

POLICY & RESOURCES COMMITTEE

Date: 12 September 2011

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 7.30 pm

Present: Councillors:-

Richard Lewis (Chairman)
Glenvil Greenwood-Smith (Vice-Chairman)
Steven North (Leader of the Council)
Philip Hardcastle (Deputy Leader of the Council)

David Brackenbury
Wendy Brackenbury
John Farrar
Richard Gell
Roger Glithero
Glenn Harwood

Sue Homer
Dudley Hughes
Andy Mercer
Rupert Reichhold
Jeremy Taylor

141. PUBLIC SPEAKERS

Councillor Mark Ormrod of Oundle Town Council, Mr Jake Voles, Councillor Phillip Stearn of East Northamptonshire Council and Councillor David Bateman of East Northamptonshire Council addressed the committee on the Oundle Recycling Centre item. The chairman announced that the item would be brought forward on the agenda.

142. MINUTES

The minutes of the meeting held on 4 July 2011 were approved and signed by the chairman.

143. APOLOGIES

No apologies were received.

144. DECLARATIONS OF INTEREST

Councillor Richard Gell declared a personal and prejudicial interest in the additional item – Delegated powers for diversion of footpaths and bridleways under section 11 of the Highways Act 1980. He left the meeting during the discussion and voting on that item.

Members declared personal interests in the applications below as indicated. They remained in the meeting and took part in the discussion and voting on the respective item.

Member	Item	Nature of Interest
Richard Lewis	6	He knows Mark Lees

Andy Mercer	7	He had been involved in discussion on this item at a Development Control Committee meeting
David Brackenbury, Wendy Brackenbury, John Farrar, Richard Gell, Glenvil Greenwood-Smith, Glenn Harwood, Andy Mercer, Rupert Reichhold, Jeremy Taylor	10	Members of the Green Waste Club

145. QUESTIONS BY MEMBERS UNDER COUNCIL PROCEDURE RULE 10.3

There were no questions.

146. OUNDLE RECYCLING CENTRE

This item was brought forward as a number of public speakers were in attendance.

The committee received an update on the discussions that had taken place regarding the future operation of the Oundle Recycling Centre and considered options for the future. The following options and timescales were put forward for the site:

Option 1: Remove the manned element from the site and allow Kier to operate a bulking facility from the site (starting immediately).

Option 2: Site remains open as now with anchor tenant for 'bulking' secured (starting immediately).

Option 3: Site opens 4 days a week (from April 2012 with site open or 'mothballed' until that date)

- Oundle Town Council permit scheme
- Anchor tenant for 'bulking' secured
- Oundle Town Council purchases site from East Northamptonshire Council

Option 4: Site opens 4 days a week (from November 2011)

- Oundle Town Council permit scheme
- Anchor tenant for 'bulking' secured
- Oundle Town Council purchases site from East Northamptonshire Council

During the discussion the following points were made:

- A full range of recyclable materials would still be collected at the site, with the exception of white goods and green waste
- Much more could now be recycled kerbside
- White goods were seldom disposed of and most companies would take away old white goods on delivery of new ones
- Early indications showed a significant increase in recycling rates since the roll out of the new waste contract
- The kerbside recycling service was being used far more than it used to therefore there should be less need for the centre
- The previous subsidy for the Green Waste Club, which ended on 31 July 2011, had been financed from recycling credits rather than directly from council tax

- The Waste and Recycling Working Party would consider whether to reintroduce the subsidy for the Green Waste Club at a future meeting
- To end the collection of green waste at the site could send the wrong message to the public regarding recycling
- Continued provision of such facilities at the site would mean the council was providing a service for only one area of the district
- The misuse of the site for trade waste needed to be addressed.

Additional, non-site specific options for trade and green waste were also considered. Initial suggestions included, a chargeable bulky green waste collection service, subsidising the Green Waste Club, brokering a framework agreement with local composting depository facilities (Lowick/Deene), and a potential joint commercial waste and recycling service with other Northamptonshire councils. Members felt that if a framework agreement with local composting depository facilities could be finalised as soon as possible it would help address the problem of misuse of the site for trade waste. Officers had already begun discussions with Kier regarding a commercial waste and recycling service, which they intended to be revenue neutral with the potential for additional revenue to support the domestic waste and recycling service in the future.

Members thanked the officers and Oundle Town Council for the work that had gone into trying to find a resolution.

RESOLVED:

- (1) That option 3 above be progressed with the site to be 'mothballed' until 31 March 2012.
- (2) That all of the suggested alternative solutions for dealing with green waste and trade waste be pursued through the Waste and Recycling Working Party.

147. PERSONNEL SUB-COMMITTEE – 7 JUNE AND 2 AUGUST 2011

The minutes of the meetings on 7 June and 2 August 2011 were received. See page 260 to page 264.

148. WASTE AND RECYCLING WORKING PARTY MINUTES - 6 JULY 2011

The minutes of the meeting on 6 July were received. See page 265 to page 268.

149. HOMELESSNESS GRANT 2011/12

The committee considered an application for £5,000 from East Northamptonshire Community Services (ENCS) to support the continued operation of the Rushden Night Shelter and associated services, incorporating a 4 bed direct access night shelter, a 5 unit 'move-on' accommodation project, a drop-in advisory service and individual housing related support. Members commended the work done by ENCS in the district to date.

RESOLVED:

- That the application for £5,000 from the Homelessness Budget from East Northamptonshire Community Services be approved.

150. REVIEW OF PLANNING ENFORCEMENT

Members discussed a recommendation to revise the Enforcement Policy to reflect the council's proposed priorities in this area and changes to the level of staffing resource in this area.

The Development Control Committee had been concerned about ensuring the correct level of staffing resource and was reassured that this decision would not limit future options. The committee therefore endorsed the proposals.

