If a Chief Officer wishes to add, delete or substitute a post, a request must be referred to the Director of Legal & Business Operations, for consideration as necessary. The Service Director, Legal & Governance, has the delegated authority to add, delete or substitute posts.

It will be the responsibility of Authorising Officers who have been duly certified to ensure their relevant members of staff are also suitably trained as 'applicants' so as to avoid common mistakes appearing on forms for RIPA authorisations.

Training will be given, or approved by the Director of Legal & Business Operations, before Authorising Officers are certified to sign any RIPA forms. A certificate of training will be provided to the individual and a central register of all those individuals who have undergone training or a one-to-one meeting with the Director of Legal & Business Operations, on such matters, will be kept by the Director of Legal & Business Operations.

Authorising officers should not normally be responsible for authorising operations in which they are directly involved, although it is recognised that this may sometimes be unavoidable. Where an Authorising Officer authorises such an investigation or operation the central register will highlight this and the Commissioner or inspector will be notified of this during his or her next inspection

Authorising Officers will also ensure that staff who report to them follow this guidance document and do not undertake or carry out any form of surveillance without first obtaining the relevant authorisations in compliance with this document.

Authorising Officers must also ensure that, when sending copies of authorisations and associated documentation to the Service Director, Legal & Governance, the same are sent in sealed envelopes and marked 'Strictly Private and Confidential'.

Any equipment to be used in any approved surveillance must be properly controlled, recorded and maintained for audit purposes.

8.3 Grounds for Authorisation – the 'necessary & proportionate' test

An Authorising Officer has a number of obligations within the provisions of the Act, which must be met before carrying out any form of surveillance.

An Authorising Officer shall not grant a provisional authorisation for the carrying out of directed surveillance, or for the use of a source or for the obtaining or disclosing of communications data unless he believes:

- a) that a provisional authorisation is necessary and
- b) the provisionally authorised investigation is proportionate to what is sought to be achieved by carrying it out

For local authority investigations, provisional authorisation is deemed “**necessary**” in the circumstances of the particular case if it is for the purpose of preventing and detecting crime or of preventing disorder.

Conduct is not deemed “**proportionate**” if the pursuance of the legitimate aim listed above will not justify the interference if the means used to achieve the aim are excessive in the circumstances. Any conduct must meet the objective in question and must not be arbitrary or unfair nor must the impact on any individuals or group be too severe.

The conduct must also be the least invasive method of achieving the end and the risk of intrusion into the privacy of persons other than those who are directly the subjects of the investigation must be assessed and taken into account (see Collateral Intrusion below).

Consideration must be given to the seriousness of the offence under consideration. Authorisation for directed surveillance can only be granted if the purpose of the surveillance is the prevention or detection of crime(s) punishable by 6 months imprisonment or more, or relates to the sale or alcohol or tobacco to underage persons. Covert surveillance relating to dog fouling and schools admissions/suspected false addresses will not be deemed a proportionate activity.

Careful consideration needs to be made by authorising officers of all of these points. Such consideration needs to be demonstrated on the authorisation form in the relevant parts. Authorising Officers must exercise their minds every time they are asked to sign a form. They must never sign or rubber stamp the form without thinking about their personal and the Council’s responsibilities.

Any boxes not needed on the form/s must be clearly marked as being ‘not applicable’ or a line put through the same. Great care must also be taken to ensure accurate information is used and inserted in the correct boxes. Reasons for any refusal of an application must also be kept on the form and retained for future audits.

Authorising Officers should not be responsible for authorising investigations or operations in which they are directly involved.

Collateral Intrusion

Before provisionally authorising investigative procedures, the Authorising Officer shall also take into account the risk of intrusion into the privacy of persons other than those who are directly the subjects of the investigation or operation (collateral intrusion). The investigating officer shall take measures, wherever practicable, to avoid or minimise unnecessary intrusion into the lives of those not directly connected with the investigation or operation.

An application for a provisional authorisation shall include an assessment of the risk of any collateral intrusion. The Authorising Officer shall take this into account, when considering the proportionality of the surveillance.

Where an operation unexpectedly interferes with the privacy of individuals who were not the subject of surveillance or covered by the authorisation in some other way, the investigating officer should inform the Authorising Officer.

8.4 Judicial Approval of Provisional Authorisations and Renewals

The Council is only able to grant a provisional authorisation or renewal to conduct covert surveillance. All provisional authorisations and renewals must be approved by the Magistrates Court before surveillance commences.

The Council must apply to the local Magistrates Court for an Order approving the grant or renewal of an authorisation. A template application form and draft Order are included at [Appendix 5](#) to this policy. In order to obtain judicial approval, the first page of the template form must be completed and submitted along with a copy of the provisional authorisation and any other relevant supporting documents.

The Council does not need to give notice of the application to the person(s) subject to the application or their legal representatives. If the Magistrates Court refuse to approve the application, they may also make an order quashing the provisional authorisation.

The Magistrates will consider the provisionally authorised application or renewal, and will need to satisfy themselves that:

- a) At the time of provisional authorisation, there were reasonable grounds for believing that the tests of necessity and proportionality were satisfied in relation to the authorisation, and that those grounds still exist;
- b) That the person who granted provisional authorisation was an appropriately designated person;
- c) The provisional grant or renewal of any authorisation or notice was not in breach of any restrictions imposed under RIPA; and
- d) Any other conditions provided for by an order made by the Secretary of State were satisfied.

A further requirement in relation to renewal of covert human intelligence sources, is that judicial approval will only be granted if the Magistrates are satisfied that a review has been carried out, which considers:

- the use made of the source in the period since authorisation was granted (or the last renewal); and
- the tasks given to the source during that period, and the information obtained from the conduct or use of the source.

and for the purposes of making an Order, the Magistrates have considered the results of that review.

The Council's Trading Standards Team will generally make applications for judicial approval to the Magistrates Court on behalf of the Council. Any particularly complex authorisations or authorisations arising from other areas of the Council that require legal input or representation may be dealt with by the Council's Legal Team if necessary in the circumstances.

8.5 Special Procedure for Authorisation in respect of Communications Data

8.5.1 The introduction of the Office for Communications Data Authorisations (OCDA) means the acquisition of Communications Data by local authority officers is no longer subject to judicial approval by a Magistrate. OCDA assesses Communications Data applications from public authorities and makes decisions about those applications that strike a fine balance between the protection of privacy and the risk to public safety. OCDA acts as a hub of authorisation expertise, independently assessing applications, holding authorities accountable to robust safeguarding standards and challenging where required.

8.5.2 Applications for the obtaining and disclosure of communications data may only be made by officers of the City Council.

8.5.3 Applications for communications data must be channelled through single points of contact (“SPoCs”). The SPoC is able to advise authorising officers as to whether an authorisation or notice is appropriate.

The City Council use the services of the National Anti-Fraud Network (NAFN) for all Communications Data enquiries and as such NAFN performs the role of a SPoC through their qualified SPoC officers. All applicants must be registered with NAFN via the NAFN website at www.nafn.gov.uk. Any initial internal queries can be directed to Tracy Horspool, Senior Solicitor (Corporate) at tracy.horspool@southampton.gov.uk.

8.5.4 The SPoC is required to:

- provide quality assurance checks to ensure that applications consistently comply with IPA standards and to a sufficient level to meet OCDA and IPCO scrutiny
- monitor those applications which are returned for rework or rejected by OCDA and determine the reasons why
- provide organisational and/or individual training as and where necessary sharing best practice, advice and support
- be the point of contact between public authorities and OCDA

8.5.5 S60A of IPA provides for independent authorisation of communications data requests by the Investigatory Powers Commissioner (IPC). OCDA performs this function on behalf of the IPC. An authorising officer in OCDA can authorise any lawful request, for any of the specified purposes from any listed authority. For the City Council, the sole purpose is the ‘applicable crime purpose’.

8.5.6 The IPA provides a new requirement for a local authority making an application to ensure someone of at least the rank of Senior Responsible Officer is aware.

8.5.7 OCDA will only retain, for a limited period of time, the Communications Data applications which are sent to them and the decision document they issue back to public authorities. Public Authorities are therefore required to keep records of both the Communications Data applications that they issue as well as the decisions received from OCDA. Communications data, and all copies, extracts and summaries of it must be handled and stored securely. The requirements of the Data Protection Act 2018 and the principles of the Criminal Procedure and Investigations Act 1996 must be strictly followed.

8.5.8 Where the purpose of a Communications Data application is to identify a journalistic source, these must first be authorized by an Authorising Individual (OCDA AO or DSO) but must also be approved by an IPCO Judicial Commissioner (JC). The Applicant and SPOC should pay special consideration to these applications and inform their Senior Responsible Officer. The IPA does not alter the existing processes for Communications Data applications that may feature sensitive professions including medical doctors, lawyers, journalists, parliamentarians or ministers of religion. If the Communications Data could contain information relating to any of these professions, this must be noted in the application.

8.6 *Urgency*

Urgent authorisations are no longer available in relation to directed surveillance or covert human intelligence sources.

8.7 *Standard Forms*

All authorisations must be in writing.

Standard forms for seeking provisional directed surveillance and source authorisations are provided at [Appendices 3 & 4](#). The standard form for obtaining judicial approval is provided at [Appendix 5](#). All authorisations shall be sought using the standard forms as amended from time to time.

9. **Activities by other public authorities**

9.1 The investigating officer shall make enquiries of other public authorities e.g. the police whether they are carrying out similar activities if he considers that there is such a possibility in order to ensure that there is no conflict between the activities of this Council and those other public authorities.

10. **Joint investigations**

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

When some other agency (e.g. police, Customs & Excise, Inland Revenue etc.):

- (a) wish to use the City Council's resources (e.g. CCTV surveillance systems), that agency must use its own RIPA procedures and, before any officer agrees to allow the Council's resources to be used for the other agency's purposes, he must obtain a copy of that agency's RIPA form for the record and/or relevant extracts from the same which are sufficient for the purposes of protecting the Council and the use of its resources
- (b) wish to use the Council's premises for their own RIPA action, the officer should, normally, co-operate with the same, unless there are security or other good operational or managerial reasons as to why the Council's premises should not be used for the agency's activities. In such cases, the Council's own RIPA forms should not be used as the Council is only assisting and not being involved in the RIPA activity of the external agency being involved in the RIPA activity of the external agency.

In terms of (a), if the police or other agency wish to use the Council's resources for general surveillance, as opposed to specific RIPA authorisations, an appropriate letter requesting the proposed use, remit, duration, details of who will be undertaking the general surveillance and the purpose of it must be obtained from the police or other agency before any Council resources are made available for the proposed use.

11. Duration, renewals and cancellation of authorisations

11.1 Duration

Authorisations must be reviewed in the time stated and cancelled once no longer needed.

Authorisations last for:

- a) 12 months from the date of the judicial approval for the conduct or use of a source (4 months for juvenile CHIS authorisations)
- b) three months from the date of judicial approval for directed surveillance
- c) one month from the date of judicial approval for communications data, or earlier if cancelled under Section 23(8) of the Act.

However, whether the surveillance is carried out/conducted or not in the relevant period, does not mean that the authorisation is spent. Authorisations do not expire, they have to be reviewed, or cancelled if no longer required.

11.2 Reviews

The Authorising Officer shall undertake regular reviews of authorisations to assess the need for the surveillance to continue. The results of a review should be recorded on the central record of authorisations.

Where the surveillance provides access to confidential information or involves collateral intrusion the officer should conduct frequent reviews.

Standard review forms for directed surveillance and CHIS are available on the RIPA intranet pages.

11.3 Renewals

Authorisations may be renewed more than once, if necessary, and the renewal should be kept/recorded as part of the central record of authorisations

Authorisations can be renewed in writing shortly before the maximum period has expired. An authorisation cannot be renewed after it has expired.

The Authorising Officer must consider the matter afresh, including taking into account the benefits of the surveillance to date and any collateral intrusion that has occurred.

The renewal will begin on the day when the authorisation would have expired, provided the necessary judicial approval has been obtained.

A further requirement in relation to renewal of covert human intelligence sources, is that judicial approval will only be granted if the Magistrates are satisfied that a review has been carried out, which considers:

- the use made of the source in the period since authorisation was granted (or the last renewal); and
- the tasks given to the source during that period, and the information obtained from the conduct or use of the source.

and for the purposes of making an Order, the Magistrates have considered the results of that review. The Authorising Officer who granted or last renewed the authorisation must cancel it if he is satisfied that the investigative procedure no longer meets the criteria upon which it was authorised.

Standard renewal forms for the authorisation of directed surveillance and CHIS are available on the RIPA intranet pages.

11.4 Cancellations

An Authorising Officer shall cancel a notice or authorisation as soon as it is no longer necessary, or the conduct is no longer proportionate to what is sought to be achieved. The duty to cancel a notice falls on the authorising officer who issued it.

In the case of a notice issued in respect of communications data, the relevant postal or telecommunications operator will be informed of the cancellation.

Standard cancellation forms for directed surveillance and CHIS are available on the RIPA intranet pages.

12. Records

The City Council must keep a detailed record of all authorisations, reviews, renewals, cancellations and rejections in departments and a central register of all such forms will be maintained by the Director of Legal & Business Services.

In relation to communications data, the designated SpoC will retain the forms and the Director of Legal & Business Services, will have access to such forms as and when required.

12.1 Central record of all Authorisations

The Director of Legal and Business Services, shall hold and monitor a centrally retrievable record of all provisional and judicially approved authorisations. The Authorising Officer must notify and forward a copy of any provisional notice or authorisation granted, renewed or cancelled and any judicial approval received or refused within 1 week of the event to the Director of Legal and Business Services to ensure that the records are regularly updated.

The record will be made available to the relevant Commissioner or an Inspector from the Investigatory Powers Commissioner's Office. These records will be retained for a period of 5 years from the ending of the authorisation. A record will be kept of the dates on which the authorisation notice is started and cancelled.

The Director of Legal & Business Services will monitor the submission of provisional and judicially approved authorisations and notices and give appropriate guidance, from time to time, or amend any provisional or draft document as necessary. The records submitted to the Director of Legal & Business Services, shall contain the following information:

- a) the type of authorisation or notice
- b) the date the provisional authorisation or notice was given;
- c) name and rank/grade of the authorising officer;
- d) the date judicial approval was received or refused;
- e) the unique reference number (URN) of the investigation or operation;
- f) the title of the investigation or operation, including a brief description and names of subjects, if known;
- g) if the authorisation or notice is renewed, when it was renewed and who authorised the renewal, including the name and rank/grade of the authorising officer and the date of judicial approval;
- h) whether the investigation or operation is likely to result in obtaining confidential information;
- i) review dates
- j) the date the authorisation or notice was cancelled
- k) details of secure storage of surveillance data
- l) stipulated period during which any surveillance data obtained must be reviewed, retained or destroyed

12.2 Records maintained in the Department

The Authorising Officer shall maintain the following documentation, which need not form part of the centrally retrievable record:

- a) a copy of the application and provisional authorisation or notice together with a copy of any order of judicial approval or refusal, as well as any

supplementary documentation and notification of the approval given by the Authorising Officer;

- b) a record of the period over which the surveillance has taken place;
- c) the frequency of reviews prescribed by the Authorising Officer;

- d) a record of the result of each review of the authorisation or notice;
- e) a copy of any renewal of an authorisation or notice, together with judicial approval or refusal and the supporting documentation submitted when the renewal was requested;
- f) the date and time when any instruction was given by the Authorising Officer;
- g) the unique reference number for the authorisation (URN);
- h) the stipulated period during which any surveillance data obtained must be reviewed, retained or destroyed

Each form must have a URN. The Authorising Officers will issue the relevant URN to applicants. The cross-referencing of each URN takes place within the form for audit purposes. Rejected forms will also have URN's.

12.3 Other Record of Covert Human Intelligence Sources

Proper records must be kept of the authorisation and use of a source. An Authorising Officer must not grant a provisional authorisation for the use or conduct of a source unless he believes that there are arrangements in place for ensuring that there is at all times a person with the responsibility for maintaining a record of the use made of the source. The records must be kept confidential. Further advice should be sought from the Director of Legal and Business Services on this point if authority is proposed to be granted for the use of a CHIS.

