

Lancashire County Council

Cabinet

Thursday, 4th February, 2016 at 2.00 pm in Cabinet Room 'B' - The Diamond Jubilee Room, County Hall, Preston

Agenda

Part 1 (Open to Press and Public)

No. Item

1. **Apologies for Absence**
2. **Disclosure of Pecuniary and Non-Pecuniary Interests**
Members are asked to consider any Pecuniary and Non-Pecuniary Interests they may have to disclose to the meeting in relation to matters under consideration on the Agenda.
3. **Minutes of the Meeting held on 21 January 2016** (Pages 1 - 4)
4. **Executive Scrutiny Committee - Report of the Chair**

Matters for Decision:

External Audit

5. **The Annual Audit Letter for Lancashire County Council - Year Ended 31 March 2015** (Pages 5 - 14)

The Deputy Leader of the County Council - County Councillor David Borrow

6. **Lancashire County Council Treasury Management Policy and Strategy 2016/17** (Pages 15 - 52)
7. **Property Strategy Implementation Time Scale**
(Report to follow)
8. **Libraries (Stage 1) - Consultation Responses**
(Report to follow)

Cabinet Member for Health and Wellbeing - County Councillor Azhar Ali

- 9. Regulation of Investigatory Powers Act 2000: Annual Report to Cabinet** (Pages 53 - 88)

Matters for Information:

- 10. Report on the Waiver of Procurement Rules by the Deputy Leader of the County Council** (Pages 89 - 92)
- 11. Report of Key Decisions taken by the Leader of the County Council and Cabinet Members** (Pages 93 - 104)

Miscellaneous Matters:

12. Urgent Business

An item of urgent business may only be considered under this heading where, by reason of special circumstances to be recorded in the Minutes, the Chair of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency. Wherever possible, the Chief Executive should be given advance warning of any Member's intention to raise a matter under this heading.

13. Date of Next Meeting

The next meeting of the Cabinet will be held on Thursday, 10 March 2016 at 2.00 pm at County Hall, Preston.

Jo Turton
Chief Executive

County Hall
Preston

Lancashire County Council

Cabinet

Minutes of the Meeting held on Thursday, 21st January, 2016 at 2.00 pm in Cabinet Room 'B' - The Diamond Jubilee Room, County Hall, Preston

Present:

County Councillor Jennifer Mein

Leader of the Council
(in the Chair)

Cabinet Members

County Councillor Azhar Ali
County Councillor David Borrow
County Councillor John Fillis
County Councillor Marcus Johnstone
County Councillor Tony Martin
County Councillor Matthew Tomlinson

County Councillors Geoff Driver CBE, Albert Atkinson and Bill Winlow were also in attendance under the provisions of Standing Order No. 19(4).

1. **Apologies for Absence**

None.

2. **Disclosure of Pecuniary and Non-Pecuniary Interests**

There were no interests disclosed.

3. **Minutes of the Meeting held on 26 November 2015**

Resolved: That the minutes of the meeting held on 26 November 2015 be confirmed as a correct record and signed by the Chair.

4. **Executive Scrutiny Committee - Report of the Chair**

County Councillor Bill Winlow, Chair of the Executive Scrutiny Committee, reported that the recommendations set out in the reports for consideration by Cabinet had been confirmed, with no amendments or additional recommendations.

5. **Money Matters - The Financial Strategy for 2016/17 to 2020/21**

The Deputy Leader of the Council introduced a report which set out the impact of the Autumn Statement and the Finance Settlement for 2016/17; provided an update of the forecast outturn position for 2015/16 and the Medium Term Financial Strategy for 2016/17 to 2020/21; and the position with regard to reserves.

Attention was drawn to the reduction of £303.3m in central government support over the period 2016/17 to 2019/20, noting that the settlement announced immediately before Christmas had presented the Council with an even greater reduction in financial resources than previously anticipated.

Damon Lawrenson, interim Director of Financial Resources, set out the detail contained in the report. The work to reduce the predicted overspend in the current financial year was welcomed, but it was emphasised that the financial position of the council was such that, whilst a legal balanced budget could be set for 2016/17, there were a number of significant risks in the councils financial position that meant that it was not currently possible to say with confidence that a legal balanced budget could be set for 2017/18. It was made clear that the position in 2017/18 was heavily dependent on the timely delivery of the budget proposals announced by Cabinet, and that any delay would require the greater use of reserves, threatening the position for later years.

In relation to proposals around withdrawing subsidies for bus services, it was again highlighted that this was a non-statutory service provided by the county council. It was noted that £2m in revenue funding, plus £1m in capital funding, was being made available to parishes and communities to develop alternative arrangements, and that discussions with bus operating companies were ongoing. It was also noted that the experience of Cumbria, which had taken the same decision in 2013, was that a significant majority of services had continued to be provided by the private sector operators.

Resolved: That

- (i) Note the current forecast overspend of £9.591m on the revenue budget in 2015/16 and ongoing pressure of £35.766m.
- (ii) Note the revised funding gap of £200.5m covering the period 2016/17 to 2020/21 as set out in the revised financial outlook forecast for the Council.
- (iii) Approve the additional budget adjustments for 2016/17, and following years' increases, included in the revised MTFS following the financial settlement.
- (iv) To recommend to Cabinet to make recommendations to Full Council on 11 February 2016 the Band D Council Tax for 2016/17 reflecting a 3.99% increase including 2% to be used for social care as per the new flexibilities.
- (v) the contents of the County Council's Reserves position at 30th November 2015 be noted.
- (vi) all the proposed changes to the existing use of reserves, linked to creating the Transitional Reserve be approved.
- (vii) in line with the Council's financial strategy agreed at the 26th November Cabinet, the establishment of the Council's Transitional Reserve (£107.599m or £117.190m should the County Council deliver a balanced revenue position in 2015/16) be approved.

- (viii) the use of capital allocations within the 2015/16 capital programme for projects which are now complete or considered not needed as part of the 2016/17 programme funding be noted and approved.
- (ix) the specific capital programme as presented within the body of the report be approved.
- (x) the increase in prudential borrowing identified within the Capital Programme report which is required as a result of utilising revenue and other reserves, previously earmarked for supporting the Capital Programme, to assist in the overall reshaping of the County Council be approved.
- (xi) the advice of the Interim Director of Financial Resources in relation to the robustness of the budget and the adequacy of reserves be noted.

6. Responses to Consultation

Mike Walker, Information, Intelligence, Quality and Performance Manager, attended to present the responses to the consultation on the Cabinet's proposed budget options. It was reported that the individual responses were available to County Councillors through the C-First councillor internet portal. It was confirmed that the responses, along with responses from any further individual budget decisions and proposals would be used to review and update existing equality analyses as appropriate.

Resolved: That the responses to the consultation, as reported, be noted.

7. Urgent Business

There was no Urgent Business

8. Date of Next Meeting

It was confirmed that the next meeting of Cabinet would take place on Thursday 4 February 2016 at 2pm at County Hall, Preston.

Jo Turton
Chief Executive

County Hall
Preston

Item 5

Cabinet

Meeting to be held on 4 February 2016

Report of the External Auditor

Electoral Division affected:

None

The Annual Audit Letter for Lancashire County Council – Year Ended 31 March 2015

(Appendix 'A' refers)

Contact for further information:

Karen Murray, 0161 234 6364, Director, Grant Thornton

Karen.L.Murray@uk.gt.com

Executive Summary

The report sets out the external auditor's Annual Audit Letter for Lancashire County Council for the year ended 31 March 2015.

Recommendation

Cabinet is asked to note the key messages set out in the Annual Audit Letter for Lancashire County Council for the year ended 31 March 2015 as set out at Appendix 'A'.

Background and Advice

The Annual Audit Letter summarises the key findings arising from the work that Grant Thornton, the County Council's external auditor, has carried out at Lancashire County Council for the year ended 31 March 2015.

The Letter is intended to communicate key messages to the Council and external stakeholders, including members of the public. The external auditor's annual work programme, which includes nationally prescribed and locally determined work, has been undertaken in accordance with the Audit Plan that was issued in April 2015 and was conducted in accordance with the Audit Commission's Code of Audit Practice, International Standards on Auditing (UK and Ireland) and other guidance issued by the Audit Commission.

The Annual Audit Letter will be considered by the County Council's Audit and Governance Committee on 25 January 2016.

Consultations

N/A

Implications:

This item has the following implications, as indicated:

Risk management

No significant risks have been identified.

List of Background Papers

None

Reason for inclusion in Part II, if appropriate

N/A

The Annual Audit Letter for Lancashire County Council

Year ended 31 March 2015

27 October 2015

Karen Murray

Director

T 0161 234 6364

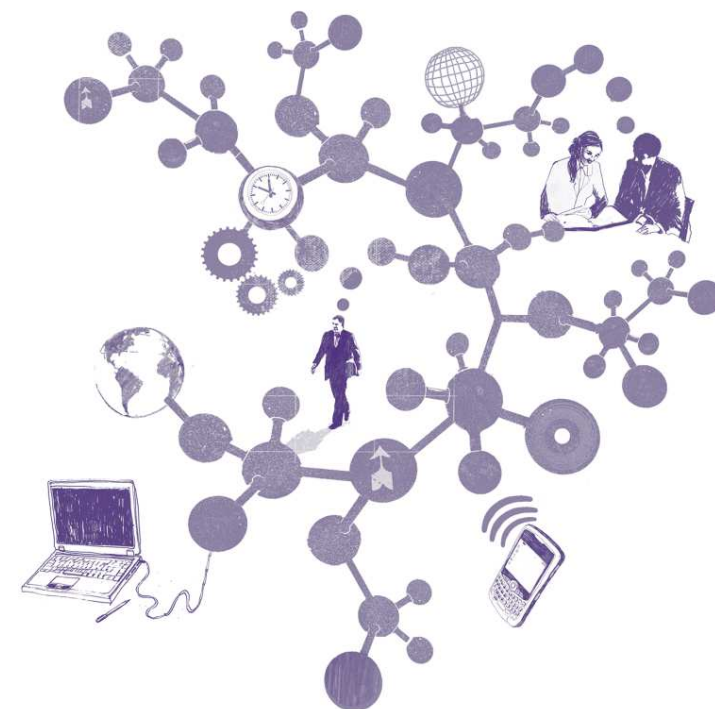
E karen.l.murray@uk.gt.com

Caroline Stead

Senior Manager

T 0161 234 6355

E caroline.l.stead@uk.gt.com



Contents

Section	Page
1. Key messages	3
Appendices	
A Summary of reports and audit fees	7

Key messages

Our Annual Audit Letter summarises the key findings arising from the work that we have carried out at Lancashire County Council ('the Council') for the year ended 31 March 2015.

The Letter is intended to communicate key messages to the Council and external stakeholders, including members of the public. Our annual work programme, which includes nationally prescribed and locally determined work, has been undertaken in accordance with the Audit Plan that we issued on 13 April 2015 and was conducted in accordance with the Audit Commission's Code of Audit Practice, International Standards on Auditing (UK and Ireland) and other guidance issued by the Audit Commission and Public Sector Audit Appointments Limited.

Financial statements audit (including audit opinion)

Page 9

We reported our findings arising from the audit of the financial statements for the County Council and the Lancashire Pension Fund in our Audit Findings Reports to the Audit and Governance Committee on 28 September 2015.

The key messages from our audit of the County Council's accounts were:

- The financial statements were prepared to a good standard and were largely complete
- We agreed some changes to the accounts to improve the disclosures, particularly relating to the Council's refinancing of the waste PFI scheme.

At the time of the Audit & Governance Committee our review of the Council's Whole of Government Accounts (WGA) return was outstanding. As part of the work required to complete this, we identified one further error in the Council's accounts. This related to grant paid to the Council by Department for Education. It was classified within the statement of accounts as being from an other government department but was correctly reflected in the whole of government accounts return as having been paid by Department for Education. The grant of £2.3m was not material to the statement of accounts. We agreed with management and the Chair of the Audit Committee not to amend the accounts for this on the grounds of materiality.

The key messages arising from our audit of the Lancashire Pension Fund accounts were:

The financial statements were prepared to a good standard

- We did not identify any adjustments impacting on the fund's reported financial position
- We agreed a number of amendments to improve the presentation and disclosures in the statements, including a non-adjusting post balance sheet event note in respect of the asset and liability management partnership proposal with the London Pension Fund Authority.

We issued an unqualified opinions on the two sets of financial statements on 30 September 2015, meeting the deadline set by the Department for Communities and Local Government. Our opinion confirms the financial statements give a true and fair view of the financial position and of the income and expenditure recorded by the Council and the Pension Fund.

Key messages - continued

Value for Money (VfM) conclusion

We issued a qualified VfM conclusion for 2014/15 on 30 September 2015.

On the basis of our work, and having regard to the guidance on the specified criteria published by the Audit Commission, we highlighted the following issues which gave rise to an 'except for' VfM conclusion:

- The Council's Head of Internal Audit was unable to issue an overall opinion on the system of internal control at the Council for 2014/15 because of the narrow scope of work undertaken by internal audit;
- On bringing the Council's procurement function back in house in April 2014, the Council identified several contracts which had either expired, or were due to expire, before they could be properly re-procured;
- The Council's financial planning has identified significant financial pressures from 2015/16 onwards. The Council is now working to identified savings to meet a spending gap from 2016/17 to 2020/21 of £294m.

Overall, our work highlighted that the Council has had a challenging year. These challenges have impacted on the Council's wider governance framework. The Council has reflected this in its Annual Governance Statement for the year and subsequent update reports to the Audit & Governance Committee.

In 2013/14, the Council's Head of Internal Audit give an overall "limited assurance" opinion on the operation of the Council's overall system of internal control. Management Team set out their commitment to ensuring the issues were addressed in 2014/15 and a decision was taken to re-direct Internal Audit resource for the remainder of the 2014/15 year. A revised audit plan was presented to the Audit & Governance Committee in January 2015. The consequences of these changes to the audit plan were that:

- management now has assurance that the specific controls identified as 'not operating' during 2013/14 have been addressed;
- Internal Audit's work on 4 key financial systems (General Ledger, Treasury Management, Payroll and Central Accounts Payable) provided assurance over the operation of the controls within those areas; but
- the revised plan (as approved) did not provide sufficient coverage of the Council's activities to support an overall Head of Internal Audit opinion in compliance with the requirements of Public Sector Internal Audit Standards.

Management Team have re-iterated their commitment to ensuring that there is a robust internal control framework in place across the Council and for 2015/16, intended to use the skills and experience of the Internal Audit team to work with Heads of Service across the Council to ensure risks and controls have been properly identified and are being operated as intended. However, this work had not yet commenced at September 2015 because the Council identified a lack of capacity in the finance department to work on a number of key projects. Staff from Internal Audit were seconded to the finance team to provide operational support but will all return to their substantive posts by the end of November 2015.

Key messages - continued

Value for Money (VfM) conclusion

More recently, a high level audit plan has been prepared which provides for coverage of the Council's main financial systems. The work to be completed by the remaining available internal audit resource is currently being refined to ensure it is properly focussed on the areas of risk. There is a recognition that this will need to be considered further in the light of the strategic decisions expected to be taken by members about the future size and shape of the Council. The plan will be presented to the Audit and Governance Committee in January 2016 although work in delivering elements of it will already be underway.

Further progress has been made in addressing the other weaknesses in the Council's governance framework identified in 2013/14 and 2014/15:

- action has been taken to address the failures in the procurement service. Since it was brought back in house in April 2014, a procurement strategy has been developed and a comprehensive contract register has been put together. This will provide a basis for the re-letting of contracts in line with proper processes
- significant progress has been made in strengthening the Council's arrangements for Information Governance;
- the Council's arrangements for identifying, assessing and reporting risks has been developed and work is now underway to ensure it is consistent and embedded across the Council. A formal risk register is due to be approved by Management Team and will be presented to Audit and Governance Committee in January 2016.

We have also considered the Council's arrangements to challenge economy, efficiency and effectiveness against the following themes:

- Prioritising resources
- Improving efficiency & productivity

Overall our work highlighted the Council has delivered the first phase of its transformation programme during 2014/15. The restructure of the Council's Management Team, with new roles and responsibilities in place, supports a more streamlined and focussed Council. In addition, the Council has moved away from its former directorate structure and has appointed Heads of Service to lead the operational delivery. However, the transformation programme has now been paused whilst the Council considers its options for meeting the savings gap and on-going service pressures identified. The scale of the savings needed by the Council mean some very difficult decisions will be required on the way in which statutory services will be delivered, and on the options for, and scale of, discretionary services provided in the future.

Overall, the Council remains in a difficult and challenging position. We will continue to monitor progress to ensure that actions remain on track.

Key messages - continued

Whole of Government Accounts	We reviewed the consolidation pack which the Council prepared to support the production of Whole of Government Accounts. We reported that the Council's pack was consistent with the audited financial statements, except for one unadjusted item in the statement of accounts that was correctly disclosed in the Whole of Government Accounts.
Audit fee	Our fee for Council's 2014/15 audit was £150,660, excluding VAT which was in line with our planned fee for the year. The fee for the pension fund audit was £35,906. Further detail is included within Appendix A.

Appendix B: Reports issued and fees

We confirm below the fees charged for the audit and non-audit services.

Fees for audit services

	Per Audit plan £	Actual fees £
Council audit	150,660	150,660
Grant certification on behalf of Audit Commission	2,800	2,800
Pension Fund audit scale fee	34,169	34,169
IAS19 Protocol audit work	1,737	1,737
Total audit fees	189,366	189,366

Fees for other services

Service	Fees £
Audit related services <ul style="list-style-type: none">Reasonable assurance report on the 2014/15 Teacher's Pensions return	4,200

Page 13

Reports issued

Report	Date issued
Audit Plan	April 2015
Audit Findings Report	September 2015
Annual Audit Letter	October 2015



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Cabinet

Meeting to be held on 4 February 2016

Report of the Interim Director of Financial Resources

Electoral Divisions affected: All

Lancashire County Council Treasury Management Policy and Strategy 2016/17 (Appendices 'A', 'B', and 'C' refer)

Contact for further information:

Mike Jensen, 01772 534742, Chief Investment Officer,
mike.jensen@lancashire.gov.uk

Executive Summary

This report outlines the proposed Treasury Management Policy and Strategy for 2016/17 as required by the Chartered Institute of Public Finance and Accountancy (CIPFA) Treasury Management Code of Practice. It includes the County Council's borrowing and investment strategies, the updated strategy on the use of financial derivatives and the new proposed minimum revenue provision policy, together with the treasury management prudential indicators which seek to ensure that the Council's borrowing levels remain both sustainable and affordable.

The MRP policy incorporates changes which propose that the MRP, with respect to repaying the pre 2007 debt is over 50 years rather than a 4% reducing balance and changing the post 2007 debt to an annuity basis are implemented. Attached as Appendix 'C' is the revised MRP policy for approval.

Approval of the Treasury Management Policy and Strategy is a matter reserved to the Full Council.

Recommendations

Cabinet is asked to:

- (i) Recommend the treasury management policy as set out at Appendix 'A' to the Full Council for approval.
- (ii) Recommend the treasury management strategy for 2016/17 as set out at Appendix 'B' to Full Council for approval.
- (iii) In respect of the new minimum revenue provision set out at Appendix 'C', recommend that Full Council:
 - a. Approves the Capital Financing Requirement method and the Asset Life method (Equal Charge approach) for expenditure funded from borrowing incurred in 2015/16 and future years.
 - b. Charges to revenue a sum equal to the repayment of any credit liability.

- | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none">c. Approves the proposed treatment of assets constructed under the Preston, South Ribble and Lancashire City Deal and Homes and Community Agency Local Infrastructure Fund, subject to annual review.d. Implement the changes to the MRP policy from 2015/16. |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Background and Advice

Treasury management is the management of the Council's investments and cash flows, its banking, money market and capital market transactions; it also includes the effective control and management of the risks associated with these activities, ensuring that the Council gets the best performance for the least risk.

The Treasury Management Strategy sets out the Council's policies for ensuring the security and liquidity of its investments, whilst having regard to investment returns in order to protect the value of the funds. It also outlines the Council's strategy for financing existing borrowing and future capital borrowing requirements, with the aim of securing the required funds at the lowest possible rate.

Minimum Revenue Provision

The MRP is an annual charge to the revenue account to pay for capital expenditure that was originally funded by debt. Before the 2007/08 financial year, the method of calculating MRP was specified in legislation. Since then the authority has had to make a prudent provision for MRP giving consideration to guidance issued by the Department for Communities and Local Government (DCLG). This guidance includes a number of methods which it considers to be prudent. The guidance is clear that authorities are also free to devise other methods they consider prudent. The guidance suggests that:

- MRP on assets acquired through finance leases and Private Finance Initiative (PFI) should be equal to the cash payments that reduce the outstanding liability each year;
- MRP on all capital expenditure incurred before 1st April 2008, and on expenditure funded by supported borrowing thereafter, is equal to 4% of the outstanding debt
- MRP on expenditure incurred from April 2008 onwards that is funded by unsupported "prudential" borrowing should be calculated by reference to the asset's useful life, using either a straight line or an annuity method, starting in the year after the asset becomes operational.

In determining a prudent charge the debt accrued pre and post 2007/8 should be considered separately.

Debt accrued post 1 April 2008

The MRP for capital expenditure funded by debt from 1 April 2008 has been calculated based on the life of the assets. This was one of the methodologies

outlined in the DCLG Guidance and has been applied so that each year has an equal MRP charge. An alternative approach is the annuity method which is the cheapest MRP option in the early years, and once interest costs are taken into account maintains a constant impact on the revenue account over the useful life of the asset being financed.

It is estimated that the 2016/17 MRP charge based on the existing method would be £6.4m. Applying an annuity method would reduce this by approximately £1.4m in 2015/16 although the saving would reduce over time as shown in the table below:

	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21
	£m	£m	£m	£m	£m	£m
Current basis	6.397	5.978	5.536	4.970	4.970	4.970
Annuity basis	4.940	4.667	4.353	3.890	4.015	4.144
Reduction in charge	1.457	1.311	1.183	1.080	0.955	0.826

Debt accrued pre 1 April 2008

The estimated MRP charge in 2016/17 for the pre 2007/8 debt represents the major share of the MRP charge. This is based on 4% of the outstanding capital expenditure to be financed. The 4% rate was initially set in legislation and it was the amount assumed in the calculations used for distributing the Revenue Support Grant between authorities. Hence this debt was considered to be supported borrowing. In assessing whether this is still the most appropriate basis for the calculation of the prudent charge the long term impact of the charge and the relationship with the grant need to be considered.

The current calculation is on a reducing balance and therefore it is effectively never totally repaid. It is estimated that between 51 and 100 years' time the MRP charge will be in the region of £54m. Although many of the assets financed by borrowing were of a long term nature (schools and roads) it is likely that a major refurbishment of the asset will be required at some point and therefore a methodology which does not have an end point could be deemed not to be prudent.

Since 2007/8 the funding of the local authorities has changed significantly. LG Futures state that "The introduction of Business Rates Retention in April 2013, coupled with the significant annual reductions to the Settlement Funding allocations, the continued top-slicing of Revenue Support Grant (RSG) and increasing allocations through New Homes Bonus, have a significant impact upon the national balance of funding made available to local government across these grant streams. The national dynamics, changing as they are, will vary at a local level to provide a varying position between each authority" They estimate by 2019/20 the RSG will fund 5% of local government expenditure compared to 25% in 2013/14. Given this

level of fluctuation and the expected reductions in funding it seems valid to question whether the grant received includes a provision to repay debt at a level of 4%. In addition the Chancellor of the Exchequer has announced changes to the funding of local government which would see the abolition of Revenue Support Grant.

An alternative method of calculating the MRP would be to consider the length of time it is anticipated the assets have an economic benefit. The assets acquired or improved in the past would have a long term benefit and in accordance with the County Council's depreciation policy most of the County Council's property assets are seen as having an asset life in excess of 50 years. It would therefore seem appropriate to change the MRP for the pre 2007/8 debt to be repaid over 50 years rather than the reducing 4% balance. This would be deemed to be prudent as it has a definite end yet the period is not excessive taking into account current estimates of the authority's asset lives.

Based on current estimates of the capital financing requirement the estimated charges would be:

	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21
	£m	£m	£m	£m	£m	£m
MRP on 4% reducing balance	17.774	17.063	16.380	15.725	15.096	14.492
50 years equal instalment	8.887	8.887	8.887	8.887	8.887	8.887
Reduction in MRP charge	8.887	8.176	7.493	6.838	6.209	5.605

MRP Policy

It is proposed that the changes to MRP with respect repaying the pre 2007 debt over 50 years and changing the post 2007 debt to an annuity basis are implemented. It is proposed that his implementation will come into effect from the 2015/16 financial year. This amends the decision taken in February 2015 in previously agreeing the 2015/16 MRP policy. Attached as Appendix C is the revised MRP policy for approval.

Consultations

Arlingclose Ltd who are the Council's external treasury management advisers

Implications:

This item has the following implications, as indicated:

Risk management

The objective of the treasury management strategy is to ensure the security of the County Council's invested reserves and balances, and to ensure that any borrowing made for cash flow or capital purposes is as efficient and cost effective as possible. In addition the strategy provides liquidity to ensure the County Council is able to meet operational objectives on a daily basis and that any daily surplus funds are invested safely. The strategy must protect the County Council's financial resources from credit risk, inflation and interest rate risk, and to that end, this document sets out how the County Council will engage with and operate within financial markets.

List of Background Papers

Paper	Date	Contact/Tel
CIPFA Treasury Management Code of Practice	2011	Andrew Ormerod 01772 534740
CIPFA Treasury Risk Management Toolkit	2012	Andrew Ormerod 01772 534740
CIPFA Using Financial Instruments to Manage Risk	2013	Andrew Ormerod 01772 534740
Arlingclose Ltd, Credit Risk Report	December 2015	Andrew Ormerod 01772 534740

Reason for inclusion in Part II, if appropriate

N/A

Treasury Management Policy Statement

The County Council's financial regulations require it to create and maintain a treasury management policy statement, stating the policies, objectives and approach to risk management of its treasury activities, as a cornerstone for effective treasury management.

Definition

The County Council defines its treasury management activities as:

- the management of the authority's investments and cash flows,
- its banking, money market and capital market transactions;
- the effective control of the risks associated with those activities; and
- the pursuit of optimum performance consistent with those risks.

Risk Appetite

The County Council's appetite for risk within its treasury management activities is low. A premium is placed on the security of capital and credit risk management and on the maintenance of financial stability in terms of managing inflation and interest rate risk, their effects on the County Council's reserves and balances and on the cost of borrowing.

Risk management

The County Council regards the successful identification, monitoring and control of risk to be the prime criteria by which the effectiveness of its treasury management activities will be measured. Accordingly, the analysis and reporting of treasury management activities will focus on how the actions taken and the financial instruments entered into result in reduced risk exposure for the County Council.

Value for money

The County Council acknowledges that effective treasury management provides support towards the achievement of its business and service objectives. It is therefore committed to the principles of achieving value for money in treasury management, and to employing suitable comprehensive performance measurement techniques, within the context of effective risk management.

Borrowing policy

The County Council greatly values revenue budget stability and therefore, all other things being equal, will meet its long-term funding needs at long-term fixed rates of interest. However, short-term and variable rate loans will be borrowed to either offset short-term and variable rate investments or to contribute to the County Council's stated objective of providing cost efficient capital funding. The County Council will also constantly evaluate debt restructuring opportunities of the existing portfolio.

The County Council will set an affordable borrowing limit each year in compliance with the *Local Government Act 2003*, and will have regard to the *CIPFA Prudential Code for Capital Finance in Local Authorities 2011* when setting that limit. It will also set

limits on its exposure to changes in interest rates and limits on the maturity structure of its borrowing in the treasury management strategy report each year. The County Council also has regard to other relevant CIPFA publications such as 'Treasury Risk Toolkit for Local Authorities' (2012) and 'Using Financial Instruments to Manage Risk' (2013.)

Cash Backing of Reserves

The County Council is committed to the prudent management of its finances. In pursuit of this objective the County Council should ensure that it holds investment balances sufficient to meet the value of those balance sheet items such as reserves and provisions which will be drawn down as cash. These investment balances will have due regard to the anticipated timing for the drawdown of the cash backed reserves and provisions. In particular the planned use of reserves in the County Council revenue budget will impact on the level of investments held.

Investment policy

The County Council's primary objectives for the investment of its surplus funds are to protect the principal sums invested from loss, through either credit events or loss of value by inflation erosion or interest rate changes, and to ensure adequate liquidity so that funds are available for expenditure when needed. The generation of investment income to support the provision of local authority services is an important, but secondary, objective.

The County Council will have regard to the Communities and Local Government Guidance on Local Government Investments and will approve an investment strategy each year as part of the treasury management strategy. The strategy will set criteria to determine suitable organisations with which cash may be invested, limits on the maximum duration of such investments and limits on the amount of cash that may be invested with any one organisation.

The County Council's Treasury Management Strategy 2016/17

1. Introduction and Legislative Framework

Under the Local Government Act 2003, local authorities must have regard to Statutory Proper Practices in their Treasury Management activities. In February 2012 the Council adopted the Chartered Institute of Public Finance and Accountancy's *Treasury Management in the Public Services: Code of Practice 2011 Edition* (the CIPFA Code.) These together require the County Council to set out its strategy in relation to key aspects of its treasury management operations on an annual basis.

In addition, the Department for Communities and Local Government (CLG) issued revised guidance on local authority investments in March 2010 that requires the County Council to approve an investment strategy before the start of each financial year. The strategy also has regard to other CIPFA treasury management publications such as risk management in 'Treasury Risk Toolkit for Local Authorities' (2012) and the use of derivatives in 'Using Financial Instruments to Manage Risk' (2013.)

In line with these various requirements this strategy includes:

- The Annual Borrowing Strategy
- The Council's Policy on Borrowing in Advance of Need
- The Annual Investment Strategy
- Policy on Use of Financial Derivatives
- The Prudential Indicators (Annex A to this Appendix)
- The Annual MRP statement (Appendix C to this report.)

In conjunction with the treasury management policy statement and the detailed treasury management practices approved by the section 151 officer, these provide the policy framework for the engagement of the County Council with the financial markets in order to fund its capital investment programme, maintain the security of its cash balances and protect them and ultimately the County Council's operations from credit, liquidity, inflation and interest rate risk.

2. Strategic Objectives of the Treasury Management Strategy

The County Council's treasury management strategy is designed to achieve the following objectives:

- a) To ensure the security of the principal sums invested which represent the County Council's various reserves and balances
- b) To ensure that the County Council has access to cash resources as and when required
- c) To minimise the cost of the borrowing required to finance the County Council's capital investment programme, and manage interest rate inflation rate risks appropriately.

- d) To maximise investment returns commensurate with the County Council's policy of minimising risks to the security of capital and its liquidity position.

In the context of these objectives it will be the County Council's policy to hold as investments a sum as close to the cash value of its balance sheet as possible, matching both value and duration as closely as possible.

3. Setting the Treasury Management Strategy for 2016/17

In setting the treasury management strategy, the County Council must have regard to the following factors which will have a strong influence over the strategy adopted:

- economic forecasts – the economic and legislative context
- the level of the approved capital programme which generates the borrowing requirement,
- the current structure of the County Council's investment and debt portfolio
- prospects for interest rates and market liquidity

3.1 Economic Forecast

Economic context

Domestic demand has grown robustly, supported by sustained real income growth and a gradual decline in private sector savings. Low oil and commodity prices contributed to annual CPI inflation falling to 0.1% in October. Wages are growing at 3% a year, and the unemployment rate has dropped to 5.4%. Mortgage approvals have risen to over 70,000 a month and annual house price growth is around 3.5%. These factors have boosted consumer confidence, helping to underpin retail spending and hence GDP growth, which was an encouraging 2.3% a year in the third quarter of 2015. Although speeches by the Bank of England's Monetary Policy Committee (MPC) members sent signals that some were willing to countenance higher interest rates, the MPC held policy rates at 0.5% for the 81st consecutive month at its meeting in November 2015. Quantitative easing (QE) has been maintained at £375bn since July 2012. Probably need to refer to weaken data towards the end of the year and forecast GDP growth cuts by OBR and others also the recent CIPD reduced wage growth estimates.

In international markets China's growth has slowed and its economy is performing below expectations, reducing global demand for commodities and contributing to emerging market weakness. US domestic growth has accelerated but the globally sensitive sectors of the US economy have slowed. Strong US labour market data and other economic indicators however suggest recent global turbulence has not knocked the American recovery off course. The Federal Reserve did not raise policy rates at its meetings in October and November, but the statements accompanying the policy decisions point have made a rate hike in December 2015 a real possibility. In contrast, the European Central Bank finally embarked on QE in 2015 to counter the perils of deflation.

The outcome of the 2015 UK general election, which was largely fought over the parties' approach to dealing with the deficit in the public finances, saw some big shifts

in the political landscape and put the key issue of the UK's relationship with the EU at the heart of future politics. Uncertainty over the outcome of the forthcoming referendum could put downward pressure on UK GDP growth and interest rates.

The varying fortunes of different parts of the global economy are reflected in market indicators of credit risk. UK Banks operating in the Far East and parts of mainland Europe have seen their perceived risk increase, while those with a more domestic focus continue to show improvement. The sale of most of the government's stake in Lloyds and the first sale of its shares in RBS have generally been seen as credit positive.

Legislative Context

Bail-in legislation, which ensures that large investors including local authorities will rescue failing banks instead of taxpayers in the future, has now been fully implemented in the UK, USA and Germany. The rest of the European Union will follow suit in January 2016, while Australia, Canada and Switzerland are well advanced with their own plans. Meanwhile, changes to the UK Financial Services Compensation Scheme and similar European schemes in July 2015 mean that most private sector investors are now partially or fully exempt from contributing to a bail-in.

3.2 The Current Structure of the Portfolio

The Council's treasury portfolio (net of transferred debt) as at 31st December 2016 was as follows.

	Principal Amount £m	Current Interest Rate %
Call accounts	20.39	0.25
Local Authority Deposits	56.50	1.63
Gilts & Other Core Bonds	366.03	1.74
Floating Rate Notes (short term liquidity)	226.56	0.91
Total Investments	669.48	1.97
Short-term loans	472.90	0.66
Long-term loans (Local Authorities)	167.50	1.53
Shared Investment Scheme*	68.39	0.65
Long-term PWLB loans	338.85	3.07
Long-term market loans (LOBOs)	51.78	5.23
Total Borrowing	1,099.42	1.75
Net Borrowing	469.88	

* Please refer to the Glossary in Appendix C for further information.

3.3 Prospects for Interest Rates and Market Liquidity

In planning the treasury management strategy, the Council will consider the prevailing and forecast interest rate situation. Regular forecasts of interest rates are provided by Arlingclose Ltd, treasury management advisers to the County Council. The Chief Investment Officer for the Council also provides a view on interest rate forecasts based on current and future market data.

Arlingclose Ltd projects the first 0.25% increase in UK Bank Rate for the third quarter of 2016, rising by 0.5% a year thereafter, finally settling between 2% and 3% in several years' time. Persistently low inflation, subdued global growth and potential concerns over the UK's position in Europe mean that the risks to this forecast are weighted towards the downside.

A shallow upward path for medium term gilt yields is forecast, as continuing concerns about the Eurozone, emerging markets and other geo-political events weigh on risk appetite, while inflation expectations remain subdued. Arlingclose projects the 10 year gilt yield to rise from its current 2.0% level by around 0.3% a year. The uncertainties surrounding the timing of UK and US interest rate rises are likely to prompt short-term volatility in gilt yields.

	Dec-15	Mar-16	Jun-16	Sep-16	Dec-16	Mar-17	Jun-17	Sep-17	Dec-17	Mar-18	Jun-18	Sep-18	Dec-18
Official Bank Rate													
Upside risk		0.25	0.25	0.25	0.25	0.25	0.25	0.25	0.25	0.50	0.50	0.50	0.50
Arlingclose Central Case	0.50	0.50	0.50	0.75	0.75	1.00	1.00	1.25	1.25	1.50	1.50	1.75	1.75
Downside risk				-0.25	-0.25	-0.50	-0.50	-0.75	-0.75	-1.00	-1.00	-1.25	-1.25
3-month LIBID rate													
Upside risk	0.20	0.30	0.30	0.30	0.35	0.35	0.35	0.35	0.40	0.40	0.40	0.40	0.40
Arlingclose Central Case	0.55	0.60	0.70	0.80	0.95	1.05	1.15	1.30	1.40	1.55	1.65	1.80	1.85
Downside risk		-0.20	-0.30	-0.45	-0.55	-0.65	-0.80	-0.90	-1.05	-1.10	-1.20	-1.20	-1.20
1-yr LIBID rate													
Upside risk	0.25	0.35	0.35	0.35	0.40	0.40	0.40	0.40	0.45	0.45	0.45	0.45	0.45
Arlingclose Central Case	1.10	1.20	1.35	1.45	1.55	1.70	1.80	1.95	2.00	2.10	2.15	2.15	2.15
Downside risk	-0.15	-0.25	-0.35	-0.50	-0.60	-0.70	-0.85	-0.95	-1.10	-1.15	-1.25	-1.25	-1.25
5-yr gilt yield													
Upside risk	0.40	0.50	0.50	0.50	0.55	0.55	0.55	0.55	0.60	0.60	0.60	0.60	0.60
Arlingclose Central Case	1.50	1.55	1.60	1.70	1.80	1.90	2.00	2.10	2.20	2.25	2.30	2.35	2.35
Downside risk	-0.35	-0.45	-0.55	-0.60	-0.70	-0.80	-0.90	-1.00	-1.10	-1.15	-1.20	-1.25	-1.25
10-yr gilt yield													
Upside risk	0.40	0.50	0.50	0.50	0.55	0.55	0.55	0.55	0.60	0.60	0.60	0.60	0.60
Arlingclose Central Case	2.00	2.05	2.10	2.20	2.30	2.40	2.50	2.60	2.65	2.70	2.75	2.80	2.80
Downside risk	-0.35	-0.45	-0.55	-0.60	-0.70	-0.80	-0.90	-1.00	-1.10	-1.15	-1.20	-1.25	-1.25
20-yr gilt yield													
Upside risk	0.40	0.50	0.50	0.50	0.55	0.55	0.55	0.55	0.60	0.60	0.60	0.60	0.60
Arlingclose Central Case	2.45	2.50	2.55	2.55	2.60	2.65	2.70	2.75	2.80	2.85	2.90	2.95	2.95
Downside risk	-0.30	-0.40	-0.50	-0.55	-0.65	-0.75	-0.85	-0.95	-1.05	-1.10	-1.15	-1.20	-1.20
50-yr gilt yield													
Upside risk	0.40	0.50	0.50	0.50	0.55	0.55	0.55	0.55	0.60	0.60	0.60	0.60	0.60
Arlingclose Central Case	2.45	2.50	2.55	2.60	2.65	2.70	2.75	2.80	2.85	2.90	2.95	3.00	3.00
Downside risk	-0.25	-0.35	-0.45	-0.50	-0.60	-0.70	-0.80	-0.90	-1.00	-1.05	-1.10	-1.15	-1.15

In addition uncertainty surrounding the in/out EU referendum is likely to prove a drag on growth during 2016 with the threat of large market risks involved in any Brexit resulting in slower/negative growth, currency weakness and therefore further rate suppression.