The Policy and Resources Committee noted the successes detailed in the report and there would be no change to the council's highest priorities.

RESOLVED:

That the amendments to the priorities of the planning enforcement team, as set out within the revised Enforcement Policy, be approved.

(Reason – In the interests of achieving a balanced budget and noting the revisions required to reflect the reduction in staffing levels within the team.)

151. COVERT SURVEILLANCE POLICY

A report was submitted asking the committee to make changes to the council's Covert Surveillance Policy and officer delegation scheme in the light of the inspection report issued in June 2011 and the effect of the Protection of Freedoms Act 2011. The legislative changes required every authorisation to now be agreed by a magistrate's court and authorisations were only likely to be agreed if the offence would attract a prison sentence of six months or more. It was likely the changes would lead to a cessation of use of the provisions by the council.

Members were encouraged by changes and pleased to note the positive Inspector's report.

RESOLVED:

That the revised Covert Surveillance Policy (as set out at pages 269 to 280) be approved.

R.6 RESOLVED TO RECOMMEND:

That the scheme of delegation be amended to reflect the policy changes with the requirement to inform the Leader and Deputy Leader should the provisions be used.

(Reason – to update the policy and scheme of delegation in the light of legislative changes.)

152. PROPOSED CONSTITUTIONAL CHANGES

The committee considered proposed changes to the Scrutiny Procedure Rules in relation to call in and the Code of Practice for Licensing Procedures in relation to training.

The changes to the Scrutiny Procedure Rules would

- Outline the rights and responsibilities of the chairman of the appropriate policy committee to attend and speak at the Scrutiny Committee when a call in is discussed, with a similar right being given to the chairman of Scrutiny Committee to attend the policy committee when reconsideration is being given to the called in resolutions;
- Make it clear that it is not the responsibility of an officer of the council to justify decisions, and
- Specify the requirement for the Leader of the Council to be kept informed.

The changes to the Code of Practice for Licensing Procedures would strengthen the requirement for all members of the Licensing Committee to receive training in licensing procedures before they sit on a licensing panel.

R.7 RESOLVED TO RECOMMEND:

- (1) That the changes to the constitution set out at pages 281 to 283 be approved, subject to the replacement of 'privilege' with 'procedure' in paragraph 14.3.
- (2) That the Monitoring Officer be authorised to adjust paragraph 44 of part .4 of the constitution (Planning Procedures) to reflect the same approach suggested in the change to part 5.7.

(Reason – to ensure that the constitution is kept up to date and to ensure that all relevant legislation is included.)

153. ADDITIONAL ITEM - DELEGATED POWERS FOR DIVERSION OF FOOTPATHS AND BRIDLEWAYS UNDER SECTION 119 HIGHWAYS ACT 1980

Councillor Richard Gell left the room for discussion and voting on this item.

This item had been added to the agenda by virtue of section 100(B)(4)(b) of the Local Government Act 1972 because a decision on making an order relating to the Priors Hall development had to be made before the next meeting.

Members discussed a report which sought general delegated authority for specific officers of the council to make orders to divert footpaths and bridleways under the provisions of section 119 of the Highways Act 1980 in light of a request made by the developers involved with a part of the Priors Hall development.

R.8 RESOLVED TO RECOMMEND:

- (1) That delegated powers for the use of section 119 of the Highways Act 1980 be granted to the Democratic Services Manager and to the Solicitor to the Council, in consultation with the ward member(s), to undertake the procedures to make orders under section 119 and to confirm such orders when they unopposed.
- (2) That the same basis for the charging of fees for orders under section 257 of the Town & Country Planning Act 1990 be adopted for orders under section 119.

(Reason – to update the scheme of delegation.)

Note – The action relating to the making of an order affecting the Priors Hall development is being pursued via the Urgency Procedure in part 4.3 of the constitution.

154. EXCLUSION OF PUBLIC AND PRESS

RESOLVED:

That the public and press be excluded from the meeting during consideration of the following items of business because exempt information, as defined under paragraph 1 of part 1 of schedule 12A of the Local Government Act 1972, may be disclosed.

155. NENE CENTRE ROOF UPDATE

The committee received an update on the Nene Centre roof and debated whether to carry out repairs and to continue legal action against the building contractor and others to recover costs.

RESOLVED:

- (1) That the repair of the roof commence in March/April 2012.
- (2) That the legal claims against the contractor and architect be pursued.
- (3) That authority be given to officers and nominated councillors to incur expenditure which will be subject to continual review of the likely success of the legal claim.
- (4) That further reports be made to the Policy and Resources Committee to identify any significant increased risk of the council not recovering costs.

R.9 RESOLVED TO RECOMMEND:

- (1) That provision of £600k be made in the council's capital programme to pay for the repairs.
- (2) That a provision of £550k be made in the council's revenue budget with a view to recovery of the costs being delivered from the legal case.

(Reason – to decide whether to proceed with the replacement of the roof and to pursue legal action against the contractor and architect, and to make financial provision for the committee's decision.)

Chairman



Personnel Sub-Committee

Minutes of a meeting held on 7 June 2011 at 2.00 pm at East Northamptonshire House, Thrapston

Present:

Councillors Roger Glithero (Chairman)
 Wendy Brackenbury
 Philip Hardcastle
 Steven North

Sharn Matthews Executive Director (SM)
Katy Everitt Head of Resources and Organisational Development (KE)
Aime Armstrong Human Resources Manager (AA)
Rachel Reeds Member Services Officer (RR)

Action

1.0 ELECTION OF CHAIRMAN

1.1 **RESOLVED:**

That Cllr Roger Glithero be elected chairman of the Personnel Sub-Committee.

