

EPPING FOREST DISTRICT COUNCIL COUNCIL MINUTES

Committee:	Council	Date:	30 July 2013
Place:	Council Chamber, Civic Offices, High Street, Epping	Time:	7.30 - 9.15 pm
Members Present:	Councillors Mrs M Sartin (Chairman), A Boyce (Vice-Chairman), K Angold-Stephens, K Avey, R Bassett, W Breare-Hall, G Chambers, K Chana, T Church, Mrs T Cochrane, R Cohen, Mrs R Gadsby, L Girling, P Gode, Mrs A Grigg, J Hart, Ms J Hart, D Jacobs, Mrs S Jones, Ms H Kane, P Keska, Mrs J Lea, L Leonard, A Lion, Mrs M McEwen, J Markham, A Mitchell MBE, G Mohindra, R Morgan, S Murray, J Philip, Mrs C Pond, B Rolfe, B Sandler, Ms G Shiell, Mrs P Smith, P Spencer, D Stellan, Ms S Stavrou, Mrs T Thomas, H Ulkun, Mrs L Wagland, G Waller, Ms S Watson, A Watts, Mrs E Webster, C Whitbread, Mrs J H Whitehouse, J M Whitehouse, D Wixley, N Wright and J Wyatt		
Apologies:	Councillors Mrs H Brady, R Butler, C Finn, J Knapman, Ms Y Knight and H Mann		
Officers Present:	G Chipp (Chief Executive), I Willett (Assistant to the Chief Executive), C O'Boyle (Director of Corporate Support Services), G Lunnun (Assistant Director (Democratic Services)), M Jenkins (Democratic Services Assistant), T Carne (Public Relations and Marketing Officer) and P Seager (Chairman's Secretary)		
By Invitation:	D McMahon (Job Centre Plus), J Hills (Essex Police) and M Bibby (British Parking Association)		

16. WEBCASTING INTRODUCTION

The Assistant to the Chief Executive reminded everyone present that the meeting would be broadcast live to the Internet, and that the Council had adopted a protocol for the webcasting of its meetings.

17. MINUTES

RESOLVED:

That the minutes of the meeting held on 21 May 2013 be taken as read and signed by the Chairman as a correct record.

18. DECLARATIONS OF INTEREST

There were no declarations of interest were made pursuant to the Council's Code of Member Conduct.

19. ANNOUNCEMENTS

(a) Chairman's Announcements

(i) Events

The Chairman reported on some of the events she had attended since the last meeting of the Council. The Council noted that the Chairman had visited the southern part of the district, attended church services in Essex and attended the High Sheriff's Garden Party. The Annual Chairman's Golf Day had taken place on 2 July, the Chairman thanked officers for organising the event which raised just under £500.00 for her charities. A White Water Rafting Event took place on 19 July, the Chairman extended thanks to officers for their organisation and the webcast recording of the event. Over £500.00 was raised for the charities.

The Chairman informed the Council that on Saturday 3 August the District Council would be playing Epping Town Council in the Petanque match. The Chairman said she was hoping for a victory and would like to see the trophy back at the District Council. Councillors Mrs A Grigg and D Stallan would be representing the District Council.

Members noted that the Alzheimer's Society were arranging a walk on Sunday 15 September around Chingford Golf Course. They were in need of volunteers, the Chairman asked for members interested to speak with her after the meeting.

On Sunday 18 August, the Chairman was inviting people to join at her home for afternoon tea. Tickets were £8.00. Members interested could contact her by phone or email, details would be placed in the Bulletin.

(ii) Floral Display

The Chairman announced that she intended to send the flowers from tonight's meeting to the residential home, Frank Foster House, Theydon Bois.

(b) Announcements by the Leader of Council

The Leader advised that he had no announcements to make under this heading.

(c) Announcements by Portfolio Holders

(i) Planning Portfolio Holder

Councillor Bassett announced that the Local Plan Population Workshop scheduled for 28 September had been cancelled, but would take place in October.

(ii) Safer, Greener and Highways Portfolio Holder

Councillor Waller advised that in relation to the Buckhurst Hill Parking Review he had met with officers from Essex County Council Highways Directorate on 17 April to discuss the implementation of just over 30 changes which had been agreed by members for improving the situation for local residents. Officers had indicated that they intended to carry out public consultations in July.

The Portfolio Holder advised that he had signed a Portfolio Holder Decision enabling a legal agreement with Essex Highways for delivery of this scheme. The Portfolio Holder expressed his disappointment that Essex Highways had reneged on their commitment to commence the public consultation in July. Part of the reason for the delay was due to an officer being moved to another role and unfortunately he had overseen this project. Councillor Waller stated that the delay was unacceptable.

The Portfolio Holder said he had looked at alternative ways of delivering this scheme, but the District Council did not have in-house highway engineering expertise, he

added that only Highways had the legal powers to make the necessary changes to traffic orders. He said that he would ask officers to explore alternative means of delivering the parking review schemes. He asked for Members' support in making representations to the County Council Cabinet Member for Highways, seeking reassurances that adequate resources would be allocated to the parking review schemes. He was aware that while the public consultation was delayed, residents' lives were blighted by inconsiderate parking and with issues relating to commuter parking. He said that he was doing all he could to relieve the process.

Councillor G Waller advised of the redesignation of Cottis Lane Car Park, Epping for short term parking. He referred to his recent report to Council on the work taking place to assess the best way of addressing the problems experienced by shoppers and other visitors to Epping who were having difficulties finding somewhere to park. One of the main reasons for this problem was an influx of long term commuter parking following the increase in charges at the NCP station car park.

The Portfolio Holder advised that he had held two meetings with local councillors and with other stakeholders, as a result he agreed that the Cottis Lane Car Park should have its designation changed from combined tariff to a wholly short term tariff, his Portfolio Holder Decision had just been signed. He reported that the public consultation on the changes would start on 31 July and last for 21 days. He thanked the North Essex Parking Partnership who were overseeing the consultation.

Councillor Waller reported that it should be possible for Cottis Lane to re-open as a short term car park with parking available for up to five hours starting at 10p for 30 minutes.

(d) Mindful Employer Symbol

The Chairman was delighted to announce that the Council had signed up to the Mindful Employer Symbol. Mindful Employer was about increasing awareness of mental health, helping employers deliver their business, providing support networks and making it healthier talking about mental health.

(e) Disability (Two Ticks) Symbol Accreditation

The Chairman announced the award to the District Council of the Disability (Two Ticks) Symbol accreditation last month by the Department of Works and Pensions, Job Centre Plus. The accreditation was awarded to employers who demonstrated that they had achieved, and were committed to, continually achieving commitments regarding the employment, retention, training and career development of disabled people.

The Chairman welcomed Debbie McMahon from Jobcentre Plus to the meeting. Debbie McMahon advised that the accreditation would increase the employment levels for disabled people. The certificate could be displayed corporately and demonstrated fairness towards disabled employees.

(f) Park Mark

The Chairman announced that the Council had been awarded Park Mark in recognition of its car parking facilities that had demonstrated they were concerned with safety and in respect of which steps had been taken to ensure the facilities were secure and safe from crime. The Chairman welcomed to the meeting Mr J Hills, Essex Police Accredited Assessor and Mr M Bibby, Area Manager, British Parking

Association, who thanked Council for its support and advised that 19 awards had been made to the District.

20. PUBLIC QUESTIONS (IF ANY)

The Council noted that there were no public questions for this meeting.

21. QUESTIONS BY MEMBERS UNDER NOTICE

The Council noted that there were no public questions for this meeting.

22. REPORTS FROM THE LEADER AND MEMBERS OF THE CABINET

The Council received written reports from the Asset Management and Economic Development Portfolio Holder, the Environment Portfolio Holder, the Finance and Technology Portfolio Holder, the Housing Portfolio Holder, the Leisure and Wellbeing Portfolio Holder, the Planning Portfolio Holder, Safer and Greener and Transport Portfolio Holder and the Support Services Portfolio Holder.

The Chairman invited the Leader to provide an oral report and other members of the Cabinet give an oral update of their written reports.

(a) The Leader of the Council

Councillor Whitbread advised that he had attended a meeting in June involving all Essex Local Authority Leaders to receive a presentation by Essex Police concerning child abuse. He urged members to attend the Safeguarding Children training on 26 October 2013.

The Leader had also been involved in discussions concerning the Cambridge/Essex corridor, future of Stansted Airport and the West Anglia Railway Line. Notes from this meeting would be put in the Bulletin.

He advised that the Local Strategic Partnership had given a presentation to the Overview and Scrutiny Committee at its last meeting.

He encouraged members to view Visit Epping Forest.com website, which had been a recommendation from the Tourism Task and Finish Panel. He expressed concern about youth unemployment. He had recently met Eric Pickles, MP and Eleanor Laing, MP to discuss a number of issues. He had also visited the Limes Farm Centre and had been impressed on how it was operating.

(b) Housing Portfolio Holder

Councillor D Stellan referred to the third paragraph on page 104 of his report regarding the opening of four straw bale houses at Millfield, High Ongar by E Pickles MP, and stated it would take place on 13 September and not 6 September as indicated.

(c) Leisure and Wellbeing Portfolio Holder

Councillor Webster advised that the handover of the astro turf pitch at Waltham Abbey Sports Ground would take place on 7 August 2013.

(d) Support Services Portfolio Holder

Councillor Ulkun advised that the date for the European Parliament Elections in May 2014 was fixed for 22 May 2014, but he was still awaiting notification from the UK Government that the District and Parish Council elections, due in May 2014, would be deferred so that all elections were held at the same time. He confirmed that he would keep members updated.

23. QUESTIONS BY MEMBERS WITHOUT NOTICE

(a) Mobile Homes Act and Park Homes Sites

Councillor Rolfe asked about how and when changes would be communicated regarding the legislation.

Councillor Stallan, Housing Portfolio Holder, advised that the recent legislation should be welcomed by both residents and site owners. There would be a discussion at an information evening held at the Civic Offices with representatives of Park Homes, ward members, local MPs and legal representatives being invited. The meeting would be webcast for other residents to view.

(b) Petition regarding extra CCTV Provision at Limes Farm Estate

Councillor Lion stated that there had been a rise in burglaries in the Limes Farm estate area and a petition had been received with 250 signatures requesting an increase in the number of CCTV cameras in the estate area. He asked for an update on the position.

Councillor Waller, Safer, Cleaner, Greener and Transport Portfolio Holder said that he had visited this estate that afternoon where he'd been briefed by the Safer Communities Team. There were currently over 30 cameras on the estate, but he felt that this may not necessarily be the best means of stopping anti social behaviour. He advised that a further two cameras were installed recently and they probably gave some reassurance to the public.

The Portfolio Holder stated that the Safer Communities Team were working very closely with both Essex Police and the Metropolitan Police and they would respond positively to any requests from residents.

(c) St. John's Road, Epping

Councillor J H Whitehouse referred to the proposed development of the St. John's Road area in Epping and asked how Epping ward councillors would be kept informed of progress.

Councillor Grigg, Asset Management and Economic Development Portfolio Holder replied that she had been liaising with Epping Town Council and would keep District Councillor informed via the Bulletin.

(d) Temporary Traffic Lights, Roding Lane

Councillor Spencer asked when the bridge strengthening works in Roding Lane would be completed and the temporary traffic lights removed.

Councillor Waller, Safer, Greener and Transport Portfolio Holder advised that he had not been informed of the timescale by Essex County Council but said that he would liaise directly with Councillor Spencer on receiving any information.

(e) Buckhurst Hill Parking Review

Councillor Watson stated that she had not been receiving emails on the progress of the parking review, she understood that the engineer involved had moved positions, although he had completed the design work before moving. She asked if this was correct and suggested that if further design work was required there could be a long delay.

Councillor Waller, Safer, Greener and Transport Portfolio Holder advised that he had just signed a Portfolio Holder Decision regarding waiving of Contract Standing Orders for implementation of Buckhurst Hill Parking Review but there was still more work to be completed on the review and he could not advise when it would be finished.

Councillor Watson added that she was concerned about the progress with a tri partite agreement involving the review. Councillor Waller advised that standing orders were being waived and that he would liaise with the Councillor directly.

(f) Possible Parking Sites in Epping

Councillor Avey asked about progress in pursuing the acquisition of an additional car parking site in Epping.

Councillor Waller, Safer, Greener and Transport Portfolio Holder said the owners of a site had advised that they were happy to discuss the matter with officers. He pointed out, however, that he remained to be convinced that a purchase of that site would keep obviate the parking problems in the town.

(g) Handyperson Scheme

Councillor Ms J Hart asked about charging benefit claimants for using the Handyperson service.

Councillor Stallan, Housing Portfolio Holder replied that this had been a recommendation of the Care Advisory Panel and would be considered at the October Cabinet meeting. He added that all budgets were under pressure at the current time.

(h) Safeguarding Children

Councillor Wagland asked to what extent had the recommendations from the Safeguarding Children Task and Finish Panel been enacted as pursued with Essex County Council.

Councillor Whitbread, the Leader of Council said that ongoing discussions with Essex County Council were taking place.

(i) Food Bank, Loughton

Councillor Murray asked the Leader of Council how he felt about the need for the new Food Bank in Loughton if he was:

- planning to visit the Food Bank; and if
- the Council was supporting the Food Bank financially

Councillor Whitbread, Leader of the Council confirmed that he had visited a previous Food Bank in Loughton. He acknowledged that he was sad that this service was

needed today, and confirmed that he would be happy to visit the new Food Bank and consider how the Council could assist in this matter.

(j) Vacant Shops in Loughton

Councillor Markham referred to the 15 empty shops in Loughton High Road and asked if anything could be done by the Council to relieve this situation.

Councillor Whitbread, Leader of the Council, expressed regret at this situation. He pointed out in contrast, the Epping High Street had been doing well. He acknowledged that businesses had worked hard during the recession and advised that the Council had always supported the traders. However he advised that the Council did not have the authority to force lower rents in privately owned shops.

(k) Langston Road

Councillor J H Whitehouse referred to the Portfolio Holder decision to extend the contract for consultancy advice for a further 18 months. She asked the Asset Management and Economic Development Portfolio Holder if she felt this represented the best use of resource.

Councillor Grigg, Asset Management and Economic Development Portfolio Holder, advised that this was an on-going situation which required advice from a specialist consultant.

(l) Buckhurst Hill Underground Station

Councillor Wright referred to the continued closure of the western entrance to Buckhurst Hill Underground Station and asked the Safer, Greener and Transport Portfolio Holder if he would make representations to Transport for London in order to get the entrance opened.

Councillor Waller, Safer, Greener and Transport Portfolio Holder replied that he was happy to take this issue up with Transport for London.