Arlingclose have based this forecast on the following underlying assumptions:

- UK economic growth softened in Q3 2015 but remained reasonably robust; the first estimate for the quarter was 0.5% and year-on-year growth fell slightly to 2.3%. Construction falls were offset by fairly strong services output although survey estimates suggest upwards revisions to construction may be in the pipeline.
- Household spending has been the main driver of GDP growth through 2014 and 2015 and remains key to growth. Consumption will continue to be supported by real wage and disposable income growth.
- Annual average earnings growth was 3.0% in the three months to August. Given low inflation, real earnings and income growth continue to run at relatively strong levels and could feed directly into unit labour costs and households' disposable income. Improving productivity growth should support pay growth in the medium term. The development of wage growth is one of the factors being closely monitored by the MPC.
- Business investment indicators continue to signal strong growth. However the outlook for business investment may be tempered by the looming EU referendum, increasing uncertainties surrounding global growth and recent financial market shocks.
- Inflation is currently very low and, with a further fall in commodity prices, will likely remain so over the next 12 months. The CPI rate is likely to rise towards the end of 2016. If there are no further oil and commodity price declines
- China's growth has slowed and its economy is performing below expectations, which in turn will dampen activity in countries with which it has close economic ties; its slowdown and emerging market weakness will reduce demand for commodities. Other possible currency interventions following China's recent devaluation will keep sterling strong against many global currencies and depress imported inflation.
- Strong US labour market data and other economic indicators suggest recent global turbulence has not knocked the American recovery off course. Although the timing of the first rise in official interest rates remains uncertain, a rate rise by the Federal Reserve seems significantly more likely in December given recent data and rhetoric by committee members. Obviously now known to be Dec but with a very dovish statement and slower than expected upward path
- Longer term rates will be tempered by international uncertainties and weaker global inflation pressure.

These factors will maintain the current direction of the MPC in the medium term.

3.5 Impact of these factors on the Borrowing Strategy

In view of the above assessment of the economic context within which the Council is operating, wherein despite the continuing improvement in the economic outlook, it could be 2017 before there is a rise in official UK interest rates, and the UK's safe haven status and minimal prospect of rate rises are expected to keep gilt yields in check through the near term, there is likely to be no significant change in the County Council's overall borrowing strategy in the current year.

The Council's chief objective when borrowing money is to strike an appropriate balance between securing low interest costs and achieving cost certainty over the period for which funds are required. The flexibility to renegotiate loans should the Council's long-term plans change is a secondary objective.

Given the significant cuts to public expenditure and in particular to local government funding, the Council's borrowing strategy continues to address the key issue of affordability without compromising the longer-term stability of the debt portfolio. With short-term interest rates currently much lower than long-term rates, it is likely to be more cost effective in the short-term to continue to borrow short-term whilst taking advantage of the new Municipal Bond Agency facility for some longer term borrowing. By doing so, the council is able to keep net borrowing costs at very low levels, reduce overall treasury risk and still respond to the transformation agenda in reducing the overall size of the balance sheet.

The benefits of short term and internal borrowing are monitored regularly against the potential for incurring additional costs by deferring borrowing into future years when long-term borrowing rates are forecast to rise. Arlingclose will assist the council with this 'cost of carry' and breakeven analysis. Its output may determine whether the council borrows additional sums at long-term fixed rates in 2016/17 with a view to keeping future interest costs low, even if this causes additional cost in the short-term.

Also, if it became apparent that there was a significant risk of a much sharper rise in long and short term rates than that currently forecast, perhaps arising from a greater than expected increase in world economic activity or a sudden increase in inflation risks, then the portfolio position will be re-appraised with the possible action that significant fixed rate funding will be drawn whilst interest rates were still relatively cheap.

Whilst it is expected that the current low rate environment will continue for a further period, the Council have taken steps to ensure that the Council is protected from the impact of rate rises when they do occur. In support of this strategy full council have approved in principle the following actions:

- the establishment of a Lancashire County Council Euro Medium Term Note (EMTN) programme to facilitate access to secure long term debt in readiness for interest rate rises
- Preparations for borrowing through the Municipal Bond Agency to enable access to an alternative economic funding source.

The necessary changes to the Council's Prudential Indicators to facilitate the switch from a programme of rolling short term debt to longer term debt financing.

3.6 Impact of these factors on the Investment Strategy

In view of the above assessment of the economic context within which the Council is operating the County Council's investment strategy will be based upon the following information:

- The Bail-in legislation described above, which ensures that in future large investors including local authorities will rescue failing banks instead of taxpayers. In particular the additional legal protections afforded to private sector investors means that the credit risk associated with making unsecured bank deposits has increased dramatically relative to the risk of other investment options available to the Authority whilst returns from cash deposits remain stubbornly low.
- Given the level of risk involved in dealing with bank counterparties the County Council will continue to diversify its portfolio further away from bank credit while maintaining the highest credit quality of counterparties. Unsecured term deposits or certificates of deposit with banks are no longer an appropriate investment instrument for the County Council.
- The Investment Strategy will also react to the planned use of reserves as outlined in the County Council's revenue budget.

4. Borrowing Strategy

4.1 The Level of the Approved Capital Programme – the Borrowing Requirement

The county council's estimated borrowing requirement for financing the capital programme in the current and the next three years is as follows:

	2015/16 Revised £m	2016/17 £m	2017/18 £m	2018/19 £m
Capital Programme Expenditure	250.521	103.805	77.024	49.621
<i>Financed by:</i>				
Capital Receipts	21.297	1.036		0.000
Grants and Contributions	143.350	54.540	58.974	39.143
Revenue Contributions	24.869	4.000	4.500	0.000

Borrowing	61.005	44.229	13.550	10.478
<i>Add Maturing Debt to be replaced:</i>				
Long Term PWLB	0.000	0.000	0.000	0.000
Long term fixed Borrowing	0.000	100.000	100.000	100.000
Short Term Market Borrowing	579.950	479.950	479.950	479.950
Less Transferred Debt	1.899	1.687	1.629	1.629
Less Statutory Charge to Revenue	19.967	20.749	20.877	21.537
Total Borrowing Requirement	619.089	601.743	570.994	567.262

At 31st March 2015 the County Council held £1.036bn of short and long-term loans as part of its strategy for funding previous years' capital programmes. The County Council's borrowing requirement as at 31st March 2016 including short term renewals is expected to be £549.11million, and is forecast to rise to £614.24million by March 2017 as capital expenditure is incurred. In addition, the County Council may borrow for short periods of time to cover unexpected cash flow shortages.

The County Council's borrowing position over the coming years includes the need to provide cash flow support for the Preston, South Ribble and Lancashire City Deal to cover the gap between the construction of infrastructure and the payment over of contributions from other organisations including the Government and developers. It is estimated that some £28m of borrowing will be required in 2016/17. This borrowing is temporary.

Therefore the total borrowing requirement in 2016/17 is £647m, largely as a result of needing to refinance maturing short term borrowing. There are a range of options available for the borrowing strategy in 2016/17.

- Variable rate borrowing is expected to be cheaper than fixed rate long term borrowing and will be attractive during the financial year, particularly as variable rates are closely linked to bank rates.
- Under 10 years rates are expected to be substantially lower than long term rates, so this opens up a range of choices that may allow the County Council to spread maturities away from concentration on long dated debt.
- Although it is not felt best pricing can be achieved at the present time through issuance under the County Council's euro medium term note programme (EMTN), a commercial paper issue which has a much shorter maturity, typically 270 days, may be appropriate.
- Approval is also being considered to add the LGA's Municipal Bond Agency to the County Council's list of approved borrowing counterparties

Against this background, the section 151 officer will, in conjunction with the County Council's advisors, monitor the interest rate situation closely and will adopt a pragmatic approach to delivering the objectives of this strategy within changing economic circumstances. Arlingclose forecast the first rise in official interest rates in Q3 2016 and careful monitoring will ensure that borrowing is taken at the most appropriate time. The table above reflects this forecasted rise and the fixing of £100m of the short term debt in 2016/17.

All decisions on whether to undertake new or replacement borrowing to support previous or future capital investment will be subject to evaluation against the following criteria:

- a) Overall need, whether a borrowing requirement to fund the capital programme or previous capital investment exists;
- b) Timing, when such a borrowing requirement might exist given the overall strategy for financing capital investment, and previous capital spending performance;
- c) Market conditions, to ensure borrowing that does need to be undertaken is achieved at minimum cost, including a comparison between internal and externally financed borrowing.
- d) Scale, to ensure borrowing is undertaken on a scale commensurate with the agreed financing route.

All long term decisions will be documented reflecting the assessment of these criteria.

The table below is an estimate of the relationship between the borrowing capital financing requirement and total borrowing during the current year and over the next three years. The shared investment scheme is assumed to contribute £120m to the borrowing total. The operation of the scheme is reviewed annually, but this table assumes it will operate for the next three years and shows the position if take-up reaches the limits of the scheme.

	31 Mar 2016 £m	31 Mar 2017 £m	31 Mar 2018 £m	31 Mar 2019 £m
Capital Financing Requirement	1,043	1,061	1,046	1035
Less PFI liability	172	168	164	160
Borrowing CFR	871	893	882	875
Loans Borrowed (31March estimate)	1,039	1,058	1,044	1,031
Borrowing Above CFR	168	165	162	156
<i>Comprising:</i> Premiums	48	45	42	36

Shared Investment Scheme	120	120	120	120
Total	168	165	162	156

4.2 Sources of borrowing

The approved sources of long-term and short-term borrowing will be:

- Public Works Loan Board
- LGA Municipal Bond Agency (subject to approval of a separate report by cabinet)
- Special purpose companies created to enable joint local authority bond issues, using the format of a euro medium term note programme or a commercial paper programme
- UK Local Authorities
- any institution approved for investments including high quality supranational banks such as the European Central Bank
- UK public and private sector pension funds
- any other financial institution approved by the Prudential Regulation Authority
- capital market bond investors either over the counter or through electronic trading platforms

4.3 UK Municipal Bond Agency PLC

The Municipal Bond Agency was established by the Local Government Association in June 2014 with the primary objective of setting up an alternative capital funding source for the local government sector and reducing UK local authority financing costs by becoming the most efficient and cost effective provider of finance. The Cabinet agreed on 15th July 2014 to invest £250,000 to become a shareholder in the company which should lead to preferential dealing charges and eventually dividends from the MBA when it is in full operation. County Council are one of 56 local authority shareholders, the 57th is the LGA who are the founder shareholder.

It is expected that the MBA will make the first tranche of borrowing available to local authorities in 2016. In order to borrow from the MBA the County Council is required to sign a joint and several guarantee contained within a framework agreement.

Signing off the framework agreement and borrowing from the MBA is the subject of a separate report to cabinet.

4.4 Borrowing Instruments

The County Council may only borrow money by use of the following instruments:

- bank overdrafts
- fixed term loans

- callable loans or revolving credit facilities where the county council may repay at any time (with or without notice)
- callable loans where the lender may repay at any time, but subject to a maximum of £150 million in total
- lender's option borrower's option (LOBO) loans, but subject to a maximum of £100 million in total
- bonds, notes, bills, commercial paper and other marketable instruments
- sale and repurchase (repo) agreements

Loans may be borrowed at either a fixed rate of interest, or at a variable rate linked to a market interest rate, such as LIBOR, subject to the limits on interest rate risk approved each year in the *Treasury Management Strategy*.

4.5 Debt Restructuring

The County Council continuously monitors both its debt portfolio and market conditions to evaluate potential savings from debt restructuring.

5. Policy on Borrowing in Advance of Need

The County Council will not borrow more than or in advance of need with the objective of profiting from the investment of the additional sums borrowed.

However, borrowing in advance of need is appropriate in the following circumstances:

- a) Where there is a defined need to finance future capital investment that will materialise in a defined timescale of 2 years or less; and
- b) Where the most advantageous method of raising capital finance requires the County Council to raise funds in a quantity greater than would be required in any one year, or
- c) Where in the view of the section 151 officer, based on external advice, the achievement of value for money would be prejudiced by delaying borrowing beyond the 2 year horizon.

Having satisfied any of these criteria any proposal to borrow in advance of need would also need to be reviewed against the following factors:

- a) Whether the ongoing revenue liabilities created, and the implications for the future plans and budgets have been considered and reflected in those plans and budgets, and the value for money of the proposal has been fully evaluated.
- b) The merits and demerits of alternative forms of funding.
- c) The alternative interest rate bases available, the most appropriate periods over which to fund and repayment profiles to use.

All decisions will be documented reflecting the assessment of these circumstances and criteria.

6. Investment Strategy

In making any investments of the reserves and other cash items held within its balance sheet the County Council must have regard to the relevant regulations under the Local Government Act 2003, the CLG Guidance on Local Government Investments, and the latest revision of the CIPFA Treasury Management in Public Services Code of Practice (2011) and other relevant publications such as 'Treasury Risk Toolkit for Local Authorities' (2012) and 'Using Financial Instruments to Manage Risk' (2013.)

However it is the opinion of LCC treasury management, along with treasury advisors Arlingclose Ltd, that the CIPFA TM Code of Practice should be revised to properly categorise the risk to local authorities of investing using unsecured term bank deposits and remove the emphasis the code places on them as a low risk specified investment instruments.

The CIPFA TM Panel has requested from CLG consideration of this issue with regard to investment regulation and CLG have agreed to give the issue consideration.

The council's investment priorities are: -

- (a) The security of capital, and
- (b) The liquidity of its investments.

The County Council will also aim to achieve the optimum return on its investments commensurate with proper levels of security and liquidity. The risk appetite of the County Council is low in order to give priority to security of its investments.

The counterparty credit matrix is at the heart of Lancashire County Council's Treasury Management Policy and Strategy and has always been conservatively constructed to protect the County Council against credit risk whilst allowing for efficient and prudent investment activity.

However, the County Council does not rely solely on credit ratings in assessing counterparties. Other market information is also monitored such as information from the credit default swap (CDS) market and any press releases in general, thus ensuring the Council transacts with only the highest quality counter-parties.

The Council requires very high credit ratings for an organisation to be considered a suitable counterparty for investment purposes. Despite a number of downgrades within the financial sector the County Council has not reduced the credit ratings required of its counterparties, but has maintained the existing very high ratings required for short, medium and long term investments. These are set out below:

- **For short term lending of up to 1 year** - that the short term ratings from the ratings agencies be used and that a counter-party must have a minimum of the following:

Moody's.	P1
S&P	A1
Fitch.	F1

Short term ratings were specifically created by the agencies for money market investors as they reflect specifically the liquidity positions of the institutions concerned.

- **For medium term investments** in the form of tradeable bonds or certificates of deposit (1yr to 5yrs, where immediate liquidation can be demonstrated), a blended average of the ratings will be taken (averaging across all available ratings) , with a minimum of:
 - Long term AA3/AA-, and
 - Short term P1/F1+/A1+

- **For longer term investments (5yrs and above)** in the form of tradeable bonds where immediate liquidation can be demonstrated, a blended average of the ratings will be taken, with a minimum of:
 - Long term AA2/AA
 - Short term P1/A1+/F1+

The detailed calculation methodology of the blended average will be agreed with the council's advisers and set out in the treasury management practices document.

The limits for scale and duration of investment in specific categories which form the 2016/17 investment strategy are set out in the table below.

If the counterparty of an existing investment falls outside the policy due to a change in credit rating, full consideration will be made, taking into account all relevant information, as to whether a premature settlement of the investment should be negotiated.

The minimum sovereign rating for investment is AA-.

The table below shows the approved investment Counterparties and Limits

Instrument	Minimum Credit Rating (blended average)	Maximum individual Investment (£m)	Maximum total Investment (£m)	Maximum Period
UK Government Gilts, Treasury Bills & bodies guaranteed by UK Govt	UK Government	500	unlimited	50 yrs
Sterling Supranational Bonds & Sterling Sovereign Bonds	AA-	150	500	50 yrs
Corporate Bonds (Short Term less than 1yr to maturity)	P1/A1/F1	40	200	1yr

Instrument	Minimum Credit Rating (blended average)	Maximum individual Investment (£m)	Maximum total Investment (£m)	Maximum Period
Corporate Bonds (Medium term up to 5 years)	AA- P1/A1/F1	100	500	5yrs
Corporate Bonds (Long term)	AA P1/A1+/F1+	50	250	50yrs
Government Bond Repurchase Agreements (Repo/ Reverse Repo)	UK Government AA	500	750	1yr
Repurchase Agreements (Repo/ Reverse Repo)	Other AA+	200	200	1yr
Bond Funds with weighted average maturity maximum 3 yrs	AA Rated weighted average maturity 3yrs	100	250	These investments do not have a defined maturity date.
Bond Funds with weighted average maturity maximum 5 yrs	AAA Rated	100	250	These investments do not have a defined maturity date.
UK Local Authorities (incl Transport for London)	Implied Government support	100	500	50yrs
Collateralised lending agreements backed by higher quality government or local government and supra national sterling securities.	AA- with cash or AA- for any collateral	250	500	25yrs

Instrument	Minimum Credit Rating (blended average)	Maximum individual Investment (£m)	Maximum total Investment (£m)	Maximum Period
Call accounts with UK and Overseas Banks (domiciled in UK)	P1/A1/F1 Long term A Government support	100	100	Overnight in line with clearing system guarantee (currently 4 years.)

The County Council's day to day transactional bank National Westminster lies outside the investment credit matrix but emergency overnight deposits may be placed with them from time to time. In practice they are minimised on a daily basis to typically below £1million.

6.1 Types of Investment

The CLG Guidance defines two types of investment, firstly specified investments which are those:

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

Any investment not meeting the definition of a specified investment is classed as non-specified. The County Council will not make any investments with low credit quality bodies, nor any that are defined as capital expenditure by legislation, such as company shares.

The operational total limit on long-term investments is £600 million. This reflects the portfolio structure adopted by the County Council in order to reduce credit risk and ensure liquidity.

Core investments are held in government and supranational securities, which although highly liquid have maturities in excess of 364 days. In addition the County Council holds a secondary liquidity investment book of very high quality covered floating rate notes (FRNs) which are typically issued for a 3 to 5 year term. Because these instruments have their rates re-fixed, at current market rates every 3 months, their price shows a very low sensitivity to changes in market rates, so that although under the current accounting regulations they are classified as long term instruments, in practice they operate as fixed instruments with a maximum of 3 months to maturity and can be liquidated with one or two day notice. Therefore the 'long term investments' total contains instruments which operate with a short term horizon and which are central to achieving the County Council's security and liquidity objectives.

In recent times, a wider range of investment instruments within the area of sterling deposits has been developed by financial institutions. All of these afford similar security of capital to basic sterling deposits but they also offer the possibility, although never of course the certainty, of increased returns. The section 151 officer will, in liaison with the county council's external advisers, consider the benefits and drawbacks of these instruments and whether any of them are appropriate for the County Council. Because of their relative complexity compared to straightforward term deposits, most of them would fall within the definition of non-specified investments. Decisions on whether to utilise such instruments will be taken after an assessment of whether their use achieves the Council's objectives in terms of reduction in overall risk exposure as part of a balanced portfolio.