2.0 MINUTES

2.1 The minutes of the meeting held on 22 March 2011 were approved and signed by the chairman. Members noted that an initial attempt to recruit apprentices had been unsuccessful. The Corporate Management Team had agreed to wait until the end of June to recruit and would ensure the posts were advertised locally.

3.0 APOLOGIES

3.1 Cllr Jeremy Taylor sent his apologies.

4.0 ELECTION OF VICE-CHAIRMAN

4.1 **RESOLVED:**

That Cllr Philip Hardcastle be elected vice-chairman of the Personnel Sub-Committee.

5.0 DECLARATIONS OF INTEREST/QUESTIONS

5.1 There were no declarations of interest or questions.

6.0 XCHANGE

- 6.1 Members received and noted the minutes of the Xchange Group meeting held on 12 April 2011.

7.0 WORKFORCE STATISTICS

- 7.1 The sub-committee reviewed data about staff sickness, turnover and the number of staff employed. It noted that sickness levels were below the public and private sector averages. It also noted that a slightly higher level of staff turnover than in the past was being used as an opportunity to review posts as they became vacant. ICT Services' higher staff turnover was related to a higher level of fixed-term contracts and the two annual student internships.

8.0 VACANT POSTS UPDATE

- 8.1 The sub-committee received a report on posts deleted from the establishment, vacant posts and hours not being filled and budget savings. The sub-committee agreed alterations to the format of the report to distinguish between vacant posts; hours being held on the establishment and budget savings.

9.0 POLICY REVIEW

- 9.1 A draft programme of review of personnel policies was submitted for consideration.

RESOLVED:

- (1) That all Human Resources/Organisational Development policies in the wrong format be put in the new format.
- (2) That new review dates, as set out in the programme submitted to the meeting, be approved.
- (3) That once a policy has been reviewed, the next review date be set at 3-5 years (depending on the policy) and the new date be added to the review programme.
- (4) That the review programme be prioritised in relation to legislative changes.
- (5) That, as part of the review, officers consider which policies could be merged.

(Reason – To ensure that the policies are accurate, up to date and presented in the corporate style.)

10. ORGANISATIONAL DEVELOPMENT ANNUAL REPORT

- 10.1 The sub-committee received the Organisational Development Annual Report which gave an overview of staffing issues that had come up during 2010/11 including staff numbers and turnover, sickness, training and appraisals, and cost savings.

11.0 EXCLUSION OF PUBLIC AND PRESS

11.1 RESOLVED:

That the public and press be excluded from the meeting during consideration of the following items of business because exempt information, as defined under paragraph 2 of part 1 of schedule 12A of the Local Government Act 1972, may be disclosed.

12.0 STAFF PROPOSALS

12.1 Proposal SP2

RESOLVED:

- (1)** That one voluntary redundancy be made (SP2).
- (2)** That approval be given to the recruitment of a temporary part-time personnel administrator to cover maternity leave (1 August – 31 December 2011).
- (3)** That approval be given to the removal of the part-time executive PA post that reported to the Executive Director (ML) and the 2 days per week personnel administrator post from the establishment.

12.2 Proposal SP6

RESOLVED:

That the request for reduced hours under the Pensions Discretion Policy and Procedure be approved with effect from 1 October 2011.

12.3 Proposal SP5

RESOLVED:

- (1)** That shared service arrangements be explored for the areas discussed in SP5.
- (2)** That consultation about the possible shared services commence with UNISON and potentially affected employees at the appropriate time.

Chairman



Personnel Sub-Committee

Minutes of a meeting held on 2 August 2011 at 2.00 pm at East Northamptonshire House, Thrapston

Present:

Councillors

Roger Glithero (Chairman)
Steven North
Jeremy Taylor

Aime Armstrong
Rachel Reeds

Human Resources Manager (AA)
Member Services Officer (RR)

Action

1.0 MINUTES

1.1 The minutes of the meeting held on 7 June 2011 were approved and signed by the chairman.

2.0 APOLOGIES

2.1 Katy Everitt, Head of Resources and Organisational Development, Councillor Wendy Brackenbury and Councillor Philip Hardcastle sent their apologies.

3.0 DECLARATIONS OF INTEREST/QUESTIONS

3.1 There were no declarations of interest or questions.

4.0 XCHANGE

4.1 Members received and noted the minutes of the Xchange Group meeting held on 5 July 2011.

5.0 WORKFORCE STATISTICS

5.1 The sub-committee reviewed data about staff sickness, turnover and the number of staff employed. It noted that total sickness levels continued on a downward trend and the number of full time equivalent staff had dropped due to some requests for reductions in hours.

6.0 VACANT POSTS UPDATE

6.1 The sub-committee received a report on posts deleted from the establishment, vacant posts and hours not being filled and budget savings. Members preferred the improved format for presenting the information.

7.0 ABSENCE MANAGEMENT POLICY

- 7.1 The sub-committee considered the final draft of a new policy for absence management. The initial draft policy had been revised and re-written as a result of consultation with staff, UNISON and Xchange. The sub-committee approved of the clear and systematic style of the policy. Members were assured that managers would be trained on how to translate the policy into day to day management and the process would be monitored and reviewed regularly.

RESOLVED:

That the Absence Management Policy submitted to the meeting be adopted.

8.0 EXCLUSION OF PUBLIC AND PRESS

- 8.1 **RESOLVED:**

That the public and press be excluded from the meeting during consideration of the following items of business because exempt information, as defined under paragraph 2 of part 1 of schedule 12A of the Local Government Act 1972, may be disclosed.

9.0 STAFF PROPOSALS

- 9.1 **Proposal SP7a**

RESOLVED:

That a pilot shared legal service with NBC commence as soon as possible with a view to a formal shared legal service starting from 1 April 2012 (subject to a further report to the Personnel Sub-Committee detailing the outcome of the pilot agreement and details of the formal shared legal service).