(m) Citizens Advice Bureau

Councillor Angold-Stephens said he was concerned about the provision of accommodation for the Citizens Advice Bureau who were likely to have to vacate their current premises in Epping and Loughton. He asked what steps the Council would take to avoid the CAB closing or reducing its activities.

Councillor Whitbread, Leader of the Council said that the Citizens Advice Bureau was playing an important role, particularly in the current economic climate. He said he would do all he could to protect the current level of activity and advised that he would speak to the Councillor outside of the meeting.

(n) Pay and Display in Waltham Abbey

Councillor Watts asked that the Portfolio Holder for Safer, Greener and Transport support his criticism of the North Essex Parking Partnership (NEPP) pay and display proposal for car parking in Highbridge Street, Waltham Abbey.

Councillor Waller, Safer, Greener and Transport Portfolio Holder said that he agreed with opposing this and had made views known to NEPP. He advised that there had been no consultation with the District Council and there was no doubt about the

strength of views of local residents. He said he hoped NEPP would not pursue the proposals in the light of such opposition.

(o) North East Parking Partnership (NEPP) Scrutiny

Councillor Jacobs asked if the surplus £300,000 budget passed to the North East Parking Partnership by this Council had been expended.

Councillor Waller, Portfolio Holder for Safer, Greener and Transport advised that the financial position of NEPP was a matter of concern. He pointed out that if there was a shortfall in NEPP's funding, the member authorities would be required to make good that deficit. He advised that an officer working party had been established by NEPP to consider how the situation could be improved.

(p) Tour de France

Councillor J M Whitehouse asked about the opportunities for the Council and its partners when the 2014 Tour de France went through the district.

Councillor Webster, Portfolio Holder for Leisure and Wellbeing said that plans were being put in place and she would update members via the Bulletin although there was a lack of clarity regarding the route the race would take.

24. MOTIONS

The Chairman reported that there were no motions to be considered at this meeting.

25. REPORT OF THE CABINET - REGULATION OF INVESTIGATORY POWERS ACT (RIPA) - POLICY AND PROCEDURE

Mover: Councillor Ulkun, Support Services Portfolio Holder

Councillor Ulkun, Portfolio Holder for Support Services presented a report to the Council regarding the Regulation of Investigating Powers Act (RIPA) – Policy and Procedure away from an inspection of the Council's system of records by the Office of Surveillance Commissioners.

Members noted that the Act gave lawful authority to certain types of covert surveillance preventing and detecting crime which would otherwise have been unlawful. It required that such activity should be proportionate to the matter being investigated. The Council had made very limited use of the powers available because all other reasonable methods of seeking evidence had to be exhausted.

Report as first moved ADOPTED

RESOLVED:

(1) That the attached Policy and Procedure for dealing with the requirements of the Regulation of Investigatory Powers Act (as amended) (RIPA) be approved;

(2) That the Director of Corporate Support Services be appointed as the Senior Responsible Officer and the Assistant to the Chief Executive be appointed as the Deputy Senior Responsible Officer for the purposes of RIPA; and

- (3) That the Director of Corporate Support Services and the Assistant to the Chief Executive be appointed as Authorising Officers for the purposes of RIPA.

26. REPORT OF THE CABINET - PLANNING AND ECONOMIC DEVELOPMENT DOCUMENT SCANNING - BUDGET UNDER-SPENDS AND FUNDING OF ADDITIONAL POST

Mover: Councillor Bassett, Planning Portfolio Holder

The Council received a report from Councillor Bassett, the Planning Portfolio Holder, regarding Document Scanning.

The Council were informed that the progress of electronic records development in the Planning and Economic Development Directorate had slowed down substantially slowed in 2011 and 2012 due to staffing and resource difficulties. This had resulted in the identification of an Electronic Records Management Progress Plan which detailed the requirement to progress Electronic Document Records Management Systems.

The Portfolio Holder advised that recommendations assisted in taking steps to convert to electronic format a significant element of paper records for large site development control files, conservation files and contaminated land files. The Portfolio Holder proposed that the identified under spend in 2012/13 should be combined with a two months salary under spend for post PST11 to fund one Scale 3 Administration Assistant for ten months to scan the large site planning files which were in paper format.

Report as first moved ADOPTED

RESOLVED:

- (1) That approval be given to the under-spend of £11,600 in the Planning Support Budget for Document Scanning in 2012/13 being carried forward to 2013/14; and

- (2) That this under-spend be combined with a smaller salary under-spend to fund one Grade 3 Administration Assistant post to scan the large site paper planning files which are considered too complex and detailed to be sent to Northgate for scanning as part of the standard "back scanning" of records process.

27. REPORT OF THE CABINET - SUPPLEMENTARY DISTRICT DEVELOPMENT FUND (DDF) ESTIMATES - LOCAL PLAN AND MATERNITY COVER

Mover: Councillor Bassett, Planning Portfolio Holder

Councillor Bassett, Planning Portfolio Holder presented a report to the Council regarding proposed Supplementary District Development Fund (DDF) estimates for the Local Plan preparation and Maternity Cover.

Report as first moved ADOPTED

RESOLVED:

- (1) That a supplementary District Development Fund estimate in the sum of £331,933 be approved for the Local Plan budget to cover;

- (a) further evidence based work;
- (b) extension of existing temporary staff contracts within the Forward Planning Team; and

(c) additional project management support.

(2) That a supplementary District Development Fund estimate in the sum of £51,937 be approved to allow for appropriate maternity cover for the three posts connected to the delivery of the Local Plan.

28. ANNUAL REPORT OF THE EXECUTIVE 2012/13

The Leader of Council, Councillor Whitbread presented the Annual Report of the Executive 2012/13 to Council.

Attention was drawn to corrections to the figures shown in paragraphs 5.3.1 (which should read £86.811 million) and 6.4.2 (which should read £185.456 million).

RESOLVED:

That the Annual Report of the Executive 2012/13 be agreed, subject to the corrections reported.

29. OVERVIEW AND SCRUTINY

(a) Report of the Chairman of the Overview and Scrutiny Committee

The Council received a written report of the Chairman of the Overview and Scrutiny Committee, Councillor Morgan.

(b) Annual Report of the Overview and Scrutiny Committee to Council

The Chairman of the Overview and Scrutiny Committee, Councillor Morgan presented the Annual Report of the Committee to Council.

RESOLVED:

That the Annual Report of the Overview and Scrutiny Committee be noted.

(c) Reports of Overview and Scrutiny Panels

(i) Report of the Constitution and Member Services Scrutiny Standing Panel – Employment Procedure Rules

Mover: Councillor Philip, Chairman of the Panel

Councillor Philip presented a report following a review by a Task and Finish Scrutiny Panel which had explored concerns about contractual arrangements for previous Chief Executives.

Report as first moved ADOPTED

RESOLVED:

- (1) That, in accordance with the advice of Counsel, the attached Staff Employment Procedure Rules be adopted;
- (2) That the following seven deputies be appointed to the Restructuring Review Panel so as to ensure that the Council is able to comply with the requirements of the revised Employment Procedure Rules when adopted;
 - (a) Councillor Breare-Hall – Conservative Group;
 - (b) Councillor Philip – Conservative Group;
 - (c) Councillor Rolfe – Conservative Group;
 - (d) Councillor Watts – Conservative Group;
 - (e) Councillor Wyatt – Conservative Group;
 - (f) Councillor Pond – Loughton Resident's Association; and
 - (g) Councillor J H Whitehouse – Liberal Democrats Group;
- (3) That, when required, a second Panel be formed from among the seven members and deputies appointed to the Restructuring Panel to deal with any appeals under the Employment Procedure Rules against redundancy subject to the seven members concerned not having been involved in the original redundancy decision;
- (4) That all members and deputies serving on the Restructuring Review Panel be trained in the requirements of these rules and related legal requirements before the Directorate Restructuring process commences;
- (5) That the Finance and Technology Portfolio Holder be asked to review whether there is sufficient budgetary provision for training for Panel members in the current year;
- (6) That a similar pool of 14 Panel members and deputies be appointed at future Annual Council meetings so that the Council is able to respond promptly when the Employment Procedure Rules are engaged and that all appointed members and deputies be trained in the relevant procedures when required; and
- (7) That the Chairman and Vice Chairman of any Panel convened in future years for the purposes of the Employment Procedure Rules be appointed by Panel members at the meeting concerned.

(ii) Report of the Constitution and Member Services Scrutiny Standing Panel – Convention on the Relationships between Political Groups and Councillors with Officers

Mover: Councillor Philip, Chairman of the Panel

Councillor Philip presented a report which updated these conventions.

Report as first moved ADOPTED

RESOLVED:

- (1) That the attached revised conventions be approved; and
- (2) That the issues raised in consultation with Councillors concerning new members and email correspondence be referred to officers for appropriate advice to be given.

30. AUDIT & GOVERNANCE COMMITTEE

Mover: Councillor Watts, Chairman of the Committee

The Chairman of the Audit and Governance Committee, Councillor Watts presented a report to Council regarding Appointment of a Co-Opted Member to the Audit and Governance Committee. He drew attention to the need to appoint an Interview Panel.

Report as amended ADOPTED

RESOLVED:

- (1) That an interview panel be appointed to undertake interviews following public advertisement for the vacant co-opted member position on this Committee which will occur with effect from 13 September 2013;
- (2) That the Chairman of the Audit and Governance Committee and Councillors Kane and Leonard be appointed to form an Interview Panel with delegated authority to appoint the preferred candidate following interview;
- (3) That Mr R Thompson, the other co-opted member of the Committee, be invited to attend the interviews in an advisory capacity as a non-voting member; and
- (4) That the Council's appreciation of the contribution of Melanie Peddle as co-opted member of the Committee for over six years be recorded.

31. REPORT OF THE LICENSING COMMITTEE - STATEMENT OF LICENSING POLICY

Mover: Councillor Angold-Stephens, Chairman of the Committee

The Chairman of the Licensing Committee, Councillor Angold-Stephens, presented a report regarding the revised Statement of Licensing Policy.

The Council's current Statement of Licensing Policy was adopted by the Council in 2011 and was due for review in 2014, the Licensing Committee, on 10 October 2013, reviewed the Statement and made recommendations to reflect amendments in the Licensing Act 2003 by the Police and Social Responsibility Act 2011.

The Chairman of the Licensing Committee advised that the West Essex Clinical Commissioning Group would be substituted for the Primary Care Trusts a consultee.

Report as first moved ADOPTED

RESOLVED:

That the attached revised Statement of Licensing Policy be adopted.

32. APPOINTMENTS OUTSTANDING FROM THE ANNUAL COUNCIL MEETING

The Council received nominations from the Conservative Group for a change in membership and places outstanding from the Annual meeting.

RESOLVED:

That the following appointments be made for the remainder of the current municipal year:

- (a) Councillor Rolfe to replace Councillor Keska on the District Development Control Committee;
- (b) Councillor Shiell to replace Councillor Knight as a substitute member of the Housing Appeals and Review Panel;
- (c) Councillor Smith as the third Conservative Group substitute on the Housing Appeals and Review Panel;
- (d) Councillor Rolfe as the remaining Conservative Group member on the Licensing Committee; and
- (e) Councillor Smith as the remaining Conservative Group substitute on the Staff Appeals Panel.

33. JOINT ARRANGEMENTS AND EXTERNAL ORGANISATIONS

The Council received a report from Councillor Kane regarding the Waltham Abbey Royal Gunpowder Mills Company.

RESOLVED:

That the Council's appointed representatives on the West Essex Wellbeing Joint Committee submit a written report to be next meeting of the Council on the work of the Committee.

CHAIRMAN

This page is intentionally left blank

Epping Forest District Council

POLICY & PROCEDURE

**REGULATION OF INVESTIGATORY
POWERS ACT 2000
(RIPA)**

CONTENTS

	Page No.	
Section A	Introduction	3 - 4
Section B	Effective Date of Operation and Authorising Officer Responsibilities	5
Section C	General Information on RIPA	7
Section D	What RIPA Does and Does Not Do	8
Section E	Types of Surveillance	9 - 11
Section F	Conduct and Use of a Covert Human Intelligence Source (CHIS)	12 - 16
Section G	The Role of the RIPA Co-ordinator	17 – 18
Section H	Authorisation Procedures	19 - 27
Section I	Working with other Agencies	28
Section J	Record Management	29 - 30
Section K	Acquisition of Communications Data	31 - 34
Section L	Conclusion	35
Appendix 1	RIPA Flow Chart	36
Appendix 2	A Forms – Direct Surveillance	37
Appendix 3	B Forms –CHIS	38
Annex A	Local Authority Procedure	39
Annex B	P Procedure	40
Annex C	Application for Judicial Approval and Order Form	41-42

Section A

Introduction

1. HUMAN RIGHTS ACT 1998 – ARTICLE 8 – RIGHT TO RESPECT FOR PRIVATE & FAMILY LIFE, HOME AND CORRESPONDENCE

1.1 The Human Rights Act 1998 brought into UK domestic law much of the European Convention on Human Rights and Fundamental Freedoms 1950. Article 8 of the European Convention requires the Council to respect the private and family life of its citizens, their homes and their correspondence.

1.2 Article 8 does, however, recognise that there may be circumstances in a democratic society where it is necessary for the state to interfere with this right.

2. USE OF COVERT SURVEILLANCE TECHNIQUES AND HUMAN INTELLIGENCE SOURCES

2.1 The Council has various functions which involve observing or investigating the conduct of others, for example, investigating anti-social behaviour, fly tipping, noise nuisance control, planning (contraventions), benefit fraud, licensing and food safety legislation. In most cases, Council officers carry out these functions openly. However, there are rare cases where it is necessary for officers to use covert surveillance techniques to undertake a specific investigation.

2.2 The use of covert surveillance techniques is regulated by the Regulation of Investigatory Powers Act 2000 (RIPA), which seeks to ensure that the public interest and human rights of individuals are appropriately balanced. This document sets out the Council's policy and procedures on the use of covert surveillance techniques and the conduct and use of a Covert Human Intelligence Source.

2.3 You should also refer to the two Codes of Practice published by the Government. These Codes, which were revised in 2010, are on the Home Office website and supplement the procedures in this document. The Codes are admissible as evidence in Criminal and Civil Proceedings. If a provision of these Codes appear relevant to any court or tribunal, it must be taken into account:

(a) Covert Surveillance and Property Interference Code of Practice:

<http://tna.europarchive.org/20100419081706/http://security.homeoffice.gov.uk/ripa/publication-search/general-publications/ripa-cop/covert-surveil-prop-inter-COP>

(b) Covert Human Intelligence Sources Code of Practice:

[http://tna.europarchive.org/20100419081706/http://security.homeoffice.gov.uk/ri
pa/publication-search/general-publications/ripa-cop/covert-human-intel-source-
COP](http://tna.europarchive.org/20100419081706/http://security.homeoffice.gov.uk/ri
pa/publication-search/general-publications/ripa-cop/covert-human-intel-source-
COP)

2.4 There are also two other guidance documents relating the procedural changes regarding the authorisation process requiring Justice of the Peace approval from the 1st November 2012. These have been issued by the Home Office to both Local Authorities and Magistrates.

