

Lancashire County Council

Internal Scrutiny Committee

Friday, 21st July, 2017 at 10.00 am in Cabinet Room 'B' - The Diamond Jubilee Room, County Hall, Preston

Agenda

Part I (Open to Press and Public)

No.	Item
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- | | | |
|-----------|---|-----------------|
| 1. | Apologies | |
| 2. | Constitution: Membership; Chair and Deputy Chair; and Terms of Reference of the Internal Scrutiny Committee | (Pages 1 - 8) |
| 3. | 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. | |
| 4. | Minutes of the Meeting held on 13 April 2017 | (Pages 9 - 14) |
| 5. | Local Authority Funding Update | (Pages 15 - 40) |
| 6. | Regulation of Investigatory Powers Act 2000 | (Pages 41 - 52) |
| 7. | Work Plan 2017/18 | (Pages 53 - 70) |
| 8. | 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. | |

9. Date of Next Meeting and Future Meeting Dates

The next meeting of the Internal Scrutiny Committee will be held on Friday 22 September, 10:00am in Cabinet Room B, County Hall, Preston.

Future meetings of the Committee for 2017/18 municipal year are as follows:

- 22 September
- 17 November
- 19 January 2018
- 16 March 2018
- 18 May 2018

All meetings will commence at 10am in Cabinet Room B, County Hall.

I Young
Director of Governance,
Finance and Public Services

County Hall
Preston

Internal Scrutiny Committee

Meeting to be held on 21 July 2017

Electoral Division affected: None

Constitution: Membership; Chair and Deputy Chair; and Terms of Reference of the Internal Scrutiny Committee (Appendix 'A' refers)

Contact for further information:

Samantha Parker, 01772 538221, Legal and Democratic Services

sam.parker@lancashire.gov.uk

Executive Summary

This report sets out the constitution, membership, chair and deputy chair and terms of reference of the Internal Scrutiny Committee for the municipal year 2017/18.

Recommendation

The Committee is asked to note:

- i. The appointment of County Councillors John Shedwick and Tony Jones as Chair and Deputy Chair of the Committee for the remainder of the 2017/18 municipal year;
- ii. the new Membership of the Committee following the County Council's Annual Meeting on 25 May 2017; and
- iii. the update Terms of Reference of the Committee

Background

- i) Constitution and Membership of the Internal Scrutiny Committee

The Full Council, at its meeting on 25 May 2017, agreed that the Internal Scrutiny Committee shall comprise 12 County Councillors (on the basis of 7 Conservative, 4 Labour and 1 Liberal Democrat).

It was also agreed that County Councillor nominations to serve on the Committee should be submitted to the Director of Governance, Finance and Public Services by the respective Political Groups. Accordingly, the membership of the Committee, as confirmed by the Political Group Secretaries is as follows:

County Councillors (12):

A Ali	E Nash
J Fillis	D O'Toole
P Greenall	P Rigby
S Holgate	J Shedwick
T Jones	D Whipp
E Lewis	G Wilkins

The Full Council also appointed County Councillors John Shedwick and Tony Jones as Chair and Deputy Chair of the Committee for the remainder of the 2017/18 municipal year.

ii) Terms of Reference

New Terms of Reference for all the Scrutiny Committees were approved under the County Council's urgent business procedure on 20 June 2017 and are set out at Appendix A to this report for information. The Committee will note that paragraphs one to 10 on the first two pages of the appendix apply to all Scrutiny Committees, with the subsequent paragraphs under each sub-heading relating to each Committee.

Consultations

N/A

Risk Management

There are no risk management implications arising from this item.

Local Government (Access to Information) Act 1985 List of Background Papers

Paper	Date	Contact/Directorate/Ext
Agenda and minutes of the meeting of Full Council	25 May 2017	Dave Gorman, Legal and Democratic Services 01772 534261
Constitutional Amendments	20 June 2017	Chris Mather, Legal and Democratic Services 01772 533559

Reason for inclusion in Part II, if appropriate

N/A.