7. Policy on Use of Financial Derivatives

The County Council will only use financial derivatives (such as swaps, forwards, futures and options) on a standalone basis, where it can be clearly demonstrated that as part of the prudent management of the Council's financial affairs the use of financial derivatives will have the effect of reducing the level of financial risks that the County Council is exposed to. Additional risks presented, such as credit exposure to derivative counterparties, will be taken into account when determining the overall level of risk.

Many embedded derivatives are already used by local authorities across England and Wales including Lancashire County Council, although unlike the government, commercial sector and other public service areas stand-alone derivatives have not generally been used.

A derivative is a financial instrument with three main features:

- The value changes in response to an underlying variable.
- The transaction requires no initial investment, or an initial net investment smaller than would be required for other types of contract with a similar expected response to market changes.
- The contract is settled at a predetermined future date.

The underlying variable represents an existing external risk for which the hedge is required. Examples are a specified interest rate, a commodity price, a credit rating, a foreign exchange rate or any other variable, however as the County Council treasury activity is not directly exposed to all of these risks, for example foreign exchange or commodity prices, the County Council's use of derivatives will be restricted to the management and hedging of interest and inflation rate risk only.

The embedded and standalone derivatives which can be used by the County Council to manage interest rate risk are summarised below:

CLASS	USE	STANDALONE	EMBEDED
Forwards	To fix an interest or inflation rate for a single period in the future.	Forward Rate Agreement (FRA), gilt lock, interest rate or gilt futures	Forward Deal
Swaps	To exchange interest or inflation rate exposures (eg. fixed to floating)	Interest or inflation rate swap (IRS), Basis swap.	Variable rate deposit, Floating rate note.
Purchased Options	The right but no obligation to fix an interest or inflation rate in exchange for paying a premium.	Caps, floors, collars, swaptions, puts, calls	Callable loan Collared deposit

The Council will not sell interest rate or inflation rate options, (i.e. give another party the right to fix a rate) since these cannot reduce the Council's risk. The only exception is where a sold option is combined with a purchased option of equal or higher premium to create a collar.

There are two methods of engaging in derivative contracts, exchange traded or settled derivatives and over the counter (OTC) derivatives. The former are available in public markets and trade over a physical exchange with a clearing house acting as an intermediary and include futures and options. OTC contracts are privately negotiated and traded between two counterparties and can include swaps and forwards. Mention that there is regulation in train to make most derivatives exchange settled.

In a derivative contract both parties are often required to provide collateral (i.e. pools of valuable and liquid assets set aside specifically to back liabilities arising from the contract) to reduce credit risk. The method of assessing counterparty quality and suitability of collateral within the structure of the contracts is shown below:

PRODUCT	COUNTERPARTY QUALITY	SECURITY	
Exchange traded or cleared product	Credit rating of exchange	Credit rating of Clearing agent	Margin netting
Bilateral FRAs and swaps assuming netting	Credit rating of counterparty	Full 2-way collateral arrangements	Types of collateral agreed and any haircuts
OTC Options	Credit rating of counterparty	Agreed full 2-way collateral	Types of collateral and haircuts
Intra LA swaps etc	Assumed Credit rating	2-way collateral (cash)	No haircut

The credit quality of the collateral acceptable to the County Council will be determined by the credit rating of the counterparty or exchange, along with credit default swap prices which react much quicker than credit rating agencies and can be used as early indicators of credit or liquidity problems.

The table below defines the appropriate limits for collateral quality:

Counterparty type	Documentation	Collateral types	CDS levels	Rating
Exchange	MIFCA	Cash margins	<75bp	AA
Banks	ISDA/CSA	Cash and Govt bonds	<100bp	A3
Insurers and Pension Funds	ISDA CSA	Cash, Govt Bonds	<100 (Insurers)	A3 (Insurers)
LAs	Contract	Cash, Govt Bonds	England/Wales None	England and Wales None

The County Council will only use derivative contracts to hedge existing risks. This is reflected in the limits below which in future will form a local indicator as part of the Prudential Indicators agreed by the County Council within the annual Treasury Management Strategy. These are shown in the table below, the 100% upper limit means that the County Council has the option to hedge all of, but not more than, its interest rate risk if felt appropriate.

Exposure Metric	Min Hedge	Max Hedge	Granularity	Tool
Interest rate	0%	100%	0-3 months 3-6months, 6-12m months, 1 to 2 years, 2-5 years and 5 year blocks	FRA, Futures, Options, Swaps Swaption
Inflation rate	0%	100%	1 block	Swap, Swaption, Option

In addition hedge accounting will be used to periodically test the effectiveness of the hedge. It is expected the hedge will work with between 80% and 125% effectiveness in accordance with International Accounting Standards. If the effectiveness is measured as falling outside these parameters, the structure of the hedge be changed in response.

The calculation method of interest rate risk to be hedged and hedge effectiveness will be set out in the Treasury Management Practices document.

At all times the County Council will comply with CIPFA advice and guidance on the use of financial derivatives and have regard to CIPFA publications on risk management. Part of that advice was that the County Council should seek its own legal advice as to the legality of the use of derivatives for risk management purposes.

8. Performance Measurement

With base rates at exceptionally low levels, investment returns are likely to continue to be far lower than has been the case in recent years. However, in the knowledge that a portion of cash invested will not be required in the short term; and to protect against continued low investment rates; investments may be made for longer time periods, depending on cash flow considerations and the prevailing market conditions. The performance target on investments is a return above the average rate for 7 day notice money.

9. Impact on the County Council's Revenue Budget

The table below outlines the budget for the financing charges element of the Council's revenue budget. This reflects the proposed changes to the Minimum Revenue Provision calculation which has been reflected in the Medium Term Financial Strategy. The authority is required by statute to make a prudent charge giving consideration to guidance issued by the Government department. Full Council is required to review and approve its MRP policy annually. The proposed changes to the policy are charging debt incurred prior to 2007/8 on a 50 year straight line basis rather than a 4% reducing balance and the use of an annuity calculation for debt incurred later than this date. A revised MRP policy is set out in Appendix C.

	Revenue Budget 2015/16 £m	Revenue Budget 2016/17 £m	Revenue Budget 2017/18 £m	Revenue Budget 2018/19 £m
Minimum Revenue Provision (MRP)	37.085	19.967	20.749	20.877
Interest Paid	22.308	24.036	27.883	29.312
Interest Earned	-12.710	-10.420	-10.524	-10.733
Grants Received	-0.280	-0.260	-0.240	-0.240
Total	46.403	33.323	37.868	39.216

The revenue budget above reflects a position which takes account of the views of both internal and external advisors, particularly in relation to interest rate movements and the potential timing to move from short term variable rates to fixed rates.

The position will be closely monitored by the S151 officer and any changes to the external view will be reflected in a revised Finance Charges forecast and taken to Cabinet.

Annex A

PRUDENTIAL INDICATORS

In line with the relevant legislation the county council has adopted the Prudential Code for Capital Finance in Local Authorities and the CIPFA Treasury Management in the Public Services Code of Practice as setting the framework of principles for its Treasury Management activities. In accordance with the requirements of these codes the County council produces each year a set of prudential indicators which assist in the process of monitoring the degree of prudence with which the county council undertakes its Capital Expenditure and Treasury Management activities. Certain of these indicators also provide specific limits with regard to certain types of activity such as borrowing. These indicators are a consequence of the borrowing requirements and actions set out within the body of the Treasury Management Strategy.

Adoption of CIPFA Treasury Management Code of Practice (2011)

2015/16 2016/17 2017/18 2018/19
Adopted for all years

Indicators on Capital Expenditure and Financing

The total capital expenditure in each year, irrespective of the method of financing estimated to be incurred by the County council is as follows:

2014/15	2015/16	2016/17	2017/18	2018/19
Actual	Estimate	Estimate	Estimate	Estimate
£m	£m	£m	£m	£m
178.016	250.521	103.805	77.024	49.621

The estimated capital expenditure stated above will be financed by a mixture of borrowing, capital receipts, revenue contributions, grants and other contributions. A key control of the prudential system is the underlying need to borrow for capital purposes, which is represented by the cumulative effect of past borrowing decisions and future plans. This is shown as the capital financing requirement. This is not the same as the actual borrowing on any one day, as day to day borrowing requirements incorporate the effect of cash flow movements relating to both capital and revenue expenditure and income. The estimate of the capital financing requirement for each year is as follows, and includes the impact of PFI obligations.

2014/15	2015/16	2016/17	2017/18	2018/19
Actual	Estimate	Estimate	Estimate	Estimate
£m	£m	£m	£m	£m
1,022.485	1,043.945	1,068.207	1,061.008	1,050.609

Prudence and Affordability

CIPFA's Prudential Code for Capital Finance in Local Authorities states the following as a key indicator of prudence:

"In order to ensure that, over the medium term, net borrowing will only be used for a capital purpose, the local authority should ensure that net external borrowing does not, except in the short term, exceed the total of capital financing requirement in the preceding year, plus the estimates of any additional capital financing requirement for the current and next two financial years."

The county council's financial plans are prepared on this basis and, indeed the policy on borrowing in advance of need explicitly references this statement as part of the decision making criteria.

It is important to ensure that the plans for capital expenditure and borrowing are affordable in the long term. To this purpose the code requires an indicator which estimates the ratio of financing costs to the net revenue stream.

The financing costs are the interest payable on borrowing, finance lease or other long term liabilities and the amount defined by statute which needs to be charged to revenue to reflect the repayment of the principal element of the county council's borrowing. Any additional payments in excess of the statutory amount or the cost of early repayment or rescheduling of debt would be included within the financing cost. Financing costs are expressed net of investment income.

The net revenue stream is defined as the amount required to be funded from Government Grants and local taxpayers, in effect the budget requirement.

Estimates of the ratio of financing costs to net revenue (or budget requirement) are as follows:

2015/16	2016/17	2017/18	2018/19
Estimate	Estimate	Estimate	Estimate
%	%	%	%
3.22	4.69	5.50	5.76

The Capital Programme is still being considered by the County Council and is not yet finalised. The indicators have been calculated on the assumption that any new starts will be funded from either grants or revenue resources. Including the cost of financing the borrowing already included in the Programme to meet current commitments it is estimated that the Council Tax impact of the whole Programme will be:

2016/17	2017/18	2018/19
Estimate	Estimate	Estimate
£	£	£
17.12	20.08	6.26

It is important to note that the figures do not represent annual increases in Council Tax. Both the 2014/15 and 2015/16 figures will include the full year effects of decisions taken in 2013/14. Similarly, all three years include the effect of financing capital expenditure from revenue or internal loans. Provision for these already exists within the revenue budget. The Prudential Code requires the estimated revenue impact of capital investment decisions in Band D Council Tax terms to be calculated. The estimated effect in Band D Council Tax terms of the net cost of the borrowing is:

	£
2015/16	5.48
2016/17	7.01
2017/18	6.26

External Debt

The county council is required to approve an “authorised limit” and an “operational boundary” for external debt. The limits proposed are consistent with the proposals for capital investment and with the approved treasury management policy statement and practices. The limits also include provision for the £150m cap on the shared investment scheme. The indicators are split between borrowing and other long term liabilities, such as PFI projects. It is, therefore, proposed to set a limit for the section 151 to work within.

The authorised limit is a prudent estimate of external debt, but allows sufficient headroom for unusual cash flow movements. After taking into account the capital plans and estimates of cash flow and its risks, the proposed authorised limits for external debt are:

	2015/16 Revised	2016/17	2017/18	2018/19
	£m	£m	£m	£m
Borrowing	1,200	1,250	1,250	1,250
Other long term liabilities	200	200	200	200
TOTAL	1,400	1,450	1,450	1,450

The proposed operational boundary for external debt is based on the same estimates as the authorised limit. However, although it reflects a prudent estimate of debt, there is no provision for unusual cash flow movements. In effect, it represents the estimated maximum external debt arising as a consequence of the county council's current plans. As required under the Code, this limit will be carefully monitored during the year. The proposed operational boundary for external debt is:

	2015/16 Revised	2016/17	2017/18	2018/19
	£m	£m	£m	£m
Borrowing	1,120	1,190	1,180	1,160
Other long term liabilities	180	180	180	180
TOTAL	1,300	1,370	1,360	1,340

The debt figures include transferred debt which is managed by the County Council on behalf of other authorities. The transferred debt included within the debt indicators is estimated at the end of each year to be:

2015/16	£36.970 m
2016/17	£35.283 m
2017/18	£33.654m
2018/19	£32.080m

Gross Debt and Capital Financing Requirement

As a measure of prudence and to ensure that over the medium term debt is only used for a capital purpose, the prudential code requires a comparison of gross debt and the capital financing requirement. The comparison for the County Council is shown below:

	31 Mar 2016 £m	31 Mar 2017 £m	31 Mar 2018 £m	31 Mar 2019 £m
Borrowing CFR	871	893	882	875
Loans Borrowed (31March estimate)	1,039	1,058	1,044	1,031
Borrowing Above CFR	168	165	162	156
<i>Comprising:</i>				
Premiums	48	45	42	36
Shared Investment Scheme	120	120	120	120
Total	168	165	162	156

The ratio of gross debt to capital financing requirement shows that gross debt is higher than the capital financing requirement. This is because the shared investment scheme and the replacement overdraft facility are currently accounted for as borrowing but not counted against the capital financing requirement.

Treasury Management Indicators

Interest rate exposure

In order to control interest rate risk the County Council measures its exposure to interest rate movements. These indicators place limits on the overall amount of risk the county council is exposed to. The one year impact indicator calculates the theoretical impact on the revenue account of an immediate 1% rise in all interest rates over the course of one financial year.

	Upper Limit	Dec 2015
	£m	£m
Net Interest Payable at Fixed Rates	50.4	6.8
Net Interest Payable at Variable Rates	5.0	3.2
One year impact of a 1% rise in rates	10.0	1.7

Maturity structure of debt

Limits on the maturity structure of fixed debt help control refinancing risk

	Upper Limit	Dec 2015
	%	
Under 12 months	75	17
12 months and within 2 years	75	38
2 years and within 5 years	75	19
5 years and within 10 years	75	65
10 years and above	100	19

Investments over 364 days

Limits on the level of long term investments helps to control liquidity, although the majority of these investments are held in available for sale securities.

Upper Dec 2015

	limit £m	£m
Authorised Limit		
Total invested over 364 days	900	577
Operating Limit		
Total invested over 364 days	600	577

Minimum Average Credit Rating

To control credit risk the County Council requires a very high credit rating from its treasury counterparties

	Benchmark	Dec 2015
Average counterparty credit rating	A+	AA

Minimum Revenue Provision Statement 2015/16

1. Introduction

This annual Statement required to be approved by the County Council arises from statutory guidance initially issued by the Department of Communities and Local Government (DCLG) in 2008 and updated in 2010.

Local Authorities are required to make a prudent charge to the revenue account in respect of provision to repay debt and other credit liabilities (mainly finance leases or PFI contracts). This is referred to as the Minimum Revenue Provision (MRP).

Guidance issued by the DCLG provides four options which can be used for the purpose of calculating the MRP. However the legal requirement is to set a prudent charge and therefore authorities are free to move away from the guidance if they feel it is appropriate.

2. The Four Options Explained

The first two options, the Regulatory and Capital Financing Requirement methods, can be applied to borrowing which is supported by government via Revenue Support Grants.

For capital expenditure financed by unsupported borrowing, as allowed under the Prudential Code, the guidelines identify the Asset Life method or the Depreciation method as possible alternatives.

- Regulatory Method

Before the Prudential Code system of capital finance was introduced in 2004 the MRP was calculated at 4% of the credit ceiling. On the introduction of the Prudential Code this was changed to a charge of 4% of Capital Financing Requirement, which is derived from the Balance Sheet and broadly represents the outstanding debt used to finance the fixed assets. However, to avoid changes in the charge to revenue in 2004/5 an adjustment figure was calculated which would then remain constant overtime. For technical accounting reasons this methodology would have led to an increase in the MRP, and would therefore have had an impact upon the County Council's budget, so this method has not been used and is not recommended for future use.

- Capital Financing Requirement (CFR) method

This option allows for the MRP to be calculated as 4% of the Capital Financing Requirement. The CFR is derived from the Balance Sheet and represent the value of the fixed assets, for which financing provision has not already been made. This

method of calculation has been used at the County Council since the introduction of the MRP in 2004.

- Asset Life Method

Guidelines for this method allow for a MRP to be calculated based on the estimated life of the asset. The actual calculation can be made in two ways as shown below; A straightforward calculation to set an equal charge to revenue over the estimated life of the asset. This charge will not be varied by the state of the asset or, By the use of an annuity method. This provides for greater charges in the later years of the assets life and should only be used if it can be demonstrated that benefits are likely to increase in the later years.

- Depreciation method

This requires a charge to be made of depreciation in line with normal accounting purposes. This could include the impact of any revaluations, and would be calculated until the debt has been repaid.

3. Finance Leases and PFI

With changes in accounting regulations in 2009/10 assets held under a PFI contract now form part of the Balance Sheet. This has increased the capital financing requirement and on a 4% basis the potential charge to revenue. To prevent the increase the guidance permits a prudent MRP to equate to the amount charged to revenue under the contract to repay the liability. In terms of the PFI schemes this charge forms part of the payment due to the PFI contractor.

4. Application at LCC

The relevant regulations require that the Council make "prudent provision" for the repayment of debt, and departure from the options outlined above is permissible if an alternative option is considered more appropriate.

From 2008/09 to 2014/15 the Capital Financing Requirement option has been applied to all supported borrowing incurred before 1 April 2007. This charge was based on 4% of the outstanding capital financing. It is now proposed to modify the approach. The charge based on a 4% reducing balance never effectively repays the debt. It is now considered that the 4% charge over-estimates the level of support within the revenue support grant. It is now proposed that the charge should still be made in reference to the capital financing requirement but that it is based upon a 50 year life rather than a reducing balance. It is assumed that there is an equal charge over each of the 50 years.

For 2008/09 to 2014/15 the Asset Life method (Equal Charge approach) has generally been applied to capital expenditure financed by unsupported borrowing. PFI payments will be made in line with the amounts due to repay the liability under the contract. During 2014/15 the Waste PFI contract was terminated and the PFI liability was replaced borrowing and this debt will be paid on an annuity basis. . An alternative approach to the equal charge is the annuity method which is the cheapest

MRP option in the early years, and maintains a constant impact on the revenue account over the useful life of the asset being financed, once interest costs are taken into account. The basis of the charge will still be the asset life and it is considered to be a prudent charge and it is proposed that the annuity basis is used in calculating the MRP.

Minimum Revenue Provision will not be made in relation to the following specific circumstances:

For assets constructed as part of the Preston, South Ribble and Lancashire City Deal where the borrowing will be repaid from other capital financing sources within the life of the City Deal, this is temporary borrowing that will be repaid from sources such as Community Infrastructure Levy and funding from the Homes and Communities Agency when the development facilitated by the construction of County Council assets has taken place. Thus an alternative prudent plan for repayment is in place. However, this position will be reviewed each year in the light of progress with the City Deal.

For borrowing associated with the Homes and Communities Agency Local Infrastructure Fund where the relevant assets and hence repayment are delivered through a Development Company which generates the income stream to ensure repayment of the liability. Again this provides an alternative prudent plan for repayment in line with the loan terms. The position will be subject to annual review.

No MRP will be charged until the financial year after the project is deemed to be complete.