- 9.2 **Proposal SP8**

RESOLVED:

That formal consultation about possible changes, and how they impact on staff, can start immediately following the meeting.

10.0 CHANGE TO DATE OF NEXT MEETING

- 10.1 **RESOLVED:**

That the meetings scheduled for 6 September and 27 October be replaced with a meeting on 27 September.

Chairman



Waste & Recycling Working Party

MINUTES

Held on:	6 July 2011
Time:	11.00am
Place:	Members' Room, East Northamptonshire Council, Thrapston
Present:	<p>Councillors: Glenn Harwood (Chairman) (GH), David Bateman (DB), Tony Boto (TB), Wendy Brackenbury (WB), Roger Glithero (RG), Sylvia Hobbs (SH), Richard Lewis (RL), Eloise Lucille (EL), Clive Wood (CW).</p> <p>Officers: Mike Deacon (MD) Head of Environmental Services, Kirsty Squires (KS) Waste Contract Project Coordinator</p>

Action

1.0 ELECTION OF CHAIRMAN

1.1 Councillor Glenn Harwood was elected chairman of the working party.

2.0 WELCOME AND APOLOGIES FOR ABSENCE

2.1 The chairman welcomed those who were new to the working party to their first meeting. Councillor Steven North and the Waste Manager, Charlotte Tompkins sent their apologies.

2.2 GH suggested providing waste sessions to bring councillors up to speed with waste issues and the waste agenda. MD to elaborate under item 10. A waste glossary would be provided to members.

CT

3.0 DECLARATIONS OF INTEREST

3.1 Councillors Roger Glithero, Glenn Harwood, Wendy Brackenbury and Tony Boto declared personal interests because they were members of the Green Waste Club.

4.0 ELECTION OF VICE-CHAIRMAN

4.1 Councillor Steven North was elected vice-chairman of the working party.

5.0 MINUTES

- 5.1 The minutes of the meeting held on 1 December 2010 were approved as a true record.

6.0 WASTE PROJECT UPDATE

- 6.1 It was reported that NCC's Waste Education Team had been supporting the work of the waste team in rolling out bins and providing information to the public.
- 6.2 The working party thanked the officers of the waste team, communications team and customer services team. Thanks were also extended to members who were also acting as ambassadors for the new scheme. One member had also provided support at a recent event at Waitrose, which had been very much appreciated by officers.
- 6.3 An updated member briefing had been issued and there had been positive coverage in Nene Valley News, on BBC Radio Northampton, and through the local press. Bin deliveries were occurring across the district. There had been a little slippage on the timetable of deliveries due to limited availability of crews from the distribution company. It was anticipated that this would be ramped up next week.
- 6.4 The response had been largely positive. The majority of calls received had been to ask the location of the information pack (in the food caddy).
- 6.5 The issue of the depot was moving forward. In the first instance office staff would be operating from Chelveston Airfield with the fleet also parked there. Long term Chelveston Airfield would be the site for all operations, including the processing of food waste. In the interim food waste would be taken to Goosey Lodge in Wymington – an operation run by the same company who would provide the service at the Chelveston site. NCC had assured ENC that works would comply with the planning permission given for the site. Kier now had a temporary operating license to work from Carrs Transport Yard. No aspect of the build had yet begun.
- 6.6 GH commented that the waste team were flat out working hard and down one man. It was noted that it might take a few days for the team to respond to members' enquiries. KS explained the process for registering for assisted collection. A form will be issued to gather additional information. Comments received from residents with steps focussed on the view that smaller bins might help. Standard bins would be issued first and any problems monitored. Smaller bins might be an option. All issues around smaller/larger bins would be dealt with in the first few weeks of collection. GH gave the example of the system in Lincoln which had a positive turnaround of residents who did not originally want bins. If a sack collection had not been agreed with a householder, any black bags would not be collected beyond the end of the first month of service. Complaints were minimal. CT to sent information packs to members of the working party. Officers were discussing any issues with residents and if the new system could not be accommodated alternative arrangements would be put in place. The appeals process was detailed in the wheeled bin policy.

- 6.7 The Green Waste Club was continuing as before with the current provider (Verdant) continuing until next April. Next years renewals would be taken up by Kier. The Green Waste Club subsidy would be considered at the next meeting - MD to bring a paper to the next meeting to discuss further in relation to issues in the north of the district.

MD

7.0 FUTURE OF THE WASTE CONTRACT BOARD

- 7.1 After consideration it was **agreed** that the board would continue with its remaining members and that the final project report would be brought to the working party.

MD

8.0 OUNDLE RECYCLING CENTRE UPDATE

- 8.1 MD gave a brief update explaining the situation to date. In September the Policy & Resources Committee would consider the options. WB concern that the people of Oundle are not clear on this and that there was a lot of mis-information. The main two elements of complaints on this particular issue were about use from traders and green waste.
- 8.2 Regarding trade waste, officers were looking to broker arrangements with collection companies and with Lowick and other Windrow sites, and reviewing ENC's own trade waste arrangements. With the new contract, recyclates, other than minors like textiles and batteries, residents would no longer need to go the Oundle Recycling Centre. Large recycling bins would be provided at the Oundle site anyway.
- 8.3 Householders had a number of options for the disposal of green waste including the Green Waste Club and subsidised home composting. For some villages in the north of the district the Weldon site would be more local. Officers were also investigating the introduction of a green waste collection similar to the current bulky waste collection service. Green waste will be monitored in residual bin collections. Discussions were ongoing.
- 8.4 The working party also discussed the closure of the Rushden recycling centre.