[http://www.homeoffice.gov.uk/publications/counter-terrorism/ripa-forms/local-
authority-ripa-guidance/](http://www.homeoffice.gov.uk/publications/counter-terrorism/ripa-forms/local-
authority-ripa-guidance/)

3. ACQUISITION OF COMMUNICATIONS DATA

3.1 RIPA also regulates the acquisition of communications data. Communications data is data held by telecommunications companies and internet service providers.

3.2 Examples of communications data which may be acquired with authorisation include names, addresses, telephone numbers, internet provider addresses. Communications data surveillance does not monitor the content of telephone calls or emails. This document sets out the procedures for the acquisition of communications data. You should also refer to the Code of Practice which is available on the Home Office website:

(a) Acquisition and Disclosure of Communications Data Revised Draft Code of Practice:

[http://tna.europarchive.org/20100419081706/http://security.homeoffice.gov.uk/ri
pa/publication-search/general-publications/ripa-cop/acquisition-disclosure-cop](http://tna.europarchive.org/20100419081706/http://security.homeoffice.gov.uk/ri
pa/publication-search/general-publications/ripa-cop/acquisition-disclosure-cop)

Acronyms and Designations explained

OSC Office of Surveillance Commissioners

SRO Senior Responsible Officer : Director of Corporate Support Services /
Solicitor to the Council

Authorising Officers: Director of Corporate Support Services/ Solicitor to the
Council and the Assistant to the Chief Executive

Applicant Officer seeking RIPA authorisation or renewal

Section B

4. EFFECTIVE DATE OF OPERATION AND AUTHORISING OFFICER RESPONSIBILITIES

- 4.1 The Policy and Procedures in this document reflect the two revised Codes of Practice which came into force in April 2010, and the recent legislative amendments which now require Justice of the Peace (JP) approval for all Local Authority RIPA applications and renewals, which came in effect on 1 November 2012, changes in website addresses and application forms, as well as to reflect recommendations arising out of inspection by the Office of Surveillance Commissioners. Authorising Officers, take personal responsibility for the effective and efficient observance of this document and the Office of Surveillance Commissioners (OSC) guidance documents.
- 4.2 Authorising Officers will undertake training on RIPA and will facilitate where necessary training for relevant members of staff who may make RIPA applications.
- 4.3 Applicants are required to follow this Policy and Procedures Document and must not undertake or carry out surveillance activity that meets the criteria as set out by RIPA without first obtaining the relevant authorisations in compliance with this document.
- 4.4 Authorising Officers will pay particular attention to health and safety issues that may be raised by any proposed surveillance activity. Under no circumstances, should an Authorising Officer approve any RIPA form unless, and until they are satisfied that
- the health and safety of Council employees/agents are suitably addressed
 - risks minimised so far as is possible, and
 - risks are proportionate to the surveillance being proposed.
- 4.5 Applications to Authorising Officers must be made in **sealed** envelopes and marked '**Strictly Private & Confidential**'.
- 4.6 In accordance with the Codes of Practice, the Senior Responsible Officer (SRO) is the Director of Corporate Support Services / Solicitor to the Council.
- 4.7 The SRO shall have delegated authority to appoint additional Authorising Officers for the purposes of RIPA should either or both of the Authorising Officers be absent.
- 4.8 The SRO is responsible for;
- the integrity of the process in place within this authority to authorise surveillance with the Act.
 - compliance with Part II of the 2000 Act, relevant codes and this policy;
 - engagement with the Commissioners and inspectors when they conduct their inspections, and

- where necessary, overseeing the implementation of any post inspection action plans recommended or approved by a Commissioner.

4.9 The SRO will review the policy every year and report on performance of the policy to Council.

4.10 Annual reports on the use of RIPA will be considered by the Corporate Governance Group and will published in the Council Bulletin.

5. GENERAL INFORMATION ON RIPA

- 5.1 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 citizens, their homes and their correspondence.
- 5.2 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 ; and**
 - (c) **proportionate.**
- 5.3 The Regulation of Investigatory Powers Act 2000 ('RIPA') provides a statutory mechanism (ie. 'in accordance with the law') for authorising **covert surveillance** and the use of a '**covert human intelligence source**' ('CHIS') – RIPA and this Policy and Procedure document seeks to ensure both the public interest and the human rights of individuals are suitably balanced.
- 5.4 Directly-employed Council staff and external agencies working for the Council are covered by the Act for the time they are working for the Council. All external agencies must, therefore, comply with RIPA and the work carried out by agencies on the Council's behalf, must be properly authorised by one of the Council's designated Authorising Officers prior to seeking judicial approval
- 5.5 If the correct procedures are not followed, evidence may be inadmissible in court proceedings, a complaint of maladministration could be made to the Ombudsman and/or the Council could be ordered to pay compensation.

6. WHAT RIPA DOES AND DOES NOT DO

6.1 RIPA:

- requires prior authorisation of directed surveillance.
- prohibits the Council from carrying out intrusive surveillance.
- requires prior authorisation of the conduct and use of a CHIS.
- requires safeguards for the conduct and use of a CHIS.

6.2 RIPA does not:

- prejudice or affect any existing powers available to the Council to obtain information by any means not involving conduct that may be authorised under this Act. For example, the Council's current powers to obtain information from the DVLA or from the Land Registry as to the ownership of a property.

6.3 If any Applicant is in any doubt, s/he should ask the SRO **BEFORE** any directed surveillance and/or CHIS is authorised, renewed, cancelled or rejected.

7. TYPES OF SURVEILLANCE

7.1 **'Surveillance'** includes:

- monitoring, observing and listening to persons, watching or following their movements, listening to their conversations and other such activities or communications. It may be conducted with or without the assistance of a surveillance device.
- recording anything mentioned above in the course of authorised surveillance.
- surveillance, by or with, the assistance of appropriate surveillance device(s).

7.2 Surveillance can be overt or covert.

Overt Surveillance

7.3 Most of the surveillance carried out by the Council will be done overtly. Surveillance will be overt if the subject has been told it will happen (eg. where a noisemaker is warned (preferably in writing) that noise will be recorded).

Covert Surveillance

7.4 Covert Surveillance is carried out in a manner calculated to ensure that the person subject to the surveillance is unaware of it taking place. (Section 26(9)(a) of RIPA).

7.5 There are two types of covert surveillance which local authorities may undertake. Directed Surveillance and the use of Covert Human Intelligence Sources (CHIS).

Directed Surveillance

7.6 Under Section 26(2) of RIPA ,Directed Surveillance is surveillance which is covert, but not intrusive, and undertaken

- for a specific investigation or operation;
- in a manner likely to obtain private information about an individual (whether or not that person is specifically targeted for purposes of an investigation); and
- not as an immediate response to events which would otherwise make seeking authorisation under the Act unreasonable e.g. spotting something suspicious and continuing to observe it.

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

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

7.9 Similarly, although overt town centre CCTV cameras do not normally require authorisation, if the camera is tasked for a specific purpose, which involves prolonged surveillance on a particular person, authorisation will be required. The way a person runs his/her business may also reveal information about his or her private life and the private lives of others. Privacy considerations are likely to arise if several records are examined together to establish a pattern of behaviour.

NOTE: For the avoidance of doubt, only those Officers appointed as 'Authorising Officers' for the purpose of RIPA can authorise 'Directed Surveillance' IF, AND ONLY IF, the RIPA authorisation procedures detailed in this Document, are followed.

Intrusive Surveillance

7.10 This is when surveillance:

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

NOTE: For the avoidance of doubt, this authority cannot authorise intrusive surveillance.

“Proportionality”

7.11 This term contains three concepts:

- the surveillance should not be excessive in relation to the gravity of the matter being investigated;

- the least intrusive method of surveillance should be chosen; and
- collateral intrusion involving invasion of third parties' privacy and should, so far as possible, be minimised.

7.12 Proportionality involves balancing the intrusiveness of the activity on the subject and others who might be affected by it against the need for the activity in operational terms. The activity will not be proportionate if it is excessive in the circumstances of the case, or if the information which is sought could reasonably be obtained by other less intrusive means. All such activity should be carefully managed to meet the objective in question and must not be arbitrary or unfair. The interference with the person's right should be no greater than that which is required to meet the aim and objectives.

7.13 The onus is on the Authorising Officer to ensure that the surveillance meets the tests of **necessity and proportionality**.

7.14 The codes provide guidance relating to proportionality which should be considered by both applicants and Authorising Officers :

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

7.15 When considering the intrusion, it is important that the Authorising Officer is fully aware of the technical capabilities of any proposed equipment to be used, and that any images are managed in line with the Data Protection Act and Home Office Guidance. These issues have a direct bearing on determining proportionality.

8 Surveillance outside of RIPA

8.1 Surveillance which is not covered by the RIPA must still be in accordance with the Council's obligations under the Human Rights Act and Data Protection Act. It must still be necessary and proportionate having taken account of the intrusion issues. The decision making process and the management of such surveillance must be well documented.

8.2 The Office of Surveillance Commissioners(OSC) have stated that it should be the responsibility of the SRO to monitor this type of activity. Therefore, before any such surveillance takes place advice must be sought from the SRO.

9. Covert Human Intelligence Source (CHIS)

9.1 As a starting point, this Council will only use this form of surveillance as a last resort. However if it appears that use of a CHIS may be required, Authorising Officers must seek legal advice from the Solicitor to the Council.

9.2 A CHIS could be an informant or an undercover officer carrying out covert enquiries on behalf of the Council. However, the provisions of the 2000 Act are not intended to apply in circumstances where members of the public volunteer information to the Council as part of their normal civic duties, or to contact numbers set up to receive information such as the Benefit Fraud Hot Line. Members of the public acting in this way would not generally be regarded as sources.

9.3 Under section 26(8) of the 2000 Act 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.

9.4 By virtue of section 26(9)(b) of the 2000 Act 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.

9.5 By virtue of section 26(9)(c) of the 2000 Act a relationship is used covertly, and information obtained as above is disclosed covertly, if and only if it is used or, as the case may be, 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.

10. Conduct and Use of a Source

10.1 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.

10.2 The **conduct of a source** is any conduct falling within section 29(4) of the 2000 Act, or which is incidental to anything falling within section 29(4) of the 2000 Act.

10.3 The **use of a source** is what the Authority does in connection with the source and the **conduct** is what a source does to fulfill whatever tasks are given to them or

which is incidental to it. **The Use and Conduct require separate consideration before authorisation.**

10.4 When completing applications for the use of a CHIS, the applicant must state who the CHIS is, what they can do and for which purpose.

10.5 When determining whether a CHIS authorisation is required, consideration should be given to the covert relationship between the parties and the purposes mentioned in 9.3 (a), (b), and (c) above.

Management of Sources

10.6 Within the provisions there has to be;

(a) a person who has the day to day responsibility for dealing with the source and for the source's security and welfare (**Handler**)

(b) at all times there will be another person who will have general oversight of the use made of the source (**Controller**)

(c) at all times there will be a person who will have responsibility for maintaining a record of the use made of the source

NOTE If, exceptionally, a CHIS authority is required, all of the staff involved in the process should make themselves fully aware of the CHIS Codes of Practice

Management Responsibility

10.8 The Council will ensure that arrangements are in place for the proper oversight and management of sources including appointing a Handler and Controller for each source prior to a CHIS authorisation.

10.9 It is envisaged that the use of a CHIS will be infrequent. Should a CHIS application be made, the CHIS Codes of Practice should be consulted to ensure that the Council can meet its management responsibilities.

Security and Welfare

10.10 The Council has a responsibility for the safety and welfare of the source and for the consequences to others of any tasks given to the source. Before permitting the use or conduct of a source, the Authorising Officer should ensure that a risk assessment is carried out to determine the risk to the source of any tasking and the likely consequences should the role of the source become known. The ongoing security and welfare of the source, after the cancellation of the authorisation, should also be considered at the outset.

Record Management for CHIS

10.11 Proper records must be kept of the authorisation and use of a source. The particulars to be contained within the records are;

- (a) the identity of the source;
- (b) the identity, where known, used by the source;
- (c) any relevant investigating authority other than the authority maintaining the records;
- (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, are discharging or have discharged the functions mentioned in section 29(5)(a) to (c) of the 2000 Act or in any order made by the Secretary of State under section 29(2)(c);
- (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 each relevant investigating authority by the conduct or use of the source;
- (m) any dissemination by that authority 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.

Juvenile Sources

10.12 Special safeguards apply to the use or conduct of juvenile sources (i.e. those under the age of 18). On no occasion can a child under 16 years of age be authorised to give information against his or her parents or any person with parental responsibility for him or her. Only the Chief Executive can authorise a juvenile source.

10.13 A “Vulnerable Individual” is a person who is or may be in need of community care services by reason of mental or other disability, age or illness and who is or may be

Test Purchases

10.14 Carrying out test purchases will not normally 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 as a CHIS 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).

10.15 Authorising Officers should consider the likelihood that the test purchase will lead to a relationship being formed with a person in the shop. If the particular circumstances of a particular test purchase are likely to involve the development of a relationship Authorising Officers must seek legal advice from the SRO.

Anti-Social Behaviour Activities

10.16 As from 1 November 2012 there is no provision for a Local Authority to use RIPA to grant lawful authority for the conduct of covert surveillance for disorder such as anti-social behaviour, unless there are criminal offences involved which attract a maximum custodial sentence of six months. Should it be necessary to conduct covert surveillance for disorder which does not meet the serious crime criteria of a custodial sentence of a maximum of six months, this surveillance would be classed as surveillance outside of RIPA, and would still have to meet the Human Rights Act provisions of Necessity and Proportionality?

10.17 Persons who complain about anti-social behaviour, and are asked to keep a diary, will not normally be a CHIS, as they are not required to establish or maintain a relationship for a covert purpose. Recording the level of noise (eg. the decibel level) so long as it does not record private information is unlikely to require authorisation.