5. Recommendations

In respect of the methodology for applying the minimum revenue provision in respect of the repayment of debt, Cabinet is asked to recommend that the Full Council:

- 1 Approves the Capital Financing Requirement method and the Asset Life method for expenditure as outlined in section 4.
- 2 Charges to revenue a sum equal to the repayment of any credit liability.
- 3 Approves the proposed treatment of assets constructed under the Preston, South Ribble and Lancashire City Deal and the Homes and Communities Agency Local Infrastructure Fund, subject to annual review.
- 4 Approve the policy of not starting charging revenue until the project is completed.

Cabinet

Meeting to be held on 7 January 2016

Report of the Director of Governance, Finance and Public Services

Electoral Division affected: None

Regulation of Investigatory Powers Act 2000: Annual Report to Cabinet

Appendix 'A' Refers

Contact for further information:

Ian Young, 01772 533531, Director of Governance, Finance and Public Services,
ian.young@lancashire.gov.uk

Executive Summary

The Regulation of Investigatory Powers Act 2000 (RIPA) provides a framework for certain public bodies, including local authorities, to use "covert surveillance" to gather information about individuals without their knowledge for the purposes of undertaking statutory functions in connection with the prevention or detection of crime.

RIPA activity and authorisations are governed by Codes of Practice and Guidance issued by the Office for Surveillance Commissioners (OSC) and the Home Office.

Local authorities are also subject to regular inspections from the OSC.

Members are required to review the use of RIPA and set the policy at least once a year. Elected members cannot be involved in decisions on specific authorisations, but have oversight of the process via the reporting requirement to the Overview and Scrutiny Committee.

Recommendation

The Cabinet is asked to note the content of this report and approve the updated corporate policy with immediate effect.

Background and Advice

The Regulation of Investigatory Powers Act 2000 (RIPA) provides a framework for certain public bodies, including local authorities, to use "covert surveillance" to gather information about individuals without their knowledge for the purposes of undertaking statutory functions in connection with the prevention or detection of crime.

RIPA is permissive legislation, that is to say that it is not mandatory for a local authority to authorise covert surveillance under RIPA but if it does so then RIPA provides the local authority with a defence if the individual brings a claim against the local authority alleging that the surveillance breaches their human rights, specifically Article 8, the right to respect for private and family life, home and correspondence.

RIPA covers directed surveillance, for example the use of photography or video to record persons suspected of being engaged in criminal activity, and the use of a Covert Human Intelligence Source (CHIS), for example an informant, where the surveillance involves developing a relationship in order to obtain information.

Within the County Council, covert surveillance authorised pursuant to RIPA is used very infrequently and only in connection with Trading Standards activities, typically against rogue traders, counterfeiters or individuals engaged in selling tobacco or alcohol products to children. It is used in cases where it is important to obtain information to support potential criminal proceedings, and only where that information cannot be obtained by any other means.

Authorisations for the use of a CHIS are also used very infrequently and are primarily applied for where Trading Standards Officers engaged in the investigation of internet sales of counterfeit or unsafe products have to develop a relationship with a seller to earn their "trust" in order to obtain information.

RIPA activity and authorisations are governed by Codes of Practice and Guidance issued by the Office for Surveillance Commissioners (OSC) and the Home Office.

Local authorities are subject to regular inspections undertaken by OSC, the most recent Lancashire County Council inspection having taken place on 3 February 2014. The resulting report was considered in June 2014 by Cabinet following the inspection and a number of changes to procedure were subsequently adopted, including an update to the RIPA Corporate Policy; designation of the Head of Trading Standards and two Trading Standards Managers to authorise RIPA applications; and agreement to a response to the OSC in relation to the authorisation of directed surveillance of underage sales test purchasing activities.

In December 2014 some key changes were made to the Code of Practice for Covert Surveillance and Property Interference, and the Covert Human Intelligence Sources Code of Practice, the main revisions being:

- To take account of the requirement under the Protection of Freedoms Act that local authorities should seek approval for authorisations from a magistrate,
- To extend the length of time for which records must be kept in the central record to 5 years,
- To clarify the need for consideration of relevant authorisation for the use of third party individuals or organisations (for example private investigators and internet researchers)
- Making it clear that the need for authorisation for directed surveillance or CHIS should be considered prior to the use of the internet in investigations, and that such use should be both necessary and proportionate.
- To clarify the information required to be provided on a review of an authorisation.

Where necessary these revisions have been incorporated into the revised corporate policy, attached at Appendix 'A'.

Consultations

N/A

Implications:

This item has the following implications, as indicated:

Risk management

If local authorities undertake covert surveillance activities without having first gone through an appropriate RIPA authorisation process there is a risk that the County Council may not be able to successfully defend Human Rights challenges.

List of Background Papers

None

Reason for inclusion in Part II, if appropriate

N/A

APPENDIX 'A'

LANCASHIRE COUNTY COUNCIL

Corporate Policy and Guidance On The Regulation Of Investigatory Powers Act 2000

Contents

1. Corporate Guidance

- 1.1 Foreward
- 1.2 Employee or Non-RIPA Surveillance
- 1.3 CCTV Use
- 1.4 Lancashire County Council Auditing

2. Definitions

- 2.1 Definitions
- 2.2 Communications Data

3. Covert Surveillance

- 3.1 Introduction
- 3.2 Collateral Intrusion
- 3.3 Records of Authorisations
- 3.4 Authorisation of Directed Surveillance
- 3.5 Covert Video Camera and Audio Recording Equipment
- 3.6 Grounds for granting Authorisation
- 3.7 Duration of authorisation
- 3.8 Renewal
- 3.9 Cancellation
- 3.10 Records
- 3.11 Handling Product from Surveillance Activities
- 3.12 Storage of Product
- 3.13 Disposal of Product

4. Guidance Notes for the Authorisation of Directed Surveillance

- 4.1 Activity Involved
- 4.2 Directed Surveillance via Recording of telephone conversations
- 4.3 Test purchasing of age restricted products

5. Covert Human Intelligence Sources (C.H.I.S.)

- 5.1 Introduction
- 5.2 Further Guidance on the C.H.I.S. Process
- 5.3 Management of Sources
- 5.4 Designated handlers and Controllers for the use of Covert Human Intelligence
- 5.5 Security and Welfare Sources
- 5.6 The Application for Authorisation
- 5.7 Duration of Authorisation
- 5.8 Renewals and Reviews
- 5.9 Cancellations
- 5.10 Source Records

6. Risk Assessments for all RIPA Surveillance Activities

7. Communications Data

- 7.1 Accessing Communications Data
- 7.2 What is Communications Data?
- 7.3 Who are Communication Service Providers?
- 7.4 What information can be obtained from Communications Service Providers?
- 7.5 How can this information be obtained
- 7.6 Contact with the Communications Industry
- 7.7 The Role of the Single Point of Contact (SPOC)
- 7.8 The Role of the Authorising Officer
- 7.9 The Application Process
- 7.10. Records and Errors
- 7.11 Further Relevant Documentation

8. Seeking JP approval for authorisations

9. Lancashire County Council Auditing of Authorisations and Records

10. Inspections by the Office of the Surveillance Commissioner and the

Interception of Communications Commissioner

11. Complaints

12. Management Records

General Statement of Policy

This policy document relates to use by Lancashire County Council officers of directed surveillance, covert human intelligence sources and access to telecommunications information.

- **The County Council is committed to upholding human rights**
- **As a public body and responsible employer, the County Council wants to conform to the letter and spirit of the requirements of the Regulation of Investigatory Powers Act 2000 and associated regulations and draft codes of practice relating to the use of covert surveillance, the use of covert human intelligence sources, and interception**
- **County Council officers will only undertake surveillance work when it is both necessary and proportionate to the ends it seeks to achieve**
- **From 1 November 2012 local authorities have been required to obtain judicial approval prior to using covert techniques. Local authority authorisations and notices under RIPA are only be given effect once an order has been granted by a justice of the peace in England and Wales, a sheriff in Scotland and a district judge (magistrates' court) in Northern Ireland.**
- **Additionally, from this date local authority use of directed surveillance under RIPA will be limited to the investigation of crimes which attract a 6 month or more custodial sentence, with the exception of offences relating to the underage sale of alcohol and tobacco.**

Corporate Guidance

1.1 Foreword

1.1.1 The Regulation of Investigatory Powers Act 2000 (RIPA) provides a framework for certain bodies (including local authorities) to undertake their duties aimed at preventing or detecting crime, which may interfere with a citizens normal human rights in respect of privacy by the use of 'covert surveillance', Covert Human Intelligence Sources (CHIS) i.e. undercover officers/informants and to obtain certain limited communications data.

1.1.2 The use of these techniques must be "necessary" and "proportionate" to the investigation i.e. simple, overt methods of gathering information are not available and the matter under investigation should not be trivial.

1.1.3 RIPA establishes detailed requirements in respect of the seniority, training awareness of Authorising Officers (referred to as 'Designated Officers' in the Act) and also the formal assessment and recording processes before undertaking any surveillance activity.

1.1.4 The Authorising Officer is required to be an officer at least at the following level within the authority:

- Director
- Head of Service
- Service Manager or equivalent

The Authorising Officers for the Council are the Head of the Trading Standards Service and Trading Standards Managers in Trading Standards authorised by the Director of Governance, Finance and Public Services.

1.1.5 This guidance addresses the detailed requirements of RIPA and its codes of practice in relation to:

- ◆ the covert surveillance of individuals,
- ◆ the use of covert human intelligence sources, including undercover officers/agents/informants,
- ◆ the recording of telephone conversations
- ◆ for obtaining communications data.

This guidance provides a summary and overview of the legislation and codes of practice. DO NOT seek to rely on it alone. In the event of any doubt, any senior managers, or applicants, should refer to the relevant legislation or code and consult the Director of Governance, Finance and Public Services, the Director of Legal and Democratic Services or the Head of Trading Standards before any action is taken.

1.1.6 The Act and relevant Codes of Practice(as amended in December 2014) had effect from 1 October 2000 and impose requirements as regards authorisation, procedures and records, which must be followed by Public Authorities undertaking investigations which fall within the scope of the Act

1.1.7 Appropriate staff should familiarise themselves with the guidance and procedures, the legislation and the Codes of Practice. If in any doubt advice and guidance should be sought from an appropriate officer before undertaking any enforcement activities which may fall within the scope of the Act.

1.1.8 Lancashire County Council is committed to carrying out its enforcement functions in an equitable, practical and consistent manner. We are committed to these aims and to maintaining a fair and safe environment. This guidance demonstrates our desire to carry out our criminal investigations in a fair and equitable manner that respects all human rights and contributing to this commitment.

1.1.9 Enforcement activities of the Council that fall within the remit of the RIPA are subject to monitoring and oversight by the Surveillance Commissioner and the Interception Commissioner.

1.1.10 Complaints made regarding activities of the Council, which are within the scope of RIPA, can be investigated by an independent tribunal.

1.1.11 The Council may be liable to claims alleging breaches of an individual's rights under the Human Rights Act 1998 if officers fail to follow the requirements of RIPA and Codes of Practice.

1.1.12 Failure to follow RIPA and Codes may also adversely affect the admissibility of any evidence obtained using methods covered by RIPA. The safety of members of the public supplying information to the Council may also be compromised where an authorisation is not in place.

1.1.13 When undertaking any covert investigation, officers should have regard to the health and safety of persons affected by the activity. This may include themselves, colleagues and members of the public and the person you are being asked to observe. A risk assessment of the investigation technique being proposed should be undertaken, having regard to Corporate Health and Safety Policy and any supplemental guidance issued.

1.1.14 The monitoring of Internet and e-mail use is regulated by the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000, made under RIPA.

1.2 Employee or Non-RIPA Surveillance

1.2.1 RIPA does not apply where surveillance is undertaken otherwise than for 'the detection or prevention of crime' for example as part of an internal investigation into possible employee misconduct where the investigation is not primarily aimed at detecting criminal offences. However, as such surveillance may infringe an individual's Human Rights in respect of privacy, then similarly to RIPA, the procedures of authorisation and assessment should be followed with the Authorising Officer using RIPA criteria in considering the surveillance request. Assessment and Approval forms, similar to RIPA, must be used in considering surveillance activity.

1.2.2 Similarly, child custody/protection investigations requiring surveillance should follow the same principles and use the non-RIPA Assessment forms. Copies of appropriately complete forms should be kept with the investigation file and the original sent to the Central Register in Legal and Democratic Services, but these will not be logged on the corporate RIPA database.

1.3 CCTV Use

1.3.1 CCTV surveillance systems are not normally caught by the Act where signs or cameras are visible or members of the public are aware that such systems are in use. However there may be occasions when public authorities use CCTV systems for the purposes of a specific directed investigation or operation. In such cases, authorisation for directed surveillance may be necessary. A protocol has been produced to protect those officers responsible for such systems from being pressured into carrying out directed surveillance without an appropriate authorisation.

1.4 Lancashire County Council Auditing

1.4.1 For appropriate corporate reporting and auditing of activities to ensure awareness and ongoing compliance with RIPA policies. Contact: Director of Legal and Democratic Services

2 Definitions

2.1 Surveillance and Covert Human Intelligence Sources

The Regulation of Investigatory Powers Act 2000

Authorising Officer Means the person(s) designated under Sections 28 and 29 of the Act to grant authorisations for directed surveillance and the use and conduct of a Covert Human Intelligence Source, respectively. The Head of Trading Standards and Trading Standards Managers in Trading Standards are designated as authorising officers by the Director of Governance, Finance and Public Services.

Conduct of a Source Any action of that source falling within the terms of the Act or action incidental to it. (ie what they do)

Confidential Material Matters of legal privilege, confidential personal
Includes: information (eg medical records), confidential journalistic material

Controller Means the person or designated managerial officer responsible for overseeing the use of the source.

Covert Human Intelligence Sources Commonly known as Agents, Informants, Undercover Officers. (NB. See RIPA and the Codes of (CHIS) Practice for the definition)

Covert Surveillance Means surveillance carried out in a manner calculated to ensure that the persons subject to the surveillance are unaware that it is taking place.

Directed Surveillance - Surveillance is directed if it is covert but not intrusive and is undertaken:

- a) for the purpose of a specific investigation/operation
- b) is likely to result in the obtaining **private information** about a person (whether or not one specifically identified for the purposes of the investigation or operation)

- c) Otherwise than by way of an immediate response to events or circumstances and it would not be reasonably practicable for an authorisation to be sought for the carrying out of the surveillance.

Handler An investigating officer having day to day responsibility for:

- dealing with the source on behalf of the authority
- directing the day to day activities of the source
- recording the information supplied by the source
- monitoring the security and welfare of the source.

Intrusive Surveillance Means Covert Surveillance that is carried out in relation to anything taking place on any residential premises or in any private vehicle **and** involves the presence of any individual **on** the premises or **in** the vehicle or is carried out by means of a surveillance device.

Private Information In relation to a person or business, this includes any information relating to an individual's private, business or family life.

Senior Responsible Officer (Surveillance)

An officer responsible for the integrity of RIPA processes for the authority and compliance with Part II of the Act. The Senior Responsible Officer for Surveillance and CHIS is the Director of Governance, Finance and Public Services.

(Note: See Senior Responsible Officer for Communications Data)

Surveillance includes: - monitoring, observing or listening to persons, their movements, their conversations, or their activities or communications.

- recording anything monitored, observed or listened to in the course of surveillance.
- Surveillance by or with the assistance of a surveillance device (any apparatus designed or adapted for use in surveillance eg cameras and microphones).

2.2 Communications Data

Communications Service Provider (CSP)

These include telecommunications, Internet (including e-mail) and postal service providers.

Designated Person

This is the authorising officer for the purposes of obtaining communications data, currently the two Trading Standards Managers.

Senior responsible Officer (Communications Data)

An officer responsible for the integrity of RIPA processes in relation to the Acquisition of Communications data under the Act, currently the Head of Trading Standards.

Single Point of Contact (SPOC)

This is a nominated officer within a public authority who has completed a training course and is accredited by the Home Office to make enquiries with communication service providers.

SPOC's will oversee the forwarding and receipt of notices and authorisations sent to and returned by CSPs.

(CSPs will not deal with enquires to obtain communications data from an officer who is not listed with them as being a nominated SPOC).

SPOCs: The SPOC role is carried out by the National Anti Fraud Network on behalf of Lancashire County Council, and access can be arranged by approaching the Head of Trading Standards.

3. Covert Surveillance Policy and Procedures

3.1 Introduction

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

3.1.2 An authorisation provides lawful authority for a Public Authority to carry out covert surveillance.

3.1.3 Any /Service seeking to use covert surveillance techniques must seek authorisation from the Director of Governance, Finance and Public Services or nominated deputy using the appropriate forms.

3.1.4 Whenever surveillance takes place and is for the purpose of obtaining, or is likely to obtain private information about a person (whether or not they are the target of the operation) an authorisation should be obtained.

3.1.5 By obtaining an authorisation, the surveillance operation is carried out in accordance with the law and the safeguards that exist.

3.1.6 Prior to granting an authorisation the Authorising Officer must be satisfied that the proposed surveillance is **necessary** on specific grounds and is **proportionate** to what it seeks to achieve.

3.1.7 Careful consideration must also be given to any Community sensitivities that may be exacerbated by any individual surveillance operation.

3.1.8 Before applying for an authorisation, the Investigating Officer should consider whether or not the evidence sought could be obtained by alternative possibly non covert methods.

3.1.9 The Authorising Officer must also believe that the surveillance is proportionate to what it seeks to achieve and is not excessive.

Note for All Applications for Authorisations

Necessity

For interference with an individual's private, family or business life to be necessary, the action must be for the purpose of detecting crime or prevention of disorder, be necessary to secure best evidence and that less covert or intrusive action would not serve the appropriate purpose.

Proportionality

The test for proportionality goes far beyond selecting the least intrusive method of investigation. The activity to be observed must not be trivial and must warrant the surveillance to be instigated

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. Proportionality should contain a consideration of four elements

- 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.

3.2 Collateral Intrusion

3.2.1 The officer seeking the authorisation should also consider the possibility of collateral intrusion (this is where interference with the privacy of others not subject to the original surveillance may occur). Steps should be taken to assess the risk and where possible reduce the risk of collateral intrusion. Where unforeseen collateral intrusion occurs during an operation, the Authorising Officer must be notified and consideration given to amending the authorisation following a review. A separate Lancashire County Council CCTV protocol exists which also refers to avoiding collateral intrusion.

3.2.2 Consideration must also be given as to whether or not the surveillance activities of the Service take place where similar activities are also being undertaken by another agency eg the Police, Benefits Agency, Environment Agency and liaison with other enforcement agencies should be considered where appropriate.

3.3 Records of Authorisations

3.3.1 A record of all authorisations must be maintained for five years following the end of the authorisation for Covert Surveillance and CHIS. Records relating to Communications Data should be retained until they have been inspected by the Interception of Communications Commissioner. The record should include not only those authorisations granted, but also those which are refused.

3.3.2 All CHIS and Directed Surveillance records including JP authorisations must be supplied electronically by email to the Director of Governance, Finance and Public Services for the Central Record of authorisations. For the Acquisition of Communications data the record is maintained by the National Anti Fraud Network (NAFN). Nominated Authorising Officers may retain copy records for their own reference. Copies of all relevant documents should be returned electronically to the applying officer. An officer from the central record will advise Authorising Officers of the status of authorisations when renewals, cancellation etc are required.

3.3.3 Due to the sensitive nature of **all documentation** covered by the Act, consideration **must** be given to the means by which copies are forwarded to the central record to ensure confidentiality. Records of authorisations, renewals and cancellations should be forwarded by email to the Director of Governance, Finance and Public Services.

3.4 Authorisations for Directed Surveillance

3.4.1 An authorisation is required for covert surveillance undertaken:

- (a) for a specific investigation or operation; and
- (b) where the surveillance is likely to result in obtaining private information about any person (whether or not they are the subject of the surveillance).