9.0 NORTHAMPTONSHIRE WASTE PARTNERSHIP (NWP) UPDATE

- 9.1 An update was given by MD. It was noted that the Policy & Resources Committee had agreed to extend arrangements with the partnership for a further year and sign up to new memorandum of understanding. There would be significant work to be done this year through the partnership. Concerns were raised about ENC's financial contribution to the partnership. The Scrutiny Committee would be considering reviewing partnerships when putting together its work programme. MD would be asking that the NWP partnership forms part of the review. A review should lead to a report being brought to the working party to consider to then make a recommendation to the Policy & Resources Committee.

10.0 SITE VISITS (RECYCLING FACILITIES)

- 10.1 Members requested that arrangements be made to visit facilities and technologies associated with the industry. This had previously been agreed

Action

but had been put on hold during the procurement process as some sites were operated by bidders. There are two Windrow facilities in the district, an MRF at Warwick which we will use and one in Peterborough. EL would like to go to visit the MRF facility. If members wished to take up the visits this could be arranged once the roll out of the new contract was complete.



East Northamptonshire Council

**Corporate Covert Surveillance Policy
September 2011**

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Change History

Issue	Date	Comments
0.1	June 2011	Amendments to take account of the OSC Inspector's report; change in delegation scheme and change in legislation

NB: Draft versions 0.1 - final published versions 1.0

Consultees

Internal	External
Heads of Service/affected staff	
CMT	
Neil Pritchard	

Distribution List

Internal	External
All users or potential users of RIPA powers	

Links to other documents

Document	Link
Data Protection Policy	
Enforcement Policies	

Additional Comments to note

The reasons for updating the Policy are –

- (a) the feedback received from the RIPA Inspection.
- (b) The implications of the Freedom Act
- (c) The change to the officer delegation

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1.0 Introduction

- 1.1 The purpose of this policy is to ensure that the investigatory powers given to the Council under the Regulation of Investigatory Powers Act 2000 are used strictly in accordance with the Human Rights Act. The policy contributes to the following corporate outcomes:
- Effective partnership working (government departments and magistrates)
 - Effective management
 - Councillors and staff with the right knowledge, skills and behaviours.
- 1.2 Article 8 of the Human Rights Act protects an individual's rights to privacy. If there has been an intrusion into an individual's rights it must be clearly shown this was necessary to prevent or detect crime. Article 6 provides for the right to a fair trial, and evidence must have been gathered in accordance with the law.
- 1.3 Covert surveillance (which for the purpose of this policy includes accessing communications data) should not be undertaken unless it is necessary and proportionate to the alleged offence and been authorised by the appropriate officer.
- 1.4 An authorisation made by an officer named in the **Annexe to this policy and approved by a Magistrates Court** provides lawful authority for the Council to carry out covert surveillance only for the prevention or detection of crime but it is considered to be a power of last resort and to be used only after all other avenues have been explore
- 1.5 Covert surveillance falls into two categories, *directed* and *intrusive* surveillance. Intrusive surveillance is not available to local authorities and such use would be **ultra vires**.
- 1.6 This policy applies to *Directed Surveillance* and the use of *Covert Human Intelligence Sources* (within this policy collectively referred to as surveillance). However, CHIS will **not** be used in benefit investigations. Whilst it is unlikely that other Service areas will use them, this Policy highlights – in Section 10, the essential provisions which need to be observed.
- 1.7 The Council will only use surveillance where it judges such use to be proportionate (see box on page 6.).
- 1.8 Before authorising surveillance, authorising officers will take into account the risk of intrusion into the privacy of persons other than the specified subject of the surveillance (collateral intrusion). Measures will be taken wherever practicable to avoid collateral intrusion.
- 1.9 In relation to benefit fraud, this policy must be read in conjunction with benefit fraud circular F4/2003. In all covert surveillance cases, the policy must be read in conjunction with the Home Office Code of Practice (a copy of which accompanies this Policy).
- 1.10 This policy together with the Home Office Code of Practice is available for public inspection in the Reception areas at East Northamptonshire House, Thrapston, The Rushden Centre, and the TIC, Oundle, and can be accessed on the Council's website by using the link - <http://www.east-northamptonshire.gov.uk/pp/silver/viewsilver.asp?id=2264>.

2.0 Interpretation

2.1 For the purpose of this Policy:

Authorising officer means:

An officer who is designated as an officer responsible for authorising surveillance within the meaning of the Act.

The Act means:

The Regulation of Investigatory Powers Act 2000 **as amended by The Protection of Freedoms Act 2011**

Collateral Intrusion means:

Surveillance which indirectly intrudes into the privacy of anyone who is not the direct subject of the surveillance. This could be innocent bystanders, work colleagues, the children of the surveillance subject.

Confidential Information means:

Matters subject to legal privilege, confidential personal information or confidential journalistic information.

Where this type of information could possibly be acquired, the responsible person for authorising will be the Chief Executive, or in his absence, the appropriate Executive Director.

Covert Surveillance means:

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

Covert Human Intelligence Source (CHIS) means:

The use of a person to obtain or access private information **covertly** by establishing or maintaining a personal or other relationship with a suspect **(in all cases the advice of the Solicitor to the Council must be sought at the earliest opportunity)**. The Act refers to persons being asked, induced or assisted to provide such private information (see definition on page 9) CHIS include agents, informants or officers working under cover.

CHIS does not apply to members of the public providing information out of public duty (without expectation of reward or payment) and who have information that is received by them in the normal course of their life.

Directed Surveillance means:

Surveillance which is covert, but not intrusive and undertaken:

- a) For the purpose of a specific investigation;
- b) In such a manner as is likely to result in obtaining private information about a person.

Private information in relation to a person includes any information relating to his private or family life.