11. THE ROLE OF THE RIPA CO-ORDINATOR

11.1 Key Responsibilities of the RIPA Co-ordinator

- In this document the RIPA Co-ordinator is the Director of Corporate Support Services/Solicitor to the Council. The key responsibilities of the RIPA Co-ordinator are to:
- Retain all applications for authorisation (including those that have been refused), renewals and cancellations for a period of at least **three years** together with any supplementary documentation;
- Provide a unique reference number and maintain the central register of all applications for authorisations whether finally granted or refused (see section below);
- Create and maintain a spreadsheet for the purpose of identifying and monitoring expiry dates and renewal dates although the responsibility for this is primarily that of the officer in charge and the Authorising Officer;
- Monitor types of activities being authorised to ensure consistency and quality throughout the Council;
- Ensure sections identify and fulfil training needs;
- Periodically review Council procedures to ensure that they are up to date;
- Assist Council employees to keep abreast of RIPA developments;
- Provide a link to the Surveillance Commissioner and disseminate information on changes on the law, good practice etc. Officers becoming aware of such information should, conversely, send it to the RIPA Co-ordinator for this purpose;
- Check that Authorising Officers carry out reviews and cancellations on a timely basis.

Central Record of Authorisations

11.2 A centrally retrievable record of all authorisations will be held by the RIPA Co-ordinator which must be up-dated whenever an authorisation is granted, renewed or cancelled. These records will be retained for a period of **three years** from the ending of the authorisation and will contain the following information:

- the type of authorisation;
- the date the authorisation was given;
- the name and title of the Authorising Officer;
- the unique reference number of the investigation (URN);

- the title of the investigation or operation, including a brief description and the names of the subjects, if known;
- whether the urgency provisions were used and if so why;
- whether the investigation will obtain confidential information;
- whether the authorisation was granted by an individual directly involved in the investigation;
- the dates the authorisation is reviewed and the name and title of the Authorising Officer;
- if the authorisation is renewed, when it was renewed and the name and title of the Authorising Officer;
- the date the authorisation was cancelled.
- joint surveillance activity where Council staff have been authorised on another agencies authorisation will also be recorded.

11.2 Access to the data will be restricted to the RIPA Co-ordinator and Authorising Officers to maintain the confidentiality of the information.

12. AUTHORISATION PROCEDURES

12.1 Directed surveillance and the use of a CHIS can only be lawfully carried out if properly authorised, and in strict accordance with the terms of the authorisation.

Authorising Officers

12.2 Forms can only be signed by Authorising Officers. The Authorising Officers are:

Director of Corporate Services/Solicitor to the Council	Colleen O'Boyle
Assistant to the Chief Executive	Ian Willett

12.3 Authorisations under RIPA are separate from delegated authority to act under the Council's Scheme of Delegation and any internal departmental Schemes of Management.

12.4 RIPA authorisations are for specific investigations only, and must be renewed or cancelled once the specific surveillance is complete or about to expire. **The authorisations do not lapse with time.**

12.5 Authorisations are for 1, 3 or 12 months but should be cancelled promptly if completed within that timescale.

12.6 Authorising Officers should not normally be responsible for authorising operations in which they are directly involved. In such a case the centrally retrievable record of authorisations should highlight this and the attention of a Commissioner or Inspector should be drawn to it during the next inspection.

Training

12.7 The SRO will maintain a Register of Authorising Officers and details of training undertaken by them.

12.8 The SRO will maintain records of RIPA training to staff either internally or externally sourced

Grounds for Authorisation

12.9 On 1 November 2012 two significant changes came into force that effects how local authorities use RIPA.

- **Approval of Local Authority Authorisations under RIPA by a Justice of the Peace:** The amendments in the Protection of Freedoms Act 2012 mean

that local authority authorisations under RIPA for the use of Directed Surveillance or use of Covert Human Intelligence sources (CHIS) can only be given effect once an order approving the authorisation has been granted by a Justice of the Peace (JP). **This applies to applications and renewals only, not reviews and cancellations.**

- **Directed surveillance crime threshold:** Amendments to the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 (“the 2010 Order”) mean that a local authority can now only grant an authorisation under RIPA for the use of **Directed Surveillance** where the local authority is investigating criminal offences which attract a maximum custodial sentence of six months or more or criminal offences relating to the underage sale of alcohol or tobacco under sections 146, 147 or 147A of the Licensing Act 2003 or section 7 of the Children and Young Persons Act 1933.

NOTE: The crime threshold, as mentioned is only for Directed Surveillance.

12.10 Also, the **only** lawful reason is for granting a RIPA authorisation available to local authorities is the **prevention and detection of crime** in respect of its Core Functions.

13. APPLICATION PROCESS

13.1 No covert activity covered by RIPA or the use of a CHIS should be undertaken at any time unless it meets the legal criteria (see above) and has been authorised by an Authorising Officer and approved by a JP/Magistrate as mentioned above. The activity conducted must be in strict accordance with the terms of the authorisation.

13.2 The applicant will complete the current application form for Directed surveillance or CHIS and the required section of the judicial application/order form. The applicant will submit them in an envelope marked Private & Confidential to an Authorising Officer.

13.3 If the Authorising Officer grants the application – with or without further information from the Applicant, the applicant will liaise with Legal Services to arrange with Her Majesty’s Courts & Tribunals Service (HMCTS) a hearing.

13.4 The hearing will be in private and heard by a single JP.

13.5 The applicant will present to the JP the partially completed judicial application/order form, a copy of the RIPA application/authorisation form, together with any supporting documents setting out the case e.g. proof of the Authorising officer’s designation, and the original application/authorisation form.

13.6 The original RIPA application/authorisation should be shown to the JP but will be retained by the local authority so that it is available for inspection by the Commissioners’ offices and in the event of any legal challenge or investigations by the Investigatory Powers Tribunal (IPT).

13.7 The JP may have questions to clarify points application **However the forms and supporting papers must by themselves make the case. It is not sufficient for the local authority to provide oral evidence where this is not reflected or supported in the papers provided.**

13.8 The JP will consider whether he or she is satisfied that at the time the authorisation was granted or renewed, there were reasonable grounds for believing that the authorisation was necessary and proportionate. They will also consider whether there continues to be reasonable grounds. In addition they must be satisfied that the person who granted the authorisation or gave the notice was an appropriate designated person within the local authority and the authorisation was made in accordance with any applicable legal restrictions, for example that the crime threshold for directed surveillance has been met.

13.9 The JP may decide to

(a) Approve the Grant or renewal of an authorisation

The grant or renewal of the RIPA authorisation will then take effect and the local authority may proceed to use the technique in that particular case.

(b) Refuse to approve the grant or renewal of an authorisation

The RIPA authorisation will not take effect and the local authority may **not** use the technique in that case.

Where an application has been refused the applicant may wish to consider the reasons for that refusal and whether any defects can be remedied.

For, a technical error, the form may be remedied without going through the internal authorisation process again. The officer may then wish to reapply for judicial approval once those steps have been taken.

(c) Refuse to approve the grant or renewal and quash the authorisation or notice

This applies where the JP refuses to approve the application/authorisation or renew the application/authorisation and decides to quash the original authorisation or notice. However the court must not exercise its power to quash the application/authorisation unless the applicant has had at least 2 business days from the date of the refusal in which to make representations. If this is the case the officer will inform the Legal section who will consider whether there are grounds to make representations.

The JP will record any decision on the order section of the judicial application/order form. The court administration will retain a copy of the local authority RIPA application and authorisation form and the judicial application/order form. The officer will retain the original application/authorisation and a copy of the judicial application/order form.

If approved by the JP, the date of the approval becomes the commencement date and the three months duration will commence on this date.

The original application and the copy of the judicial application/order form should be forwarded to the Central Register and a copy retained by the applicant.

A local authority may only appeal a JP decision on a point of law by judicial review. If such a concern arises Legal Services must be consulted.

If it is intended to undertake both directed surveillance and the use of a CHIS on the same surveillance subject, the respective applications forms and procedures should be followed and both activities should be considered separately on their own merits.

An application for an authorisation must include an assessment of the risk of any collateral intrusion or interference. The Authorising Officer will take this into account, particularly when considering the proportionality of the directed surveillance or the use of a CHIS.

Application, Review, Renewal and Cancellation Forms

13.10 Applications

All the relevant sections on an application form must be completed with sufficient information for the Authorising Officer to consider Necessity, Proportionality and the Collateral Intrusion issues. Risk assessments should take place prior to the completion of the application form. Each application should be completed on its own merits of the case. **Cutting and pasting or using template entries should not take place as this would leave the process open to challenge.**

13.11 Duration of Applications

Directed Surveillance	3 Months
Renewal	3 Months
Covert Human Intelligence Source	12 Months
Juvenile Sources	1 Month
Renewal	12 months

NOTE: All Authorisations must be cancelled by completing a cancellation form. They must not be left to simply expire.

Reviews

13.12 An Authorising Officer conducts a review to assess the need for the surveillance to continue. The results of a review should be recorded on the central record of authorisations. Particular attention is drawn to the need to review authorisations frequently where the surveillance provides access to confidential information or involves collateral intrusion.

13.13 In each case the Authorising Officer should determine how often a review should take place. This should be as frequently as is considered necessary and practicable and they will record when they are to take place on the application form. This decision will be based on the circumstances of each application

13.14 Applicants should submit a review form by the review date set by the Authorising Officer. They should also use a review form for changes in circumstances to the original application so that the need to continue the activity can be reassessed. However if the circumstances or the objectives have changed considerably, or the techniques to be used are now different a new application form should be submitted and will be required to follow the process again and be approved by a JP.

13.15 The applicant does not have to wait until the review date if it is being submitted for a change in circumstances.

Renewal

13.16 Should it be necessary to renew a Directed Surveillance or CHIS application/authorisation, this must be approved by a JP.

13.17 The applicant should complete all the sections within the renewal form and submit the form to the authorising officer.

13.18 Authorising Officers should examine the circumstances with regard to Necessity, Proportionality and the Collateral Intrusion issues before making a decision to renew the activity. A CHIS application should not be renewed unless a thorough review has been carried out covering the use made of the source, the tasks given to them and information obtained. The Authorising Officer must consider the results of the review when deciding whether to renew or not. The review and the consideration must be documented.

13.19 If the Authorising Officer refuses to renew the application the cancellation process should be completed. If the Authorising Officer authorises the renewal of the activity the JP process is to be followed as before. **A renewal takes effect on the day on which the authorisation would have ceased and lasts for a further period of three months.**

Cancellation

13.20 The cancellation form is to be submitted by the applicant or another investigator in their absence. The Authorising Officer who granted or last renewed the authorisation must cancel it if they are satisfied that the directed surveillance no longer meets the criteria upon which it was authorised. Where the Authorising Officer is no longer available, this duty will fall on the person who has taken over the role of Authorising Officer or the person who is acting as Authorising Officer

13.21 As soon as the decision is taken that directed surveillance should be discontinued, the applicant or other investigating officer involved in the investigation should inform the Authorising Officer.. . The date and time of cancellation should also be recorded in the central record of authorisations (see paragraph 5.18 in the Codes of Practice). **It will also be necessary to detail the amount of time spent on the surveillance as this is required to be retained by the Senior Responsible Officer.**

13.22 The officer submitting the cancellation should complete in detail the relevant sections of the form and include the period of surveillance and what if any images were obtained and any images containing third parties. The Authorising Officer should then take this into account and issue instructions regarding the management and disposal of the images etc.

13.23 The cancellation process should also be used to evaluate whether the objectives have been achieved and whether the applicant carried out what they stated was necessary in the application form. This check will form part of the oversight function. Where issues are identified they will be brought to the attention of the line manager and the Senior Responsible Officer (SRO). This will assist with future audits and oversight.

14 Notes for Authorising Officers

14.1 Before an Authorising Officer signs a Form, they must:-

- (a) be mindful of this Policy & Procedures Document and the training undertaken;
- (b) be satisfied that the RIPA authorisation is:-
 - (i) **in accordance with the law; and**
 - (ii) **necessary** in the circumstances of the particular case on the ground mentioned; **and**
 - (iii) **proportionate** to what it seeks to achieve.

- (c) In assessing whether or not the proposed surveillance is proportionate, consider other appropriate means of gathering the information.

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

14.4 The following elements of proportionality should therefore be considered:

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

NOTE: The least intrusive method will be considered proportionate by the courts.

14.5 Take into account the risk of intrusion into the privacy of persons other than the specified subject of the surveillance (**collateral intrusion**). Measures must be taken wherever practicable to avoid or minimise (so far as is possible) collateral intrusion. This matter may be an aspect of determining proportionality;

14.6 Set a date for review of the authorisation and review on only that date;

14.7 Obtain a Unique Reference Number (URN) for the application from the SRO

14.8 Ensure that a copy of the RIPA Forms (and any review/cancellation of the same) is forwarded to the SRO for the Central Register, **within 5 working days of the relevant authorisation, review, renewal, cancellation or rejection.**

Additional Safeguards when Authorising a CHIS

14.9 When authorising the conduct or use of a CHIS, the Authorising Officer must also:-

- (a) be satisfied that the **conduct** and/or **use** of the CHIS is proportionate to what is sought to be achieved.

- (b) Be satisfied that **appropriate arrangements** are in place for the management and oversight of the CHIS and this must address health and safety issues through a risk assessment;
- (c) Consider the likely degree of intrusion of all those potentially affected;
- (d) Consider any adverse impact on community confidence that may result from the use or conduct or the information obtained;
- (e) Ensure **records** contain particulars and are not available except on a need to know basis.
- (f) Ensure that if the CHIS is under the age of 18 the Authorising Officer has the approval of the Chief Executive.

NOTE: It is strongly recommended that legal advice is obtained in relation seeking or granting the authorisation of a CHIS.

14. WORKING WITH / THROUGH OTHER AGENCIES

14.1 Anyone other than a Council officer instructed to undertake any action under RIPA, on our behalf must be advised or kept informed, as necessary, of the various requirements. They must be made aware explicitly what they are authorised to do and be provided with a copy of the application form (redacted if necessary) or at the least the authorisation page containing the unique number.

14.2 Equally, if Council staff are authorised on another agencies RIPA authorisation, the staff will obtain a copy of the application form (redacted if necessary), or at the least the authorisation page containing the unique number, a copy of which should be forwarded for filing within the central register. They must ensure that they do not conduct activity outside of that authorisation.

14.3 The Council has a CCTV policy which covers its usage and this is separately inspected by the Commissioner/ Inspectors

15. RECORD MANAGEMENT

15.1 The Council must keep detailed records of all authorisations, renewals, cancellations and rejections in Departments and a Central Register of all Authorisation Forms will be maintained and monitored by the SRO. The following documents must be retained:

- a copy of the Forms together with any supplementary documentation and notification of the approval given by the Authorising Officer;
- a record of the period over which the surveillance has taken place;
- the frequency of reviews prescribed by the Authorising Officer;
- a record of the result of each review of the authorisation;
- a copy of any renewal of an authorisation, together with the supporting documentation submitted when the renewal was requested;
- the date and time when any instruction was given by the Authorising Officer;
- the Unique Reference Number for the authorisation (URN).
- Any JP decision Notice

15.2 Authorising Officers must forward a copy of the form to the SRO for the Central Register, within 5 working days of the authorisation, review, renewal, cancellation or rejection.