Appendix A

Part 2 – Article 5 (Overview and Scrutiny)

The council has established the following Overview and Scrutiny Committees:

Committee	Responsibility	Membership
Internal Scrutiny Committee	Review and Scrutinise decisions, actions and work of the Council	12 County Councillors
Health Scrutiny Committee	Statutory responsibility for scrutiny of adult and universal health services	12 County Councillors, plus 12 non-voting co-opted members, nominated by the 12 district councils
Children's Services Scrutiny Committee	Review and scrutinise children and young people's services including the statutory powers of a scrutiny committee as they relate to the NHS.	12 County Councillors, one non-voting co-opted youth council representative, and five non-voting district council members with one member being nominated by each Children's Partnership Board
Education Scrutiny Committee	Review and scrutinise issues around education services provided by the council including those education functions of a Children's Services authority.	16 County Councillors and 5 co-optees, (comprising three Church representatives and two parent governor representatives) who shall have voting rights in relation to any education functions which are the responsibility of the Executive
External Scrutiny Committee	Review and scrutinise issues, services and activities carried out by external organisations	12 County Councillors

All Overview and Scrutiny Committees have the following Terms of Reference:

1. To review decisions made, or other action taken, in connection with the discharge of any functions which are undertaken by the Cabinet collectively, or in the case of urgent decisions which cannot await a Cabinet meeting by the Leader of the Council (or in his/her absence the Deputy Leader) and the relevant Cabinet Member, or Cabinet committees.

2. To make reports or recommendations to the Full Council, the Cabinet, the Leader, Deputy Leader or other Cabinet Members as necessary or Cabinet committees with respect to the discharge of any functions which are undertaken by them or in respect of any functions which are not the responsibility of the Cabinet.
3. To hold general policy reviews and to assist in the development of future policies and strategies (whether requested by the Full Council or the Cabinet, individual Cabinet members, Cabinet committees, or decided by the Committee itself) and, after consulting with any appropriate interested parties, to make recommendations to the Cabinet, individual Cabinet members, Cabinet committees, Full Council or external organisations as appropriate.
4. To consider any matter brought to it following a request by a County Councillor or a Co-optee of the Committee who wishes the issue to be considered.
5. To consider requests for "Call In" in accordance with the Procedural Standing Orders – Overview and Scrutiny Rules at Appendix C – Appendix 3 of the Constitution
6. To request a report by the Cabinet to Full Council where a decision which was not treated as being a key decision has been made and the Overview and Scrutiny Committee is of the opinion that the decision should have been treated as a key decision
7. To request the Internal Scrutiny Committee to establish task groups and other working groups and panels as necessary.
8. To request that the Internal Scrutiny Committee establish as necessary joint working arrangements with district councils and other neighbouring authorities
9. To invite to any meeting of the Committee and permit to participate in discussion and debate, but not to vote, any person not a County Councillor whom the Committee considers would assist it in carrying out its functions.
10. To require any Councillor, an Executive Director or a senior officer nominated by him/her to attend any meeting of the Committee to answer questions and discuss issues.

Internal Scrutiny Committee

1. To review and scrutinise all services provided by the authority, unless specifically covered by the Terms of Reference of another Overview and Scrutiny Committee.

2. To consider matters relating to the general effectiveness and development of Overview and Scrutiny in the authority including training for county councillors and co-optees.
3. To consider requests from the other Overview and Scrutiny Committees on the establishment of task groups, and to establish, task groups, and other working groups and panels as necessary, as well as joint working arrangements with District councils and other neighbouring authorities including joint committees to exercise the statutory function of joint health scrutiny committees under the NHS Act 2006.
4. To determine which Overview and Scrutiny Committee considers a particular matter where this is not clear.
5. To establish arrangements for the scrutiny of member development, and receive reports from the Member Development Working Group.
6. To recommend the Full Council to co-opt on to a Committee persons with appropriate expertise, without voting rights

Children's Services Scrutiny Committee

1. To scrutinise matters relating to services for Children and Young People delivered by the authority and other relevant partners.

The following provisions relating to scrutiny of health and social care relate to services for children and young people:

2. To review and scrutinise any matter relating to the planning, provision and operation of the health service in the area and make reports and recommendations to NHS bodies as appropriate,
3. In reviewing any matter relating to the planning, provision and operation of the health service in the area, to invite interested parties to comment on the matter and take account of relevant information available, particularly that provided by the Local Healthwatch
4. The review and scrutinise any local services planned or provided by other agencies which contribute towards the health improvement and the reduction of health inequalities in Lancashire and to make recommendations to those agencies, as appropriate
5. In the case of contested NHS proposals for substantial service changes, to take steps to reach agreement with the NHS body
6. In the case of contested NHS proposals for substantial service changes where agreement cannot be reached with the NHS, to refer the matter to the relevant Secretary of State.