Intrusive surveillance means:

Surveillance carried out in relation to anything taking place on residential premises or in any private vehicle; it involves the presence of an individual on the premises or in the vehicle or is carried out by means of a surveillance device.

Note: Local authorities are not authorised to carry out intrusive surveillance.

Communications data means:

Information held by communication service providers (eg telecom, internet and postal companies - csp s) relating to the communications made by their customers, but **not the contents of the communications themselves.**

Necessary

To justify the intrusion surveillance will cause into an individual's rights the Authorising Officer must be satisfied that it is necessary for the reason specified on the application form headed **Authorisation** (For the purpose of preventing or detecting crime or of preventing disorder) given the circumstances of the particular case.

Proportionality

The activity must be proportionate to the likely outcome. This entails striking a balance between the intrusiveness of the activity on surveillance subjects and others likely to be effected against, the proposed activity, the circumstances of the case and the need for the activity.

For example, the activity would not be proportional if there was an alternative way of obtaining the information.

Basically, we should not be taking a hammer to crack a nut!

The following elements of proportionality will therefore be considered:

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

Private information

Is defined in s26 (9) of the Act as that in relation to a person and includes any information relating to his private life.

If observations will not result in obtaining of private information about a person, then it is outside the RIPA framework.

Subject(s) means:

An individual or group of individuals in respect of whom surveillance has been authorised, and such observed contacts of that individual or group of individuals as come to notice during the course of the authorised surveillance.

3.0 Pre surveillance visit and planning process

- 3.1 For the purposes of planning surveillance an investigator should visit the proposed location **once** to plan the surveillance.
- 3.2 The investigator will need to demonstrate both the necessity and proportionality of the permission sought.
- 3.3 Suitable background checks should be made from computer systems and other agencies where a legal gateway exists to exchange information.
- 3.4 The planning process must include identifying where observations will take place; how surveillance will be conducted and recorded (i.e. camera, visual observations with notes taken etc.); what resources are needed; whether the subject will be followed and over what distance; the duration of the surveillance.
- 3.5 Most importantly, the plan must identify any collateral intrusion and set out how this will be kept to a minimum.

4.0 Unforeseen circumstances

- 4.1 Directed surveillance does not include covert surveillance carried out as an immediate response to events or circumstances which, by their nature, could not be foreseen.
- 4.2 Investigators witnessing an offence during the course of their normal duties should record as soon as possible their observations and make a referral in the normal way.
- 4.3 Where it is vital that surveillance should be continued, urgent oral authorisation (see paragraph 5.6) must be sought.

5.0 Authorisation procedures

Written authorisations

- 5.1 No surveillance falling under the provisions of RIPA shall take place without authorisation by the Authorising Officer **and approval by a Magistrates Court.**
- 5.2 Wherever possible authorisation shall be in writing.

5.3 Before giving authorisations for surveillance, the authorising officer must give individual attention to each case and be satisfied that:

(1) The surveillance is necessary and that there is no other way of providing the evidence.

(2) The test of proportionality has been undertaken.

(3) Measures are to be taken to avoid or minimise collateral damage.

(4) Surveillance has been properly planned in all its aspects including (3) above and that: the location of observations has been properly identified; that the method of surveillance is identified; the period (both dates and timings) over which surveillance is to take place has been stated.

5.4 Authorisations will be endorsed on the **Authorisation** application form and a copy returned to the investigator via the appropriate line manager (in the case of benefits, this is the Senior Benefit Officer). Original documentation will be retained in accordance with paragraphs 8 & 9. Alternatively, if authorisation is refused this, together with reasons, will be shown on the **Authorisation** form.

5.5 In urgent cases, oral authority can be given as outlined in 5.6.

Oral authorisations

5.6 In extreme cases where delay would damage the investigation, oral authorisation may be given. However, the same considerations must be applied and great care taken before authorisation is given.

5.7 The Authorising officer shall record the authorisation in the Surveillance file and make a record on the control matrix.

5.8 The investigator will record the authorisation in a QB50 notebook.

Access to Communications Data

5.9 Requests for access to, and disclosure of, communications data may only be made via the Council's Accredited Officer or Single Point of Contact (SPOC).

5.10 The SPOC will ensure that officers designated in the Council's scheme of delegation have applied tests of necessity and proportionality and the risk of collateral intrusion has been taken fully into account (see paragraph 1.8).

5.11 This policy must be read in conjunction with the Regulation of Investigatory Powers (Communications Data) Order 2003 and Home Office Code of Practice (a copy of which accompanies this Policy).

6.0 Duration of authorisations

6.1 Once authorised, surveillance will normally start immediately and in the case of Benefit cases, must begin within 10 days. In the event that circumstances delay this, the

reasons for delay must be documented on the investigation file to show there has been no unreasonable delay.

6.2 Written authorisations last for three months beginning with the day on which they took effect and may be renewed at intervals of not longer than three months.

6.3 Urgent oral authorisations last for seventy-two hours from the time they were given.

7.0 Review of authorisations

7.1 The Authorising Officer will undertake a review at monthly intervals during the duration of surveillance (or shorter period if the circumstances of the particular surveillance justify). Authority to continue may be withdrawn as a result of the review if the activity fails to meet expectations.

8.0 Changes of circumstance

8.1 In the event a change of circumstance occurs the investigating officer shall advise the Authorising Officer (using the **Review form**) within seventy two hours of becoming aware of the change.

8.2 Surveillance activity cannot commence in respect of the changed circumstances unless authorised.

8.3 The Authorising Officer shall reconsider if surveillance remains appropriate once again using the criteria employed in 5.0 above.

8.4 If authorised to continue, the Authorising Officer shall complete the **Review** form; otherwise, cancellation will be given orally followed by completion of the **Cancellation** form, setting out reasons for cancellation.