Retention and Destruction of Material

15.3 Arrangements are in place for the secure handling, storage and destruction of material obtained through the use of covert surveillance..

15.4 The Council will retain records for a period of at least three years from the ending of the authorisation. The Office of the Surveillance Commissioners (OSC) can audit/review the Council's policies and procedures, and individual authorisations.

15.5 The Office of the Surveillance Commissioners will also write to the Council from time to time, requesting information as to the numbers of authorisations made in a specific period. It will be the responsibility of the SRO to respond to such communications.

Errors

15.6 The Council has a responsibility to report to the Inspector at the commencement of an inspection all activity which should have been authorised but wasn't. This does not apply to covert activity which is deliberately not authorised because an Authorising Officer considers that it does not meet the legislative criteria, but allows it to continue. This would be surveillance outside of RIPA.

Acquisition of Communications Data

15.7 This Council does not access communications in a way that requires RIPA authorisation. For further information as to how evidence is gathered contact the Assistant Director (Finance). The link to the forms in Appendix C is reproduced for completeness.

16. CONCLUSION

16.1 RIPA authorisation gained through this policy/procedure document will protect human rights and protect the Council against challenges for breaches of Article 8 of the European Convention on Human Rights.

16.2 Authorising Officers will be suitably trained and they will never sign or rubber stamp Form(s) without thinking about their personal and the Council's responsibilities.

16.3 For further advice and assistance on RIPA, please contact the Director of Corporate Support Services/Solicitor to the Council or the Assistant to the Chief Executive.

APPENDIX 1

A FORMS

DIRECTED SURVEILLANCE

All forms can be obtained from:

<http://www.homeoffice.gov.uk/counter-terrorism/ripa-forms/>

The form has to be downloaded and completed in the applicant's handwriting. The Authorising Officer must also complete the relevant section of the form in handwriting. The original form has to be passed to the SRO.

Application for Authorisation Directed Surveillance

Application for Review of a Directed Surveillance Authorisation

Application for Renewal of a Directed Surveillance Authorisation

Application for Cancellation of a Directed Surveillance Authorisation

APPENDIX 2

B FORMS

CONDUCT OF A COVERT HUMAN INTELLIGENCE SOURCE

All forms can be obtained from:

<http://www.homeoffice.gov.uk/counter-terrorism/ripa-forms/>

The form has to be downloaded and completed in the applicant's handwriting. The Authorising Officer must also complete the relevant section of the form in handwriting. The original form has to be passed to the SRO.

Application for Authorisation of the conduct or use of a Covert Human Intelligence Source (CHIS).

Application for Review of a Covert Human Intelligence Source (CHIS) Authorisation.

Application for renewal of a Covert Human Intelligence Source (CHIS) Authorisation.

Application for Cancellation of an authorisation for the use or Conduct of a Covert Human Intelligence Source.

APPENDIX 3

C FORMS

ACQUISITION OF COMMUNICATIONS DATA

All forms can be obtained from the Home Office: RIPA Codes of Conduct website:
<http://www.homeoffice.gov.uk/counter-terrorism/ripa-forms/>

The form has to be downloaded and completed in the applicant's handwriting. The Authorising Officer must also complete the relevant section of the form in handwriting. The original form has to be passed to the SRO

Part I Chapter II request schedule for subscriber information

Specimen Part I Chapter II authorisation

Specimen Part I Chapter II Notice

Chapter II application for communications data

Guidance notes regarding chapter II application form

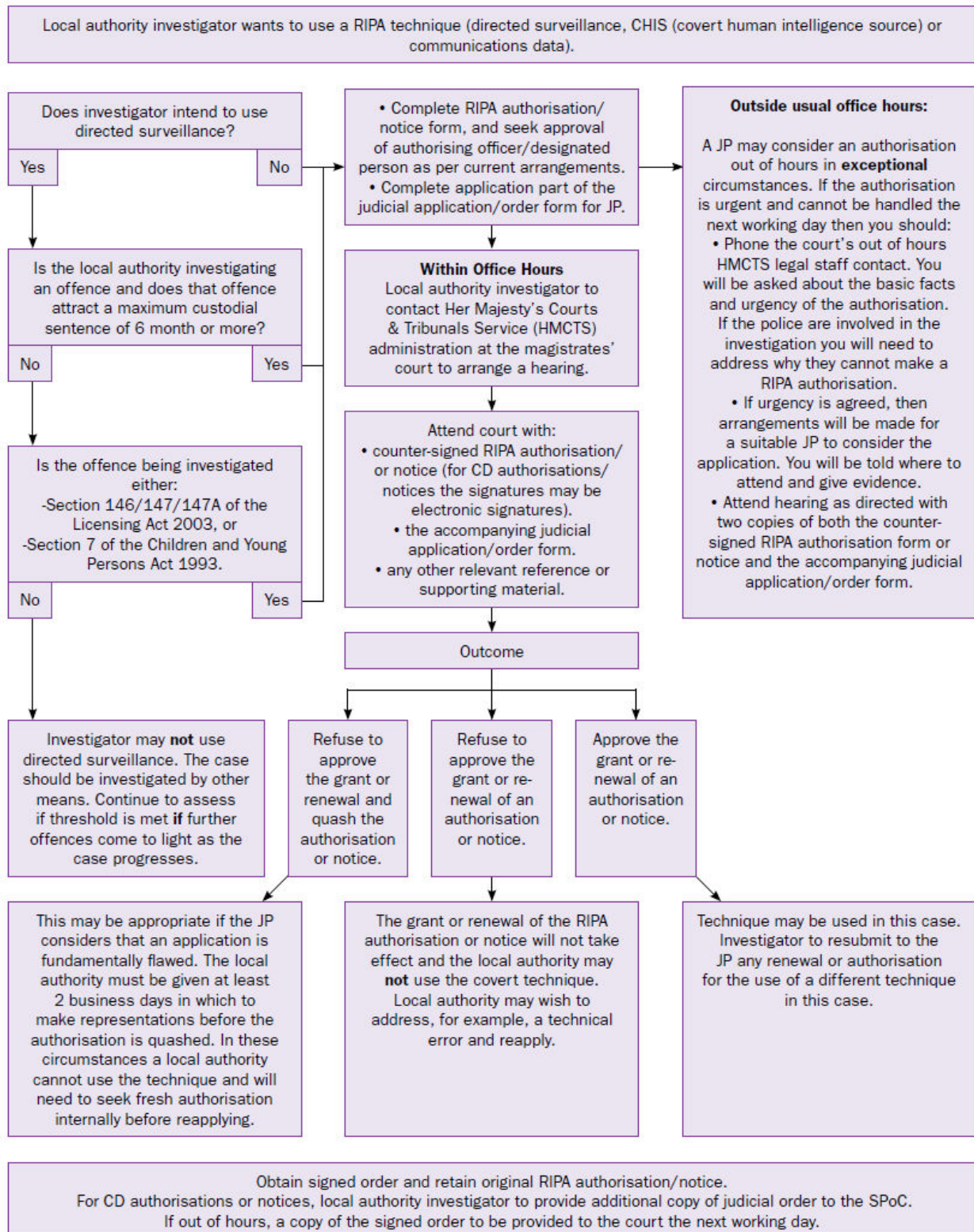
RIPA Section 22 notice to obtain communications data from communications service providers

Reporting an error by a CSP to the IOCCO

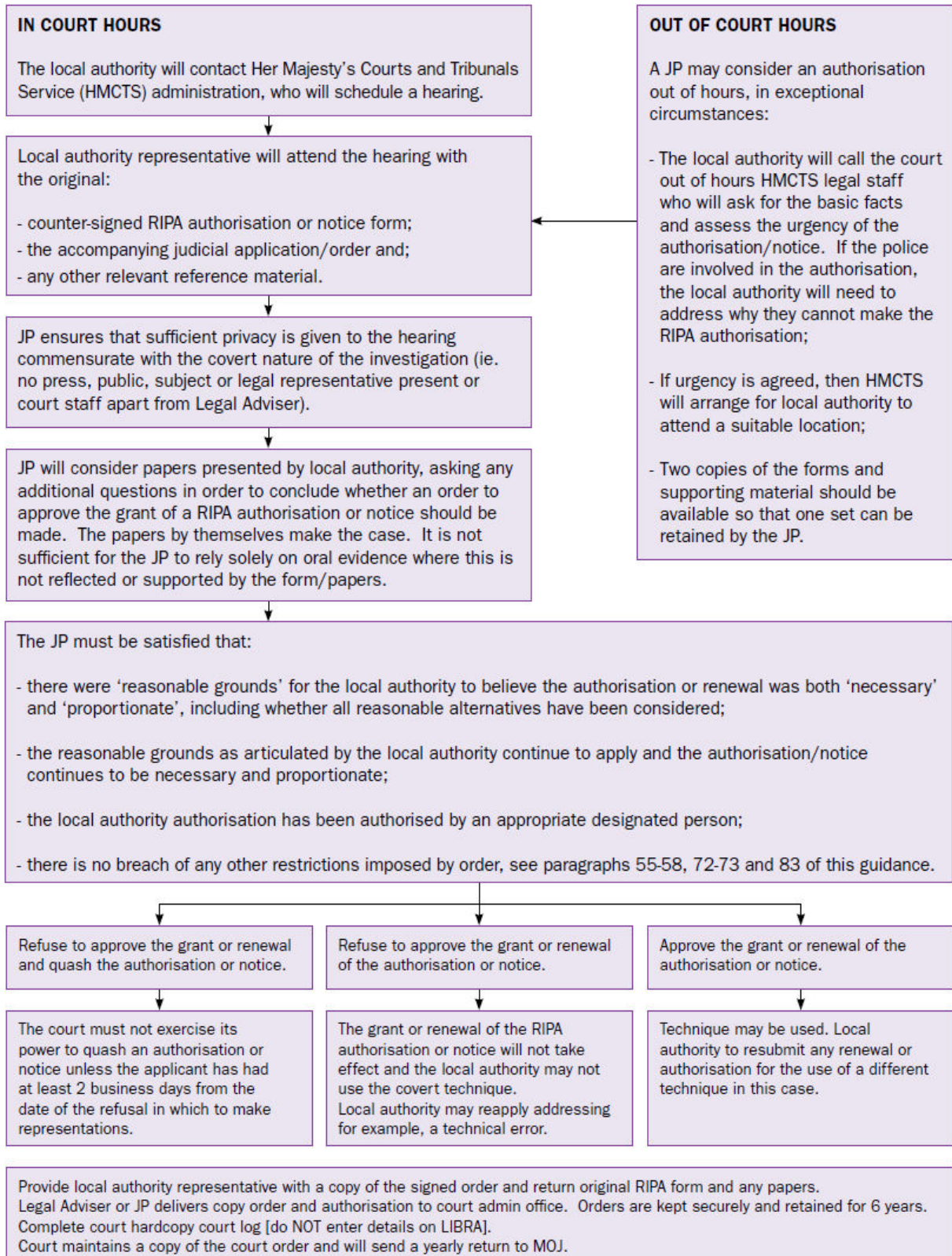
Reporting an error by a public authority to the IOCCO

Annex A

LOCAL AUTHORITY PROCEDURE: APPLICATION TO A JUSTICE OF THE PEACE SEEKING AN ORDER TO APPROVE THE GRANT OF A RIPA AUTHORISATION OR NOTICE



PROCEDURE: LOCAL AUTHORITY APPLICATION TO A JUSTICE OF THE PEACE SEEKING AN ORDER TO APPROVE THE GRANT OF A RIPA AUTHORISATION OR NOTICE



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

Local thorty:.....
Local authority department:.....
Offence under investigation:.....
Address of premises or identity of subject:.....
.....
.....

Covert technique requested: (tick one and specify details)

- Communications Data**
- Covert Human Intelligence Source**
- Directed Surveillance**

Summary of details

.....
.....
.....
.....
.....

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

Investigating Officer:.....
Authorising Officer/Designated Person:.....
Officer(s) appearing before JP:.....
Address of applicant department:.....
.....
Contact telephone number:.....
Contact email address (optional):.....
Local authority reference:.....
Number of pages:.....

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

Magistrates' court:.....

Having considered the application, I (tick one):

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

Notes

.....
.....
.....
.....
.....

Reasons

.....
.....
.....
.....
.....
.....

Signed:

Date:

Time:

Full name:

Address of magistrates' court:

OFFICER EMPLOYMENT PROCEDURE RULES

CONTENTS

Rule

1. Definitions
2. Responsibility for Appointment, Dismissal and Disciplinary Action
3. Recruitment and Appointment – General Requirements
4. Recruitment of Chief Officers
5. Appointment of the Chief Executive
6. Appointment of other Chief Officers
7. Appointment of Assistants to Political Groups
8. Objection by the Executive – Appointment of Chief Officers
9. Disciplinary Action
10. Disciplinary Panels
11. Objection by the Executive – Dismissal of a Chief Officer
12. Redundancy Procedures

Appendix

- 1 Operational Standing Orders - Staff

OFFICER EMPLOYMENT PROCEDURE RULES

A. DEFINITIONS AND RESPONSIBILITIES

1. Definitions

In these rules:

- (a) "the 1989 Act" means the Local Government and Housing Act 1989;
- (b) "the 2000 Act" means the local Government Act 2000;
- (c) "Disciplinary Action" has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001;
- (d) 'Chief Executive' means the most senior officer of the Council in terms of managerial status and may include any person designated as Head of Paid Service pursuant to s4 of the Local Government and Housing Act 1989 and Deputy Chief Executive shall be construed accordingly;
- (e) "Chief Financial Officer" means the individual who has responsibility for financial administration pursuant to and for the purposes of s151 of the Local Government Act 1972;
- (f) "Chief Officer" means
 - (i) Chief Executive, Deputy Chief Executive, Director of Corporate Support Services, Director of Finance and ICT, Director of Housing, Director of Planning and Economic Development, Director of Environment and Street Scene, Assistant to the Chief Executive;
 - (ii) Further for the purposes of these Rules alone the Chief Financial Officer and Monitoring Officer, Deputy Financial Officer and Deputy Monitoring Officer are included within the definition of Chief Officer;
 - (iii) Further this definition will also include any post which is subsequently created to these Rules and whose terms of appointment expressly state that these Rules will apply as if to a Chief Officer.
- (g) "Executive" and "Executive Leader" have the same meaning as in Part II of the 2000 Act;
- (h) "Member of Staff" means a person appointed to or holding a paid office or employment under the authority;
- (i) "Pro Rata Rules" mean the principles set out in s15 of the 1989 Act;
- (j) "Proper Officer" means an officer appointed by the authority for the purposes of the relevant provisions in these Rules; and
- (k) "The Rules" means the Officers Employment Rules.