7. To refer to the relevant Secretary of State any NHS proposal which the Committee feels has been the subject of inadequate consultation.
8. To scrutinise the social care services provided or commissioned by NHS bodies exercising local authority functions under Section 31 of the Health Act 1999.
9. To draw up a forward programme of health scrutiny in consultation with other local authorities, NHS partners, the Local Healthwatch and other key stakeholders.
10. To acknowledge within 20 working days to referrals on relevant matters from the Local Healthwatch or Local Healthwatch contractor, and to keep the referrer informed of any action taken in relation to the matter
11. To require the Chief Executives of local NHS bodies to attend before the Committee to answer questions, and to invite the chairs and non-executive directors of local NHS bodies to appear before the Committee to give evidence.
12. To invite any officer of any NHS body to attend before the Committee to answer questions or give evidence.

Education Scrutiny Committee

1. To scrutinise matters relating to education delivered by the authority and other relevant partners.
2. To fulfil all the statutory functions of an Overview and Scrutiny Committee as they relate to education functions of a Children's Services Authority.

Health Scrutiny Committee

1. To scrutinise matters relating to health and adult social care delivered by the authority, the National Health Service and other relevant partners.
2. In reviewing any matter relating to the planning, provision and operation of the health service in the area, to invite interested parties to comment on the matter and take account of relevant information available, particularly that provided by the Local Healthwatch
3. In the case of contested NHS proposals for substantial service changes, to take steps to reach agreement with the NHS body
4. In the case of contested NHS proposals for substantial service changes where agreement cannot be reached with the NHS, to refer the matter to the relevant Secretary of State.

5. To refer to the relevant Secretary of State any NHS proposal which the Committee feels has been the subject of inadequate consultation.
6. To scrutinise the social care services provided or commissioned by NHS bodies exercising local authority functions under the Health and Social Care Act 2012.
7. To request that the Internal Scrutiny Committee establish as necessary joint working arrangements with district councils and other neighbouring authorities.
8. To draw up a forward programme of health scrutiny in consultation with other local authorities, NHS partners, the Local Healthwatch and other key stakeholders.
9. To acknowledge within 20 working days to referrals on relevant matters from the Local Healthwatch or Local Healthwatch contractor, and to keep the referrer informed of any action taken in relation to the matter.
10. To require the Chief Executives of local NHS bodies to attend before the Committee to answer questions, and to invite the chairs and non-executive directors of local NHS bodies to appear before the Committee to give evidence.
11. To invite any officer of any NHS body to attend before the Committee to answer questions or give evidence.
12. To recommend the Full Council to co-opt on to the Committee persons with appropriate expertise in relevant health matters, without voting rights.
13. To establish and make arrangements for a Health Steering Group the main purpose of which to be to manage the workload of the full Committee more effectively in the light of the increasing number of changes to health services.

External Scrutiny Committee

1. To review and scrutinise issues, services or activities carried out by external organisations including public bodies, the voluntary and private sectors, partnerships and traded services which affect Lancashire or its inhabitants, and to make recommendations to the Full Council, Cabinet, Cabinet Members, Cabinet committees or external organisations as appropriate.
2. To review and scrutinise the operation of the Crime and Disorder Reduction Partnership in Lancashire in accordance with the Police and Justice Act 2006 and make reports and recommendations to the responsible bodies as appropriate

3. In connection with 2. above, to require an officer or employee of any of the responsible bodies to attend before the Committee to answer questions
4. To co-opt additional members in accordance with the Police and Justice Act 2006 if required, and to determine whether those co-opted members should be voting or non-voting
5. To review and scrutinise the exercise by risk management authorities of flood risk management functions or coastal erosion risk management functions which may affect the local authority's area

Lancashire County Council

Scrutiny Committee

Minutes of the Meeting held on Thursday, 13th April, 2017 at 10.00 am in Cabinet Room 'B' - The Diamond Jubilee Room, County Hall, Preston

Present:

County Councillor Bill Winlow (Chair)

County Councillors

Ms L Collinge	R Shewan
C Crompton	V Taylor
S Holgate	D Watts
D O'Toole	G Wilkins
J Shedwick	B Yates

County Councillor Steven Holgate replaced County Councillor Alyson Barnes for this meeting.

1. Apologies

Apologies were received from County Councillors Liz Oades and Miles Parkinson.

2. Disclosure of Pecuniary and Non-Interests

None were disclosed.