3.4.2 Directed surveillance is conducted where the observation is for the purpose of gathering private information to produce a detailed picture of a person's life, activities and associations.

3.4.3 An authorisation is not required for covert surveillance carried out as an immediate response to events or circumstances which could not be foreseen. However, if this surveillance continues for a substantial period of time, or is recommenced after some time has elapsed, an authorisation may be required.

3.4.4 **Local Authorities cannot undertake intrusive surveillance.** Therefore Authorisations will not be granted for cover covert surveillance on residential premises or in any private vehicles where an individual or surveillance device is present on such premises or vehicle.

3.4.5 Where the surveillance activity is likely to result in **confidential material** being obtained, the Authorising Officer within Lancashire County council will be **the Chief Executive, or in his absence the person acting as Head of Paid Service** (see paragraph 4.3 of the Code of Practice on Covert Surveillance). In practice, advice should be sought from the Director of Governance, Finance and Public Services.

3.5 Covert Video Camera and Audio Recording Equipment

3.5.1 This type of equipment may be considered for the purpose of recording the transaction/activity and obtaining photographic evidence of individuals or activities eg Trading Standards test purchases etc. Concealed cameras and voice recorders may be used to record activities and conversations without the knowledge of the other party.

3.5.2 The deployment of such equipment clearly has the potential for not only obtaining personal information in relation to the suspect, but also collateral intrusion into the activities of other persons in the vicinity of the operation.

3.5.3 Whilst the use of such equipment does not automatically require an authorisation, consideration should be given to safeguard against any challenge as to Human Rights infringements. The manner in which such equipment is used may also invoke the requirements relating to **Covert Human Intelligence Sources**. Prior to such covert use of equipment, advice should always be sought from an Authorising Officer.

3.6 Grounds For Granting Authorisations

3.6.1 Surveillance **must** be shown to be necessary on specific grounds. Investigations undertaken by Local Authorities can only be authorised:

For the purposes of preventing and detecting crime or for preventing disorder

3.6.2 The Council operates parallel procedures for Non-RIPA investigations/surveillance (Ref paragraph 1.2)

3.6.3 Local Authorities are not able to issue urgent oral authorisations.

3.6.4 Officers should normally be able to prepare investigations in advance to enable a written authorisation to be obtained.

3.7 Duration of Authorisation

3.7.1 An authorisation is valid for three months, unless cancelled.

This begins on the day on which the Authorising Officer grants the application, the expiry date will be considered to be three months minus one day (authorisation ceases at 23:59) from the date of signature by the Authorising Officer.

3.7.2 The Authorising Officer should ensure that a system is in place to review authorisations before it ceases to have effect. It is a matter for the Authorising Officer to determine how frequently a review is necessary and practicable. This is stated within the authorisation as a control measure. The authorisation should also be reviewed prior to expiry to determine whether or not a renewal is required and can be justified. It is a requirement that review forms are maintained by the Central Record.

3.8 Renewal

3.8.1 An authorisation may be renewed for a further period of three months. It may be renewed more than once provided that the renewal continues to meet the criteria for authorisation. The number of occasions it has been renewed should be recorded.

3.8.2 A record should also be made of the following:

- Any significant changes to the previous authorisation
- Why it is necessary to continue the surveillance
- The value to the investigation of the information obtained so far by surveillance
- An indication of the length of time further surveillance may be necessary

3.9 Cancellations

3.9.1 The Authorising Officer who granted or who last renewed the authorisation must cancel it if satisfied that the directed surveillance no longer satisfies the criteria outlined in this procedure.

3.9.2 An authorisation should also be cancelled once the activity which was the subject of the authorisation has been completed. **The authorisation should not be left to lapse as a result of the time limit expiring.**

3.9.3 The reason for cancellation of the authorisation must be detailed on the cancellation form. The cancellation form should be sent to the Central Record by the Authorising Officer.

3.10 Records

3.10.1 Material obtained as a result of surveillance activities should be recorded on the "Record of Product obtained by Directed Surveillance Form".

3.10.2 A copy of this form should be forwarded to the Authorising Officer to be filed with the Authorisation form. The original should be retained by the Investigating Officer as part of the case file. Internal procedures within some services may require that all authorisations and case materials are held within a specific secure location. A copy should be retained on the case file.

3.10.3 A record must also be maintained of the period over which surveillance has taken place.

3.11 Handling Product from Surveillance Activities

3.11.1 "Product" from Covert Surveillance activities may consist of:

- Photographs
- Video film
- Voice recordings
- Surveillance log
- Officer's notes

3.11.2 The above may be required as evidence in current or future criminal proceedings. Officers must have regard to the provisions of the Criminal Procedure and Investigations Act 1996 in relation to unused material. Product obtained via an authorisation may be used by the authority in other investigations.

3.11.3 Although specific legislation and the Data Protection Act 1998 provide for the disclosure of information in certain circumstances, additional controls are introduced by RIPA.

3.11.4 The use of any product obtained by authorised surveillance activities outside of the local authority or the Courts should only be authorised in the most exceptional circumstances. This requirement seeks to prevent product from being used for grounds other than that for which it was obtained. **Joint operations should make reference to the potential use of evidence by each agency.**

3.11.5 Officers may receive requests from other agencies for product, which may include photographs of suspects, descriptions and vehicle details. Where this information has been obtained under an authorisation, further guidance should be sought from the Authorising Officer since disclosure may not be permitted under the provisions of the Code of Practice.

3.12 Storage of Product

3.12.1 Officers should ensure that evidential protocols are observed to ensure the integrity, security and confidentiality of material. This will ensure that the requirements of the Data Protection Act are addressed.

3.13 Disposal of Product

3.13.1 Officers should ensure that personal data is not kept for longer than necessary for the purpose for which it was obtained as follows:

Product which is not required as evidence should not be retained any longer than necessary. It will be necessary to retain product for a sufficient time to safeguard the Council against any

civil claims against infringement of an individual's Human Rights. **A period of five years** ensures that all of the retention period requirements are addressed.

3.13.2 Product which has been destroyed should have this fact recorded on the record of product obtained by Directed Surveillance and be signed by the officer

3.13.3 An amended copy of this Record form should be forwarded to the Authorising Officer indicating destruction of the product obtained from the surveillance activity.

4 Guidance Notes for the Authorisation of Directed Surveillance

4.1 Activity Involved

Does the activity involve:

The necessary and proportionate systematic covert surveillance of an individual which is likely to gather personal information?

If so, an authorisation is required

4.1.1 Low-level activity for example, to determine whether a premise is still trading, will not require authorisation. Surveillance carried out in response to immediate events will also not require authorisation. However, if the surveillance activity continues for any period of time, an authorisation will be required.

4.1.2 The Authorising Officer must be satisfied that:
The authorisation is:

Necessary for the purposes of preventing and detecting crime or for preventing disorder or is pursuant to Council Policy for Non-RIPA surveillance (Ref Paragraph 1.2)

4.1.3 The Authorising Officer must also believe that the surveillance is proportionate to what it seeks to achieve, and is not excessive.

Where the identity of the subject is known to the officer, measures should also be taken to verify (where appropriate) the address under surveillance (eg electoral register, business rates, utility suppliers). The Authorising Officer must include some control measures within the authorisation eg reviews, circumstances in which the surveillance must be stopped.

4.1.4 The application should provide the background to the investigation and details of other methods which have failed to provide the information being sought or why other methods are not appropriate.

4.1.5 The description of the activity to be undertaken should be as comprehensive as possible describing how the surveillance will be undertaken, where it will occur and any equipment (eg cameras, video camera) which will be used. The investigating officers must not employ techniques which are not permitted by the authorisation.

4.1.6 The information being sought should be described and how this may provide evidence of the offence or other matter being investigated. The potential for collateral intrusion should be identified and plans to avoid/minimise such intrusion.

4.1.7 A statement must also be included as to the likelihood of obtaining confidential material/religious material eg the premises are a residential property, not located near any medical, religious or legal establishments, therefore there is no likelihood of obtaining any confidential/religious material.

4.1.8 If confidential material is being sought, or is likely to be obtained, a higher level of authorisation is required. This authorisation can only be given by the Chief Executive (or in his absence by the Head of Paid Service). Further guidance should be sought from the Director of Governance, Finance and Public Services if confidential material becomes relevant to the investigation.

4.1.9 Where applications for authorisations are refused, records of the refused application must also be maintained stating the reasons for the refusal and a service number. Copies of these refusals must be sent for inclusion in the central record.

4.2 Directed Surveillance via Recording of Telephone Conversations

4.2.1 The interception of communications sent by post or public telecommunications systems or private telecommunications systems attached to the public network may only be authorised by the Secretary of State (Part I RIPA).

4.2.2. The attachment of a general surveillance device eg "wiretapping" to a telecommunications system can only be undertaken under a warrant issued under Section 5 of RIPA (this is not available to the Council).

4.2.3 However an exception to the rule requiring a warrant exists, where one party to a telephone conversation consents and where an authorisation for directed surveillance is obtained. See Section 48(4) of RIPA.

4.2.4 For example, a member of the public may consent to the recording of a telephone conversation made by or to him/her. An officer may seek to record such a conversation to assist with an investigation into another person's activities.

4.2.5 An officer may also request a colleague to telephone another person as part of an investigation or may make the call himself or herself. These situations may require an authorisation to be granted depending on the nature of the information to be obtained. Where the call is a simple call to enquire about the availability or description of goods or services on offer for supply as any consumer would enquire, an authorisation will not be required.

4.2.6 Where the person giving consent is not present and a recording made, this activity is deemed to be intrusive surveillance and is beyond the scope of activities authorised for the Council.

4.2.7 Where the Officer acts in an overt capacity, ie clearly identifying the fact that they represent the Council, the activity will not require a directed surveillance authorisation.

4.2.8 Where the Officer makes/receives the call acting covertly, with the possibility of private information being obtained and a relationship being entered into, both a directed surveillance and CHIS authorisation will be required.

4.2.9 Similarly if a member of the public or another person acting as a covert source is asked to record a telephone conversation made/received by them, both authorisations will be required to be in place.

4.3 Test purchasing of age restricted products

4.3.1 Juveniles may only be authorised as a CHIS by the Head of Paid Service.

4.3.2 Officers should have regard to the Better Regulation Delivery Office code of Practice in determining whether directed surveillance authorisation will be necessary in the context of the planned operations.

4.3.3 Where the information obtained relates only to whether a sale is made or not, and no other information is likely to be obtained which is not already known to the officer directed surveillance authorisation is not necessary.

5 Covert Human Intelligence Sources (C.H.I.S.)

5.1 Introduction

5.1.1 This section of the guidance document deals with Covert Human Intelligence Sources (CHIS), more commonly known as:

Undercover Officers

Informants/Agents

Authorisation is a two-stage process:

- (a) to use a source
- (b) an authority for the conduct of a source

NB Juvenile surveillance CHIS – normally no-one under 18 years or any vulnerable individual should be considered as a CHIS (see 5.6 – 8)

5.1.2 A CHIS is a person who establishes or maintains a personal or other relationship with another person for the covert purpose of:

- (a) Using such a relationship to obtain information or to provide access to information to another person, or
- (b) Disclosing information obtained by the use of such a relationship or as a consequence of such a relationship.

In addition, a person who covertly provides information to a public authority is potentially a CHIS if he has obtained that information in the course of or as a consequence of the existence of a personal or other relationship, whether or not the relationship has been established or maintained for that purpose. A repeat informant if and when it becomes apparent that he obtains his information in that way is a CHIS to whom a duty of care is owed, if the information is acted upon. Legal advice should be taken before acting on the information provided by such a source.

5.1.3 The relationship is used covertly if, and only if, it is conducted in a manner calculated to ensure that the person is unaware of its purpose.

5.1.4 The Council receives complaints/information routinely from the public and traders regarding the alleged activities of individuals. The actions of these complainants do not generally fall within the definition of a covert source since they are a one off provision of information. However, a person may become a covert source if an ongoing relationship with the Council develops and activities described in paragraph 5.1.2 above are carried out.

5.1.5 Where the nature of the complaint relates to a matter where an officer requests the complainant to obtain further information covertly via a relationship with another individual, this activity is likely to fall within the scope of RIPA. An authorisation will therefore be required before seeking such information. By following the authorisation procedures, the Council will also be in a position to seek to safeguard the identity of the source in any subsequent legal proceedings. Further guidance should be sought from the Director of Governance, Finance and Public Services Group on this issue to ensure that the identities of any such individuals are safeguarded in the event of any legal proceedings, tribunals or disciplinary hearings.

5.1.6 The Code of Practice on Covert Human Intelligence Sources relates not only to sources (which may commonly be referred to as informants) but also the activities of sources, which consist of undercover officers who establish or maintain a covert relationship to obtain information and evidence.

5.1.7 Before a source may be engaged or an undercover officer deployed the use must be authorised. A separate authorisation for the conduct is also required. The use authorisation effectively registers the source with the Council. The conduct will address each separate operation/investigation in which that source may be involved.

5.1.8 In most cases, the use and conduct of a source will be restricted to a single investigation. However, situations may arise where different conducts are required which can be done once the use authorisation is in place. An example would be officers of a Service who undertake investigations which require different undercover stories to be adopted. The use authorisation enables them to undertake such covert activities. The conduct authorisation addresses each different cover story and activity within a different investigation/operation.

5.1.9 The same authorisation form is used for both use and conduct, with the deletion of Use*/Conduct* as appropriate. A conduct authorisation should be traceable back to the original use authority. A handler and controller must also be designated as part of the authorisation process and detailed records of the use, conduct and tasking of the source maintained.

5.1.10 An Authorising Officer is a person entitled to give an authorisation for the use or conduct of a source in accordance with Section 29 of the RIPA. The Head of Trading Standards and Trading Standards Managers have been designated as authorising officers.

5.1.11 The use of a CHIS should be **necessary** and **proportionate** to the matter being investigated (see para 3.1.9).

5.1.12 Failure to obtain an authorisation may render the Council liable to a claim of infringing the human rights of an individual and may adversely affect the admissibility of any evidence obtained by the use of covert methods employed by a source. It is also established that a public authority owes a duty of care to a CHIS. Failure to undertake a robust risk assessment and authorisation may also adversely affect the position of the Council in the source suffering any harm as a result of the activity in which they have been engaged.

5.1.13 Careful consideration must be given to any potential sensitivities which may exist before deciding whether to use a CHIS in a particular community or against a particular individual.

5.1.14 A separate directed surveillance authorisation is not required where any surveillance device (technical equipment) is used in the presence of the covert source.

5.1.15 A CHIS carrying surveillance equipment can be invited to enter residential premises or a private vehicle. However the CHIS cannot install surveillance equipment in residential

premises or a private vehicle since this activity constitutes intrusive surveillance and is not available for use by local authorities.

5.2 Further Guidance on the C.H.I.S Process.

5.2.1 When seeking an authorisation for an individual to act as a CHIS, consideration needs to be made of their potential role in the investigation. Are they prepared to be a witness? Do they need to be given protection as a result of providing information? The source may also be in a position to provide information relating to a number of different matters worthy of investigation.

5.2.2 The motives of potential sources need to be considered as part of the evaluation process. Could they be motivated by possible rewards or revenge? The aim could be to deflect attention away from themselves towards other individuals.

5.2.3 Has consideration been given to building up a detailed profile of the potential source and their associates? In all cases, a face-to-face meeting with the complainant or any other person considered as a potential source should take place. Please be aware that the individual may have needs in respect of language, hearing or sight.

5.2.4 Directed surveillance may be needed to evaluate the source. Consideration should be given in certain circumstances to carrying out checks on the source with the Police. A thorough risk assessment must be carried out on the potential source and the proposed conduct.

5.3 Management of Sources

5.3.1 Tasking is the assignment given to the source by the handler/controller asking him/her to obtain information or to take action to obtain information.

5.3.2 All authorisations should be in writing and in place before tasking a source. Every source must have a designated handler and controller. RIPA provides for urgent oral authorisations to be granted. However, Authorising Officers should bear in mind the potential risks and liabilities of authorising a CHIS without a risk assessment being undertaken. Such authorisations should therefore only be considered in exceptional circumstances.

5.4 Designated Handlers and Controllers for the Use of Covert Human Intelligence Sources

5.4.1 Where the CHIS is a complainant or an informant, the Handler will be the Investigating Officer and the Controller will be their line manager. Where the CHIS is employed by the Council acting in an undercover capacity, the Handler will be the officer's line manager and the Controller will be another manager within the Service. This arrangement will ensure that an officer does not act as a Controller and Authorising Officer thereby ensuring a level of independent scrutiny.

5.5 Security and Welfare of Sources

5.5.1 A source has no licence to commit crime. In certain circumstances it may be advisable to provide written guidance to the source explaining what is being requested of them and the limits of the tasking. The source should be asked to sign such a document to confirm that they understand the terms of reference.

5.5.2 A public authority deploying a source should take into account the safety and welfare of the source when carrying out any actions in relation to the authorisation or tasking. The foreseeable consequences of the tasking should also be considered.

5.5.3 A Risk Assessment should be undertaken to evaluate the source and to determine the risk to the source of any tasking and the likely consequences should the identity and role of the source become known to the subject or others involved with the subject.

5.5.4 The handler should draw to the attention of the controller:

The Risk Assessment

The Conduct of the Source

The Safety and Welfare of the Source

A Handler is responsible for:

Dealing with the source on behalf of the Council

Directing the day to day activities of the source

Recording the information supplied by the source

Monitoring the security and welfare of the source

5.5.5 Where a source is known or suspected of being involved in crime, consideration should be given to their motives in supplying information. It may also be a prudent step in the management of such a source to have two officers present during any meetings with the source. Background checks on the potential source via the Police Local Intelligence Officer should also be considered.

5.5.6 Special provisions exist for the conduct in use of juvenile sources (Under 18).

A source under 16 cannot be engaged to use a relationship with any person having parental responsibility for them. A source under 16 must have an appropriate adult present during any meetings and a risk assessment must also take place before granting or renewing an authorisation for the conduct and use of a source under 18. This will take account of physical and psychological risks.

See the Regulation of Investigatory Powers (Juveniles) Order 2000 for detailed guidance.

5.5.7 Special consideration should also be given to the use of vulnerable individuals as a source. This will require the highest level of Authorising Officer (see the code of practice for further guidance).

5.5.8 Authorisations for juvenile sources ie a source under the age of 18, when the authorisation is granted, have effect for one month. **Juvenile and vulnerable source authorisations can only be issued with the authorisation of the Head of Paid Service.**

5.6 The Application for Authorisation

Must include:

5.6.1 The ground on which the authorisation is sought:

- Preventing, detecting crime or preventing disorder (or other Lancashire County Council Non-Ripa policy circumstances)
- An explanation of the necessity and proportionality of the Use/Conduct.
- Where the matter relates to a specific investigation, details of that investigation or operation.

- Details of the purpose for which the source will be tasked.
- Details of what the source will be tasked to do.
- Details of the level of authority required having regard to any confidential material that might be obtained as a consequence of the authorisation. (This will invoke the requirement to be authorised by the Chief Executive if confidential material is being sought or is likely to be obtained).
- Details of who will be affected and plans to avoid/minimise collateral intrusion. Where this changes, the Authorising Officer must be informed and the authorisation reviewed.
- A detailed Risk Assessment must have been undertaken. A review may also be required if the assessment is not current.
- The Authorising Officer may wish to impose control measures on the authorisation that is granted.