The records shall contain the following information:

- (a) the identity of the source;
- (b) the identity, where known, used by the source;
- (c) any relevant investigating authority other than the Council;
- (d) the means by which the source is referred to within each relevant investigating authority;
- (e) any other significant information connected with the security and welfare of the source;
- (f) any confirmation made by a person granting or renewing an authorisation for the conduct or use of a source that the information in paragraph (d) 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;
- (g) the date when, and the circumstances in which, the source was recruited;
- (h) the identities of the persons who, in relation to the source;
 - i. hold day-to-day responsibility for dealing with the source and for the source's security and welfare
 - ii. have a general oversight of the use made of the source (not to be the person identified in (h)(i))
 - iii. have responsibility for maintaining a record of the use made of the source
- (i) the periods during which those persons have discharged those responsibilities;
- (j) the tasks given to the source and the demands made of him in relation to his

- activities as a source;
- (k) all contacts or communications between the source and a person acting on behalf of any relevant investigating authority;

- (l) the information obtained by the conduct or use of the source;
- (m) any dissemination of information obtained in that way; and
- (n) in the case of a source who is not an undercover operative, every payment, benefit or reward and every offer of a payment, benefit or reward that is made or provided by or on behalf of any relevant investigating authority in respect of the source's activities for the benefit of that or any other relevant investigating authority.

13. Retention and destruction

13.1 Material obtained from properly authorised surveillance or a source may be used in other investigations. Arrangements shall be in place for the handling, storage, review and destruction of material obtained through the use of covert surveillance, a source or the obtaining or disclosure of communications data. Authorising Officers must ensure compliance with the appropriate data protection requirements, any legal constraints on destruction and the council's corporate policies relating to the handling and storage, review and destruction of material. The authorisation must stipulate the period during which the surveillance data may be retained, reviewed and destroyed. This will also be recorded on the central record of authorisations and in the records maintained in the department (see paragraphs 12.1 and 12.2).

13.2 Where the product of surveillance could be relevant to pending or future proceedings, it should be retained in accordance with established disclosure requirements for an appropriate period and subject to review. Reviews must be conducted at regular intervals to ensure that the justification for retention is still valid. Records shall generally be maintained for a period of 5 years from the cancellation of the authorisation, following which they shall be securely destroyed in accordance with the council's Records Review and Retention Schedule.

13.3 As detailed in paragraphs 12.2 and 12.3, Applicants and Authorising Officers must keep copies of completed RIPA forms, but care must be taken to ensure any copies are stored securely, reviewed and disposed of in accordance with the relevant legal framework and the council's Records Review and Retention Schedule. It is good practice for officers who will be carrying out surveillance to retain a copy of the authorisation as a reminder of exactly what has been authorised. Under the Criminal Procedure and Investigations Act 1996 and its Code of Practice, case files are required to hold original documents for court action.

13.4 All data obtained under RIPA must be secured against unauthorised interference and clearly labelled and stored in such a way to enable compliance with data retention and disposal. This requirement will apply to information which is shared with other teams for the purpose of any investigation or to determine legal action to be undertaken.

13.5 All data obtained under RIPA must be stored in a secure manner using password protection or restricted access files. All RIPA records, whether in original form or copies shall be kept in secure locked storage when not in use. Storage must be in council premises to which access is restricted. Both physical and IT security, as appropriate, must be in place to secure the material.

13.6 A display of personal data or operational data on a computer screen should only take

place in a setting in which no unauthorised person is present.

13.7 Transmission of surveillance data must be limited to that strictly necessary for the purposes of the investigation. All recipients of data obtained under RIPA must be limited to such information as is strictly necessary for the purposes of the investigation and such information to be retained only as long as is necessary and in accordance with the council's Records Review and Retention Schedule. Review and disposal of data must be recorded on each occasion on the council's Records Review Log.

13.8 Officers within the same team who need to be aware of the investigation and have a demonstrable 'need to know', should be granted access to the data held on the relevant computer system (for example Uniform or Iken), rather than multiple copies of the data being emailed.

13.9 In the absence of a court order, disclosure to third parties, such as the police, can only be authorised by the council's senior responsible officer. Such disclosures must be recorded in writing and satisfy all legal tests. Disclosure must be the minimum necessary and only for an authorised purpose as set out below:

- is, or is likely to become, necessary for any of the statutory purposes set out in the RIPA Act in relation to covert surveillance or CHIS activity;
- is necessary for facilitating the carrying out of the functions of public authorities under RIPA;
- is necessary for facilitating the carrying out of any functions of the Commissioner or the Investigatory Powers Tribunal;
- is necessary for the purposes of legal proceedings; or
- is necessary for the performance of the functions of any person by or under any enactment.

14. Consequences of ignoring RIPA

14.1 RIPA states that if authorisation confers entitlement to engage in a certain conduct and the conduct is in accordance with the authorisation, then it shall be lawful for all purposes.

Where there is interference with the right to respect for private and family life guaranteed under Article 8 of the European Convention on Human Rights, and where there is no other source of lawful authority, the consequence of not obtaining an authorisation under RIPA may be that the action is unlawful by virtue of section 6 of the Human Rights Act 1998.

Officers shall seek an authorisation where the directed surveillance, the use of a source or the obtaining or disclosure of communications data is likely to interfere with a person's Article 8 rights to privacy by obtaining private information about that person, whether or not that person is the subject of the investigation or operation.

Obtaining an authorisation will ensure that the action is carried out in accordance with law and subject to stringent safeguards against abuse.

15. Scrutiny of investigatory bodies

15.1 The Investigatory Powers Commissioner's Office independently scrutinises the use of RIPA powers by the investigatory bodies that are subject to it.

The Commissioner will inspect Councils to ensure compliance with RIPA and can audit/review the Council's policies and procedures, and individual authorisations. Further detail can be found at www.ipco.org.uk

15.2 There is also a statutory complaints system welcomed by the Council. The Investigatory Powers Tribunal has been established under RIPA to deal with complaints from members of the public about the use or conduct by public authorities of these powers. The Tribunal is separate from IPCO.

The Council welcomes this external scrutiny. It expects its officers to co-operate fully with these statutory bodies and to bring forward any proposals for improvement that may follow on from an inspection report or a Tribunal hearing.

**IF IN DOUBT ADVICE MUST BE SOUGHT FROM THE DIRECTOR OF LEGAL AND
BUSINESS SERVICES OR THE CORPORATE LEGAL TEAM**

Agenda Item 6

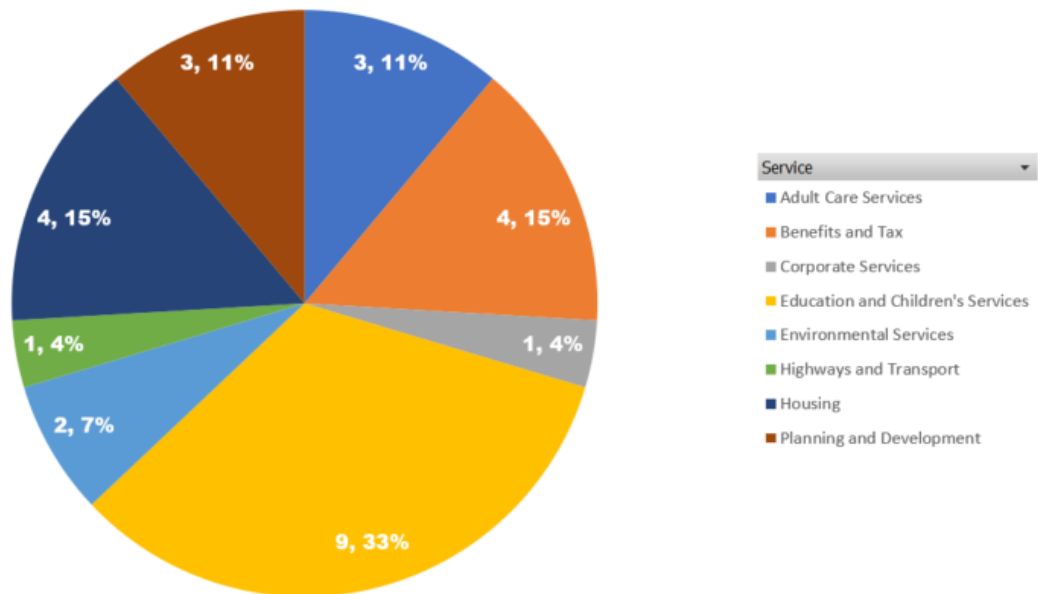
DECISION-MAKER:	GOVERNANCE COMMITTEE		
SUBJECT:	SOUTHAMPTON CITY COUNCIL COMPLAINTS ANNUAL REVIEW 2021/22		
DATE OF DECISION:	26 SEPTEMBER 2022		
REPORT OF:	DIRECTOR: LEGAL & BUSINESS SERVICES		
<u>CONTACT DETAILS</u>			
AUTHOR:	Name:	Sarita Riley, Head of Legal Partnership	Tel: 023 8083 3218
	E-mail:	Sarita.riley@southampton.gov.uk	
Director	Name:	Richard Ivory	Tel: 023 8083 2794
	E-mail:	Richard.ivory@southampton.gov.uk	
STATEMENT OF CONFIDENTIALITY			
N/A			
BRIEF SUMMARY			
This report summarises the type and number of Housing and Local Government and Social Care Ombudsman complaints, including the annual review for the same period.			
Housing Ombudsman Complaints		1 total for 2021/22	
LGSCO Complaints		26 total for 2021/22	
<p>The Complaints Resolution Team (CRT), based in Legal and Business Operations, administers complaints independently from all areas within the Council (stage 2) that the service area has been unable to resolve at initial point of contact (Stage 1), alongside and responsible to the Head of Legal Services Partnership who acts as the Council's single point of contact for Local Government and Social Care Ombudsman (LGSCO) and Housing Ombudsman (HO) complaints.</p> <p>The Complaints Resolution Team annual complaints review will be submitted separately to this report; this report focusses on the annual report received from the LGSCO on complaints referred on to them during 2021/22.</p>			
RECOMMENDATIONS:			
	(i)	That the report be noted and to offer any feedback on governance or performance relating to the Ombudsman complaints, to inform or improve future service delivery.	
REASONS FOR REPORT RECOMMENDATIONS			
1.	To update members of this Committee on performance trends and any learning points arising out of complaints made by the public to the LGSCO or HO during 2021/22. Identifying these issues assists the Council in understanding where things have "gone wrong" in the past year in order to improve service delivery, in particular focusing on areas where the Council's own complaints systems have been unable to resolve a complaint to the satisfaction of the complainant.		
2.	This report is presented to Governance Committee for information, learning points and feedback purposes.		

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED				
3.	N/A. The LGSCO requires the Council to report and consider complaints trends and outcomes annually with members and senior management.			
DETAIL (Including consultation carried out)				
4.	The effective and responsive management of complaints is a vital part of the Council's overall approach to customer care. In addition, the customer feedback, that valid complaints provide, can be used to improve service delivery, facilitate Council-wide learning and demonstrate continuous improvement.			
5.	At the conclusion of a complaints investigation, the complainant is advised that if they are not satisfied with the outcome, they may pursue their complaint to the LGSCO or the HO. This provides the customer with an entirely independent source of redress if they remain aggrieved. The Council works closely with the LGSCO or HO to resolve outstanding complaints where appropriate. Only a very small percentage of complaints will be considered by the LGSCO which demonstrates the Council is overall very effective at dealing with service requests and complaints internally to a high level of resolution or satisfaction.			
6.	LGSCO complaints, the final 'independent' stage for all complaints processes, are dealt with by the Head of Legal Partnerships on behalf of the Council. The LGSCO (the Commission for Local Administration in England) provides an independent review of all complaints falling within their jurisdiction. The Housing Ombudsman performs a similar function for landlord related complaints. Housing policy and non-landlord related functions fall to the LGSCO to consider. In an effort to simplify outcomes for complainants the LGSCO has in recent years moved from findings of 'Maladministration' and 'Injustice' to a more commonly understood term 'fault'. If 'fault' is found a complaint is recorded as upheld, even if the fault was relatively minor or the Council has already taken steps to remedy that fault and the LGSCO is satisfied with the remedy offered by the Council. All findings are now reported on the LGSCO website within 3 months of the decision being published and an annual report on performance issued to Councils in late July / early August.			
7.	Statutory reports still remain the highest 'fault' finding the LGSCO can make. These require the Council's Monitoring Officer to prepare a report for consideration at full Council following a period of statutory publication of the findings. None have been prepared in recent years. Councils that fail to co-operate with the LGSCO or any of their findings may be subject to enforcement action and ultimately Judicial Review.			
<u>Local Government & Social Care Ombudsman(LGSCO) & Housing Ombudsman Complaints</u>				
8.	Complaints Received – LGSCO			
9.		2019/20	2020/21	2021/22
	Complaints received	59	19	28
	Decisions made	57	19	26
	Statutory reports	0	0	0
	Upheld	7 (70%)	8 (67%)	3 (43%)
	Not upheld	3 (30%)	4 (33%)	4 (57%)
	Closed/Invalid, etc	25	7	19

Premature complaints	22	0	2
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10.

Breakdown of Service Area - complaints received 2021/22



11.

When comparing data from previous years to allow authorities to respond to the Covid-19 pandemic, the Ombudsman did not accept any new complaints and stopped investigating existing cases between March and June 2020, hence the low number of complaints received in 2020/21. Although staffing levels at both the Ombudsman and the Council have now returned to normal levels as of time of writing, the 2021/22 year was still partially affected by the pandemic, therefore showing a slight increase in number of complaints but still significantly fewer than pre-pandemic levels. This reduced number of complaints can also be attributed to the consistent policy changes and reviews put in place by the Council over the past few years.

47% of considered complaints were upheld during 2021/22, this compares favourably to the average of 64% in similar authorities. The Council also received a 100% score of compliance with Ombudsman recommendations, with an average of 99% elsewhere.

In 67% of the upheld cases, the Council had already provided a satisfactory remedy before the complaint reached the Ombudsman, demonstrating significant improvement in how complaints are handled, reviewed and progressed within the Council. The average in other authorities is just 12%.

As shown in the above chart, the number of complaints (including those with no further action) regarding Education and Children's Services (9) still outweigh other areas of the Council, showing as 33% of all complaints overall. There was a wide array of complaints received in areas such as Benefits & Tax (4), Environmental Services (2), Housing (4) and Planning (3). This could be due to difficulties citizens have faced over the two-year pandemic and suspension or delays in delivery areas.

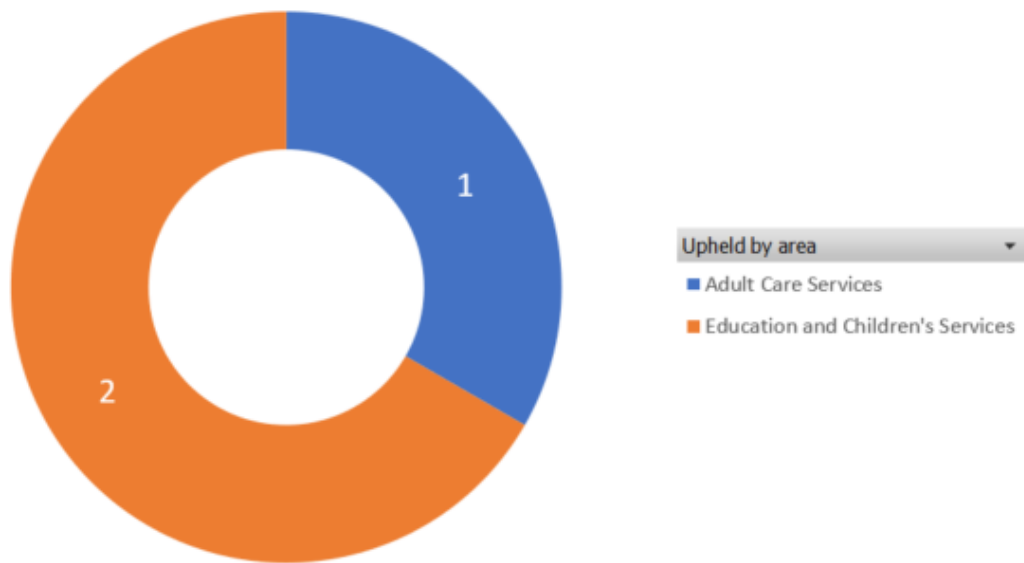
Housing Ombudsman

Just one complaint had a determination from the Housing Ombudsman in 2020/21. In recent years there have been no such determinations from the HO. Initial enquiries are received from the Housing Ombudsman with instructions to the Landlord to follow up where required but these are not logged as determinations.