9.0 Cancellation of Surveillance

9.1 When surveillance operations have been completed, the Authorised Officer will cancel authorisations and they will not be allowed to expire automatically at the end of the three month (or 72 hour) period referred to in 6.0 above.

10.0 Covert Human Intelligence Sources (CHIS)

10.1 Whilst it is unlikely that Service areas will use CHIS (for Benefit investigations, there is a clear policy **not** to use them) it is recognized that a member of the public, or a Council Officer, might fulfil the role of a CHIS even though they have not been *specifically* asked to use a relationship for covert purposes. It is essential that the following provisions are observed. This is supplemented by the Home Office Code of Practice which accompanies this Policy (website link):

- A named officer (ie a “Handler”) will have day to day responsibility for dealing with the CHIS. That officer will –
 - fully recognize the Council has a duty of care to the CHIS, whose security, safety and welfare is paramount.

- Undertake a risk assessment prior to the use of the CHIS to determine the risk to them and the likely consequences should their role become known.
- Take fully into account, at the outset, whether there will be ongoing security and welfare considerations related to the Source, once the authorisation has been cancelled, and
- Maintain a record of the use made of the CHIS, and regulate access to them, ensuring that the Regulation of Investigatory Powers (Source Records) Regulations 2000 are fully complied with
- A further named officer will have general oversight of the use made of the CHIS (ie a “Controller”).
- **Before approving a CHIS, the advice of the Solicitor to the Council must be sought at the earliest opportunity**

10.2 Officers conducting investigations shall clearly establish whether persons assisting the Council might fulfil the role of a CHIS. Possible examples are –

- The use of professional witnesses
- “Entrapment cases” – pretending to be a customer.

10.3 Only the Chief Executive (or his absence, an Executive Director), has the power to authorise a CHIS where it involves a vulnerable person or a juvenile, or where surveillance involves communications subject to legal privilege, confidential personal information or confidential journalistic material.

11.0 Record of authorisations

11.1 A record of all surveillance authorisations (including refusals) together with review documents shall be maintained by the Authorised Officer.

11.2 In addition, the Authorising Officer shall maintain a matrix controlling the authorisations, extensions, reviews and cancellations.

11.3 The Council’s Democratic Services Manager shall hold a central, computerised, register with details of all authorizations and applications for access to communications data. Such records shall be available for inspection by officials from the Office of the Surveillance Commissioner and, for communications data, the Interception Commissioner. The central register shall contain the following information:-

- The type and date of authorisation
- The name and rank/grade of the authorising officer
- **The date of magistrates’ approval**
- A unique reference number for the investigation or operation
- The title of the investigation/operation, and a brief description of the subjects, if known
- If the urgency provisions were used, and why
- If “self-authorisation” applies
- If an authorisation is renewed, when and the name and rank of the authorising officer

- If confidential information is likely to be a consequence of the investigation or operation
- The date the authorisation was cancelled

11.4 Authorising officers shall ensure that the Democratic Services Manager is provided with the required information to maintain the central register.

12.0 Quality Assurance

12.1 The Council's Democratic Services Manager and Solicitor to the Council shall jointly be responsible for internal quality assurance. This entails checking that all applications and authorizations have been satisfactorily completed in accordance with the appropriate Code of Practice, that there are subsequent timely reviews, renewals and cancellations, and that the process has regard to the critical areas identified by reports issued from time to time by the Office of the Surveillance Commissioner.

13.0 Retention of material and security

13.1 Where there is reasonable belief that material relating to any surveillance could be relevant to pending or future criminal or civil proceedings, it should be preserved in accordance with the requirements, where appropriate, of the Criminal Procedure and Investigations Act 1996 and other relevant legislation.

13.2 Where surveillance has ceased or where surveillance has concluded and the material obtained is longer required, it shall be destroyed immediately.

13.3 Authorisations will be destroyed as confidential material. Central records will be destroyed after three years of the ending of authorisation. Counter fraud records shall be destroyed after five years provided the record is no longer required as evidence in support of legal action.

13.4 All material relating to surveillance and requests for access to communications data shall be kept securely.

14.0 Complaints procedure

14.1 The Council shall maintain the standards set out in this Policy.

14.2 Any complaint arising out of investigatory work shall be dealt with in accordance with the Council's Comments, Complaints and Compliments Procedure ([website link](#)).

14.3 If the matter cannot be resolved at a local level the complainant has recourse to the Investigatory Powers Tribunal, PO Box 33220 London SW1H 9ZQ. (020 7273 4514).

AUTHORISING OFFICERS - RIPA

Regulation of Investigatory Powers Act 2000

To authorise covert surveillance, Covert Human Intelligence

Sources, and undertake investigations:

All subject to the Council's Corporate Policy and appropriate Home Office Code of Practice and subject to approval by a Magistrates Court

To authorise requests for access to, and disclosure of, Communications data:

Requests for Communications data being channelled through the SPOC (Democratic Services Manager)

Covert Surveillance covering the following:-

1. Crime and disorder and anti-social behaviour; Noise; Licensing; Food Safety; Littering; Dog Control; Flytipping; Refuse; Health & Safety; Abandoned Vehicles
2. Planning Enforcement
3. Benefit Fraud
4. Personnel Issues

ALL - Chief Executive; Executive Director (prior to approval by a Magistrates Court)