2. Responsibility for Appointment, Dismissal and Disciplinary Action

- 2.1 Save as otherwise provided for by these Rules and subject to the exceptions in sub paragraphs 2.2 and 2.3 below, the function of appointment and dismissal of, and taking disciplinary action against, a Member of Staff of the authority must be discharged, on behalf of the authority, by the Chief Executive or by a Member of Staff nominated by him.
- 2.2. The exceptions referred to in sub paragraph 2.1 are as follows:
- (a) the Chief Officers of the Council as defined above; and
 - (b) any person appointed in pursuance of Section 9 of the 1989 Act (assistants for political groups).
- 2.3 Nothing in paragraph 2.2 above shall prevent a person from serving as a member on any panel, committee or sub-committee established by the authority to consider an appeal by:
- (a) another person against any decision relating to the appointment of that other person as a Member of Staff of the authority; or
 - (b) a Member of Staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that Member of Staff.

B. RECRUITMENT

3. Recruitment and Appointment – General Requirements

3.1 Declarations

3.1.1 The Council will draw up a statement requiring any candidate for appointment as a Member of Staff to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or Member of Staff of the Council; or of the partner of such persons.

3.1.2 No candidate so related to a councillor or a Member of Staff will be appointed without the authority of the relevant Chief Officer of the service to which that candidate has applied or a Member of Staff nominated by him/her for this purpose.

3.2 Seeking Support for Appointment

3.2.1 The Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council.

3.2.2 No councillor will seek support for any person for any appointment with the Council.

3.2.3 The Council will disqualify any applicant who directly or indirectly seeks the support of any Member of Staff for any appointment with the Council save where the applicant is an existing Member of Staff and seeks a reference from another Member of Staff in support of such application.

3.2.4 The content of Rule 3.2 shall be included in any recruitment information.

4. Recruitment of Chief Officers

4.1. Where the Council proposes to appoint a Chief Officer and it is not proposed that the appointment be made exclusively from among their existing Members of Staff, the Council will:

(a) Draw up a statement specifying (i) the duties of the **Chief Officer role** concerned; and (ii) any qualifications or qualities to be sought in the person to be appointed;

(b) Make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and

(c) Make arrangements for a copy of the statement mentioned in Rule 4.1 (a) to be sent to any person on request.

5. Appointment of Chief Executive

5.1 The full Council will approve the appointment of the Chief Executive following the recommendation of such an appointment by a panel of seven councillors allocated between political groups in accordance with the Pro Rata Rules who will interview applicants for this position. Such a panel shall include at least one Executive member.

5.2 All councillors appointed to such a panel is required to have undertaken recruitment and selection training before taking part in interviews.

5.3 The appointment panel will not seek the approval of the full council for the proposed appointment until it has complied with the procedure at Rule 8 below.

6. Appointment of other Chief Officers.

6.1 A panel of not less than seven councillors allocated between political groups in accordance with the Pro Rata Rules will interview and, where authorised following the procedure referred to in Rule 8, appoint to these positions. Such a panel shall include at least one Executive member.

6.2 All councillors appointed to such a panel are required to have undertaken recruitment and selection training before taking part in interviews.

7. Appointments of Assistants to Political Groups

7.1 Appointments of assistants to a political group shall be made in accordance with the wishes of that political group.

8. Objection by the Executive – Appointment of Chief Officers

8.1 In relation to any proposed appointment for any Chief Officer post an offer of appointment should not be made until the Proper Officer has been notified of the name of the person that is proposed is to be offered such position and any other particulars which are considered to be relevant to the appointment and the Proper Officer has notified every member of the Executive of the authority of:

(a) the name of the person to whom it is proposed to make the offer;

(b) any other particulars relevant to the appointment which have been notified to the Proper Officer; and

(c) the period within which any objection to the making of the offer is to be made by the Executive Leader on behalf of the executive to the Proper Officer; and

8.2 Upon such notification having been made then the appointment will only be offered if:

(a) the Executive Leader has, within the period specified above notified the appropriate appointment panel or individual that neither he nor any other member of the Executive has any objection to the making of the offer;

(b) the Proper Officer has notified the appropriate appointment panel, that no objection was received by him within that period from the Executive Leader; or

(c) the relevant appointment panel is satisfied that any objection received from the Executive Leader within that period is not material or is not well founded.

C. DISCIPLINARY ACTION

9. Disciplinary Action

9.1 Suspension

9.1.1 Any Chief Officer may be suspended whilst an investigation takes place into alleged misconduct.

9.1.2 The Chief Executive, in consultation with the Monitoring Officer and the Chief Financial Officer as appropriate, shall have delegated authority to suspend a Chief Officer where, in his/her opinion the presence at work of the Chief Officer concerned could compromise an investigation of any alleged misconduct, for a maximum period of 10 working days. Any decision to suspend any Chief Officer for a longer period shall be taken by a Panel of councillors comprising not less than seven Councillors allocated between political groups in accordance with the pro rata rules and convened within the 10 day period of the temporary suspension.

9.1.3 The Leader of the Council, in consultation with the Monitoring Officer and the Chief Financial Officer, shall have delegated authority to suspend the Chief Executive for a maximum period of 10 working days where, in his/her opinion the presence at work of the Chief Executive could compromise the investigation of any alleged misconduct. Any decision to suspend the Chief Executive for a period of more than 10 working days up to a maximum of 2 months shall be made by a Panel of not less than 7 Councillors allocated between political groups in accordance with pro rata rules.

9.1.4 Any assistant to a political group may be suspended by the leader of that political group.

9.1.5 Any suspension will be on full pay and for a period of not more than two months save as provided for in 9.2.2 below and shall be kept under constant review.

9.2 Independent Person

9.2.1 No Disciplinary Action other than the suspension referred to in paragraph 9.1 above may be taken in respect of the Chief Executive, the Monitoring Officer or the Chief Financial Officer except in accordance with a recommendation in a report made by a designated independent person within the meaning of Regulation 7 of the Local Authorities (Standing Orders) (England) Regulations 2001.

9.2.2 Further, in respect of any period for which the Chief Executive, the Monitoring Officer or the Chief Financial Officer may be suspended, the independent person may terminate or extend any period of that suspension (including extending it beyond two months should it appear to that independent person as being necessary) and vary the terms of any suspension as he or she sees fit.

9.2.3 The independent person may inspect any documents or have questions answered by any Member of Staff of the Council in connection with such investigation.

9.3 Councillors

9.3.1 Councillors will not be involved in the disciplinary action against any member of staff below Chief Officer level except where such involvement is necessary for any investigation or inquiry into alleged misconduct, through the Council's disciplinary, capability and related procedures, as adopted from time to time or as otherwise provided for by these Rules.

9.3.2 Other Councillors may participate in such proceedings where there is a right of appeal to members in respect of disciplinary action.

10. Disciplinary Panels

10.1 Disciplinary Action short of dismissal in respect of the Chief Executive, Monitoring Officer and Chief Financial Officer may be made by a panel comprising not less than seven councillors allocated between political groups in accordance with the Pro Rata Rules and including at least one member of the Executive to consider the report on any disciplinary matters produced by the independent person referred to in paragraph 9.2.1 above and must be in accordance with any recommendation made in that report.

10.2 The full Council may approve the dismissal of the Chief Executive, Monitoring Officer and Chief Financial Officer following the recommendation of such a dismissal by the Panel referred to in 10.1 provided that

- (i) such dismissal is in accordance with any recommendation made in the report produced by the independent person referred to in paragraph 9.2.1 above; and
- (ii) the procedure referred to in paragraph 11 below has been complied with.

10.3 Disciplinary Action, including dismissal, in respect of any individuals in the positions of Chief Officers, other than the Chief Executive, Monitoring Officer and Chief Financial Officer, may be taken by a panel of seven councillors allocated between political groups in accordance with the Pro Rata Rules including at least one member of the Executive and provided that the procedure referred to in paragraph 11 below has been complied with.

10.4 Disciplinary Action, including dismissal, in respect of any assistants to political groups, may be taken by a panel made up of not less than three councillors from that political group (unless there are less than three councillors affiliated to that party when the panel should be made up of all councillors affiliated to that party).

11. Objection by the Executive - Dismissal

- 11.1 In relation to any proposed dismissal of an individual in a Chief Officer post notice of dismissal should not be given until the Proper Officer has been notified of the name of the person that is proposed is to be dismissed and the reasons for the proposed dismissal and the Proper Officer has notified every member of the executive of the authority of:
- (a) the name of the person it is proposed to dismiss;
 - (b) the reasons for the proposed dismissal
 - (c) the period within which any objection to the dismissal is to be made by the executive leader on behalf of the executive to the Proper Officer;
- 11.2 No notice of dismissal or recommendation for dismissal as the case may be shall be given until either -
- (a) the Executive Leader has, within the period specified above notified the panel proposing to dismiss that neither he nor any other member of the Executive has any objection to the proposed dismissal
 - (b) the Proper Officer has notified the panel that no objection was received by him within that period from the Executive Leader; or
 - (c) the relevant panel is satisfied that any objection received from the Executive Leader within that period is not material or is not well founded.

12. Redundancy Procedures

- 12.1 The Epping Forest District Council Redundancy and Redeployment Policy and Procedure does not apply to Chief Officers. However the principles referred to within that policy will be adhered to so far as is appropriate when considering a potential redundancy situation affecting any individuals who hold any of the above posts and whether to dismiss any such person. The Epping Forest District Council Policy for Redundancy and/or Early Retirement shall apply in full to Chief Officers.
- 12.2 A panel of members comprising not less than seven councillors allocated between political groups in accordance with Pro Rata Rules including at least one member of the Executive will consider whether any persons holding any post referred to in 12.1 above shall be made redundant when it appears there is a need to consider such matters ("the Redundancy Panel").
- 12.3 The Redundancy Panel will, in addition to any other steps that appear to them to be appropriate as referred to in the Redundancy and Redeployment Procedure, be responsible to ensure that:
- (a) any individuals that may be affected by any decisions relating to redundancy are informed at an early stage of the fact that they may so be affected and the reasons for this. Thereafter any such individuals should be kept informed of relevant information pertaining to the redundancy decision making process as it continues.
 - (b) individuals are meaningfully consulted during the redundancy process and, in particular, sufficient information is given to them such as to enable them to understand why such redundancies are being considered and an opportunity is given

to those individuals to comment on such information and make alternative proposals with a view to avoiding redundancy.

(c) that consideration is given to whether any alternative positions may be available to the affected individuals.

The Redundancy Panel shall ensure that notification is given to the Executive of any proposed decision to dismiss by reason of redundancy in accordance with paragraph 11 above. Such notification is to be made before the Redundancy Panel notifies the individual concerned that it is proposed to recommend to the Council to make that individual redundant in accordance with paragraph 12.5 below.

- 12.4 If the Redundancy Panel decides that a notice of redundancy should be issued to any individual then it should inform the individual concerned of its intention to recommend the Council to do so and inform that individual that they have a right to appeal and the Panel should set a reasonable period for the individual to make such an appeal.
- 12.5 If the individual does not appeal within the set timescale then the full Council will approve the dismissal of the individual concerned following the recommendation of the Redundancy Panel.
- 12.6 If the individual does appeal within the set timescale then a Redundancy Appeal Panel will be appointed which will consist of not less than seven councillors, drawn from political groups in accordance with Pro Rata Rules and including at least one member of the Executive, who will hear and adjudicate upon the appeal.
- 12.7 If the appeal is dismissed then the full Council will approve the dismissal of the individual concerned following the recommendation of the Redundancy Appeal Panel.

**OFFICER EMPLOYMENT
PROCEDURE RULES**

APPENDIX

OPERATIONAL STANDING ORDERS – STAFF

1. Management Board

The Management Board shall comprise the Chief Executive, Deputy Chief Executive and Service Directors. The team shall meet on a regular basis to consider matters of Council business and shall adopt a 'corporate' outlook on management matters.

2. Working Parties

The Management Board may appoint working parties of officers to examine and report to the team on any matter in respect of which the Council has powers and duties or which affects the District.

3. Canvassing of Members

Canvassing of members or officers of the Council – (i) by or on behalf of a candidate, whether directly or indirectly; (ii) by individual employees in regard to their terms and conditions of service except by way of application to a superior officer, is forbidden.

4. Relatives of Members or Officers

(1) Every person applying for an appointment in the service of the Council shall disclose in writing to the Chief Executive any known family relationship to any member or senior officer of the Council.

(2) The existence of any known family relationship between a member of the Council and a senior officer of the Council shall be notified in writing to the Chief Executive by each party to such relationship.

(3) For the purpose of this Standing Order "senior officer" means any officer of the Council in receipt of a salary in Principal Officer Range (SCP 49-53) related to the JNC Conditions for Chief Officers.

5. Interest of staff in contracts and other matters

(1) If it comes to the knowledge of an officer employed by the Council that a contract in which he has any pecuniary interest, whether direct or indirect (not being a contract in which he is himself a party), has been or is proposed to be entered into by the Council or any committee thereof, he shall as soon as practicable give notice in writing to the Chief Executive of the fact that he is interested therein.

(2) If it comes to the knowledge of a Service Director of the Council that he has any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter which is the subject of consideration by the Council or a committee of the Council he shall at the meeting before consideration of the matter disclose (or cause to be disclosed) the fact and (if he is in attendance at the meeting) shall withdraw from the meeting whilst the matter is under consideration.

...

(3) For the purpose of this Standing Order an officer shall be treated as having indirectly a pecuniary interest in a contract or proposed contract if he would have been so treated by virtue of Section 95 of the Local Government Act 1972 had he been a member of the Council. (A summary of the provisions of Sections 94 to 98 and 117(1) of the Local Government Act 1972 is attached as Appendix 2 to these Standing Orders).

(4) An officer of the Council shall not, under colour of his office or employment, accept any fee or reward whatsoever other than his proper remuneration.

CONVENTIONS ON THE RELATIONSHIPS BETWEEN POLITICAL GROUPS & COUNCILLORS WITH OFFICERS

1. INTRODUCTION

1.1 The formal business of the Council is regulated by the Constitution and various supplementary guidance. The conventions set out in this document are for guidance of members of the Council and **Directors** and are aimed at supplementing those rules and guidance.

2. ENTITLEMENT TO INFORMATION

2.1 Any member of the Council may ask the appropriate Director for written factual information about a Directorate (or part thereof) or service. Such requests will be met, subject to any legal requirements (including the Freedom of Information and Data Protection Acts).