LGSCO Complaints Upheld by area and detail 2021/2022

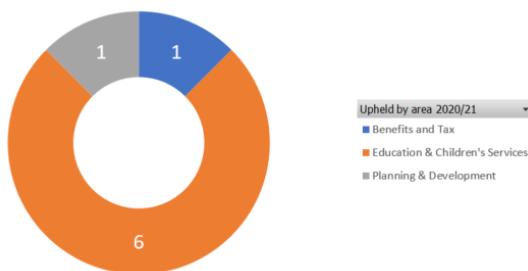
12.

Upheld by area 2021/22

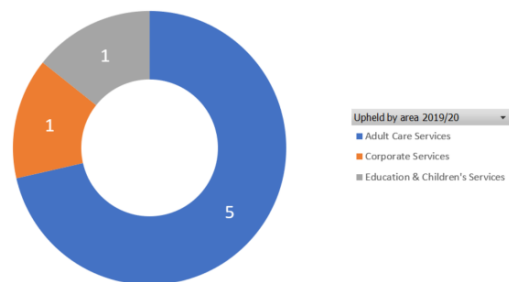


13.

Upheld by area 2020/21



Upheld by area 2019/20



14.

Of the three upheld complaints, two were in Education and Children's Services with the remaining upheld complaint in Adult Social Care. The complaint upheld in Adult Social Care, including the financial redress, had already been logged in the previous year. The case was reopened in November 2021, additionally upheld in this year but with no further financial compensation. Of the two upheld complaints in Education and Children's Services, one was sent an apology as per the recommended actions from the LGSCO, and the second was awarded £250 for inconvenience which was sent with a letter of apology giving a total of £250 financial redress overall for 2021/22.

15.	<p><u>Further information on upheld matters:</u></p> <p>Education and Children’s Services. 1st complaint upheld: The original complaint concerned how the Council supported Mrs X and her three children, mentioning it did not complete assessments of their needs and failed to rehouse the family after learning her house was unsafe. The Council was found at fault for delays in completing assessments and reviews, however this did not cause Mrs X an injustice. The Council was not at fault in how it made her housing decision. Action: The Council was to remind staff to hold CIN reviews in the timescales specified in the assessment and sent a full letter of apology to Mrs X.</p> <p>Education and Children’s Services. 2nd complaint upheld: The second upheld complaint was regarding the actions of the Council and Chair during a child protection conference leading to frustration and loss of faith in the Council. Action: The Council sent £250 to Mrs B for the frustration caused.</p> <p>Adult Care Services. Complaint upheld: This was a complaint originally registered in 2020 and reopened in August 2021, regarding the length of time taken by the Council to increase personal expenses allowance. Mr P was recompensed in 2020/21. Action: on this occasion the Council waived all charges up to 19th December 2020 to remedy any injustice caused by the delay in completing the appeal.</p>
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How does Southampton compare?

16.	<p>The table below shows how Southampton performs against key local and unitary comparators (detailed investigations and overall % upheld). This is an edited snapshot of total number of detailed investigations and the percentage upheld and is not intended to give more than a brief overview of comparative pressures / performance. More detail, and statistics for all other Councils, is included in the LGSCO Annual Report referred to above.</p>
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17.	Area comparison	2021/22 (Uphold rate)	2020/21 (Uphold rate)	2019/20 (Uphold rate)
	Bournemouth	22 (65%)	9 (69%)	5 (42%)
	Bristol	22 (65%)	19 (83%)	33 (61%)
	Brighton & Hove	21 (75%)	12 (75%)	17 (53%)
	Hampshire	35 (83%)	27 (87%)	38 (55%)
	Plymouth	11 (73%)	14 (78%)	23 (52%)
	Portsmouth	4 (33%)	2 (50%)	11 (55%)
	Southampton	3 (47%)	8 (67%)	10 (70%)

18.	<table border="1"> <caption>Uphold Rates by Authority and Year</caption> <thead> <tr> <th>Authority</th> <th>Sum of 2019/20</th> <th>Sum of 2020/21</th> <th>Sum of 2021/22</th> </tr> </thead> <tbody> <tr> <td>Southampton</td> <td>70%</td> <td>67%</td> <td>67%</td> </tr> <tr> <td>Portsmouth</td> <td>55%</td> <td>50%</td> <td>33%</td> </tr> <tr> <td>Plymouth</td> <td>52%</td> <td>78%</td> <td>73%</td> </tr> <tr> <td>Hampshire</td> <td>55%</td> <td>87%</td> <td>83%</td> </tr> <tr> <td>Bristol</td> <td>61%</td> <td>83%</td> <td>65%</td> </tr> <tr> <td>Brighton & Hove</td> <td>53%</td> <td>75%</td> <td>75%</td> </tr> <tr> <td>Bournemouth</td> <td>42%</td> <td>69%</td> <td>65%</td> </tr> </tbody> </table>	Authority	Sum of 2019/20	Sum of 2020/21	Sum of 2021/22	Southampton	70%	67%	67%	Portsmouth	55%	50%	33%	Plymouth	52%	78%	73%	Hampshire	55%	87%	83%	Bristol	61%	83%	65%	Brighton & Hove	53%	75%	75%	Bournemouth	42%	69%	65%
Authority	Sum of 2019/20	Sum of 2020/21	Sum of 2021/22																														
Southampton	70%	67%	67%																														
Portsmouth	55%	50%	33%																														
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Bristol	61%	83%	65%																														
Brighton & Hove	53%	75%	75%																														
Bournemouth	42%	69%	65%																														
19.	<p>Full details of both the Council’s annual performance letter and the LGSCO Annual Review can be viewed on www.LGSCO.org.uk</p> <p>Whilst Southampton’s results are not perfect, we have performed in a very favourable light against similar authorities, with our uphold rate, both in sum and percentage, on a steady decrease over recent years.</p>																																
20.	<p><u>Learning from complaints</u></p>																																
21.	<p>As of 2018/2019, new and updated guidance was developed with regard to process and investigation of complaints, together with advice and guidance from the LGSCO and published on the Southampton City Council intranet to aid managers and others tasked with resolving complaints.</p> <p>There are still areas to address within Education and Children’s Services, specifically with regard to communication and delays in responding which have been highlighted in these upheld matters during 2021/22. Work is ongoing with Children’s as they work through their ‘Destination 22’ programme to improve management oversight of early stages of complaints and in bed quality assurance of complaints at an earlier stage in the process and improve the quality and access to data held of complaints.</p>																																
22.	<p>In last year’s report, the results for 2020/21 showed an overall reduction in the number of complaints received, mainly due to the Council and Ombudsman responding to the Covid-19 pandemic, however the 67% uphold rate demonstrated that more attention was required, especially within Education and Children’s Services.</p> <p>During 2021/22, there were still resource difficulties and delays due to the ongoing pandemic, but the overall number of complaints, the number upheld and the percentage have dropped contrary to the predicted rising trend in last year’s report. As mentioned above, Education and Children’s Services are still the largest area of complaint overall but with continued guidance and advice from the LGSCO and within the Council, there may not be such a rise again in forthcoming years.</p>																																

23.	As we have improved in the area of providing satisfactory remedies prior to the Ombudsman receiving complaints (67%), and far exceed the average of similar authorities (12%), this demonstrates improvements in the SCC Complaints Procedure and commitment from service areas. It is difficult to identify any real common themes with very low numbers such as these, especially during the pandemic, but the majority of complaints are down to lack of communication and delays in processing or implementing earlier promised remedies which have resulted in letters of apology and financial redress where recommended.
RESOURCE IMPLICATIONS	
<u>Capital/Revenue</u>	
24.	.Service areas are responsible for all complaint costs and remedies funded from within existing service budgets.
<u>Property/Other</u>	
25.	N/A
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
26.	Section 111 Local Government Act 1972 and Section 1 Localism Act 2011.
<u>Other Legal Implications:</u>	
27.	Individual complaints touch on a wide variety of Council duties and powers which are taken into account (alongside pervasive legislation such as the Equalities Act 2010) when reviewing and responding to customer complaints and areas of service recovery or improvement.

KEY DECISION?	No
WARDS/COMMUNITIES AFFECTED:	None
<u>SUPPORTING DOCUMENTATION</u>	
Appendices	
1.	None.

Documents In Members' Rooms

1.	None.
Equality Impact Assessment	
Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.	No
Data Protection Impact Assessment	
Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out.	No
Other Background Documents	
Other Background documents available for inspection at:	

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)	
1.		
2.		

Agenda Item 7

DECISION-MAKER:	Governance Committee
SUBJECT:	Annual Governance Statement 2021-22
DATE OF DECISION:	26 th September 2022
REPORT OF:	COUNCILLOR LEGGETT CABINET MEMBER FOR FINANCE AND CHANGE

<u>CONTACT DETAILS</u>			
Executive Director	Title	Executive Director for Finance and Commercialisation and Section 151 Officer	
	Name:	John Harrison	Tel: 023 8083 4879
	E-mail	john.harrison@southampton.gov.uk	
Author:	Title	Risk & Insurance Manager	
	Name:	Peter Rogers	Tel: 023 8083 2835
	E-mail	peter.rogers@southampton.gov.uk	

STATEMENT OF CONFIDENTIALITY	
Not applicable	
BRIEF SUMMARY	
<p>The Accounts and Audit Regulations require that the Council develop and publish an Annual Governance Statement ('AGS'). The purpose of the AGS, which is published with the Statement of Accounts ('SoA'), is to provide an accurate representation of the corporate governance arrangements in place during the year and to identify areas where there are significant gaps or where improvements are required.</p> <p>In accordance with CIPFA Guidance, Audit [Governance] Committees should review and approve the final draft of the AGS, in advance of the SoA, prior to the document being presented to the Chief Executive and Leader of the Council for signing.</p>	
RECOMMENDATIONS:	
(i)	To review and approve the draft 2021-22 AGS (Appendix 1);
REASONS FOR REPORT RECOMMENDATIONS	
1.	The Governance Committee has responsibility to provide independent assurance on the adequacy of the risk management framework and the internal control and reporting environment, including (but not limited to) the reliability of the financial reporting process and the AGS.
2.	This responsibility extends to receiving, reviewing, and approving the draft AGS prior to the document being presented to the Chief Executive and Leader of the Council for signing.
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED	
3.	No alternative options have been considered. The development and publication of an AGS is a requirement under the Accounts and Audit Regulations.
DETAIL (Including consultation carried out)	

4.	At the meeting on 25th July 2022, the Governance Committee was invited to comment on a draft of the AGS. This is in accordance with CIPFA guidance which recommends that “the AGS is first reviewed by members of the Audit [Governance] Committee at an early stage to allow comments and contributions to be made.
5.	The most significant change to the attached revised draft 2021-22 AGS is the inclusion of the highlighted section regarding the ‘Impact of the Covid-19 Pandemic on Governance’. The Committee will recall that the previous draft referred to this section needing to be completed recognising that, in accordance with CIPFA guidance, the AGS should be current at the time that it is published. For the same reason the section that refers to the Corporate Plan has also been revised to make reference to the new draft 2022-2030 Corporate Plan.
6.	Other changes are also highlighted and reflect comments and updates received from officers.
7.	The revised draft AGS has been shared with the Executive Management Board and also with the Chief Executive and the Leader of the Council in recognition that they will be required to sign the final approved version.
8.	As per the process adopted in previous years, and in accordance with good practice, the Governance Committee will be provided with a mid-term update report in respect of the status of the ‘Planned Actions’.

RESOURCE IMPLICATIONS

Capital/Revenue

9. None

Property/Other

10. None

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

11. Regulation 6 (1) of the Accounts and Audit (England) Regulations 2015 require that the Council must each financial year conduct a review of the effectiveness of the system of internal control and prepare an AGS for approval by a committee or members of the authority. The AGS must be approved in advance of the relevant authority approving the SoA.

Other Legal Implications:

12. None

RISK MANAGEMENT IMPLICATIONS

13. None

POLICY FRAMEWORK IMPLICATIONS

14. None

KEY DECISION?	No
WARDS/COMMUNITIES AFFECTED:	Not applicable
<u>SUPPORTING DOCUMENTATION</u>	

Appendices	
1.	Draft Annual Governance Statement 2021-22
Documents In Members' Rooms	
1.	n/a
Equality Impact Assessment	
Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.	No
Data Protection Impact Assessment	
Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out.	No
Other Background Documents	
Other Background documents available for inspection at:	
Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
1.	
2.	

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Annual Governance Statement

SCOPE OF RESPONSIBILITY

Southampton City Council (“the council”) is responsible for ensuring that its business is conducted in accordance with the law and proper standards, and that public money is safeguarded and properly accounted for, and used economically, efficiently, and effectively. The council also has a duty under the Local Government Act 1999 to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency, and effectiveness.

In discharging this overall responsibility, the council is responsible for putting in place proper arrangements for the governance of its affairs, and facilitating the effective exercise of its functions, which includes arrangements for the management of risk.

The council has approved and adopted a Code of Corporate Governance that is consistent with the principles of the ‘Delivering Good Governance in Local Government: Framework (CIPFA/Solace, 2016). A copy of the code is on our website at:

<http://www.southampton.gov.uk/council-democracy/corp-governance/>

or can be obtained from the:

Service Director – Legal and Business Operations
Southampton City Council,
Civic Centre,
Southampton,
SO14 7LY

This statement explains how the council has complied with the local code and also meets the requirements of the Accounts and Audit (England) Regulations 2015, Regulation 6(1), which requires all relevant bodies to prepare an annual governance statement.

THE PURPOSE OF THE GOVERNANCE FRAMEWORK

The governance framework comprises the systems and processes, cultures, and values by which the council is directed and controlled and its activities through which it accounts to, engages with, and leads its communities. To demonstrate compliance with the principles of good corporate governance, the council must ensure that it does the right things, in the right way, for the right people, in a timely, inclusive, open, honest, and accountable manner.

Good governance is crucial as it leads to good management, good performance, good stewardship of public money, good public engagement and ultimately good outcomes for citizens and service users. Further, good governance enables an authority to pursue its aims effectively whilst controlling and managing risk.

The system of internal control is designed to manage risk to a reasonable level. It cannot eliminate all risk of failure to achieve policies, aims and objectives and can therefore only provide reasonable and not absolute assurance of effectiveness. The system of internal control is based on an ongoing process designed to identify and prioritise the risks to the achievement of the council’s policies, aims and objectives, to evaluate the likelihood and potential impact of those risks being realised, and to manage them efficiently, effectively, and economically.

The governance framework has been in place at the council for the year ended 31st March 2022 and up to the date of approval of the statement of accounts.