3. Minutes of the Meeting held on 17 March 2017

Resolved: That the minutes of the meeting held on 17 March 2017 be confirmed and signed by the Chair.

4. Flood Risk Management Works Programme in Lancashire

The Chair welcomed Rachel Crompton, Flood Risk Manager, and, Jim Walker from the Environment Agency, to the meeting.

A report was presented on the Flood Risk Management Works Programme in Lancashire. At its meeting on 13 May 2016, the Scrutiny Committee received a report outlining the County Council's involvement in response and recovery to the widespread floods in December 2015, and the subsequent flood risk management activities delivered in partnership with the Lancashire Resilience Forum, the Environment Agency and other partner organisations.

The report updated the Committee as requested on progress with repairs and diagnostics for longer term repairs and programmes of works, and informed on how work was progressing to increase the resilience of communities and improve communications.

Questions and comments by the Committee in relation to the report were as follows:

- Since the flooding various funds had come into Lancashire of which the following had been paid. There had been direct grants to households which totalled £6.264m and direct grants to businesses which totalled £8.542m
- £1.7m had been spent in 2016 on basic maintenance to protect against flooding. £5.5m had been spent in Lancashire on repairing main river flood defences damaged by the storms.
- Regarding the capital programme across all the risk management authorities, £127m was looking to be spent on the flood risk infrastructure up to 2021.
- The Committee enquired what responsibility lay with the Environment Agency (EA) around advising local authorities about the areas that were at risk from flooding. It was pointed out that the EA had limited responsibilities to advising local authorities. The EA would give advice to planning authorities in certain areas i.e. close to main river areas or where the flood map had been revised since 2015.
- LCC worked jointly with the EA on advice for local authorities where there were river implications.
- From this financial year LCC could offer pre application advice to developers about historic flood risks recorded in the areas where they wanted to build houses. LCC's remit under the Planning Policy Guidance was to support sustainable development.
- In terms of the EA remedial works for flood damaged assets this was now complete and the defence assets were back up to standard. Regarding LCC's remedial works programme its immediate actions was to make sure highways gullies were free flowing again. LCC's improvement programme was underway and it was accessing funds from Defra for major projects. LCC had also its own capital of £1m a year for highways drainage improvements.
- There was a historic urban drainage system around the Burscough area which needed looking at by LCC so that localised improvements could be made. There had been consultations with Parish Councils and local Flood Groups and there were also catchment challenges around this area of West Lancashire where fields and villages relied on pumping.

- It was pointed out to Members that the EA had no intention of turning off Alt Crossens Pumping Station in West Lancashire.
- In terms of investment the Local Levy, the EA was looking at a few locations where there could be changes in land use management in order to provide flood risk management benefits.
- The gully cleaning regime was finely balanced between the demands placed on it by residents, the work needed on gullies to make the drainage function effective, and, the resources available.
- The EA was not funded for land drainage of agricultural land. A Drainage Board had previously been set up in West Lancashire to undertake this very purpose but this had been annulled in 1983. The EA had been working with its partners over a number of years to bring back Drainage Boards but funding for this was proving to be a problem.
- The Committee was informed that LCC was a statutory consultee and had to wait for planning authorities to contact LCC. LCC then had 21 days to respond to the development proposals with its advice. A number of the developments had very little flood risk appraisal at which point LCC would object to the proposals.
- Regarding the sewage network United Utilities were not a statutory consultee in terms of the planning process for development control purposes. They were invited to engage in local planning development as part of their own forward planning process so as to know what investment they need to make as part of their sewage treatment.
- Local plans across Lancashire were in the process of being refreshed and revised. Some of the Local Planning Authorities were keen to develop robust surface water management policies.
- Information on partnership contributions on all flood risk and investment in Lancashire were all available in the public domain.
- United Utilities would deal with urgent flood damage repairs to their assets and had a 6 yearly Asset Investment Programme which they were currently refreshing. Ofwat had recently instructed the water companies to give higher priority to areas of public concern.
- Discussions were taking place about the reopening of the flood plain at Brockholes and the EA was hopeful of a resolution soon.
- The EA had strong dialogue with insurance companies around flood risk.
- Members felt it would be to have independent organisations as consultees on flood issues on new developments.

Resolved: The Committee receive the report and note its contents.

5. Public Health Savings Update

The Chair welcomed Clare Platt, Head of Service Health, Equity, Welfare and Partnerships, to the meeting.