2.2 A Councillor may require the Director to treat the request for information as confidential and this confidentiality will be respected unless it is agreed with the Councillor concerned that request no longer needs to be treated in that way.

2.3 All such requests shall be made to a Director or Assistant Director.

2.4 Where a Director on his own initiative provides information to any political group, the information will **also** be supplied to the other **Groups** unless it is of a routine or minor nature.

3. BRIEFING MEETINGS

3.1 Formal briefings may be arranged for meetings to discuss business to be transacted at meetings. Briefings will be attended by the Chairman and Vice Chairman concerned except in the case of the District Development Control Committee and Area Plans Sub Committees where appointed group representatives and independent members serving on the Committee or sub Committee concerned will also attend.

3.2 Briefing meetings will deal with (a) procedural matters; and (b) up-dating of information contained in agenda items by officers.

3.3 All political groups will notify their group representatives on the District Development Control Committee and the Area Plans Sub Committees at the beginning of each Council year. The role of the Group representative shall be to act as spokesman for their group in connection with those meetings.

3.4 All briefings will be held at a mutually convenient time, usually on the day of the meeting in question and where possible will be published on the weekly calendar in the Council Bulletin.

3.5 Group Leaders and independent members may attend the briefing for the Chairman and Vice Chairman of the Council meetings.

4. BRIEFING OF POLITICAL GROUPS

4.1 The Chief Executive, Directors and Assistant Directors of the Council shall only attend meetings of political groups if this is for the purpose of assisting Council business. Where a political group invites an officer to attend a meeting, such invitations should be accepted only if the same opportunity is afforded to all political groups. Where officers have doubts about the appropriateness of accepting such an invitation, the Chief Executive will make a final decision.

4.2 Where an officer considers that it would assist Council business to attend a political group meeting for the purpose of briefing and makes a proposal that he or she should attend, the officer concerned shall be careful to extend that offer to all political groups.

4.3 Meetings of group leaders may be held. Such meetings will have no executive powers but will be authorised to meet with the Chief Executive on an informal basis to discuss business to be considered by the Council. **Group Leaders' meetings shall have formal agenda and minutes and shall be chaired by the Leader of the largest political group present.**

5. MEETING PRACTICE

5.1 Role of Chairman

The Chairman of the Council, the Leader **of the Cabinet or the Chairman** of any Committee, Sub-Committee or **Panel/Working Group** shall ensure that there is a reasonable opportunity for debate and that there is effective despatch of Council business. The Chairman shall ensure that every motion which is properly proposed and seconded is put to the vote.

5.2 Casting Vote

In circumstances where a second or casting vote may be required, the Chairman shall consider whether to make a second or casting vote by taking advice on whether the decision is necessary and whether there will be a further opportunity to debate the issue concerned within a reasonable timescale. The Chairman may decide, dependant on that advice, not to make a casting vote or if one is cast, to vote according to the status quo. However, in some cases there is no status quo (e.g. quasi judicial decisions concerning planning, licensing and appeals of various kinds) and in those circumstances the Chairman shall vote in accordance with their judgement of the public interest. Chairmen will acknowledge at all times the requirement under the Constitution to signify whether he or she intends to vote in the first vote on any matter before a meeting.

5.3 Respect for the Chair and Behaviour

Group Leaders will do everything possible to ensure that members of their groups are aware of the rules of debate and proper standards of behaviour at all meetings.

5.4 Seating Arrangements – Council and Committee Meetings

Seating in the Council Chamber shall be agreed between the political groups.

.5.5 Committee Minutes

Draft minutes will be cleared with the appropriate Chairman.

6. RELATIONS WITH THE MEDIA

6.1 Official media statements will be issued on behalf of the District Council, a Portfolio Holder, an Overview and Scrutiny or other Committee Chairman. Such statements may be prepared in consultation with appropriate Directors but must be approved by the quoted Members before issue. **Quoted members will also be consulted on statements issued within the broader context of a proactive media releases and in response media enquiries.** Statements issued through the Public Relations and Marketing Officer (Including quoted comments by members) must reflect the nature of decisions or Council policy and exclude 'political' comment.

6.2 Members may speak directly to the media on any given issue (subject to legal constraints such as the Data Protection Act) **in order to express personal or political points of view.**

6.3 Political Groups may issue their own press releases either through group leaders or group representatives. These will be solely the province of the political group concerned and will not involve officer input except in so far as a group wish to check factual information. Press statements arising from Council business and issued in a party capacity by a Leader or Group Representative must be careful to differentiate between the Council's policy and the views of the group concerned.

6.4 The Chairman and Vice-Chairman of the Council have a special role within the authority by virtue of their civic responsibilities. To reflect this role, they will receive special support from relevant officers in carrying out those duties.

6.5 Political groups and individual councillors should bear in mind the special rules which apply to Council publicity during election periods and shall bear in mind the guidance set out in Appendix 2 to this report .

7. APPOINTMENT OF REPRESENTATIVES

7.1 The appointment of representatives to any outside body of a permanent nature or involving regular attendance will be determined by the Council in accordance with Council Procedure Rules.

8. FACILITIES FOR MEMBERS

8.1 **Word processing and photocopying facilities are available in accordance with Council policy, on application to Democratic Services. Typing for the Chairman and Vice-Chairman of the Council is provided through Democratic Services.**

9. REVIEW OF CONVENTIONS

9.1 The conventions set out in this document will be reviewed from time to time. The Chief Executive will also initiate a special review at any time if required by a change in the political balance on the Council or on the request of any of the political groups.

**STATEMENT OF
LICENSING POLICY**

Made under section 5 of the Licensing Act 2003

This policy shall come into force on
not later than 2017

2012 and will be reviewed

Contents

1. Introduction	Page
• Purpose and Scope	3
• Licensing Objectives.....	3
• Consultation, Strategies and Policies.....	4
• Equality Duty	4
• Regulated Entertainment.....	5
• Applications.....	5
• Representations.....	6
• Conditions	7
• Administration, Exercise and Delegation of Functions.....	7
• Cumulative Impact of a Concentration of Licensed Premises.....	8
• Advice and Guidance.....	8
• Reviews.....	9
• Enforcement.....	10
2. Licensing Objectives.....	10
3. Prevention of Crime and Disorder.....	10
4. Public Safety.....	11
5. Public Nuisance	11
6. Protection of Children from Harm.....	11
7. Licensing Hours.....	12
Contact Details.....	12
Appendix 1 Delegation of Functions.....	13
Appendix 2 Consultation.....	14
Appendix 3 Hampton Principles.....	15

1. Purpose and Scope

- 1.1 Epping Forest District Council ('the Council') is the licensing authority under the Licensing Act 2003 as amended ('the Act'). This policy relates to all those licensing activities identified as falling within the provisions of the Act, including granting premises licences, club premises certificates, temporary events and personal licences in the district in respect of the sale and/or supply of alcohol and/or the provision of regulated entertainment and late night refreshment.
- 1.2 The Act requires that the Council publish a 'Statement of Licensing Policy' that sets out the policies the Council will generally apply to promote the licensing objectives when making decisions on applications made under the Act and to regulate licensable activities on, and in the vicinity of, licensed premises.
- 1.3 This 'Statement of Licensing Policy' has been prepared in accordance with the provisions of the 2003 Act and having regard to the guidance issued under Section 182 of the Act.
- 1.4 This Statement of Licensing Policy has been produced in consultation with the Chief Police Officer for Essex, the Fire and Rescue Authority and bodies representing local holders of premises licences, club premises certificates and personal licences, businesses and residents of the area. The policy will be reviewed in not less than **five** years, or in the light of significant changes to legislation or circumstances, whichever is sooner.

Licensing Objectives

- 1.5 The Act requires that the Council carry out its various licensing functions so as to promote the following four licensing objectives:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

These objectives are defined in more detail in section 2

- 1.6 To achieve these objectives the Council will, where appropriate, use the full range of measures available to it, including relevant legislation. The Council will work closely with the police, the fire authority, businesses, community representatives and local people in meeting these objectives.
- 1.7 There are a number of other Council and Government policies, strategies, responsibilities, and guidance documents that have been considered in the formulation of this licensing policy and which will be taken into account in its implementation.
- 1.8 Applicants must be able to demonstrate that they have considered the four licensing objectives within their operating schedule. Applicants know their premises best and will be expected to address all aspects relevant to the individual style of their premises. Consideration must be given to all of the licensing objectives. There are many control measures that are available to applicants to achieve this goal. Applicants should consider whether or not any additional measures are required in respect of occasional or specific events that are intended or are likely to attract larger audiences.

Consultation, Strategies and Policies

- 1.9 In developing this Policy Statement, the Council consulted widely. Along with the statutory consultees (the Chief Police Officer for the District and the Essex County Fire and Rescue Service), the views of existing licence holders, businesses, voluntary groups, residents and those involved in local crime prevention, transport, tourism, equality issues and cultural strategies were also taken into account. Due consideration was given to the views of all those who responded to that consultation process.

Details of the consultation on this policy are attached as Appendix 2.

- 1.10 The Council will take account of the guidance and strategies listed below (or any replacement guidance or strategy) when preparing its policies and in its decision making. Whilst not exhaustive these include:

- Environmental Health Enforcement Policy
- Enforcement Concordat
- The Corporate Plan

Other Responsibilities

- Responsibilities under Anti Social Behaviour Act 2003
- Equality Act 2010

Guidance Documents

- Guidance issued under S182 of the Licensing Act 2003
- A practical guide for dealing with Alcohol related problems issued by the Home Office
- Home Office - Safer Clubbing Guide
- LACORS – A Practical Guide to Test Purchasing
- Any future documents issued relating to the Private Security Industry Act 2001, for example liaison or information sharing protocols

Any documentation relating specifically to temporary events such as:

- The Event Safety Guide: A Guide to Health, Safety and Welfare at Music and Similar Events (HSE 1999)
- Managing Crowds Safely'
- Steps to Risk Assessment: Case Studies (HSE 1998) ISBN 0716 150804
- The Guide to Safety at Sports Grounds
- Safety Guidance for Street Arts, Carnivals, Processions and Large-scale Outdoor Performances Independent Street Arts Network copies of which may be obtained through www.streetartsnetwork.org.uk/pages/publications.htm

- 1.11 Furthermore, arrangements will be made for the Licensing Committee to receive reports, when appropriate, on the needs of the local tourist economy to ensure that these are reflected in their considerations. The Licensing Committee will also be apprised of the local employment situation and the need for new investment and employment, where appropriate.

- 1.12 To ensure proper integration with the Council's planning policies, the Licensing Committee will provide reports to the Development Control Committee, where appropriate, on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder, to enable the Development Control Committee to have regard to such matters when making its decisions.

Equality Duty

- 1.13 The Council recognises its responsibilities under the Equality Act 2010 to have due regard to the need to eliminate unlawful discrimination, harassment and victimization; to advance equality of opportunity; and foster good relations between persons with the characteristics mentioned in the Act. These characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The impact of this policy on its services will be monitored through the Council's Equality scheme 2012-2016. This Statement of Licensing Policy has been assessed to take account of equality issues.

Regulated Entertainment

- 1.14 As part of implementing local cultural strategies, proper account/consultation will be taken of the need to encourage and promote in suitable locations, a broad range of entertainment, particularly live music, dancing and theatre for the wider cultural benefit of communities.
- 1.15 If representations are made concerning the potential for disturbance in a particular neighbourhood, the Council's consideration where disturbance is likely to be of limited extent will be balanced against the wider benefits to any community. When attaching conditions the Council will also be aware of the need to avoid measures that might deter live music, dancing or theatre by imposing indirect costs of a substantial nature.

Applications

- 1.16 In determining a licence application, the overriding principle adopted by the Council will be that each application will be determined on its merits, taking into account:
- The Licensing Act 2003 and the four licensing objectives;
 - Government Guidance issued under Section 182 of the Licensing Act 2003;
 - Supporting regulations;
 - This statement of Licensing Policy; and
 - The nature and locality of the premises and the Operating Plan submitted by the applicant.
- 1.17 The Council requires the applicants to satisfactorily address the licensing objectives, from the design of the premises through to the daily operation of the business, in their Operating Plans, which must be submitted with their application.

1.18 Nothing in this Statement of Policy will:

- Undermine the rights of any person to apply under the Act for a variation of permissions and have the application considered on its individual merits;
- Override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the Act;
- Prevent any person from applying for a variety of permissions under the Act.

1.19 So far as possible, this policy will not duplicate existing legislation and regulatory regimes that already place obligations on employers and operators e.g. The Health & Safety at Work etc Act 1974, The Environmental Protection Act 1990, equalities legislation, and the Fire Safety Regulatory Reform Order 2005. Conditions in respect of public safety will only be attached to licences if they are necessary for the promotion of a licensing objective.

1.20 When one part of the Council seeks a premises licence from the Licensing Committee, the application will be considered from an entirely impartial standpoint. If relevant representations are made, for example, by local residents or the police, they will be considered fairly by the Committee.

1.21 In all cases, the applicants and those making representations have a right to appeal to the magistrates' court against any decision made by the Council.

Representations

1.22 Responsible Authorities may make representations on applications, so far as they relate to the promotion of the four licensing objectives, and request reviews once licences have been granted. Representations must be evidentially based.

The Responsible Authorities are:

- The relevant licensing authority or any other licensing authority in whose area part of the premises is situated.
- Chief Officer of Police,
- The Fire and Rescue Authority,
- The Enforcing Agency for health and safety purposes, the local authority responsible for environmental health,
- The local planning authority, the authority responsible for minimising or preventing the risk of pollution
- The Child Protection Authority,
- Local Commissioning Clinical Board or such other body as notified to the Authority from time to time as being appropriate.
- The local weights and measures authority (trading standards).

1.23 The Act permits other persons to make representations. This includes any individual, body or business, or their representatives which are known as 'interested parties' and are free to raise relevant representations regardless of their geographical proximity to the premises. Any representations must be 'relevant' in that the objection relates to one or more of the four licensing objectives. In the case of a review the ground must not be considered to be repetitious.

- 1.24 A representation would only be 'relevant' if it relates to the likely effect of the grant of the licence on the promotion of at least one of the four licensing objectives. Any representation must not be frivolous or vexatious, and in addition, in the case of reviews, not be repetitious. A ground for review is considered to be repetitious if:
- A ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
 - Representations considered by the licensing authority when the premises licence or certificate was granted; or
 - Representations which would have been made when the application for premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement;

and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.

Parties intending to make a representation are directed to the guidance issued by the Home Office (or similar government issued guidance) for assistance as to whether a representation is relevant.

- 1.25 In the absence of any representations the licence must be granted and any representations must be heard at a hearing of the Licensing Sub-committee.