Annual Governance Statement

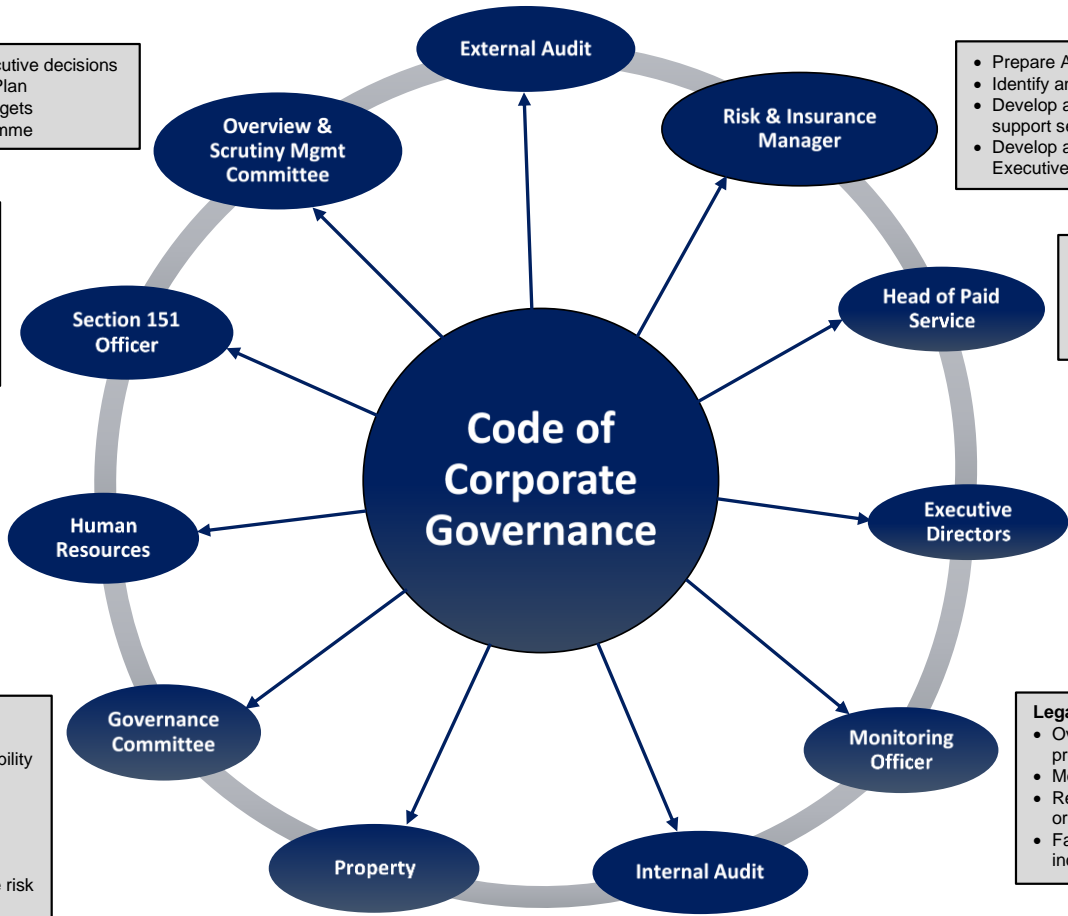
GOVERNANCE ROLES & RESPONSIBILITIES

- Provide Annual Audit Letter and Audit Results Report
- Undertake Financial Statement Audit
- Develop and publish a Value for Money Commentary
- Provide opinion on conclusions relating to going concern
- Develop and deliver an Audit Process and Strategy

- Exercise power to call-in executive decisions
- Scrutinize items on Forward Plan
- Monitor performance and budgets
- Agree scrutiny inquiry programme

- Prepare Annual Governance Statement
- Identify and collate sources of assurance
- Develop and maintain Risk Management Policy and support service areas in the management of risk
- Develop and manage the Strategic Risk Register with Executive Directors

- Financial Management**
- Develop Medium Term Financial Strategy
 - Safeguard public monies
 - Promote, support and deliver good financial management
 - Provide financial input on all major decisions



- Executive Management Board**
- Lead the Executive Management Board in driving forward strategic agenda
 - Organise and manage service delivery
 - Develop and deliver Council Strategy

- Facilitate staff recruitment & selection
- Develop and provide Learning & Development opportunities including new staff induction
- Develop and maintain range of HR policies including Performance Management, Codes of Conduct, Conditions of Service etc

- Service Delivery**
- Develop Business Plans that are aligned with key programmes and priorities
 - Review and manage performance and budgets
 - Manage and mitigate risk
 - Respond to inspection and other assurance type reviews or reports

- Standards, Assurance / Ethics**
- Oversee standards, ethics and probity
 - Promote culture of openness, accountability and probity
 - Lead on all aspects of Corporate Governance
 - Investigate alleged breaches of the Members Code of Conduct.
 - Seek assurance on the adequacy of the risk management framework and internal control environment.
 - Ensure that assets are safeguarded and proper accounting records maintained
 - Ensure independence of audit;
 - Monitor financial and non-financial risks (including measures to protect and respond to fraud).

- Asset Management**
- Manage and maintain Property Asset database
 - Manage property acquisitions and disposals
 - Undertake condition surveys
 - Develop property investment strategy

- Assurance**
- Develop and maintain Internal Audit Charter
 - Produce and deliver Internal Audit Annual Plan
 - Review, evaluate and report on internal controls
 - Report to Governance Committee including the 'Annual Report and Opinion'
 - Develop and maintain Anti-Fraud and Corruption Policy and associated policies

- Legal & Ethical Assurance**
- Oversee compliance with established policies, procedures, laws and regulation
 - Monitor ethical standards
 - Report actual or potential breaches of the law, or maladministration
 - Facilitate annual review of Council Constitution including Scheme of Delegation.

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The Governance Framework

The fundamental function of good governance is to ensure that the council achieves its intended outcomes while acting in the public interest at all times. The following core, high level, principles in Sections A to G reflect the 7 core principles of good governance in the public sector are derived from the 'Delivering Good Governance in Local Government: Framework (CIPFA/Solace, 2016)'.

Impact of the Covid-19 Pandemic on Governance

The national and international public health emergency caused by the Covid-19 pandemic has had substantial impact on the city and the council. These have included implications for the provision of services, our workforce and the council's financial position. Effective leadership and governance of the response and recovery have, and continue to be, critical as we emerge from the worst impacts of the pandemic. The focus is now on the city's longer-term recovery, including its economy, its residents and communities.

Throughout 2021/22, actions continued to be implemented to facilitate a resumption of normal business as far as possible and as quickly as possible once the impact of the pandemic began to ease and in line with the Government's 'Living with Covid' plan. Procedures were put in place to enable corporate buildings to reopen with appropriate 'Covid-safe' arrangements, albeit with reduced capacity, until national restrictions were lifted in February 2022. Working practices were stabilised with a move to a flexible and hybrid working approach that enables all staff who can work from home or another location (with their mobile device) to consider where they can best work, taking into account team and business needs. This was supported by the increased capacity of the remote connection to make it more reliable and increase the range of services available outside of the office. Within the offices Audio Visual (AV) equipment has been installed in meeting rooms across the council in order to facilitate hybrid meetings whereby some attend virtually and others are physically present in a meeting room.

The council's response to Covid required both Corporate and Service Business Continuity plans to be used to ensure that critical services were able to be maintained, and for its emergency planning structure (comprising 'Gold' & 'Silver' Command Groups) to be enacted. These senior manager and officer groups met to discuss, recommend and agree key operational and service delivery matters. This structure was formally stood down in August 2021 as the organisation reverted to 'business as usual' operations.

The relevant Coronavirus Act powers, that allowed for virtual committee meetings from 19th May 2020, only applied to council meetings that took place before 7 May 2021. Thereafter decision-making Member meetings had to revert to meeting physically which, at the time, required significant adjustments to meeting arrangements including face-to-face Full Council meetings involving all 48 councillors. This presented a significant challenge however the decision-making processes of the council were maintained in compliance with the legislative requirements.

The local City Council and Police and Crime Commissioner elections due in May 2020, but postponed in line with government direction at the time, were held on 6th May 2021. This was a combined poll including the Police and Crime Commissioner elections for Hampshire and local city Councillor elections across Southampton. Local City council elections were also held in May 2022 as per the normal electoral cycle. In both instances, a range of Covid-19 safety measures and precautions were in place and communicated including a campaign to promote the opportunity of postal voting (across traditional and social media channels).

The council continues to reflect on lessons learnt from the Covid-19 pandemic as the medium and longer-term impacts emerge, with the focus on delivering and maintaining services for residents which are efficient, effective and deliver value for money using available resources.

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A. Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law.

The council's Constitution sets out how the council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent, and accountable to local people. Some of these processes are required by the law, while others are a matter for the council to choose. The Constitution is divided into 15 Articles which set out the basic rules governing the council's business. The Constitution is published on the council's website at:

<http://www.southampton.gov.uk/council-democracy/meetings/council-constitution.aspx>

The Constitution includes both Officers' and Members' Codes of Conduct which set out the expected behaviour and standards to be adhered to. In addition, there is a Code of Conduct for Employees which states the standards of conduct and behaviour expected of them in the course of their employment and where this extends into activities and interests outside of work.

The Service Director: Legal and Business Operations is the Monitoring Officer and has responsibility for ensuring compliance with established policies, procedures, laws, and regulations, and reporting any actual or potential breaches of the law, or maladministration, to full Council and/or to Cabinet.

A 'Whistleblowing Policy' (Duty to Act) is in place and published on the council's website. Whistleblowing is a way for employees to raise reasonably and honestly held concerns they may have about serious matters that could put the council and/or the wider public at risk. Whistleblowing usually involves bringing forward concerns that it is in the public interest to investigate and resolve. Examples are fraud, the giving or taking of bribes, financial malpractice, or practices that might endanger individuals or the environment.

As part of the commitment to safeguard public funds there is an 'Anti-Fraud, Bribery and Corruption Policy' that applies to any actual or suspected internal or external fraud, bribery, corruption, and dishonest dealing that involve the council and or its Members and staff. It also applies to contractors, suppliers, partners, agents, intermediaries, and service users. The council also has in place an 'Anti-Money Laundering' policy which sets out the expectations and responsibilities of both officers and Members in respect of preventing criminal activity through money laundering. This policy details the procedures that must be followed (for example reporting of suspicions of money laundering activity) to enable the council and staff to comply with their legal obligations.

Investigations and special reviews into suspected fraud or irregularities are overseen by an 'Investigation Steering Panel', comprising the Monitoring Officer, Chief Internal Auditor, Section 151 Officer (Chief Finance Officer) and the Service Director - Human Resources & Organisational Development.

The council takes any complaint that it receives seriously and has processes to ensure that every complaint is dealt with fairly and investigated and responded to as quickly as possible. The council welcomes hearing customers' comments, compliments, and complaints to better understand how they view our services and use these valuable opportunities to learn and improve for the future. There is a Corporate Services and Adult Social Care 'Customer Comments, Compliments and Complaints Policy' that is published on the council's website and explains how to make a complaint and how it will be dealt with. There is also a separate 'Children Statutory Complaint Procedure' which is also published on the council's website. Both policies were reviewed and updated in 2021/22. In addition, a "paper" complaints form has been designed and made available at "in person" contact points e.g. Libraries and Housing Offices etc, in order to make complaints compliments and comments accessible to those without internet access.

Complaints relating to the conduct of Members are dealt with under the Members' Code of Conduct.

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The council's 'Social Value and Green City Procurement Policy' reflects a commitment to proactively work to ensure that all goods, works and services that it procures are sourced ethically and sustainably; both in the way the council procures and in terms of the standards that the council expects its suppliers, service providers and contractors to meet.

The council also has in place a Modern Slavery and Human Trafficking Statement sets out the Council's current position and future plans to understand all potential modern slavery risks related to its business and to put in place steps that are aimed at ensuring that there is no slavery or human trafficking in its own business and/or in its supply chains. In addition, there is e-learning training and associated guidance available to all staff.

B. Ensuring openness and comprehensive stakeholder engagement

The council supports the principle that people should have the opportunity to voice their opinions on issues that affect them. The views of customers are at the heart of the council's service delivery arrangements and are actively sought. The council's website includes a 'Have your say' section which provides information to residents, customers, and other stakeholders on how they can 'have their say' on various issues, including via:

- Consultations and surveys;
- Surveys and research;
- E-Petitions;
- Comments, compliments and complaints; and
- Have your say at council meetings.

Where appropriate, public consultation is used to seek the views of residents and stakeholders. For example, a public engagement exercise, between 14th February 2022 and 3rd April 2022, was undertaken with residents and stakeholders on the Southampton City Vision (the new Local Plan). It provided an opportunity for residents and stakeholders to help shape the city by "telling us your views about how we can make sure we build the right things in the right places and create somewhere you want to live with the right facilities around you".

Southampton City Council, in conjunction with other local public service providers, also undertakes a 'City Survey' every two years to collect residents' views on a range of topics, [with the next survey scheduled for autumn 2022](#). This provides an opportunity to get views of a representative sample of Southampton residents on key / priority issues and to gain better understanding of perceptions of how we are doing as a council and as a city. The surveys also include a set of common Local Government Association questions, which allows Southampton to be benchmarked against the national average and for trends to be tracked over time. Full results are available on the Southampton Data Observatory: <https://data.southampton.gov.uk/>. The latest survey ran between October 2020 and December 2020 and included questions on:

- Opinion on the local area
- Opinion on council and other public services
- Communications and Digital exclusion
- Employment
- City of Culture bid
- Transport
- Wellbeing

The council has in place a 'People's Panel' which now has a membership of over 3,500 people and is open to any resident over the age of 18 to join. This Panel comprises a group of residents who take part in surveys and other opportunities to express their views on council services, health services and living in the city. Run by Southampton City Council and with support from the University of Southampton,

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the People's Panel has been active since 2015 and the results from surveys have been used to inform a number of decisions and service changes. In order to understand the demographic makeup of People's Panel, members are asked questions like age, gender, ethnicity, and this information may be used to target engagement activities to certain groups in the city. On all wider engagement and consultation exercises, the demographic breakdown of respondents is reviewed to help ensure they are representative of Southampton residents and to identify where further targeted communications may be appropriate.

There is a strong focus on children and young people in the city, with a vision to become a Child Friendly City and working towards the goal of accreditation with UNICEF UK by 2024/25. The programme aims to create cities and communities in the UK where all children have meaningful say in, and truly benefit from, the local decisions, services and spaces that shape their lives. To support this a 'Southampton's Children and Young People's Participation Strategic Plan 2022/27' is now in place and has replaced the 'Southampton Speak Up! - Children and Young People's Participation Strategy 2016-2020'. This new Strategic Plan forms part of an overarching 'Children and Young People's Strategy' that comprises eight strategic plans, alongside a range of service delivery and improvement plans.

C. Defining outcomes in terms of sustainable economic, social, and environmental benefits

The Southampton City Council Corporate Plan ('Corporate Plan') sets out how the council will create the environment to achieve the vision of Southampton as a 'city of opportunity'. The 'Corporate Plan' was revised following the local elections in May 2021 to articulate the priorities and ambitions of the new political administration and set out specific deliverables and timescales. This revised '2021-2025 Corporate Plan' was published on the council website and provided a framework for assessing progress towards those priorities. Progress in respect the commitments, initiatives and priorities was monitored, reviewed, and updated on a six-monthly basis by both the council's Executive Management Board and Cabinet.

Following the local elections in May 2022, a [new 2022-2030 Corporate Plan has been developed which is to be presented to Cabinet in Autumn 2022 for approval. The Corporate Plan articulates the organisational vision, goals and areas of focus of the Council over the next eight years and aligns to other key strategies across the Council such as Health and Wellbeing, Safe City Partnership, Economic and Green Growth and Children and Young People.](#)

To achieve the council's priority outcomes employees are expected to demonstrate the council's organisational values. These reflect the importance that the council places on behaviours, and the way that employees engage with customers, partners, and colleagues.



There are also other key strategies that reflect the vision and ambition of both the city and wider region, including the Southampton City Strategy (2015-2025) which is a partnership strategy that sets out the vision for the whole city. Southampton Connect is responsible for the delivery of the Southampton City Strategy with the vision that Southampton is a city of opportunity where everyone thrives. Southampton Connect is an independent partnership which brings together senior city representatives seeking to address the key challenges and opportunities for Southampton and working with the city's key partners to improve the outcomes of the people of Southampton.

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At a sub-regional level there is a triumvirate of key strategic organisations, the Partnership for South Hampshire ('PFSH'), the Solent Local Enterprise Partnership ('LEP') and Solent Transport, that manage the policy agenda in the sub-region.

The PFSH is a partnership of twelve local authorities around the Solent that aims to improve the environmental, cultural, and economic performance of the South Hampshire area. The PFSH brings the partner organisations together at both a political and managerial level with a 2021-2025 Business Plan that sets out the focus of its' work. The PFSH is focused on supporting economic growth, delivery of housing and the infrastructure to achieve this in a sustainable manner, and to maintain and enhance the quality of the environment. The PFSH work will be a key element in developing statutory planning policy for the city by [a] demonstrating at a strategic level that the 'duty to cooperate' requirements are being achieved and [b] in helping to identify how housing growth and related infrastructure can be delivered to meet the needs of the city within a sub-regional context. The PFSH engages with a range of other local organisations, stakeholders, and Government to achieve these aims.

The LEP is a locally owned partnership between the business community and local authorities and plays a central role in determining local economic priorities and undertaking activities to drive economic growth and the creation of local jobs. The Board of the LEP is drawn from the area's key business, universities, the further education sector, and local authorities. In 2021, a national review of the future role of LEPs was commissioned and a Levelling-Up White Paper, published in February 2022, set a course for LEPs and their future relationship with national and local government. LEPs are to be integrated into local democratic institutions over a timeframe linked to devolution across local government and will continue to provide an independent business voice. Where a devolution deal does not yet exist, as is currently the case in the Solent sub-region, LEPs will continue to play "their vital role in supporting local businesses and the local economy".