Planning	Head of Planning Services
Environmental Health (Noise; Licensing; Food Safety; Littering; Dog Control; Flytipping; Refuse; Health & Safety; Abandoned & Nuisance Vehicles)	Executive Director ; Head of Environmental Services; Environmental Protection Manager; Commercial Health Manager; Waste Manager
Crime & Disorder - Anti Social Behaviour	Executive Director (ML); Head of Environmental Services Commercial Health Manager; Environmental Protection Manager; Waste Manager
Anti Fraud and Corruption Strategy (Benefits)	Head of Revenue and Benefit Services
Other officers in absence of above -	Solicitor to the Council; Democratic Services Manager
Personnel Development	Head of Organisational
Covert Human Intelligence Authorisations where surveillance involves communications with vulnerable people or juveniles or is subject to legal privilege, confidential personal information or confidential journalistic material.	Chief Executive, or in his absence, Executive Director in consultation with the Leader of the Council (or in his absence the Deputy Leader) Prior to approval by a Magistrates Court

Part 4.4 of the Constitution – Suggested Changes in bold

13. Delaying the Implementation of Decisions (“Call-in”)

- 13.1 Implementing the “Call-In” procedure will have the effect of delaying the implementation of a decision of a policy committee made under delegation from the full Council in accordance with the scheme of delegation in Part 3 of the constitution. Members of the Scrutiny Committee may ‘call-in’ a decision in accordance with the procedure set out in Rule 14.3 below. Members who call in a decision and propose an alternative decision should have good reason to believe that the appropriate policy committee did not take the decision in accordance with the principles set out in Article 12. The names of the Members implementing the call-in procedure and the reasons for call-in will be disclosed on the published agenda.

14. Call-In Procedure

- 14.1 Decisions made by the appropriate policy committee will be notified to all members of the Council within three working days of the meeting at which the decision was made.
- 14.2 A decision will come into force and may then be implemented on the expiry of five clear working days from the date the decision was made, unless an objection is received which requests that the decision be ‘called-in’ in accordance with Rules 14.3 – 14.7.
- 14.3 Call-in shall only be used in exceptional cases. To prevent the **procedure** being abused, only three in each 3 month period in a municipal year can be called in. Call-in shall be effected by the Chief Executive, or his designated nominee in consultation with the Chairman of the Scrutiny Committee, on receipt of a written request (which may be in electronic form) for call-in of a specified decision from at least four members of the Scrutiny Committee. The members (which must not include the Chairman - because of the initial consultation on call-in and the power to exercise a casting vote at the meeting in the event of an equal number of votes for and against). The request must set out the reasons why the decision is being called in, which can only be because the decision falls into any of the following categories:
- (i) it was made without due process being followed, or
 - (ii) it was not made in accordance with one or more of the general principles set out in Article 12.02 of the Constitution
 - (iii) it fails to represent natural justice, or
 - (iv) it falls outside the agreed budget, or
 - (v) it represents a significant change in council policy

The call-in must include details of the issues which the Scrutiny Committee members believe the appropriate policy committee did not fully address.

- 14.4 In effecting the ‘call-in’ in accordance with 14.3 above, the Chief Executive will notify the members of the appropriate policy committee directly and will call a meeting of the Scrutiny Committee to be held on such date as he may determine within ten working days of the date on which he effects the decision to call-in and the decision shall not be implemented until after the recommendations of the Scrutiny Committee meeting on the matter have been considered.

14.5 The Scrutiny Committee at the meeting called in accordance with the procedure set out in paragraph 14.4 above may resolve

(a) To recommend that the appropriate policy Committee reconsider the decision, in which case the matter shall be referred back to the policy committee for further consideration in the light of the Scrutiny Committee's concerns to amend the decision or not, before adopting a final decision;

or

(b) To refer the decision (if it is considered to be contrary to the policy framework or not in accordance with the budget), to the full Council to confirm or otherwise, in which case a meeting of the Council shall be called for the purpose within ten working days.

14.6 *The chairman of the appropriate policy committee (or other committee member nominated by the chairman) shall have the right to attend the Scrutiny Committee and shall take responsibility for presenting a report on the reasons for making the decision(s) and answering questions thereon (rather than an officer of the council). The chairman of the Scrutiny Committee (or committee member nominated by the chairman) shall exercise a similar right and responsibility when the policy committee or full council reconsiders the issues.*

14.7 *Once the Scrutiny Committee has met to consider the call-in, the Leader, Deputy Leader and chairman of the appropriate policy committee shall be notified of the conclusions of the Scrutiny Committee at the earliest possible opportunity (which may be in the form of an agreed draft minute) and the other members of the policy committee shall also be informed.*

14.8 If, following a request to call-in a decision, the Scrutiny Committee does not meet in the period set out above or does meet but does not refer the matter back to the decision making body, or to the full council, the decision shall take effect on the date of the Scrutiny Committee meeting or the expiry of that further ten working days whichever is the earlier.

14.9 If the matter is referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective on the date of the Council meeting.

14.10 Urgency

The "call-in" procedure set out above will not apply where the decision taken by the policy committee is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public interest. The record of the decision shall state that in the opinion of the committee, the decision is an urgent one and not subject to "call-in".

14.11 The Chairman of the Scrutiny Committee and the Chief Executive must agree that the decision proposed is reasonable in all the circumstances and is to be treated as a matter of urgency. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

- 14.12 The operation of the provisions relating to “call-in” and urgency shall be monitored annually and a report submitted by the committee to the Council with proposals for review if necessary.

Part 5.7 – Code of Practice for Licensing Procedures

Training

Section 11

37. All Members of the Licensing Committee shall receive training in licensing procedures. A commitment to undertake training will be a prerequisite of membership of a Licensing Panel. All Members and reserve Members of a Panel will be offered training within six months of appointment and at least annually thereafter. ***All members of the committee will be expected to attend the training offered, especially in view of the need for panel members to be fully aware of changes in legislation, and to avoid any difficulties that may arise at appeal hearings.*** This training will cover subjects as may be determined from time to time by officers in consultation with Members. Failure to undertake the initial training offered or persistent failure to undertake any further training by Members of the Committee will result in disqualification from the Committee and a Licensing Panel.