Conditions

- 1.26 Licence conditions will be tailored to the individual application and those appropriate to promote the licensing objectives will be imposed. Licence conditions will not be imposed where other controls/legislation exist to provide sufficient protection to the public. The Council may create its own pool of conditions to assist applicants.
- 1.27 Any conditions arising from the operating schedule or as a result of representations will be focused on the direct impact of the activities taking place at the licensed premises, on members of the public living, working or engaged in normal activity in the area concerned and which are within the control of the individual licensees and others with relevant authorisations.

Administration, Exercise and Delegation of Functions

- 1.28 The powers of the Council under the Act may be carried out by the Licensing Committee, by a Sub-Committee or by one or more officers acting under delegated authority.
- 1.29 With the exception of the approval and review of its Licensing Policy, decisions on licensing matters will be taken in accordance with an approved scheme of delegation aimed at underlining the principles of timely, efficient and effective decision-making. A table setting out how we will approach this is attached at Appendix 1.
- 1.30 The Licensing Committee will receive regular reports regarding licences determined by officers under delegated powers, in order to maintain an overview of the general situation.

- 1.31 The Licensing Committee will expect individual applicants to address the licensing objectives in their Operating Plan, having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community.

Cumulative Impact of a Concentration of Licensed Premises

- 1.32 Cumulative impact means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.
- 1.33 The cumulative impact of licensed premises on the promotion of the licensing objectives is a matter that the Council can take into account. This will not be confused with 'need', which relates more to the commercial demand for a particular type of premises, and is therefore a matter for planning consideration and does not form part of this Licensing Policy Statement.
- 1.34 The Council may receive representations from either a Responsible Authority or any party, (both defined by the Act), that the cumulative impact of new licences is leading to an area becoming saturated with premises of a certain type, making it a focal point for large groups of people to gather, and thereby creating exceptional problems of disorder and nuisance over and above the impact from the individual premises themselves. In such cases, the issue of cumulative impact may be taken into account when considering the individual merits of any application.
- 1.35 The Council will not operate a quota of any kind which would pre-determine any application, nor will it seek to impose general limitations on trading hours in particular areas. Instead, regard will be given to the individual characteristics of the premises concerned within a given area. It is recognised that pubs, nightclubs, restaurants, hotels, theatres, and other clubs all sell alcohol, serve food and provide entertainment but with contrasting styles and characteristics. Proper regard will be had to those differences and the impact they are likely to have on the local community.
- 1.36 In determining whether to adopt a 'cumulative impact' policy for a particular area the Council may, amongst other things:
- Gather evidence of local crime and disorder statistics, including statistics on specific types of crime and crime hotspots;
 - Gather evidence of environmental health complaints particularly in relation to litter and noise;
 - Gather evidence of health-related statistics such as alcohol-related emergency attendances and hospital admissions
 - Identify the area from which problems are arising and the boundaries of that area;
 - Make an assessment of the causes;
 - Adopt a policy about future applications for premises within that area.
- 1.37 The Council recognises however, that as well as the licensing function there are a number of other mechanisms for addressing issues of unruly behaviour that occur away from licensed premises. The Council recognises that licensing law is not a mechanism for the general control of anti-social behaviour by individuals

once they are away from the premises and beyond the direct control of the licence holder.

Advice and Guidance

- 1.38 The Council recognises the valuable cultural, social and business importance that premises and events requiring a licence under the Licensing Act provide and welcomes the diversity of activities that are provided by licence holders. For this reason, pre-application discussions will be encouraged to assist applicants to develop their operating schedule. The Council, Essex Police and/or Essex County Fire and Rescue Service will offer as much advice and guidance to applicants, as resources permit.
- 1.39 The Council will also seek to liaise with applicants and/or mediate between applicants and others who may make representations, to achieve a satisfactory outcome for all involved, wherever possible and where resources permit. Where an applicant considers that mediation and liaison may be likely or probable, it is recommended that the applicant discuss his proposal with the licensing department/section and those from who they think representations are likely prior to submitting their application. Once an application has been lodged, there are statutory timescales imposed upon the application and determination process, which restrict the opportunity for such discussions, liaison and mediation.

Reviews

- 1.40 A Responsible Authority and/or other parties can trigger a review of a premises licence or club premises certificate but an evidentiary basis would be required to be presented to the Licensing Authority. Representations received must be relevant to the promotion of the licensing objectives and submitted in writing. Representations must not be frivolous or vexatious.
- 1.41 The Act provides a mechanism for reviewing Premises Licences where problems associated with achieving the Licensing Objectives occur. However, no more than one review from an interested party will normally be permitted within any 12 month period on similar grounds, except in exceptional and compelling circumstances or where it arises following a Closure Order.
- 1.42 In addition where premises are associated with serious crime or serious disorder a senior police officer (Superintendent or above) may apply for a summary review of the premises licence which may result in :-
- (a) The modification of the conditions of the premises licence;
 - (b) The exclusion of the sale of alcohol by retail from the scope of the licence;
 - (c) The removal of the designated premises supervisor from the licence;
 - (d) The suspension of the licence.

The initial decision may be determined in the absence of the premises licence holder. A review hearing must then take place within 28 days.

- 1.43 Where any Party applies for a review, the Licensing Authority has to be satisfied that that the grounds are relevant. There is no appeal to the decision of the Authority other than by way of judicial review.
- 1.44 The Licensing Authority accepts that in exceptional circumstances, an Interested Party may not wish to provide his/her personal details to the licence or certificate holder. In those circumstances an Interested Party might consider providing the relevant Responsible Authority with details of how they consider the licensing objectives are being undermined so that the Responsible Authority can apply for a review.
- 1.45 Where possible and appropriate the Council, Essex Police and/or Essex Fire Service will give early warning to licence holders of any concerns about problems identified at premises and of the need for improvement.
- 1.46 No more than one review from interested parties will be normally permitted within any 12 month period on similar grounds except in exceptional and compelling circumstances.

Enforcement

- 1.47 The Council delivers a wide range of enforcement services aimed at safeguarding the environment and the community and at providing a 'level playing field' on which businesses can fairly trade. The administration and enforcement of the licensing regime is one of these services. The Council has adopted the Government's Enforcement Concordat designed to ensure effective and efficient public protection services. Specifically, the Council is committed to the principles of good inspection and enforcement practice and recognises the Hampton principles (Appendix 3) by carrying out its regulatory functions in a fair, open and consistent manner.
- 1.48 Once licensed, it is essential that premises are maintained and operated so as to ensure the continued promotion of the licensing objectives, and compliance with the specific conditions of their licence and their Operating Plan. The Council will make arrangements to monitor premises and take appropriate enforcement action to ensure this.
- 1.49 The Council has established an enforcement protocol with Essex Police, Essex County Fire and Rescue Service and Trading Standards (Essex County Council) on enforcement issues. This protocol provides for the targeting of resources towards high-risk premises and activities that require greater attention, while providing a lighter touch in respect of low risk premises.

2. Licensing Objectives

- 2.1 The following sections set out the Council's Policy relating to the four licensing objectives:
- The prevention of crime and disorder;
 - Public safety;
 - The prevention of public nuisance;
 - The protection of children from harm.

3. Prevention of Crime and Disorder

3.1 When considering Crime & Disorder applicants should look to include in their Operating Plan measures to control problems associated with this as required:

- Effective training and supervision of staff
- Adoption of best practice guidance (e.g. Safer Clubbing, The National Alcohol Harm Reduction Strategy Toolkit, Pub watch schemes, CCTV, Drug Awareness)

4. Public Safety

4.1 When considering Public Safety the applicant should consider whether it is necessary to address the following in their Operating Plan:

- Suitable and sufficient risk assessments;
- Effective and responsible management of premises;
- Adoption of best practice guidance (e.g. Guide to Fire Precautions in Licensed Premises).

5. Public Nuisance

5.1 When considering prevention of public nuisance applicants should consider what measures may be necessary and should take account of the following:

- Adoption of best practice guidance (e.g. Good Practice Guide on the Control of Property, Noise, published by the British Beer and Pub Association);
- Ensuring customers leave quietly;
- Installation of sound proofing.

6. Protection of Children from Harm

6.1 The Council recognises the great variety of premises for which licences may be sought. These will include theatres, cinemas, restaurants, pubs, nightclubs, cafes, takeaways, community halls and schools. Access by children to all types of premises will not be limited in any way unless it is considered necessary to do so in order to protect them from harm.

6.2 When deciding whether to limit access to children or not, the Council will judge each application on its own individual merits. Examples that may give rise to concern in respect of children would include premises where:

- Entertainment of an adult or sexual nature is provided.
- There is a strong element of gambling taking place.
- There is a known association with drug taking or dealing.
- There have been convictions of members of the current staff at the premises for serving alcohol to those under 18.
- There is a reputation for underage drinking.
- The supply of alcohol for consumption is the exclusive or primary purpose of the services provided at the Premises.
- Storage arrangements give children potential access to alcohol.

- 6.3 In the case of premises which are used for film exhibitions, conditions will be imposed restricting access only to those who meet the required age limit in line with any certificate granted by the British Board of Film Classification or, in specific cases, a certificate given to the film by the Council itself.
- 6.4 Where a large number of children are likely to be present on any licensed premises, for example, a children's show or pantomime, then conditions will be imposed requiring the presence of an appropriate number of adult staff to ensure the children's safety and their protection from harm.
- 6.5 Venue operators seeking premises licenses and club premises certificates should consider including in their operating schedules, particularly where their own risk assessments have determined that the presence of children is undesirable or in appropriate conditions which could include –
- A limit on the hours when children may be present;
 - A limitation or exclusion when certain activities may take place;
 - The requirement to be accompanied by an adult;
 - Limiting access to parts of the premises;
 - An age limitation.
- 6.6 The Council will not impose any condition that specifically requires access for children to be provided at any premises. Where no restriction or limitation is imposed the issue of access will remain a matter for the discretion of the individual licensee or club. In all cases, it is expected that the applicant will have considered the protection of children in their Operating Plan. The Council commends the Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks and would expect applicants to consider the Code in their Operating Plan.
- 6.7 The competent responsible authority in relation to the protection of children from harm is the Essex County Council's Children's Safeguarding Service.

7. Licensing Hours

- 7.1 The Council recognises that longer licensing hours may be in the interests of the community by avoiding concentrations of disturbance from customers leaving premises whilst ensuring that nuisance is minimised to local residents. Premises will generally be able to sell alcohol during the hours they are permitted to open. Entertainment providers may provide a range of entertainment during their operating hours. When issuing a licence, however, stricter conditions are likely to be imposed with regard to noise control in the case of premises situated in largely residential areas.

Contact Details

Further information concerning all aspects of licensing can be obtained from our website: www.eppingforestdc.gov.uk

or

Licensing Section
Corporate Support Services
Epping Forest DC
Civic Offices
High St
Epping Essex CM16 4BZ

Tel: 01992 564034
Fax: 01992 578018
Email: licensing@eppingforestdc.gov.uk

Appendix 1

Delegation of Functions

Matter to be dealt with	Full Committee	Sub Committee	Officers
Application for personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Applications for interim Authorities		If a police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Decision to object when local authority is acting as a Responsible Authority			All cases
Determination of an objection to a temporary event notice		All cases	
Determination of application to vary licence at community premises to include alternative licence conditions.		If a police objection	All other cases

Matter to be dealt with	Full Committee	Sub Committee	Officers
Decision whether to consult other responsible authorities on minor variation			All cases
Determination of minor variation			All cases
All policy matters except the formulation of the statement of licensing policy	All cases		

Appendix 2

Consultation

Consultation will be undertaken with those listed below. The majority of those being contacted via email and the remainder by post. A copy of the draft policy will be available on the EFDC website. All comments received will be considered and the results of the consultation published on the EFDC website. The consultation period will be three months.

<p>Arriva Bus Company Arts Council England Association of Licensed Retailers Attwater & Liell Solicitors Berwin Leighton Paisner Solicitors British Transport Police Butler & Mitchells Brewers Churches and Religious Groups Citizens Advice Bureau Consumers Association Cooley Partnership Campaign for the Protection of Rural England Curwens Solicitors Council for Voluntary Services Crime and Disorder Strategy Panel East Herts DC EFDC Councillors EFDC Senior Officers Eleanor Laing MP Environment agency Epping Forest Conservators Epping Magistrates Equity Eric Pickles MP Essex Ambulance NHS Trust Essex County Council Essex Fire & Rescue Essex Police Essex Probation Service Essex Tourist Bodies Fosket Marr Gadsby & Head Hammonds Solicitors</p>	<p>General Municipal and Boilermakers Union Health and Safety Executive Essex Jarmans Solicitors Laurel Pub Co Lea Valley Park Authority Limes Farm Synagogue Local Chambers of Commerce Local Council Liaison Committee Local Round Tables Local Taxi Operators Loughton Residents Association LUL Transport for London McMullens Brewery Musicians Union Parish and Town Councils Police and Crime Commissioner for Essex Princess Alexandra NHS Trust Ridleys Breweries Robert Halfon MP Rural Community Council of Essex Scottish & Newcastle Retail Somerfield Supermarkets Spirit Group Brewery Transport and General Workers Union Town Centre Partnerships Union of Shop, Distributive and Allied Workers Unison Licensed Victuallers Association West Essex Clinical Commissioning Group Whiskers & Co Solicitors Whipps Cross NHS Trust</p> <p>All current holders of liquor, public entertainment, private places of entertainment, cinemas, theatre and late night refreshment houses licences within the district.</p>
---	---

Appendix 3 Hampton Principles

The Hampton Principles are:

- regulators, and the regulatory system as a whole, should use comprehensive risk assessment to concentrate resources on the areas that need them most
- no inspection should take place without a reason
- regulators should provide authoritative, accessible advice easily and cheaply
- all regulations should be written so that they are easily understood, easily implemented, and easily enforced, and all interested parties should be consulted when they are being drafted
- businesses should not have to give unnecessary information, nor give the same piece of information twice
- the few businesses that persistently break regulations should be identified quickly, and face proportionate and meaningful sanctions
- regulators should recognise that a key element of their activity will be to allow, or even encourage, economic progress and only to intervene when there is a clear case for protection
- regulators should be accountable for the efficiency and effectiveness of their activities, while remaining independent in the decisions they take
- regulators should be of the right size and scope, and no new regulator should be created where an existing one can do the work
- when new policies are being developed, explicit consideration should be given to how they can be enforced using existing systems and data to minimise the administrative burden imposed

4. The full Hampton Implementation Review Report can be found on the Department for Business, Innovation and Skills website:
www.berr.gov.uk/files/file52319.pdf

Z/CSS/BUREAU/LICENSING/WEBSITE/LICENSING ACT 2003 FORMS/LICENSING POLICY 2012