Solent Transport is a sub-regional transport partnership that comprises Portsmouth, Southampton, the Isle of Wight, and Hampshire County Council. Solent Transport and its partner bodies are important members of Transport for the South East. The partnership creates a platform for joint working, standards and partnership leading to innovation, excellence and parity in transport provision across the Solent Transport area. The partnership works strategically with private industry, key stakeholders, and other agencies to deliver transport infrastructure, networks, and systems crucial to keep the region moving and generate economic growth, wealth, and sustainability.

In July 2021, Government invited expressions of interest from Local Authorities who were interested in progressing dialogue over devolution of powers through a 'County Deal' approach. Subsequently, in addition to a submission by Hampshire County Council, Southampton City Council, Portsmouth City Council and Bournemouth, Christchurch, and Poole Council, all submitted expressions of interest. The Hampshire or Solent region was not selected to be a pilot, but dialogue between the relevant authorities continues, both to establish a preferred geography for any such deal, and to identify the key elements of any such deal between Government and the constituent authorities. This work continues, whilst further information about timescales for the next round of deals is awaited.

Southampton City Council has supported the process of establishing the Solent Freeport, with representation by the Leader of the Council on the Solent Freeport Consortium Limited (SFCL) company from 2020/21 and beyond, along with other local councils and local private sector representation. The Solent Freeport will encompass Southampton and Portsmouth, as well as areas of the New Forest, Isle of Wight, and southern Hampshire. Freeports are an important Government programme that are expected to play an important part in the UK's post-Covid and post-Brexit economic recovery. Freeport status means that normal tax and customs rules do not apply and varying forms of tariff flexibility, tax measures and planning concessions deployed by the Government should help to incentivise private sector investment. Its aim is to contribute to Government's levelling up agenda by bringing jobs, investment, and high-value opportunities to coastal communities. The Full Business Case for the establishment of the Freeport was submitted to Government in April 2022 and is awaiting approval.

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D. Determining the interventions necessary to optimise the achievement of the intended outcomes

The council has in place a robust decision-making process that clearly sets out the actions and accountability in terms of when, how and by whom decisions are taken and where responsibility for decisions making rests. All decision reports are required to be submitted using a standard report template which identifies the 'Decision Maker', the decision or action required, why it is recommended, alternative options considered together with a 'Detail' (including Consultation carried out) section. The template also includes separate sections detailing any Financial/Resource, Legal, Risk and Policy implications. Where appropriate these comment on how proposals will be paid for, the statutory power to undertake the action and/or relevant legislation that affect the proposals, any significant risks associated with the decision that need to be considered and confirmation that the proposals are in accordance with the council's approved Policy Framework. Report authors are required to consult with relevant departments as part of the preparation and development of a report. This will always include Democratic Support, Corporate Legal and Finance but may also include Property, IT etc if the proposals within the draft report are relevant to these areas. All decision reports are signed off by the relevant Executive Director and Cabinet Member.

The council's Overview and Scrutiny Management Committee ("OSMC") manages the council's overview and scrutiny process which includes scrutinising items on the council's Forward Plan and exercising the power to call-in executive decisions, agreeing the scrutiny inquiry programme and monitoring performance and budgets, Scrutiny provides the role of the "critical friend" to the decision makers and assists in policy development, drives improvement in public services and enables the voice of the public to be heard. There are a number of Scrutiny Panels that support the work of the Executive and the council as a whole. The Scrutiny Inquiry Panel carries out a work programme of scrutiny inquiries approved by the OSMC. In addition, the Health Overview and Scrutiny Panel undertakes the statutory scrutiny of health and adult social care agencies in Southampton, and the Children and Families Scrutiny Panel scrutinises services for children and families in the city, including education.

From April 2020 to May 2021, due to Covid-19, all scrutiny meetings were held remotely with members of the public able to view meetings live via the council's website. To enable public engagement interested residents or groups were invited to submit questions in writing in advance of the committee or panel meeting. At the discretion of the Chair, members of the public or stakeholder groups who have expressed an interest in contributing on a specific agenda item were invited to attend the virtual scrutiny meeting to contribute to the discussion. In addition, scrutiny inquiries continue to consider written evidence and members of the public, community groups, or other key stakeholders can write in to bring evidence to the attention of the Inquiry Panel members. Scrutiny meetings have now transitioned back to in person meetings with the opportunity for members of the public to attend in person or view the meeting on-line.

In 2022 the Council engaged the Centre for Governance and Scrutiny (CfPS) to undertake an informal peer review of aspects of decision making and relationships between officers and members. A draft report has been produced by the Lead Reviewer and once finalised Group Leaders, the Chief Executive and the Director of Legal and Business Services will agree an action plan including the likely dissemination to all members and Leadership Group.

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E. Developing the entity's capacity, including the capability of its leadership and the individuals within it

The council's current Workforce Strategy is to be replaced in the 2022 financial year by a 'People Strategy' that will show how the council develops its current and future workforce to ensure the council's employees have the right skills, competencies, and behaviours to deliver services. The People Strategy will set out a high-level vision, priorities, and outcomes to develop and nurture a motivated and effective workforce who will deliver the council's priorities. The priority outcomes will be:

- Reshape and enable the organisation to deliver continuous improvement, effectiveness, efficiency and change;
- Customer First;
- Build Leadership and Management Capability;
- Attract and Retain Talent (Employer of Choice within a shifting economy);
- Learning and Development for all;
- Performance and Reward; and
- Healthy, Safe and Supportive Working Environment.

The People Strategy is a key document that sits alongside both the Medium-Term Financial Strategy, the Wellbeing Strategy and the Customer Strategy and takes account of challenges in relation to the overall council budget. It is used to inform resource allocation decisions, organisational development, and business planning, drive positive change and the delivery of agreed outcomes.

A new 'Collaborative Leadership Programme', aimed at people new to line managing others, existing team leaders, supervisors, and managers up to middle managers and Service manager and above, was formally launched in January 2022 based on the council's core values and built around the leadership competencies. As part of the council's 'Collaborative Leadership Programme' training, one of the modules is 'Ethics and Values' which explores the seven principles of public life and the values and behaviours that underpin these. In addition, new 'Senior Leader Development' programmes are being developed that will follow similar models.

In respect of Elected Members, an internal Member Induction and Development programme is in place and offers a suite of learning and development opportunities via targeted service focused sessions or via a monthly briefing programme. Alongside the internal offer, a range of externally delivered training events and courses were delivered by the 'Local Government Association, the Local Government Information Unit and South East Employers. These opportunities ranged from 'being a new councillor', supported skill development such as chairing meetings, speed reading and retention, to portfolio based and leadership development training. A review of the Member Learning and Development offer took place during 2021 with input from both Elected Members and internal service areas in order to identify further development and training opportunities. The refreshed programme, for the 2022/23 financial year offers a wide range of training and development events.

The council also has in place a Workplace equalities policy which reflects the council's long-standing commitment towards the elimination of discrimination and the achievement of equality of outcomes for residents, communities and staff as reflected in our published priorities and organisational values. The policy reaffirms the council's commitment to eliminate discrimination in all that we do and help achieve equality of opportunity and outcomes for our staff and the communities it serves. In November 2021 the council formally adopted a 'Diversity and Inclusion' pledge linked to the Equalities Act 2010. The pledge seeks to commit the council as an employer and partner in exceeding its responsibilities under the legislation and ensuring that support is provided to all those who work with the council and that it is the most diverse and inclusive employer that it can be.

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F. Managing risk and performance through robust internal control and strong public financial management

The council's Governance Committee has responsibility to provide independent assurance on the adequacy of the risk management framework and the internal control and reporting environment and the integrity of the financial reporting and annual governance statement process. The Governance Committee undertakes the core functions of an audit committee and operates in accordance with CIPFA guidance. The Committee receives a range of periodic reports relating to both the internal control environment and financial management, including receiving the draft Statement of Accounts.

The Committee receives an annual Risk Management Report that summarises the framework and arrangements that the council has in place to manage risk and is intended to provide the Committee with both information and assurance regarding how risk is managed. The report also provides information on the key risk management activities and initiatives undertaken in the year and those planned for the next 12 months. The council also has a 'Risk Management Policy' that sets out the framework, arrangements, and responsibilities in respect of how risks relating to the delivery of key outcomes and priorities are identified and managed. This policy is intended to support the application of robust risk management principles and practices across all service areas. There is also a range of associated guidance documents, templates, and other tools to support officers in identifying and managing risk.

A key element of the council's risk management framework is the council's Strategic Risk Register which is developed in consultation with Executive Directors. This document reflects the key strategic risks that have been identified as needing to be managed in order to support the delivery of the council's key initiatives and priorities. The Strategic Risk Register is updated on a quarterly basis with a report presented to the council's Finance, Commercialisation and Performance Board which comprises the Executive Management Team. The report identifies how the individual risks are being managed together with an assessment of the effectiveness of the arrangements in place. An 'exceptions report' identifies any gaps or weaknesses with a requirement that further mitigating actions be developed and actioned as necessary. Risk management is increasingly being used to assess the impacts and risks to the council and its services arising from unforeseen events for example the Afghan refugee resettlement and the conflict in Ukraine. In addition, the need to identify and manage risk runs throughout the council's project and programme management governance process from initiation to implementation.

Effective financial management is key to managing the delivery of a vast range of council services either directly or through/with others and ultimately improving the quality of life for residents. The council's Medium Term Financial Strategy ('MTFS') 2022/23 – 2025/26 provides a strategic financial framework and a forward looking approach to achieving long term financial sustainability for the council. It is central to the delivery of the council's priorities in an affordable and sustainable way over the medium term. It also aids robust and methodical planning as it forecasts the council's financial position taking into account known pressures, major issues affecting the council's finances, including external economic influences as well as local priorities and factors.

The MTFS helps the council to respond, in a considered manner, to pressures and changes as a result of internal and external influences. This is particularly important during a period when the council faces considerable pressures and challenges, such as those relating to the Covid-19 pandemic and the increased demand for social care. The MTFS recognises the key role that financial resources play in the future delivery of priorities and in enabling the effective planning, management, and delivery of services. The approach concentrates on the principles that will provide a strong direction for the medium term. The key objectives of the MTFS are to:

- Provide financial parameters within which budget and service planning should take place;
- Ensure that the council sets a balanced and sustainable budget;

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- Focus and re-focus the allocation of resources so that, over time, priority areas receive additional resources. Ensuring services are defined on the basis of clear alignment between priority and affordability;
- Ensure that the council manages and monitors its financial resources effectively so that spending commitments do not exceed resources available in each service area and, where ring-fenced government funding is reduced, the service area takes action to reduce expenditure accordingly;
- Plan the level of fees, charges, and taxation in line with levels that the council regard as being necessary, acceptable, and affordable to meet the council's aims, objectives, policies, and priorities whilst gradually reducing the council's reliance on Central Government funding; and
- Ensure that the council's long term financial health and viability remain sound.

The MTFFS enables integrated service and financial planning over the medium term, using a business planning approach. The resulting Medium Term Financial Model provides the framework within which decisions relating to future service provision can be made.

The Chartered Institute of Public Finance and Accountancy ('CIPFA') published a new Financial Management Code ('FM Code') for authorities to adhere to, with 2021/22 being the first year of compliance. The FM Code is designed to support good practice in financial management and to assist local authorities in demonstrating their financial sustainability. It sets out the standards of financial management for local authorities based on broad principles and requires each authority to demonstrate that its processes satisfy the principles of good financial management.

In 2020/21, as part of its preparations for embedding enhanced standards of financial management, officers undertook a self-assessment against the new FM Code in order to identify any significant gaps or areas for development. The conclusion was that there is good practice in financial management but also areas where the need for improvement has been identified. The self-assessment was reviewed by the council's Executive Management Board and was then presented to the Governance Committee in February 2022. In addition, the 2022/23 Budget Report presented to both Cabinet and Council in February 2022 included specific reference to the FM Code. An action plan has been developed which sets out the activities that will improve compliance with the FM Code.

In addition, officers also undertook a self-assessment, using guidance issued by CIPFA, in respect how effectively the organisation's governance arrangements support the achievement of outcomes and delivery of value for money. The self-assessment reflects that the guidance that the AGS should focus on evaluation rather than description of arrangements. The assessment, which considered 'Planning for outcomes and VfM', 'Implementation and Delivery', 'Monitoring', 'Assurance Arrangements' and 'Adapting and Learning' identified some areas for improvement. These are reflected in Item 3 of the Significant Governance Issues section at the end of the document.

The council's financial management arrangements conform to the governance requirements of the CIPFA 'Statement on the Role of the Chief Financial Officer ("CFO") in Local Government. The CFO (the Executive Director for Finance and Commercialisation and Section 151 Officer) is professionally qualified and is a key member of the Executive Management Team and reports directly to the Chief Executive. The CFO is actively involved in, and able to bring influence to bear on, all material business decisions to ensure immediate and longer term implications, opportunities and risks are fully considered, and also alignment with the council's overall financial strategy. The CFO is also responsible for leading, directing and ensuring that the finance function is fit for purpose.

The council has in place 'Business Plans' at service level that are aligned with the council's priorities and outcomes as set out in the Corporate Plan. The business plans provide an overview of the services being delivered together with the outcomes (and outputs) that are looking to be achieved. The council undertakes an annual business planning and budgeting process with all Service Business plans required to be reviewed to ensure that they reflect changing circumstances, methods of service provision, impact on the budget and the needs of customers. An important part of the process is the

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'sustainability/challenge' sessions that focus, in particular, on current and future service costs including opportunities for income growth.

All significant commercial partnership working arrangements also have a range of performance indicators which are used to monitor, verify, and manage service performance. The council is committed to achieving best value from its procurement activities and contracts and ensuring that goods, services, and works are procured, and contract managed in the most efficient and effective way throughout the lifecycle of the contract. Regular review meetings are held with key suppliers in order to ensure that contracts remain fit for purpose. Contract Management Teams in the Supplier Management Team and the Integrated Commissioning Unit support the council in managing contracts throughout the lifecycle of the contract and provide senior management interfaces between the council and our partnership service providers.

G. Implementing good practices in transparency, reporting and audit, to deliver effective accountability

The council is committed to openness and transparency and publishing as much council data as it can in order to increase accountability. The 'Council Data' page on the council's website allows the public to access a wide range of information and data that is published in accordance with the Local Government Transparency Code (2015).

The council's Constitution sets out how decisions are made and makes specific reference to decision making by Full Council, by the Executive (Cabinet), by Overview and Scrutiny Committees, other committees and sub-committees established by the council and by council bodies acting as tribunals. The Constitution also includes an Officer Scheme of Delegation which sets out the powers and functions that are delegated to named Council Officers. The compilation of a Register of Delegated Powers is a statutory requirement and is maintained by the Service Director: Legal & Business Operations.

The council produces a Forward Plan of all Key Decisions which are proposed to be taken within the next four months (updated monthly 28 clear days prior to scheduled Cabinet meetings on a rolling basis). Other decisions are also included where practicable to assist in providing public transparency and confidence in decision making. All agendas and minutes of meetings in respect of Council, Cabinet, Overview and Scrutiny, Non-Executive Committees and statutory boards and are published on the council's website.

The council's assurance arrangements conform to the governance requirements of the CIPFA statement on 'The Role of the Head of Internal Audit in Public Service Organisations (2019 Edition)'. This is aligned with the Public Sector Internal Audit Standards and is embedded in the Internal Audit Charter & Code of Ethics. The Head of Internal Audit (Chief Internal Auditor) is professionally qualified and is responsible for reviewing and reporting on the adequacy of the council's internal control environment.

The Chief Internal Auditor has direct access to the Chief Executive, and to the council's Monitoring Officer where matters arise relating to Chief Executive responsibility, legality, and standards. Where it is considered necessary to the proper discharge of internal audit function, the Chief Internal Auditor has direct access to elected Members of the Council and, in particular, those who serve on committees charged with governance (e.g. the Governance Committee).

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REVIEW OF EFFECTIVENESS

The council has responsibility for conducting, at least annually, a review of the effectiveness of its governance framework including the system of internal control. The review of effectiveness is led by a 'Controls Assurance Management Group' comprising the Executive Director for Finance and Commercialisation and Section 151 Officer, Chair of the Governance Committee, Executive Director Business Services, Service Director – Legal & Business Operations (Monitoring Officer) and the Chief Internal Auditor.