5.6.2 Unless renewed or cancelled, an authorisation remains in force for:

12 months from the date of issue (Juvéniles - one month). The authorisation should be given a unique operation reference number and be recorded in management record file. Conduct authorisations should be referenced to the original use authorisation.

A duplicate/copy of the authorisation should be issued to the officer. This will ensure that the officer has a record of the scope of the activity authorised.

5.6.3 Applications which are refused should also be recorded together with the reasons for the refusal and a service number. Copies of these refusals must be sent for inclusion in the central record.

5.7 Duration of Authorisations

5.7.1 Authorisations have effect for a period of twelve months. It is suggested that the authorisation to use the source has effect for up to 12 months (other than juveniles, see above), however the conduct may be restricted to a shorter period or be made subject to reviews set as a control measure by the Authorising Officer.

5.7.2 Records of authorisations to be retained for a minimum period of one year to comply with the code. However, it will be policy to retain the records for a period of five years to safeguard against any civil claims against the Council under the Human Rights Act 1998.

5.7.3 Destruction of the authorisation form should be documented in the Authorising Officers Management Record file.

5.8 Renewals and Reviews

5.8.1 An authorisation may be renewed after the Authorising Officer reviews the use made of the source having regard to:

- a) The tasks given to the source
- b) The information obtained from the source.

If satisfied that the original authorisation criteria are met, a renewal may be granted.

5.8.2 Since an authorisation for a CHIS may remain in force for a period of twelve months, regular reviews should be undertaken to ensure the ongoing validity of the activity and the ongoing welfare and security of the source. Any changes to circumstances may require that further risk assessments are undertaken.

5.8.3 The reviews should be undertaken at intervals of no longer than three months and documented. Additional control measures may also be introduced as a result of a review. The Authorising Officer should implement a system to identify appropriate review dates.

5.9 Cancellations

5.9.1 An Authorising Officer must cancel an authorisation where:

The use or conduct of the source no longer meets the original authorisation criteria.

The procedures for managing the source are no longer in place.

Where possible the source should be informed of the cancellation, and this fact noted on the cancellation. The authorising officer should give directions on the handling, storage or destruction of the product of surveillance.

5.9.2 Where an investigation no longer requires the authorisation to be in place eg the evidence has been obtained, it should be cancelled promptly rather than allowed to expire through time, and the reason for cancellation documented.

5.10 Source Records

5.10.1 Records of Use of the source and the product provided by the source should be maintained by the service for a period of five years. Records should not be destroyed without the authority of the Authorising Officer. Destruction of records should be documented in the Central Records file.

5.10.2 The following information must be recorded:

- Authorisation Reference Number
- Authorising Officer
- Identity used by Source (If any)
- Identity of Source
- Reference used in the authority to refer to Source (If any)
- Information relating to security and welfare of Source
- A record that any risks to the security and welfare of the Source have been explained to and understood by the Source
- Records of reviews conducted on the continuing use and welfare of the Source
- The date when the Source was recruited

- The circumstances of the recruitment
- Identity of the Handler and Controller (and details of any changes)
- A record of the tasks and activities given to the Source
- A record of all contacts or communications between the Source and a person representing the Council
- The information obtained through the Source
- How the information is used
- A statement as to whether any payment, benefit or reward is provided by or on behalf of any investigating authority and details of it*.
- Reasons for cancelling/not renewing the authorisation and the date and the time of such a decision.

*(Please seek guidance regarding any payment, benefit or reward you may wish consider from an Authorising Officer).

Notes:

Necessity

For interference with an individual's private, family or business life to be necessary, the action must be for the purposes of preventing and detecting crime or of preventing disorder, be necessary to secure best evidence and that less covert or intrusive action would not serve the appropriate purpose.

Proportionality

The test for proportionality goes far beyond selecting the least intrusive method of investigation. The activity to be observed must not be trivial and must warrant the surveillance to be instigated.

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. Proportionality should contain a consideration of three elements: (a) that the proposed covert surveillance is proportional to the mischief under investigation; (b) that it is proportional to the degree of anticipated intrusion on the target and others and (c) it is the only option, other overt means having been considered and discounted

6 Risk Assessments for All RIPA/Surveillance Activities

6.1 Whenever undertaking covert directed surveillance or engaging in the conduct and use of a CHIS, the proposed activity must be the subject of a risk assessment and evaluation of the proposed Source.

6.2 Directed Surveillance activities clearly have the potential to expose staff to hazards should their activities become known to the subject or even to others during the operation. The use of a CHIS has the potential to expose handlers, undercover officers, agents/informants and

the public to health and safety risks. A duty of care may also lie with officers and the Council in managing sources.

6.3 Authorising Officers, Controllers, Handlers Undercover Officers and Investigating Officers must all have regard to the Council's Corporate Policy on Health and Safety. This addresses issues such as lone working and violence to staff.

6.4 It is a matter for each Service to determine the training required to ensure that staff are competent to undertake risk assessments of proposed operations/use of covert sources. All incidents/dangerous occurrences during the course of operations should be reported in accordance with the relevant Health and Safety Procedures.

6.5 Consideration should also be given to staff training requirements to engage in covert activities, surveillance and acting in an undercover capacity.

6.6 This section of this guidance document is intended to provide an overview which must be borne in mind when undertaking activities within the scope of RIPA.

6.7. Further Guidance on Health and Safety issues is available from Corporate HR/ Health and Safety sources.

6.8 Risk assessments for directed surveillance operations should be undertaken by the officer in charge of the proposed activity and submitted with the authorisation application.

6.9 Risk assessments for the use of a CHIS should be undertaken by the Handler and considered by the Controller as part of a risk management process. The assessment should then be forwarded to the Authorising Officer with the application. The assessment should consider the Ethical, Personal and Operational Risks of the proposed activity. The evaluation of a potential source is an important part of the application process.

6.10 Risk assessment is not a one off activity but an ongoing process throughout the operation and use of the source, since circumstances may change and a review may be required.

6.11 The nature of the risks surrounding the deployment and management of individual sources, handlers and operational activities will vary according to a wide range of factors on a case by case basis. Risk assessment allows the handler and controller to advise the Authorising Officer of the plan for managing the risks.

6.12 Authorising Officers will **not** authorise a Directed Surveillance operation or the use of a source without the evidence that the risks have been considered and a plan for their management exists.

7 Communications Data

7.1 Accessing Communications Data

7.1.1 The relevant provisions of Part I Chapter II of RIPA 2000 came into force on 5 January 2004. This established a formal legal framework, by which public authorities can obtain communications data by a lawful method, consistent with article 8 of the Human Rights Act 1998.

7.1.2 This section of the guidance document details the systems in place to ensure compliance with RIPA when an investigating officer seeks to obtain communications data within the scope of their enquiries.

7.1.3 In a similar manner to the existing provisions of RIPA relating to directed surveillance and the use of a CHIS, a process of submitting an application and securing an authorisation is established by the legislation and code of practice.

For this part of the Act the lead Service for the Authority is the Trading Standards Service. The Senior Responsible Officer for this Part of the Act is the Head of Service for Trading Standards.

7.1.4 Under Section 22(2) of RIPA, communications data which local authorities are entitled to access can only be sought for the purpose of:

The prevention and detection of crime or preventing disorder Section 22(2)(b)

The application is also put to the two tests under RIPA of necessity and proportionality.

7.1.5 This activity cannot be undertaken by an officer as communications service providers will only accept requests for information from accredited officers registered with the Home Office and termed **Single Points of Contact (SPOC)**.

7.1.6 The National Anti Fraud Network acts as the SPOC on behalf of Lancashire County Council. Applications are made by officers via a secure network, and forwarded to the designated persons in the Trading Standards Service for authorisation by means of this network.

7.1.7 Records of all applications, authorisations, notices, cancellations and refusals are maintained by NAFN. These are subject to periodic inspection by the body appointed to have an overview of this Part of the Act, the Interception Commissioner. As with other parts of RIPA there is a Central Record. For this part of the Act it is maintained by NAFN on behalf of Lancashire County Council.

7.2 What is Communications Data

7.2.1 Communications data is information held by communication service providers such as telecom, Internet and postal companies relating to the communications made by their customers.

7.2.2 Communications data includes the detail of the user, the use and the content (Traffic) of the communication. (Note: Local Authorities do not have the right to access traffic information).

7.3 Who are Communication Service Providers

7.3.1 Communications data is obtained from Communications Service Providers (CSPs) These include:

Telecommunications Providers

- Mobile Phone service providers eg Orange, Vodafone, T Mobile, O2
- Landline telephone service providers eg BT, NTL, Cable and Wireless
- International Simple Voice Resellers eg One-Tel

Internet Service Providers (ISPs)

Examples: AOL, BT, NTL

Virtual ISP's: Freeserve

Portals: Hotmail, Yahoo, Lycos

Postal Providers

Royal Mail, Parcelforce, DHL
Small parcel courier services
Accommodation agencies, which forward mail to clients

7.4 What Information can be Obtained from Communications Service Providers

7.4.1 Information about communications service users

Section 21(4)(c)

This category mainly includes personal records supplied to the CSP by the customer/subscriber. For example, their name and address, payment method, contact number etc.

- Name of account holder/subscriber
- Installation and billing address
- Method of payment/billing arrangements
- Collection/delivery arrangements for PO Box (but not where from or to)
- Other customer information such as any account notes, demographic information or sign up data (not passwords or personalised access information)

7.4.2 Information about the use of the Communications Service

Section 21(4)(b)

This category mainly includes everyday data collected relating to the customer's use of their communications system. For example, details of the dates and times they have made calls and which telephone numbers they have called.

- Outgoing calls on landline or contract or prepay mobile
- Timing and duration of service usage
- Itemised connection records
- Internet log on history
- Emails log (sent)
- Information on connection, disconnection and reconnection of services
- Information on the provision of conference calling, call messaging, call waiting and call barring
- Information about the provision and use of forwarding/redirection services (postal and telecom)
- Records of postal items, such as records of registered, recorded or special delivery postal items, records of parcel consignments, delivery and collection

7.4.3 Information about Communications (Traffic Data)

Section 21(4)(a)

Local authorities are not permitted to obtain 'traffic' data (ie the actual content of the communication or more detailed information or tracking)

This category mainly includes data generated by the CSP (network data) relating to a customer's use of their communication system (that the customer may not be aware of) for example, cell site data and routing information.

- Information identifying the sender and recipient (including copy recipients) of a communication
- Information identifying any location of a communication (such as mobile phone cell site locations data)
- Routing information identifying or selecting any apparatus through which a communication is transmitted – for example dynamic IP address allocation, web postings and e-mail headers
- Call detail records for specific calls (such as calling line identity – incoming calls)
- Web browsing information (only the web site name is disclosed and not the pages visited on the web site)
- Information written on the outside of a postal item (such as a letter or parcel)
- Online tracking of communications (including postal)
- Signalling information and dialling sequences that affects the routing of a communication (but not the delivery of information) in the investigation of “dial thru” fraud

Please note that these lists are not exhaustive and the CSPs cannot all provide the same information.

7.5 How can this Information be Obtained

7.5.1 Under Section 22(2) of RIPA, communications data which local authorities are entitled to access can only be sought if it for the purpose of:

The prevention and detection of crime or preventing disorder Section 22(2)(b)

7.5.2 The application is also put to the two tests under RIPA of necessity and proportionality.

7.5.3 RIPA establishes two methods by which communications data may be obtained:

Notices

Authorisations

7.5.4 A Notice under Section 22(4) of RIPA requires the CSP to collect or disclose the data on behalf of the public authority.

7.5.5 An authorisation under permits the public authority to collect the information. This may be where the CSP is not capable of collecting the data or a prior agreement is in place to allow the authority to access the data.

7.5.6 A CSP only has to provide the data in a reasonable time and if practical to do so. Different CSPs will have different types of data and differing retention periods.

7.5.7 When it becomes clear that a witness statement is required to formally produce the data which has been provided by the CSP, it should be requested without undue delay.

7.5.8 CSPs are entitled to recover reasonable costs incurred in providing the data and supplying witness statements. These vary from one CSP to another.

7.5.9 Where the notice or authorisation is approved by the Designated Person (Authorising Officer), it remains in force for a period of one month.

7.5.10 Notices and authorisations which are no longer required are no longer necessary or proportionate and must be cancelled.

7.6 Contact with the Communications Industry

7.6.1 Notices and, where appropriate, authorisations for communications data can only be channelled through single points of contact officers (SPOCs) within each public authority.

7.6.2 Similarly, requests for a witness statement following receipt of data from a CSP should also be via a SPOC.

7.6.3 SPOCs have been trained via a course accredited by the Home Office and the details of nominated SPOCs within each public authority are held by each CSP.

A CSP will therefore not deal with any request received from another un-accredited source of enquiry.

7.7 The Role of the SPOC

7.7.1 SPOCs will enable a more efficient regime to be developed as they will deal with CSPs and become aware of the data which they hold.

7.7.2 The SPOC plays an important role in the self-regulation and internal quality control of a public authority in ensuring that the requirements of RIPA are adhered to in requesting and obtaining communications data.

7.7.3 SPOCs reduce the demands upon CSPs from a great number of sources within a public authority.

7.7.4 A SPOC will be able to advise the applicant officer of the nature and practicalities of obtaining the data which is being requested.

7.7.5 The SPOC will advise the applicant on the content of the application request prior to submission to the Authorising Officer and where necessary refuse the application at that point for stated reasons.

7.7.6 The SPOC provides a safeguard for CSPs in ensuring that applications and notices are genuine.

7.7.7 SPOCs will retain a list of contact points with relevant CSPs.

7.7.8 NAFN provide a SPOC service on behalf of Lancashire County Council, and access details are maintained within the Trading Standards Service.

7.8 The Role of the Authorising Officers

7.8.1 This officer considers the necessity and proportionality of any application for communications data (see earlier sections of this Guidance Document which provide further information on these tests).

7.8.2 Consideration should also be given to the issue of collateral intrusion where other persons may be affected by the granting of the notice or authorisation.

7.8.3 The Authorising Officer is required to be an officer at least at the following level within the authority:

Director
Head of Service
Service Manager or equivalent

An Authorising Officer should have the necessary training and experience to be competent to authorise activity. A record of Authorising Officers will be kept within the Trading Standards Service.

7.9 The Application Process

7.9.1 The investigating officer should log in to NAFN and complete the relevant online form.

7.9.2 The application should then be submitted to the SPOC via NAFN who will give consideration to the following:

- Whether the data being requested is capable of being provided by the CSP
- The reasons for the data being required in terms of the investigation being conducted and the offence being investigated
- The grounds for necessity and proportionality being addressed
- Should the application be deemed satisfactory, a Notice or authorisation form will be completed, this together with the application form will be submitted to the Authorising Officer for authorisation or refusal.

Should the SPOC, however, consider there are grounds refusing the application, the form will be returned to the officer via the network.

When a Notice or authorisation is approved by the Authorising Officer, the SPOC will send it to the relevant CSP.

A Notice is only valid for a period of one month.

When, during the life of a Notice or authorisation, it is no longer necessary or proportionate or is no longer required by the investigation it must be cancelled.

7.10 Records and Errors

7.10.1 NAFN will retain records of all applications, refusals and authorisations passed to the designated person. Copies of all Notices/authorisations and refusals from the Authorising Officer will be retained.

7.10.2 This will allow a full audit trail for an application for obtaining communications data.

7.10.3 Documentation will be maintained by NAFN for inspection by the Interception Commissioner and complaints falling within the remit of the Complaints Tribunal.

7.10.4 Where any errors have occurred in granting authorisations or notices (eg subscriber details of an incorrect telephone number being obtained), a record must be kept and the matter explained by means of a report to the Commissioner as soon as practicable. NAFN or the authorising officers will notify the Trading Standards Head of Service of any errors as soon as possible so a report can be sent to the Interception Commissioner.

8 Seeking JP approval for authorisations

8.1 In all cases involving authorisation of Directed Surveillance, use of CHIS, and access to Communications Data, officers must seek prior approval from a JP before undertaking the activity.

8.2 If the JP is satisfied that the statutory tests have been met and that the use of the technique is necessary and proportionate he/she will issue an order approving the grant or renewal for the use of the technique as described in the application.

8.3 The officer will make an appointment at the relevant magistrates' court and will provide the JP with a copy of the original RIPA authorisation or notice and the supporting documents setting out the case. This forms the basis of the application to the JP and **should contain all information that is relied upon**. For communications data requests the RIPA authorisation or notice may seek to acquire consequential acquisition of specific subscriber information. The necessity and proportionality of acquiring consequential acquisition will be assessed by the JP as part of his consideration.

8.4 The original RIPA authorisation or notice 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). The court may wish to take a copy.

8.5 In addition, the local authority will provide the JP with a partially completed judicial application/order form.

8.6 The order section of this form will be completed by the JP and will be the official record of the JP's decision. The local authority will need to obtain judicial approval for all initial RIPA authorisations/applications **and renewals** and the local authority will need to retain a copy of the judicial application/order form after it has been signed by the JP. There is no requirement for the JP to consider either cancellations or internal reviews.

8.7 Further more detailed guidance and documentation should be accessed via the Home Office Guidance available on the www.gov.uk website.

8.8 Where JP approval is granted, this should be forwarded to the Director of Governance, Finance and Public Services for the Central record, and directed surveillance and CHIS activity can commence. For Communications Data, the approval needs to be returned to NAFN for the SPOC to contact the relevant CSP.

9 Lancashire County Council Auditing of Authorisations and Records

9.1 Each Service must annually undertake a review of their activity within the scope of RIPA and complete the annual RIPA and non RIPA return form which must be returned to the Director of Governance, Finance and Public Services.

9.2 A cross Council officer working group meets four times a year to monitor activity under the Act, arrange training and provide guidance. The Senior Responsible Officer is a member of the group and reports activity under RIPA to the Crime and Disorder Overview and Scrutiny Committee.

9.3 Part of the Audit will focus on a review of Projected Service activity and that all relevant staff have had sufficient training.

9.4 The following will also fall within the scope of the audit:

- Applications
- Authorisations
- Risk assessments
- Reviews and Renewals
- Cancellations
- Records of Product of Directed Surveillance
- Source Records
- Staff Awareness

9.5 The audit will seek to establish compliance of the authorisations/renewals/cancellations and records with the following:

- RIPA
- Statutory Instruments made under RIPA

- The Code of Practice on Covert Surveillance
- The Code of Practice on Covert Human Intelligence Sources
- The Code of Practice on Accessing Communications Data
- <https://www.gov.uk/government/collections/ripa-codes>
- Lancashire County Council RIPA Guidance Document and work instructions
- Guidance material issued by the OSC and IOCCO.

9.6 Non-conformities identified as a result of the audit will be reported to the relevant Service Management Team. Action taken by local management should be reported back to the Audit team.

9.7 The cross Council audit report will be held within the Central Record.

9.8 The processing of prosecution reports by a service should have regard to compliance with RIPA where investigations include covert surveillance and/or the use of a CHIS and/or obtaining communications data.

10 Inspections by the Office of the Surveillance Commissioner (OSC) and the Interception of Communications Commissioner (IOCCO)

10.1 The Codes of Practice include a section dealing with inspection by the Commissioners. They impose a requirement to comply with requests and to disclose or provide information requested by the Commissioner to allow him to carry out his functions.

10.2 During inspection visits, the codes require certain authorisations to be drawn to the Inspector's attention. These being where the Authorising Officer has authorised an activity he is directly involved in and those where confidential material is sought or obtained.

10.3 A further inspection regime has been established by RIPA in relation to accessing communications data. This is undertaken by the Interception of Communications Commissioner. These inspections take place through NAFN, with queries raised individually with local authorities where necessary. Similar recourse to the Tribunal exists for complaints against the activities of the authority.