The review process, applied in respect of maintaining and reviewing the effectiveness of the system of internal control, is informed by: -

- The views of Internal Audit regularly reported to Governance Committee via periodic 'Internal Audit: Progress Reports' which include executive summaries of new reviews undertaken in the period and noting that any audits rated as 'No Assurance' are specifically highlighted to the Governance Committee along with any Director's comments. The Committee is able to request any director attends a meeting to discuss the issues.
- The views of external auditors, regularly reported to the Governance Committee, including regular progress reports, the Annual Audit Letter, the Auditors Annual Report, and the Audit Results Report.
- The Chief Internal Auditors 'Annual Report and Opinion' for 2021-22 was that improvements have been maintained from the previous year to the extent that the overall opinion level can increase to 'Reasonable Assurance'. This is an improvement from the previous year which was rated as 'Limited Assurance'. The results across audit work performed during 2021-22 have not identified any systemic failings however, there are pockets across the council that require further work to enhance the control environment, noting that some of these areas have been impacted by structural changes that will need to settle. The impact of Covid 19 and changes to working patterns, including transformational changes across the council, may also highlight additional areas for focus and auditing over time.
- The Internal Audit Charter and delivery of the annual Internal Audit plan.
- The work of the Chief Executive, Executive Directors and Service Directors who have responsibility for the development and maintenance of the control and governance environment.
- The completion of 'AGS Self-Assessment Statements' that cover the key processes and systems that comprise the council's governance arrangements and are intended to identify any areas where improvement or further development is required. The self-assessments are completed by individual Heads of Service or Service Directors on behalf of their service areas in order to ensure that the most representative and comprehensive oversight is obtained. The returns are then reviewed and signed off by the relevant Executive Director.
- Completion of an 'Assurance Framework' document which reflects the key components of the council's overall governance and internal control environment. This document, based on CIPFA/SOLACE guidance, records the key controls in place, and sources of assurance, and identifies any significant gaps or weaknesses in key controls.
- The independent views of regulatory inspection agencies such as Ofsted and the Care Quality Commission.
- The annual Risk Management report that is presented to the Governance Committee.
- The work of the Governance Committee in relation to the discharge of its responsibility to lead on all aspects of corporate governance.

We have been advised on the implications of the result of the review of the effectiveness of the governance framework by the Governance Committee, and that the arrangements continue to be

Annual Governance Statement

regarded as fit for purpose in accordance with the governance framework. The areas already addressed and those to be specifically addressed with new actions planned are outlined below.

SIGNIFICANT GOVERNANCE ISSUES

The following significant governance issues have been identified:

1. Governance Issue

The 2020-21 AGS identified that there was inconsistency in respect of the extent to which succession planning had been formally considered within service areas across the council and that there were areas where there was reliance on a limited number of key individuals. The agreed action was that Heads of Service would work with their 'Human Resources Business Partner' to fully understand the tools available to develop and have in place appropriate service resilience and succession planning arrangements.

During 2021-22 the Human Resources & Organisational Development Team developed a draft 'Talent Management and Succession Planning Strategy'. In developing this strategy, a range of research was analysed, including by the Chartered Institute of Personnel and Development and how other organisations have managed these processes. The council also secured three LGA consultancy days to support the work in this area, with desktop reviews of relevant policies and processes being undertaken together with interviews and focus groups with managers, employees, and the Trades Unions.

Completed Action: A new 'People Strategy', which incorporates 'Talent Management and Succession Planning', has been developed by the Human Resources & Organisational Development team in consultation with Heads of Service. The new strategy has been agreed by the Executive Management Board ('EMB') and is to be presented at the Leader's Cabinet Member Briefing on 22nd September 2022.

Implementation of 'The People Strategy', including the 'Talent Management and Succession Planning' element, will be rolled out across the organisation with the support of the respective Human Resources Business Partners and the Organisational Development Team.

Responsible Officer: Service Director Human Resources & Organisational Development

Governance Issue

2.

Full compliance with the new CIPFA Financial Management Code noting that in 2020/21, as part of its preparations for embedding enhanced standards of financial management, officers undertook a self-assessment against the new FM Code in order to identify any significant gaps or areas for development. The conclusion was that there is good practice in financial management but also areas where improvement was identified.

Planned Action: Implementation of the activities and actions arising out of the 'self-assessment' that will improve compliance with the FM Code, with an annual update on a 'self-assessment' basis to be provided to councillors via the Annual Governance Statement.

Responsible Officer: Lead by the Executive Director for Finance and Commercialisation and Section 151 Officer but noting that application of the FM Code is the collective responsibility of

Annual Governance Statement

the council's leadership team which is defined as the collective group of elected councillors and senior officers.

Target date for completion: End Q3 2022/23

3. Governance Issue

CIPFA guidance advises that "the AGS should include how effectively the organisation's governance arrangements support the achievement of outcomes and delivery of value for money. The AGS should focus on evaluation rather than description of arrangements and should reflect the context of the organisation's achievement of outcomes and value for money ('vfm'). A self-assessment, using guidance issued by CIPFA, was undertaken by officers which identified the following areas for improvement.

Planned Action:

a) Benchmarking – This is undertaken in a number of areas and as a base activity when new projects are initiated and good use is made of peer reviews with, where appropriate, results used to understand cost and service comparables. To support a consistent approach to benchmarking at a corporate level the council is assessing the potential use of benchmarking tools that consolidate and utilise national data. This work is being led by Intelligence Innovation & Change in partnership with Finance and other areas across the council.

Lead: Head of Intelligence, Innovation & Change and Head of Financial Planning & Management

b) Benefits realisation - Post implementation and lessons learned reviews are standard, with lessons learned papers (including user/employee feedback) feeding into new project initiation sessions and relevant role forums. A 'benefits realisation framework' has been developed (along with additional templates such as a benefit map, profile, and post investment report) with the support of a commercial partner. This will be rolled out across a small number of teams initially, with training during the summer, and once piloted with the phase one teams across the council as a standard part of key project monitoring going forwards.

Lead: Head of Intelligence, Innovation and Change

c) Contracting arrangements - Whilst commercial contract monitoring is robust and undertaken in accordance with a contract management framework and performance is measured against contractual indicators for Strategic and Key Managed contracts, a wider review of contracted delivery arrangements across the council is being scoped to ensure that there is a consolidated view of all such arrangements and that outcomes and vfm are being delivered and savings opportunities are considered. This review will be undertaken in alignment with the Strategic Procurement Programme. This exercise is being undertaken as a cross-council exercise, led by Supplier Management.

Lead: Head of Supplier Management

Responsible Officer: Executive Director for Finance and Commercialisation and Section 151 Officer

Target date for completion: End Q4 2022/23

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

Annual Governance Statement

Signed

.....
Mike Harris
Chief Executive

.....
Councillor Satvir Kaur
Leader of the Council

on behalf of Southampton City Council

DECISION-MAKER:		GOVERNANCE COMMITTEE	
SUBJECT:		STATEMENT OF ACCOUNTS 2021/22	
DATE OF DECISION:		26 SEPTEMBER 2022	
REPORT OF:		EXECUTIVE DIRECTOR FOR FINANCE, COMMERCIALISATION & S151 OFFICER	
<u>CONTACT DETAILS</u>			
Executive Director	Title:	Executive Director for Finance, Commercialisation & S151 Officer	
	Name:	John Harrison	Tel: 023 80834897
	E-mail:	John.Harrison@southampton.gov.uk	
Author:	Title:	MTFS & Revenue Manager	
	Name:	Stephanie Skivington	Tel: 023 80832692
	E-mail:	Stephanie.Skivington@southampton.gov.uk	

STATEMENT OF CONFIDENTIALITY		
NOT APPLICABLE		
BRIEF SUMMARY		
<p>In accordance with the Accounts and Audit Regulations 2015 (as amended by the Accounts and Audit (Amendment) Regulations 2021) the Draft Statement of Accounts 2021/22 was signed by the Executive Director for Finance, Commercialisation & S151 Officer on 30 May 2022 ahead of the 31 July 2022 deadline. The Committee is required to consider and approve the audited accounts before they are published. The Accounts and Audit (Amendment) Regulations 2022, which came into force in July this year, extended the deadline for publishing the audited accounts to 30 November 2022.</p>		
<p>The year-end audit, carried out by our auditors Ernst & Young LLP, commenced on 22 June 2022 and had not been concluded at the time of writing this report. This report details the changes made to the Statement of Accounts and unadjusted audit differences arising from the findings of the audit to date. A copy of the updated Statement of Accounts is available in the Members' Room.</p>		
RECOMMENDATIONS:		
	(i)	Notes the changes to the Statement of Accounts 2021/22 as a result of the annual audit as detailed in paragraphs 5 to 7 and appendix 1, none of which change the overall bottom line position for the Council for 2021/22.
	(ii)	Approves the rationale for not correcting the audit differences relating to Education gross expenditure and income, the valuation of Property, Plant and Equipment (PPE) and Short Term Debtors and Creditors Balances as set out in paragraphs 8 to 12.
	(iii)	Notes that infrastructure assets have been disclosed at net book value in line with the Chartered Institute of Public Finance and Accountancy (CIPFA) consultation on temporary changes to the

		Code of Practice on Local Authority Accounting in the UK (the Code), however removal from the Code of the need to report gross cost and accumulated depreciation had not been formally approved at the time of writing this report, as set out in paragraphs 13 to 16.
	(iv)	Considers and approves the audited Statement of Accounts 2021/22.
	(v)	Resolves that the Executive Director for Finance, Commercialisation & S151 Officer, after consultation with the Chair of the Committee, can make any further minor changes to the Statement of Accounts 2021/22 that may arise during completion of the audit.
REASONS FOR REPORT RECOMMENDATIONS		
1.		It is a legal requirement that the Statement of Accounts 2021/22 is considered and approved by this committee, following the audit, and signed by the person presiding at this meeting. The legislation sets a target date for publication of 30 November 2022. The Statement of Accounts must be published by that date or as soon as reasonably practicable after the receipt of the auditor's final findings.
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED		
2.		The Statement of Accounts has been prepared in accordance with statutory requirements. No other options have been considered as it is a legal requirement that the Statement of Accounts is prepared, and signed by the person presiding at this meeting, following completion of the audit.
DETAIL (Including consultation carried out)		
		CONSULTATION
3.		Not applicable.
		STATEMENT OF ACCOUNTS
4.		The Statement of Accounts is a complex document and the layout and information provided are defined by statutory requirements. The key issues that should be drawn to the attention of the Committee were presented at its meeting on 25 July 2022. A copy of this is available in the Members' Room or by following the link below. Draft Statement of Accounts 2021/22
		STATEMENT OF ACCOUNTS AMENDMENTS
5.		There are a number of adjustments to the Statement of Accounts arising from the findings of the audit, none of which change the overall bottom line position for the Council for 2021/22.
6.		The updated Statement of Accounts is available in the Members' Room. The main adjustments to the statements are outlined below, with further details in Appendix 1: <ul style="list-style-type: none"> • Correction to Note 12 Property, Plant and Equipment for the transfer between PP&E Under Construction and Council Dwellings and the in-year revaluation of Council Dwellings. Consequential amendments to all the core financial statements and related notes and to the Housing Revenue Account financial statements and notes. Amendments to Note 12 for the in-year movements for transfers between Community Assets

	<p>and Other Land & Buildings and of the analysis of net book value by year of valuation;</p> <ul style="list-style-type: none"> • Correction to Note 17 Financial Instruments to the analysis of the fair value of loans and to the interest rates risk exposure. Amendment to the fair value level for the Property Fund; • Correction to Note 31 Leases for the future minimum lease payments receivable; and • Update of Note 27 External Audit Costs to include the audit fee rebate.
7.	The full details of adjustments to the statements and notes are detailed in Appendix 1.
	UNADJUSTED AUDIT DIFFERENCES
8.	Gross expenditure and income for Education in the Comprehensive Income and Expenditure Statement reported in the draft accounts were £191.1M and £169.7M respectively, with net expenditure of £21.4M. The auditors have identified that gross expenditure and income for schools are understated by £6.8M, with no impact on the net position.
9.	The net book value for Council Dwellings (within Property, Plant and Equipment) as at 31 March 2022 reported in the draft accounts was £754.0M. The auditors have identified that the indexation of asset values up to 31 March 2022 is understated by £4.2M.
10.	The net book value for Other Land and Buildings (within Property, Plant and Equipment) as at 31 March 2022 reported in the draft accounts was £459.3M. The auditors have identified that the value of assets not revalued in 2021/22 is understated by £2.7M and that the indexation of school assets is understated by £2.4M.
11.	The auditors have extrapolated errors identified through sample testing of Short Term Creditors to give a projected £7.9M overstatement of Short Term Debtors and Short Term Creditors. The balances for Short Term Debtors and Creditors reported in the draft accounts were £53.1M and £140.5M respectively.
12.	<p>We have not corrected the accounts for these audit differences because:</p> <ul style="list-style-type: none"> • They are below the materiality level both individually and in aggregate; • There is no overall material variance and no net impact on the General Fund or HRA reported position; • The auditors have confirmed that these are not material items that need amending; • The uncorrected amounts would not have a material impact on the use and interpretation by users of the statement of accounts; • The projected overstatement of Short Term Debtors and Creditors is based on a small sample and the errors identified are not considered to be representative of the whole population.
	INFRASTRUCTURE ASSETS
13.	In May/June 2022 CIPFA conducted an urgent consultation on a temporary update to the Code for infrastructure assets. The proposals were intended to address issues raised by auditors in relation to the derecognition (removal of the carrying amount) of parts of infrastructure assets when replacement expenditure is undertaken. The issue arises principally because of the lack of information availability which Page 85 the needs of accounting standards. There

	are also related issues for the reporting of gross historical cost and accumulated depreciation.
14.	The proposed changes to the Code included confirming that the effect of derecognition on the carrying amount is nil (on the presumption that replaced parts are fully depreciated) and temporarily removing the reporting requirements for gross historical cost and accumulated depreciation.
15.	CIPFA is considering the approval of an update to the Code following the outcomes of the consultation on the removal of the need to report gross cost and accumulated depreciation in line with its proposals. This is subject to due process and it is anticipated that the update to the Code will be available mid-September 2022.
16.	In the Draft Statement of Accounts 2021/22, the accounting policy for Property, Plant and Equipment was extended to clarify the measurement basis for infrastructure assets. In addition, movements in the gross book value and accumulated depreciation for infrastructure assets were removed from the movement on Property, Plant and Equipment disclosure (Note 12) and only shown net, in anticipation of the change to the Code. There are no alterations in respect of infrastructure assets in the updated Statement of Accounts presented to the Committee.
RESOURCE IMPLICATIONS	
<u>Capital/Revenue</u>	
17.	The capital and revenue implications were considered as part of the Revenue and Capital Outturn 2021/22 report that was presented to Cabinet on 19 July 2022.
<u>Property/Other</u>	
18.	To date, no changes have been made to the property valuations recognised in the accounts.
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
19.	Accounts and Audit Regulations 2015, the Accounts and Audit (Amendment) Regulations 2021 and the Accounts and Audit (Amendment) Regulations 2022.
<u>Other Legal Implications:</u>	
20.	None.
RISK MANAGEMENT IMPLICATIONS	
21.	Not applicable
POLICY FRAMEWORK IMPLICATIONS	
22.	Not applicable. It should be note that the Statement of Accounts has been prepared in accordance with the CIPFA Code of Practice on Local Authority

	Accounting in the UK 2021/22 (other than for disclosure of Infrastructure Assets as noted in paragraphs 13 to 16).

KEY DECISION?	Yes/No
WARDS/COMMUNITIES AFFECTED:	None
<u>SUPPORTING DOCUMENTATION</u>	
Appendices	
1.	Schedule of changes to Draft 2021/22 Accounts
2.	

Documents In Members' Rooms

1.	Updated Statement of Accounts 2021/22
2.	Governance Committee Report 25 July 2022 – Draft Statement of Accounts 2021/22.

Equality Impact Assessment		
Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.		Yes/No
Privacy Impact Assessment		
Do the implications/subject of the report require a Privacy Impact Assessment (PIA) to be carried out.		Yes/No
Other Background Documents		
Other Background documents available for inspection at:		
Title of Background Paper(s)		Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
1.		
2.		

Revisions made to Statement of Accounts

Ref No	Description	Page	Statement/ Note	Detail																																																																																																																																																																																																																																
1	£8.2M correction of transfer from PP&E Under Construction to Council Dwellings and the revaluation increase for Council Dwellings recognised in the Deficit on the Provision of Services. Consequential amendments to all the core financial statements and related notes, the Housing Revenue Account, Statement of Movement on Housing Revenue Account and related notes. There is no impact on the outturn position for the HRA, however the Net Book Value for PPE as a whole has reduced by £8.2M with a corresponding adjustment to the Capital Adjustment Account. Only the change to the Movement in PPE is shown here to avoid overburdening the schedule.	62	12	<p>Property, Plant & Equipment - Movement in PPE Original</p> <table border="1"> <caption>Movement in Property, Plant & Equipment (PPE)</caption> <thead> <tr> <th></th> <th>Council Dwellings</th> <th>Other Land & Buildings</th> <th>Vehicles, Plant and Equipment</th> <th>Community Assets</th> <th>Surplus Assets</th> <th>PP&E Under Construction</th> <th>Total</th> </tr> <tr> <th></th> <th>£000</th> <th>£000</th> <th>£000</th> <th>£000</th> <th>£000</th> <th>£000</th> <th>£000</th> </tr> </thead> <tbody> <tr> <td>Cost or Valuation</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>At 1 April 2021</td> <td>702,965</td> <td>518,766</td> <td>58,944</td> <td>3,897</td> <td>1,442</td> <td>53,276</td> <td>1,339,290</td> </tr> <tr> <td>Adjustment to Previous Year Charges</td> <td>0</td> <td>0</td> <td>0</td> <td>0</td> <td>0</td> <td>0</td> <td>0</td> </tr> <tr> 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Revaluation Increases/(decreases) recognised in the Revaluation Reserve	26,546	3,698	6,438	0	0	27,295	63,977																																																																																																																																																																																																																													
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Derecognition-Disposals	25,544	(2,803)	0	(57)	0	0	22,684																																																																																																																																																																																																																													
Reclassified outside PPE	(4,152)	(53,022)	(13)	0	0	0	(57,187)																																																																																																																																																																																																																													
Other Reclassifications	0	0	0	0	0	0	0																																																																																																																																																																																																																													
	22,291	1,568	0	(1,568)	0	(22,291)	0																																																																																																																																																																																																																													
At 31 March 2022	773,194	469,170	65,369	2,889	1,442	58,280	1,370,344																																																																																																																																																																																																																													
	Council Dwellings	Other Land & Buildings	Vehicles, Plant and Equipment	Community Assets	Surplus Assets	PP&E Under Construction	Total																																																																																																																																																																																																																													
	£000	£000	£000	£000	£000	£000	£000																																																																																																																																																																																																																													
Cost or Valuation																																																																																																																																																																																																																																				
At 1 April 2021	702,965	518,766	58,944	3,897	1,442	53,276	1,339,290																																																																																																																																																																																																																													
Adjustment to Previous Year Charges	0	0	0	0	0	0	0																																																																																																																																																																																																																													
	702,965	518,766	58,944	3,897	1,442	53,276	1,339,290																																																																																																																																																																																																																													
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Revaluation Increases/(decreases) recognised in the Revaluation Reserve	26,546	3,698	6,438	0	0	27,295	63,977																																																																																																																																																																																																																													
Revaluation Increases/(decreases) recognised in the Surplus/Deficit on the Provision of Services	0	1,580	0	0	0	0	1,580																																																																																																																																																																																																																													
Derecognition-Disposals	17,383	(2,860)	0	0	0	0	14,523																																																																																																																																																																																																																													
Reclassified outside PPE	(4,152)	(53,022)	(13)	0	0	0	(57,187)																																																																																																																																																																																																																													
Other Reclassifications	0	0	0	0	0	0	0																																																																																																																																																																																																																													
	30,452	1,008	0	(1,008)	0	(30,452)	0																																																																																																																																																																																																																													
At 31 March 2022	773,194	469,170	65,369	2,889	1,442	50,119	1,362,183																																																																																																																																																																																																																													
2	£0.6M amendment to movement in year for assets transferred between Community Assets and Other Land & Buildings (OLB) to reflect as changes within OLB as they are considered to be post transfer. No change in Net Book Value	62	12	<p>Property, Plant & Equipment - Movement in PPE The amendments are included within the tables shown above for item 1.</p>																																																																																																																																																																																																																																
3	Analysis of asset valuations by year updated to reflect correct allocation, primarily for schools' land. No change in Net Book Value.	63	12	<p>Property Plant & Equipment - PPE by Revaluation Date Original</p> <table border="1"> <thead> <tr> <th></th> <th>Council Dwellings</th> <th>Other Land and Buildings</th> </tr> <tr> <th></th> <th>£000</th> <th>£000</th> </tr> </thead> <tbody> <tr> <td>Carried at Historic Cost</td> <td></td> <td></td> </tr> <tr> <td>Valued at Fair Value in:</td> <td></td> <td></td> </tr> <tr> <td>2021/22</td> <td>754,041</td> <td>334,101</td> </tr> <tr> <td>2020/21</td> <td></td> <td>66,380</td> </tr> <tr> <td>2019/20</td> <td></td> <td>21,739</td> </tr> <tr> <td>2018/19</td> <td></td> <td>32,113</td> </tr> <tr> <td>2017/18</td> <td></td> <td>4,908</td> </tr> <tr> <td>Deminimus</td> <td></td> <td>20</td> </tr> <tr> <td>Net Book Value as at 31 March 2022</td> <td>754,041</td> <td>459,261</td> </tr> </tbody> </table> <p><i>Revised</i></p> <table border="1"> <thead> <tr> <th></th> <th>Council Dwellings</th> <th>Other Land and Buildings</th> </tr> <tr> <th></th> <th>£000</th> <th>£000</th> </tr> </thead> <tbody> <tr> <td>Carried at Historic Cost</td> <td></td> <td></td> </tr> <tr> <td>Valued at Fair Value in:</td> <td></td> <td></td> </tr> <tr> <td>2021/22</td> <td>754,041</td> <td>337,260</td> </tr> <tr> <td>2020/21</td> <td></td> <td>7,990</td> </tr> <tr> <td>2019/20</td> <td></td> <td>70,482</td> </tr> <tr> <td>2018/19</td> <td></td> <td>32,144</td> </tr> <tr> <td>2017/18</td> <td></td> <td>11,358</td> </tr> <tr> <td>Deminimus</td> <td></td> <td>27</td> </tr> <tr> <td>Net Book Value as at 31 March 2022</td> <td>754,041</td> <td>459,261</td> </tr> </tbody> </table>		Council Dwellings	Other Land and Buildings		£000	£000	Carried at Historic Cost			Valued at Fair Value in:			2021/22	754,041	334,101	2020/21		66,380	2019/20		21,739	2018/19		32,113	2017/18		4,908	Deminimus		20	Net Book Value as at 31 March 2022	754,041	459,261		Council Dwellings	Other Land and Buildings		£000	£000	Carried at Historic Cost			Valued at Fair Value in:			2021/22	754,041	337,260	2020/21		7,990	2019/20		70,482	2018/19		32,144	2017/18		11,358	Deminimus		27	Net Book Value as at 31 March 2022	754,041	459,261																																																																																																																																																														
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Ref No	Description	Page	Statement/ Note	Detail																																																																																
4	Correction to the analysis of the fair value of financial liabilities held at amortised cost between Public Works Loans and LOBO Loans, with no change to overall total. Amendment to the Fair Value Level classification of the Property Fund within Financial Assets.	71	17 e)	<p>Financial Instruments - Fair Value</p> <p>Original <i>Revised</i></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th style="text-align: center;"><u>Fair Value Level</u></th> <th style="text-align: center;"><u>Balance Sheet</u></th> <th style="text-align: center;"><u>Fair Value</u></th> <th></th> <th style="text-align: center;"><u>Fair Value Level</u></th> <th style="text-align: center;"><u>Balance Sheet</u></th> <th style="text-align: center;"><u>Fair Value</u></th> </tr> <tr> <th></th> <th></th> <th style="text-align: center;">31 March 2022</th> <th style="text-align: center;">31 March 2022</th> <th></th> <th></th> <th style="text-align: center;">31 March 2022</th> <th style="text-align: center;">31 March 2022</th> </tr> <tr> <th></th> <th></th> <th style="text-align: center;">£000</th> <th style="text-align: center;">£000</th> <th></th> <th></th> <th style="text-align: center;">£000</th> <th style="text-align: center;">£000</th> </tr> </thead> <tbody> <tr> <td colspan="4">Financial Liabilities held at amortised cost</td> <td colspan="4">Financial Liabilities held at amortised cost</td> </tr> <tr> <td>Public Works Loans</td> <td style="text-align: center;">2</td> <td style="text-align: right;">(246,297)</td> <td style="text-align: right;">(258,950)</td> <td>Public Works Loans</td> <td style="text-align: center;">2</td> <td style="text-align: right;">(246,297)</td> <td style="text-align: right;">(264,856)</td> </tr> <tr> <td>LOBO Loans</td> <td style="text-align: center;">2</td> <td style="text-align: right;">(9,000)</td> <td style="text-align: right;">(17,652)</td> <td>LOBO Loans</td> <td style="text-align: center;">2</td> <td style="text-align: right;">(9,000)</td> <td style="text-align: right;">(11,746)</td> </tr> <tr> <td>PFI/Finance Lease Liabilities</td> <td style="text-align: center;">2</td> <td style="text-align: right;">(47,519)</td> <td style="text-align: right;">(70,211)</td> <td>PFI/Finance Lease Liabilities</td> <td style="text-align: center;">2</td> <td style="text-align: right;">(47,519)</td> <td style="text-align: right;">(70,211)</td> </tr> <tr> <td></td> <td></td> <td style="text-align: right;"><u>(302,816)</u></td> <td style="text-align: right;"><u>(346,813)</u></td> <td></td> <td></td> <td style="text-align: right;"><u>(302,816)</u></td> <td style="text-align: right;"><u>(346,813)</u></td> </tr> </tbody> </table> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th style="text-align: center;"><u>Fair Value</u></th> <th></th> <th style="text-align: center;"><u>Fair Value</u></th> </tr> </thead> <tbody> <tr> <td colspan="4">Financial Assets held at Fair Value through P&L</td> </tr> <tr> <td>Money Market Funds</td> <td style="text-align: center;">1</td> <td></td> <td style="text-align: center;">1</td> </tr> <tr> <td>Property Funds</td> <td style="text-align: center;">1</td> <td></td> <td style="text-align: center;">2</td> </tr> </tbody> </table>		<u>Fair Value Level</u>	<u>Balance Sheet</u>	<u>Fair Value</u>		<u>Fair Value Level</u>	<u>Balance Sheet</u>	<u>Fair Value</u>			31 March 2022	31 March 2022			31 March 2022	31 March 2022			£000	£000			£000	£000	Financial Liabilities held at amortised cost				Financial Liabilities held at amortised cost				Public Works Loans	2	(246,297)	(258,950)	Public Works Loans	2	(246,297)	(264,856)	LOBO Loans	2	(9,000)	(17,652)	LOBO Loans	2	(9,000)	(11,746)	PFI/Finance Lease Liabilities	2	(47,519)	(70,211)	PFI/Finance Lease Liabilities	2	(47,519)	(70,211)			<u>(302,816)</u>	<u>(346,813)</u>			<u>(302,816)</u>	<u>(346,813)</u>		<u>Fair Value</u>		<u>Fair Value</u>	Financial Assets held at Fair Value through P&L				Money Market Funds	1		1	Property Funds	1		2
	<u>Fair Value Level</u>	<u>Balance Sheet</u>	<u>Fair Value</u>		<u>Fair Value Level</u>	<u>Balance Sheet</u>	<u>Fair Value</u>																																																																													
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5	Correction to interest rates risk exposure	76	17 i)	<p>Financial Instruments - Interest Rate Risk</p> <p>Original</p> <p>At 31 March 2022 £244.4M (145%) (2020/21 £280.1M (120%)) of net principal borrowed (i.e. debt net of investments) was at fixed rates and £76.4M (2020/21 £47.4M) net investments exposed to variable rates.</p> <p><i>Revised</i></p> <p>At 31 March 2022 £268.1M (140%) (2020/21 £280.1M (120%)) of net principal borrowed (i.e. debt net of investments) was at fixed rates and £76.0M (2020/21 £47.4M) net investments exposed to variable rates.</p>																																																																																
6	Correction to the future minimum lease payments receivable	94	31	<p>Leases</p> <p>Original <i>Revised</i></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th style="text-align: center;"><u>31 March 2021</u></th> <th style="text-align: center;"><u>31 March 2022</u></th> <th></th> <th style="text-align: center;"><u>31 March 2021</u></th> <th style="text-align: center;"><u>31 March 2022</u></th> </tr> <tr> <th></th> <th style="text-align: center;">£000</th> <th style="text-align: center;">£000</th> <th></th> <th style="text-align: center;">£000</th> <th style="text-align: center;">£000</th> </tr> </thead> <tbody> <tr> <td>Not later than one year</td> <td style="text-align: right;">7,221</td> <td style="text-align: right;">7,203</td> <td></td> <td style="text-align: right;">7,221</td> <td style="text-align: right;">7,116</td> </tr> <tr> <td>Later than one year and not later than five years</td> <td style="text-align: right;">23,568</td> <td style="text-align: right;">22,867</td> <td></td> <td style="text-align: right;">23,568</td> <td style="text-align: right;">22,516</td> </tr> <tr> <td>Later than five years</td> <td style="text-align: right;">540,548</td> <td style="text-align: right;">537,276</td> <td></td> <td style="text-align: right;">540,548</td> <td style="text-align: right;">526,664</td> </tr> <tr> <td></td> <td style="text-align: right;"><u>571,337</u></td> <td style="text-align: right;"><u>567,346</u></td> <td></td> <td style="text-align: right;"><u>571,337</u></td> <td style="text-align: right;"><u>556,296</u></td> </tr> </tbody> </table>		<u>31 March 2021</u>	<u>31 March 2022</u>		<u>31 March 2021</u>	<u>31 March 2022</u>		£000	£000		£000	£000	Not later than one year	7,221	7,203		7,221	7,116	Later than one year and not later than five years	23,568	22,867		23,568	22,516	Later than five years	540,548	537,276		540,548	526,664		<u>571,337</u>	<u>567,346</u>		<u>571,337</u>	<u>556,296</u>																																												
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7	Audit fees payable amended to include Public Sector Audit Appointments (PSAA) fee rebate	90	27	<p>External Audit Costs</p> <p>Original <i>Revised</i></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th style="text-align: center;"><u>2020/21</u></th> <th style="text-align: center;"><u>2021/22</u></th> <th></th> <th style="text-align: center;"><u>2020/21</u></th> <th style="text-align: center;"><u>2021/22</u></th> </tr> <tr> <th></th> <th style="text-align: center;">£000</th> <th style="text-align: center;">£000</th> <th></th> <th style="text-align: center;">£000</th> <th style="text-align: center;">£000</th> </tr> </thead> <tbody> <tr> <td>110 Fees payable to Ernst & Young with regard to external audit services carried out by the appointed auditor for the year</td> <td></td> <td style="text-align: right;">158</td> <td></td> <td>110 Fees payable to Ernst & Young with regard to external audit services carried out by the appointed auditor for the year</td> <td style="text-align: right;">136</td> </tr> <tr> <td>7 Fees payable to Fiander Tovell in respect of grant claims and returns for the year</td> <td></td> <td style="text-align: right;">7</td> <td></td> <td>7 Fees payable to Fiander Tovell in respect of grant claims and returns for the year</td> <td style="text-align: right;">7</td> </tr> <tr> <td>10 Fees payable to KPMG in respect of grant claims and returns for the year</td> <td></td> <td style="text-align: right;">10</td> <td></td> <td>10 Fees payable to KPMG in respect of grant claims and returns for the year</td> <td style="text-align: right;">10</td> </tr> <tr> <td></td> <td style="text-align: right;"><u>127</u></td> <td style="text-align: right;"><u>175</u></td> <td></td> <td style="text-align: right;"><u>127</u></td> <td style="text-align: right;"><u>153</u></td> </tr> </tbody> </table>		<u>2020/21</u>	<u>2021/22</u>		<u>2020/21</u>	<u>2021/22</u>		£000	£000		£000	£000	110 Fees payable to Ernst & Young with regard to external audit services carried out by the appointed auditor for the year		158		110 Fees payable to Ernst & Young with regard to external audit services carried out by the appointed auditor for the year	136	7 Fees payable to Fiander Tovell in respect of grant claims and returns for the year		7		7 Fees payable to Fiander Tovell in respect of grant claims and returns for the year	7	10 Fees payable to KPMG in respect of grant claims and returns for the year		10		10 Fees payable to KPMG in respect of grant claims and returns for the year	10		<u>127</u>	<u>175</u>		<u>127</u>	<u>153</u>																																												
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8	Correction to COVID-19 hospital discharge scheme expenditure and income	51	6	<p>Other Items of Income and Expenditure</p> <p>Original</p> <p>The new hospital discharge scheme implemented in response to the pandemic cost an additional £2.3M, of which £2.1M was funded by the Hampshire, Southampton and Isle of Wight Clinical Commissioning Group.</p> <p><i>Revised</i></p> <p>The new hospital discharge scheme implemented in response to the pandemic cost an additional £1.0M, of which £0.8M was funded by the Hampshire, Southampton and Isle of Wight Clinical Commissioning Group.</p>																																																																																
9	Minor changes made following EY review to the Narrative Statement and some of the statements/notes	20/23 26/27 33 49 120	NS EFA & CIES 1a) 4 AGS	<p>Narrative Statement - text amended to clarify the Expenditure & Funding Analysis is not a statement. Reference made to being unsuccessful in the UK City of Culture bid.</p> <p>Expenditure & Funding Analysis and Comprehensive Income & Expenditure Statement - cross reference to Note 5 for 2020/21 restatement for changes to portfolios.</p> <p>Accounting Policies - update to period of cash flow forecast.</p> <p>Major Sources of Estimation Uncertainty - Arrears removed from note as not considered sufficiently material. Note on variable components of property valuations added.</p> <p>Annual Governance Statement - previous draft updated.</p>																																																																																

Agenda Item 9

DECISION-MAKER:	GOVERNANCE COMMITTEE
SUBJECT:	ANNUAL REPORT ON THE MEMBERS' CODE OF CONDUCT
DATE OF DECISION:	26 TH SEPTEMBER 2022
REPORT OF:	DIRECTOR OF LEGAL AND BUSINESS SERVICES

<u>CONTACT DETAILS</u>			
Executive Director	Title	DIRECTOR OF LEGAL & BUSINESS SERVICES	
	Name:	Richard Ivory	Tel: 023 8083 2794
	E-mail	Richard.ivory@southampton.gov.uk	
Author:	Title	DIRECTOR OF LEGAL & BUSINESS SERVICES AND MONITORING OFFICER	
	Name:	Richard Ivory	Tel: 023 8083 2794
	E-mail	Richard.ivory@southampton.gov.uk	

STATEMENT OF CONFIDENTIALITY

None.