11 Complaints

11.1 An independent complaints procedure is provided by the legislation. Complaints can be made to:

The Investigatory Powers Tribunal
PO Box 33220
London
SW1H 9ZQ
Tel: 0207 035 3711
<http://www.ipt-uk.com/>

12 Management Records

12.1 The management files, authorisations/renewals/cancellations and Source Records **must be kept in a secure place with restricted access**. These files will provide the basis of the audits and be liable for inspection by the Office of the Surveillance Commissioners. **Originals of the authorisations (including refusals), reviews, renewals and cancellations, must also be provided to the Central Record. This is managed by the Director of Governance, Finance and Public Services.** Officers forwarding confidential material to the Central Record must ensure that it is forwarded by a secure method.

12.2 Security of the Central Record

The Central Record is to be held in a suitable locked cabinet, or secure electronic folder.

Cabinet

Meeting to be held on 7 January 2016

Report of the Head of Service Legal and Democratic Services

Electoral Division affected: All

Report on the Waiver of Procurement Rules by the Deputy Leader of the County Council

Contact for further information:

Janet Nuttall, (01772) 533110, Executive Support Officer,

Janet.nuttall@lancashire.gov.uk

Executive Summary

Action taken by the Deputy Leader of the County Council under Procurement Rule 4.2 (Waiver of Procurement Rules). Such actions are required, under Procurement Rule 4.3, to be reported to Cabinet for information.

Recommendation

Cabinet is recommended to note the report.

Background and Advice

In accordance with the provisions of Procurement Rule 4.2, the Deputy Leader of the County Council agreed the following:

Extraction of Condition and Inventory Data from the Highways Video Survey (HVS)

Waived Procurement Rule 6 as set out in the full report.

This decision was implemented immediately for the purposes of Standing Order 34(3) as any delay could adversely affect the execution of the County Council's responsibilities.

This report was dealt with under Part II. The full report is not available for publication as it contains exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972. The report contains information relating to the financial or business affairs of any particular person (including the authority holding that information). It is considered that in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information

Extension of Contracts for Oral Health Improvement and the Emotional Health Team

Waived Procurement Rule 6.2 as set out in the full report.

This decision was implemented immediately for the purposes of Standing Order 34(3) as any delay could adversely affect the execution of the County Council's responsibilities.

This report was dealt with under Part II. The full report is not available for publication as it contains exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972. The report contains information relating to the financial or business affairs of any particular person (including the authority holding that information). It is considered that in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information

Extension to Contract for Children Centre Services in Morecambe

Waived Procurement Rule 6 as set out in the full report.

This decision was implemented immediately for the purposes of Standing Order 34(3) as any delay could adversely affect the execution of the County Council's responsibilities.

This report was dealt with under Part II. The full report is not available for publication as it contains exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972. The report contains information relating to the financial or business affairs of any particular person (including the authority holding that information). It is considered that in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information

Waiver of Procurement Rules in relation to a decision taken by the Board

Waived Procurement Rule 6.2 as set out in the full report.

This report was dealt with under Part II. The full report is not available for publication as it contains exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972. The report contains information relating to the financial or business affairs of any particular person (including the authority holding that information). It is considered that in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information

List of Background Papers

Paper	Date	Contact/Tel
<u>Report to the Deputy Leader of the County Council</u>	13 October 2015	Jane Johnson (01772) 534374
<u>Report to the Deputy Leader of the County Council</u>	10 November 2015	Jane Johnson (01772) 534374
<u>Report to the Deputy Leader of the County Council</u>	10 November 2015	Jane Johnson (01772) 534374
<u>Report to the Deputy Leader of the County Council</u>	8 December 2015	Jane Johnson (01772) 534374

Reason for inclusion in Part II, if appropriate

N/A

Cabinet

Meeting to be held on 7 January 2016

Report of the Head of Service Legal and Democratic Services

Electoral Division affected: All

Report of Key Decisions taken by the Leader of the County Council, the Deputy Leader of the County Council and Cabinet Members

Contact for further information:

Janet Nuttall, (01772) 533110, Executive Support Officer,

Janet.nuttall@lancashire.gov.uk

Executive Summary

Key Decisions taken by the Leader of the County Council, the Deputy Leader of the County Council and Cabinet Members since the previous meeting of Cabinet. The Key Decisions set out below, were considered by the Executive Scrutiny Committee at its meetings on 6 October, 3 and 24 November 2015. No changes were made to the recommendations set out in the reports and any additional comments made by the Committee were reported to each Cabinet Member at the time of decision.

Recommendation

Cabinet is recommended to note the Key Decisions detailed below.

1) Key Decisions taken by the Leader of the County Council

The following decisions were taken on 13 October 2015:

LEADER Rural Funding - Approval in Principle

The Leader of the County Council:

- (i) Gave approval in principle to enter in legal agreements with the Department for Environment, Food and Rural Affairs (DEFRA) and the Rural Payments Agency (RPA) in order for the County Council to deliver LEADER funding; and
- (ii) Approved that detailed approval to enter in legal agreements be delegated to the Director of Legal and Democratic Services in consultation with the Director of Programmes and Project Management and the Director of Financial Resources based upon the satisfactory resolution of the issues highlighted in the Legal section of the report

Award of Framework Contracts for the Provision of Servicing, Repair and Maintenance of Mechanical and Electrical Equipment

The Leader of the County Council approved the recommendations as set out in the full report.

This report was dealt with under Part II. The full report is not available for publication as it contains exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972. The report contains information relating to the financial or business affairs of any particular person (including the authority holding that information). It is considered that in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

The following decision was taken on 30 November 2015:

The Supply of Consultancy Services for the Transformation of Adult Social Care Services in Lancashire - Design and Implementation

The Leader of the County Council approved the recommendation as set out in the full report.

This decision was implemented immediately for the purposes of Standing Order 34(3) as any delay could adversely affect the execution of the County Council's responsibilities.

This report was dealt with under Part II The full report is not available for publication as it contains exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972. The report contains information relating to the financial or business affairs of any particular person (including the authority holding that information). It is considered that in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

2) Key Decision taken by the Deputy Leader of the County Council

The following decision was taken on 13 October 2015:

The Supply of Liquid Fuels for Lancashire County Council

The Deputy Leader of the County Council approved the recommendation as set out in the full report.

This report was dealt with under Part II. The full report is not available for publication as it contains exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972. The report contains information relating to the financial or business affairs of any particular person (including the authority holding that information). It is considered that in all the

circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

The following decision was taken on 14 December 2015:

Procurement of Service Providers to a Framework Agreement for the Provision of Local and School Bus Services in Lancashire

The Deputy Leader of the County Council approved the recommendation as set out in the full report.

This report was dealt with under Part II. The full report is not available for publication as it contains exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972. The report contains information relating to the financial or business affairs of any particular person (including the authority holding that information). It is considered that in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information

3) Key Decisions taken by the Cabinet Member for Environment, Planning and Cultural Services.

The following decision was taken on 7 October 2015:

Defra Small Scheme Pathfinder Funding

The Cabinet Member for Environment, Planning and Cultural Services approved the addition of a project to investigate a number of options to reduce flood risk in six small areas of the Upper Irwell in Rossendale fully funded by government grant to the Lancashire County Council's 2015/16 Capital Programme.

The following decisions were taken on 4 November 2015:

The New England Coast Path and Coastal Access - Working with Natural England

The Cabinet Member for Environment, Planning and Cultural Services:

- (i) approved the arrangements for working with Natural England to create the new English Coast Path and coastal access in Lancashire; and
- (ii) authorised the Head of Planning and Environment to enter into a memorandum of agreement with Natural England to recover 100% of the cost of county council staff time involved in the planning, development and establishment of the coast path and coastal access.

Libraries, Museums, Culture and Registrars (LMCR) Proposed Policy Clarification and Interim Fees and Charges Report

The Cabinet Member for Environment, Planning and Cultural Services approved the following recommendations:

- (i) To change the fines exemption policy so that only children (people aged under 18) are exempt from being fined for the late return of a loaned item.
- (ii) To re-define the definition of members who are exempt from paying a fee for loaning audio visual items.
- (iii) To introduce a £1 charge for all children's craft activities.
- (iv) To increase the inter-library loan fee for books when the supplying institution charges the full British Library rate.
- (v) To increase the charge for orchestral sets from £20 to £60 and for a set of vocal scores from £10 to £30.
- (vi) To provide free access through our Archive Service to copies of the original sound recordings for all material from the North West Sound Archive but where there is no existing copy of an original sound recording a charge is made so that an access copy can be created.

4) Key Decision taken by the Cabinet Member for Highways and Transport

The following decision was taken on 12 October 2015:

Regulation 10 Penalty Charge Notices

The Cabinet Member for Highways and Transport gave approval to change the current working practice of only issuing Regulation 10 Penalty Charge Notices (Postal PCN) where a PCN has been physically printed before the vehicle drives away to be in line with the DfT Operational Guidance that a postal PCN be issued if a Civil Enforcement Officer has started to issue a PCN.

The following decisions were taken on 10 November 2015:

Proposed Weight Restrictions on Segars Lane, Carr Moss Lane, Halsall, Old Moss Road, Up Holland and Higgins Lane, Burscough

The Cabinet Member for Highways and Transport approved the proposed weight restrictions.

Proposed Prohibition of Waiting and Loading/Unloading Various Roads, West Lancashire Borough

The Cabinet Member for Highways and Transport approved the proposed waiting and loading/unloading restrictions.

Approval for Highway Works in New Hall Lane, Preston

The Cabinet Member for Highways and Transport approved:

- (i) The proposals for the New Hall Lane local centre as set out in the plan attached as Appendix 'A' being works within existing highway extent at an estimated cost of £1,400,000 to be funded from the City Deal Infrastructure Delivery Fund; and

- (ii) That traffic modelling assessments and detailed design works be proceeded with and further consultation carried out as detailed in the report and final design be confirmed by Project Manager, City Deal

Local Priority Response Fund

The Cabinet Member for Highways and Transport:

- (i) Approved the creation of a £2.5 million Local Priority Response Fund in 2016/17 from the projected underspend on 2014/15 and Prior Year Starts programmes of the Highways Block of the Corporate Capital Programme;
- (ii) Approved that the allocation be used to invest in improvements to urban unclassified carriageways and footways;
- (iii) Approved that the allocation be apportioned across the twelve districts on the basis of 50% population and 50% on a highway needs assessment in each district; and
- (iv) Approved that County Councillors be invited to recommend improvements to urban unclassified carriageways and footways for consideration for funding from the allocation by the Cabinet Member for Highways and Transport.

Broughton By-Pass, Broughton

The Cabinet Member for Highways and Transport approved the recommendation as set out in the full report.

This report was dealt with under Part II. The full report is not available for publication as it contains exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972. The report contains information relating to the financial or business affairs of any particular person (including the authority holding that information). It is considered that in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Preston Western Distributor Road and North West Preston East West Link Road

The Cabinet Member for Highways and Transport approved the recommendation as set out in the full report.

This report was dealt with under Part II. The full report is not available for publication as it contains exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972. The report contains information relating to the financial or business affairs of any particular person (including the authority holding that information). It is considered that in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

The following decision was taken on 17 November 2015:

Pennine Reach: Statutory Quality Partnership Scheme

The Cabinet Member for Highways and Transport:

- (i) Gave approval for the County Council, in conjunction with Blackburn with Darwen Council, to formally advertise, publish and implement the Pennine Reach Statutory Quality Bus Partnership Scheme;
- (ii) Authorised the Head of Service Public and Integrated Transport, in consultation with the Director, Legal and Democratic Services, to make any amendments to the scheme within Lancashire as deemed appropriate following the formal consultation process with bus operators.

The following decisions were taken on 3 December 2015:

Pennine Reach: Proposal to Introduce a Residents Only Permit System on Car Parking Areas in Clayton-Le-Moors

The Cabinet Member for Highways and Transport approved:

- (i) the proposed parking management restrictions and arrangements described in this report;
- (ii) that a residents only permit system be introduced for those car parking areas identified within this report that have been, or are proposed to be, constructed as part of the Pennine Reach scheme;
- (iii) that the County Council's Parking Enforcement Service is authorised to administer the permit scheme and undertake enforcement in accordance with existing policies, procedures and charging arrangements; and
- (iv) the pricing listed within this report and that future pricing of the permit scheme be modified in line with any future policy decision by the County Council.

Pennine Reach - Bus Lane Enforcement

The Cabinet Member for Highways and Transport:

- (i) Approved the procurement and establishment of a comprehensive enforcement system with which to carry out bus lane enforcement should the proposed bus lanes be approved.
- (ii) Agreed that the letter shown at Appendix A be sent to the Secretary of State for Transport requesting permission to undertake Bus Lane Enforcement at the Penalty Charge Notice levels set out both in this report and in the letter should the bus lanes be approved.
- (iii) Approved, subject to successful procurement and approval from the Secretary of State for Transport as detailed above, the enforcement of both moving and stationary violations within the two bus lanes which are proposed to be introduced as part of the Pennine Reach Scheme, should they be approved.

5) Key Decision taken by the Cabinet Member for Adult and Community Services

The following decision was taken on 12 October 2015:

Development of Commissioning and Procurement Arrangements for the Mental Health Care and Support Market

The Cabinet Member for Adult and Community Services:

- (i) Endorsed the proposals for a programme of work to establish new procurement arrangements including a new provider framework for implementation by September 2016;
- (ii) Approved the work to design the contracts to enable new approaches and innovations in service delivery and payment mechanisms; and
- (iii) Approved the development of collaborative approaches with other commissioners to shape and manage the provider market.

The following decision was taken on 26 November 2015:

Decommissioning of Dispersed Accommodation Support Service in Preston

The Cabinet Member for Adult and Community Services approved the decommissioning of the service and the implementation of the decision immediately, in order to facilitate the ending of the service on 29 November 2015 or as soon as possible thereafter.

This decision was implemented immediately for the purposes of Standing Order 34(3) as any delay could adversely affect the execution of the County Council's responsibilities.

6) Key Decisions taken by the Cabinet Member for Children, Young People and Schools

The following decisions were taken on 5 November 2015:

Capital Strategy for Schools 2015/16 to 2017/18

The Cabinet Member for Children, Young People and Schools:

- (i) approved the proposed expenditure priorities for 2015/16 to 2017/18;
- (ii) noted the Targeted Basic Need fund and request officers to submit bid(s) that are consistent with DfE criteria and the strategic approach for the provision of additional school places, as required; and
- (iii) noted that further reports will be presented on individual project costs; any further in year allocations of capital funding; and any adjustments to the three year programme as required.

Capital Strategy for Schools - Condition Led Capital Investment Programme, 2015/17

The Cabinet Member for Children, Young People and Schools approved the recommendations as set out in the full report.

This report was dealt with under Part II. The full report is not available for publication as it contains exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972. The report contains information relating to the financial or business affairs of any particular person (including the authority holding that information). It is considered that in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Proposed Capital Programme for Regularising Primary School Admission Numbers and Suitability Projects in Mainstream Primary Schools to Address Accommodation Issues as Identified by Ofsted

The Cabinet Member for Children, Young People and Schools approved the recommendations as set out in the full report.

This report was dealt with under Part II. The full report is not available for publication as it contains exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972. The report contains information relating to the financial or business affairs of any particular person (including the authority holding that information). It is considered that in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

7) Key Decision taken by the Cabinet Member for Health and Wellbeing

The following decisions were taken on 10 November 2015:

Capacity Building for Health Improvement

The Cabinet Member for Health and Wellbeing

- (i) Gave approval to the preferred option, Option A for implementation, and
- (ii) Authorised the Director of Public Health to move the agreed option forward.

Review of the Burnley Chai Centre

The Cabinet Member for Health and Wellbeing

- (i) gave approval to pursue Option 1 for implementation, and
- (ii) agreed that options for the local community to provide this service would be explored.

The following decisions were taken on the 10 December 2015:

Approval to Award a Contract for the Children and Young People's Substance Misuse Service

The Cabinet Member for Health and Wellbeing approved the recommendation as set out in the full report.

This report was dealt with under Part II. The full report is not available for publication as it contains exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972. The report contains information relating to the financial or business affairs of any particular person (including the authority holding that information). It is considered that in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Approval to Award a Contract for Lancashire Tobacco and Nicotine Addiction Treatment Service

The Cabinet Member for Health and Wellbeing approved the recommendation as set out in the full report.

This report was dealt with under Part II. The full report is not available for publication as it contains exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972. The report contains information relating to the financial or business affairs of any particular person (including the authority holding that information). It is considered that in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

8) Key Decision taken by the Cabinet Member for Children Young People and Schools, the Cabinet Member for Adult and Community Services and the Cabinet Member for Health and Wellbeing.

The following decision was taken by the Cabinet Member for Children Young People and Schools on 5 November 2015, the Cabinet Member for Adult and Community Services on the 9 November 2015 and the Cabinet Member for Health and Wellbeing on 10 November 2015:

Provision of Open Access Integrated Sexual Health Services for People of All Age and Young People

The Cabinet Member for Children, Young People and Schools, the Cabinet Member for Adult and Community Services and the Cabinet Member for Health and Wellbeing approved the recommendations as set out in the full report.

This report was dealt with under Part II. The full report is not available for publication as it contains exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972. The report contains information relating to the financial or business affairs of any particular person (including the authority holding that information). It is considered that in all the

circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

9) Key Decision taken by the Cabinet Member for Children, Young People and Schools and the Cabinet Member for Health and Wellbeing

The following decision was taken by the Cabinet Member for Children, Young People and Schools on the 5 November 2015 and the Cabinet Member for Health and Wellbeing on 10 November 2015:

Approval to award contracts for the 'School Nursing Service'

The Cabinet Member for Children, Young People and Schools and the Cabinet Member for Health and Wellbeing approved the recommendations as set out in the full report.

This report was dealt with under Part II. The full report is not available for publication as it contains exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972. The report contains information relating to the financial or business affairs of any particular person (including the authority holding that information). It is considered that in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

10) Key Decisions taken by the Cabinet Member for Adult and Community Services and the Cabinet Member for Health and Wellbeing

The following decisions were taken by the Cabinet Member for Adult and Community Services on 7 December 2015 and the Cabinet Member for Health and Wellbeing on 10 December 2015:

Proposal for the Introduction of a Lancashire Blue Badge Policy, including the Introduction of Charging for Blue Badges

The Cabinet Member for Adult and Community Services and the Cabinet Member for Health and Wellbeing approved the draft Lancashire Blue Badge Policy to be effective from 1st January 2016, and to include the introduction of a £10 charge for all successful Blue Badge applications and reported lost or damaged replacement Blue Badges issued to Lancashire residents.

Approval to Award a Contract for the ' East Lancashire Recovery Orientated Adult Substance Misuse Treatment Service'

The Cabinet Member for Adult and Community Services and the Cabinet Member for Health and Wellbeing approved the recommendation as set out in the full report.

This report was dealt with under Part II. The full report is not available for publication as it contains exempt information as defined in Paragraph 3 of Part 1

of Schedule 12A to the Local Government Act 1972. The report contains information relating to the financial or business affairs of any particular person (including the authority holding that information). It is considered that in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

List of Background Papers

Paper	Date	Contact/Tel
Reports of Key Decisions taken by the Leader of the County Council, the Deputy Leader of the County Council and Cabinet Members	25 September 2015 – 14 December 2015	Janet Nuttall, Legal and Democratic Services, (01772) 533110

Reason for inclusion in Part II, if appropriate

N/A