BRIEF SUMMARY

At the time of the adoption of the current Code of Conduct for Members in 2012 the Council requested the Monitoring Officer (currently the Director of Legal & Business Services) to produce an annual report outlining the impact of the Code, a summary of the complaints received and any action taken.

RECOMMENDATIONS:

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| | (i) | The Committee is asked to note this annual report for the year 2021/22. |
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REASONS FOR REPORT RECOMMENDATIONS

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| 1. | Unless there are any changes required to be made to either the Code or the procedures for investigation, this report is only for noting |
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ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

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| 2. | None. |
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DETAIL (Including consultation carried out)

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| 3. | The Governance Committee has the following terms of reference in relation to corporate governance and the Code of Conduct issues: |
| | <ul style="list-style-type: none"> To lead on the Council's duties under Chapter 7 Localism Act 2011 and to design, implement, monitor, approve and review the standards of ethics and probity of the Council, both for Councillors and employees. The Committee's powers shall include responding to consultation documents and the promulgation of Codes of Conduct but the adoption and revisions to the local Members Code of Conduct shall be reserved to the Council. |

	<ul style="list-style-type: none"> To lead on all aspects of Corporate Governance by promoting the values of putting people first, valuing public service and creating a norm of the highest standards of personal conduct.
	<ul style="list-style-type: none"> To oversee and manage programmes of guidance, advice and training on ethics, standards and probity for Councillors and employees and on the Members Code of Conduct.
	<ul style="list-style-type: none"> To be responsible for the Council's register of Members' interests and to receive reports from the Monitoring Officer on the operation of the register from time to time
	<ul style="list-style-type: none"> To be responsible for written guidance and advice on the operation of the system of declarations of Members' Interests and to receive reports from the Monitoring Officer on the operation of the system of declarations from time to time.
	<ul style="list-style-type: none"> To establish, monitor, approve and issue advice and guidance to Councillors on a system of dispensations to speak on, or participate in, matters in which they have interests and give dispensation in appropriate cases
	<ul style="list-style-type: none"> To exercise the functions of the Council in relation to the ethical framework, corporate governance and standards of conduct of Joint Committees and other bodies
	<ul style="list-style-type: none"> To establish a Standards Sub-Committee to investigate and determine appropriate action in respect of alleged breaches of the Members Code of Conduct.
	<ul style="list-style-type: none"> To support the Monitoring Officer and Executive Director: Finance & Commercialisation in their statutory roles and the issuing of guidance on them from time to time
	<ul style="list-style-type: none"> To receive regular reports on the performance of the Corporate Complaints process, Local Government & Social Care Ombudsman referrals, Annual Governance Statement and Code of Corporate Governance and to recommend revisions to related policies and procedures as appropriate.
4.	The Council has a responsibility for making arrangements to receive and consider complaints against Councillors in Southampton. Stage 1 is receipt and initial consideration and, where appropriate, informal resolution by the Monitoring Officer. Where warranted, at Stage 2, the Governance Committee will determine the complaint following a detailed investigation by the Monitoring Officer or someone on his behalf.
5.	Since the adoption of the current Members' Code of Conduct, the Standards Sub-Committee has not had cause to meet to consider any allegations of breach of the Members' Code of Conduct
Complaints Received	
6.	The Council adopted a revised Members' Code of Conduct consistent with the requirements of the Localism Act 2011 on 11 th July 2012.
7.	In summary, the regime remains low key. All members have completed their Register of Interests, are reminded annually of the need to keep it updated (the Register is publicly accessible and viewable online) and a few complaints have been received. All issues / complaints have been resolved by the Monitoring Officer, investigated as appropriate and/or rejected and

	advice given to the complainant at Stage 1 of the complaints procedure, meaning that there have been no determinations or findings of a failure to comply with the relevant Code of Conduct by the Committee.
8.	The Monitoring Officer received 1 written complaint about Councillors in 2021/22 which required preliminary investigation.
9.	All complaints, formal and informal, are taken seriously and investigated proportionately as appropriate. In order to be considered under the formal complaints process, complaints must be submitted in writing, must provide substantiated information and should outline what form of resolution the complainant is seeking. When a complaint does not meet these criteria and does not reveal a potential breach of the Members' Code of Conduct, it is treated as a "general enquiry". This means that the Monitoring Officer responds to the complainant in writing explaining why the matters complained of do not constitute a potential breach of the Members' Code of Conduct. Occasionally, due to capacity or other reasons that the Monitoring Officer deems appropriate, independent external assistance may be sought to assist in determining complaints, however this is rare.
10.	When a complaint is submitted which provides the relevant information, the Monitoring Officer will consider and decide as to whether it will be treated as a valid complaint or not. Where it is considered valid, the Monitoring Officer may deal with the matter under delegated powers unless, after consultation with the Designated Independent Person, it is considered that the breach is potentially serious enough to merit putting before the Standards Sub Committee for determination. None met that threshold. All complaints received were determined at an early stage and the complainant advised of the reasons. Members against whom a complaint is made are generally not advised at this preliminary stage.
<u>Applications for Dispensation</u>	
11.	If a member wishes to apply for a dispensation to allow them to take part in a meeting with a disclosable pecuniary interest, they must submit a written application to the Monitoring Officer. Applications are then decided by him or by the Governance Committee.
12.	The Localism Act 2011 substantially changed the rules on interests. Regrettably, it was incomplete to order to permit members to carry out their full duties in relation to being able to vote on the budget. Annually before Full Council, all members are granted a blanket dispensation by the Monitoring Officer to allow them to take part in the decision to approve the Council's budget and set the Council Tax bands. No other dispensations have been applied for.
<u>Supporting Members of the Council</u>	
13.	Training has previously been provided to newly elected members, and as required for new Cabinet Members and those members who sit on regulatory bodies such as Licensing Committee and the Planning & Rights of Way Panel. 14. Importantly, the adopted Member Learning & Development Strategy has been implemented and member training via external partners, such as the LGA and SEE, has gradually increased. Group Leaders have committed to increasing member development at all levels of office to better support members in discharging their roles. The planned induction and training

	programme has been implemented and ongoing development is currently being discussed. Attendance at the members induction and refresher programme post the May elections was however generally poorly attended. However, all core training to ensure the lawful discharge of licensing and planning meetings was delivered. As a result discussions have taken place with Group Leaders to redesign the programme including the times of the sessions to try and accommodate members wishes and ensure better access and take up.
14.	It is essential that all councillors are equipped with the skills and knowledge required to enable them to fulfil their various roles effectively and the programme will offer a range of learning and development opportunities utilising external training events, online resources and support via the Local Government Association and other third party providers. The programme will continue to offer a mix of in-house training, external mentoring and development opportunities via officer led training, e-learning packages, and briefings.
15.	Presently bespoke training sessions are offered to support councillors with their roles on committees and panels (including specific training around planning and licensing legislation, as well as opportunities around effective scrutiny and charring skills).
16.	To coincide with the redesigned Member Development and Induction programme in 2023 following the all out elections, we are looking to achieve cross-party support to establish a minimum/ mandatory attendance requirement.
17.	In addition, the Head of Business Operations and the Head of Organisational Development have developed and are implementing individual and team development for Cabinet Members and then with the Executive Management Team that includes use of psychometric and 360-degree feedback tools to support them.
18.	Lastly, members will be aware that the CfGS were commissioned to undertake a light touch governance review. Unfortunately, the final report has been delayed due to a combination of factors and other priorities but the draft report has been socialised with Group Leaders. An action plan covering both officers and members is being finalised and is intended to be tabled at the next Governance Committee.
<u>Gifts & Hospitality</u>	
19.	The requirement for members to register any gifts or hospitality received in their capacity as an elected member is currently set at a minimum of £50. Minimal notifications have been made which probably reflects the limited quantity and value of any received. This requirement does, however, exclude anything relevant to elected members who are the Lord Mayor or Sherriff when acting in those capacities.
RESOURCE IMPLICATIONS	
<u>Capital/Revenue</u>	
20.	None.
<u>Property/Other</u>	

21.	None.
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
22.	Chapter 7 Localism Act 2011.
<u>Other Legal Implications:</u>	
23.	None.
RISK MANAGEMENT IMPLICATIONS	
24.	None.
POLICY FRAMEWORK IMPLICATIONS	
25.	None.

KEY DECISION?	No
WARDS/COMMUNITIES AFFECTED:	None
<u>SUPPORTING DOCUMENTATION</u>	
Appendices	
1.	None

Documents In Members' Rooms

1.	None
Equality Impact Assessment	
Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.	No
Data Protection Impact Assessment	
Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out.	No
Other Background Documents	
Other Background documents available for inspection at:	
Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
1.	None
2.	

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DECISION-MAKER:	GOVERNANCE COMMITTEE
SUBJECT:	STRATEGIC CONTRACTS ANNUAL REPORT
DATE OF DECISION:	26 September 2022
REPORT OF:	HEAD OF SUPPLIER MANAGEMENT

<u>CONTACT DETAILS</u>			
Executive Director	Title	Executive Director – Finance and Commercialisation and S151 Officer	
	Name:	John Harrison	Tel: 023 8083 4897
	E-mail:	John.Harrison@southampton.gov.uk	
Author:	Title	Head of Supplier Management	
	Name:	Paul Paskins	Tel: 023 8083 4353
	E-mail:	Paul.Paskins@southampton.gov.uk	

STATEMENT OF CONFIDENTIALITY

Appendix 1 to this report is confidential in accordance with paragraph number 7(A) of the Council’s Access to Information Procedure Rules in Part 4 of the Council's Constitution as it contains information about Council contracts and third-party suppliers which may be deemed to be confidential and commercially sensitive.

BRIEF SUMMARY

This report provides the Governance Committee with an overview of the performance, governance and contractual matters relating to the Council’s most strategically important contracts, excluding those managed by the Integrated Commissioning Unit (ICU).

The report is produced by the Supplier Management Service (SMS) on an annual basis to cover the preceding financial year.

RECOMMENDATIONS:

	(i)	That the Governance Committee notes the Strategic Contracts Annual Report covering the period April 2021 to March 2022 as attached as Appendix 1.
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REASONS FOR REPORT RECOMMENDATIONS

1.	The report is provided for information.
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ALTERNATIVE OPTIONS CONSIDERED AND REJECTED
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	N/A
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DETAIL (Including consultation carried out)
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2.	The Council delivers a number of key services through contracts with third-party suppliers.
3.	The SMS is comprised of contract management, procurement and commercial specialists and has responsibility for the procurement, contract

	management and supplier performance for what are known as the ‘Strategic Contracts’. These are the contracts deemed be the most strategically important to the Council.
4.	This joined-up approach to contract management and procurement is designed to ensure that the Council procures, puts in place and appropriately manages contracts which meet the Council’s strategic objectives now and, in the future, and achieves value-for money through its contracting arrangements.
5.	A separate arrangement is in place for health and care commissioning, procurement and contract management all of which are managed by the ICU and are not detailed within this report.
6.	<p>The SMS is responsible for the management of all aspects of the ‘contract lifecycle’ and performance of the Strategic Contracts including: -</p> <ul style="list-style-type: none"> • Relationship management; • Contract strategy; • Contract changes and negotiation; • Issue dispute resolution; • Continuous improvement; • Performance monitoring and financial deductions; • Contract compliance, benefits realisation and value-for-money monitoring activities; • Formal and informal governance; • Capital programmes; • Insurance; • Provider facilities and premises; • Finance governance; • Technical management and approvals; • Works orders; • Safety, health, environmental and quality monitoring; • Engagement activities and • Employment practices and equalities obligations.
7.	<p>The current portfolio of Strategic Contracts consists of the following: -</p> <ul style="list-style-type: none"> A. Highways Services Partnership (HSP); B. CCTV and Intelligent Traffic Systems (known as ‘CityWatch’); C. Street Lighting Private Finance Initiative; D. Leisure (Sport and Recreation); E. Southampton Guildhall; F. St Mary’s Leisure Centre; G. Schools Private Finance Initiative; H. Waste Disposal; I. Commercial Waste; J. Managed Services for Temporary Agency Resources and K. Client Case Management System (known as ‘CareDirector’).
8.	This report considers the period from 1 April 2021 to 31 March 2022 and therefore pre-dates the volatility of the energy market and associated inflationary pressures that are currently being experienced.

	<p>Due to the Council's energy procurement strategy it has, to date, been protected from the worst of the increases in energy pricing; however, the Council has and will continue to see unprecedented price rises for the foreseeable future.</p> <p>It is anticipated that these will have an impact on the Strategic Contracts during the current financial year and the ramifications of this will be reflected in the Strategic Contract Annual Report for 2022/23.</p>
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9.	<p>A number of the Strategic Contracts referred to within this report form part of the Strategic Procurement Programme (SPP). The SPP is the term used to capture upcoming non-health and care requirements/projects which are strategically significant in terms of value, operational considerations, reputation or political importance.</p> <p>The SPP is made up of arrangements which need to be implemented and operational by end of the 2025/26 Financial Year including:</p> <ol style="list-style-type: none"> 1. Services which are currently outsourced; 2. Services which have recently been brought in-house on an interim basis and require a decision on the future delivery model; and 3. Planned strategic requirements which have yet to fully establish a delivery model.
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RESOURCE IMPLICATIONS

Capital/Revenue

	N/A
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Property/Other

	N/A
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LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

	S101 Local Government Act 1972 and S1 Localism Act 2011
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Other Legal Implications:

	N/A
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RISK MANAGEMENT IMPLICATIONS

	N/A
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POLICY FRAMEWORK IMPLICATIONS

	N/A
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KEY DECISION?	N/A
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WARDS/COMMUNITIES AFFECTED:	Not Applicable
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SUPPORTING DOCUMENTATION

Appendices

1.	Strategic Contracts Annual Report 2021_2022 - exempt
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Documents In Members' Rooms

1.	N/A	
Equality Impact Assessment		
Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.		No
Data Protection Impact Assessment		
Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out.		No
Other Background Documents		
Other Background documents available for inspection at: N/A		
Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)	

Document is Confidential

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