A report was presented informing the Committee that as part of the savings within the Public Health Service a number of externally procured services had been highlighted as areas where savings could be made. The report provided an update on progress toward achieving those savings and set out the steps being taken to deliver the savings which were yet to be delivered.

A cumulative savings of £11.792m was included in the current plans to be delivered by March 2018. The savings would be delivered by a mixture of re-procurement of whole services, contract variations and through decommissioning a number of historic Public Health Services which were part of the Primary Care Trust (PCT) legacy prior to 2014 when the responsibility for Public Health transferred to LCC.

The Substance Misuse, Tobacco, Sexual Health and Healthy Lifestyles contracts had all been re-procured within a reduced financial envelope, budget monitoring showed a pressure in 2016/17 of approximately £0.911m due to delays in the Substance Misuse re-procurement, however this would be achieved in full in 2017/18.

Regarding the Healthy Child Programme, due to a number of issues relating to the services for children, young people and families, there had been a delay in being able to carry out this full procurement exercise.

In February 2017 a decision was taken by the Deputy Leader, the Cabinet Member for Health and Wellbeing, and the Cabinet Member for Children and Young People to offer a 1 year contract extension to the current providers. A full procurement exercise, including the achievement of remaining savings of £1.7m would be completed by April 2018.

There was a risk to LCC being able to deliver the savings of £1.7m in 2017/18 if the current provider was unwilling or unable to work within the new reduced financial envelope.

Questions and comments by the Committee in relation to the report were as follows:

- The Committee was informed that the team of Public Health officers within the commissioning element of contracts was 16 altogether, responsible for around £60m of commissioned services.
- Regarding re-procurement under the new financial envelope there were concerns that in trying to make the £11.792m savings, the Public Health

team would lose ground on the objectives it was trying to achieve. Difficult decisions were being made by officers as to where work priorities were. There were opportunities to make efficiency savings. Decisions made were on the basis of supporting Health and Wellbeing outcomes.

- The issues around the delay of the Substance Misuse re-procurement was to do with the fact it was a complex area of work and the volume of activity.
- The main area for finding savings going forward was the Healthy Child Programme. This was another complex piece of work due to trying to fit in with the provision LCC provided at the front line.
- Delivery of savings had not been comprised by the delay in the Substance Misuse re-procurement and the Public Health team was now ahead of target on the delivery of savings.

Resolved:

1. The Committee note the contents of the report
2. An update report come to the Scrutiny Committee later in the year.

6. Work Plan and Task Group Update

The Work Plan was presented to the Committee regarding upcoming topics and future topics not yet scheduled as well as an update on ongoing Task Groups.

Members were informed that there was going to be a TAMP event at County Hall in June. This was to explain how the TAMP works,

Future recommended topics for the Work Plan were around Flood Risk Management. These included:

- Gully cleaning
- United Utilities Asset Management Plan
- Representatives from insurance companies.

Also for the Work Plan was an update on Public Health contracts.

Resolved: The Committee approve the 2016/17 work plan

7. Urgent Business

There were no items of Urgent Business.

8. Date of Next Meeting

The next meeting of the Scrutiny Committee will take place on Friday 23 June at 10.00am in Cabinet Room B (The Diamond Jubilee Room) at the County Hall, Preston.

I Young
Director of Governance, Finance
and Public Services

County Hall
Preston

Internal Scrutiny Committee

Meeting to be held on Friday, 21 July 2017

Electoral Division affected: (All Divisions);
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Local Authority Funding Update

Appendix 'A' refers

Contact for further information:

Samantha Parker, Tel: 01772 538221, Senior Democratic Services Officer (Overview and Scrutiny), sam.parker@lancashire.gov.uk

Executive Summary

A presentation will be provided to the Internal Scrutiny Committee outlining the funding streams and mechanisms that the County Council are subject to.

Recommendation

The Internal Scrutiny Committee is asked to:

1. Note and comment on the current funding streams
2. Determine how the Committee wishes to further scrutinise the funding streams available to the County Council.

Background and Advice

On 9 February 2017, the County Council set a net budget of £724.821m for 2017/18 which contains both income and expenditure.

The budget was supported heavily from reserves (c£104m) including a specific amount of £57.106m to support the identified financial gap in 2017/18. There remains a funding gap in 2018/19 and there is an urgent requirement to identify proposals for additional savings in 2017/18 to be delivered in 2018/19.

The presentation will provide further information on the specific funding streams and mechanisms that the County Council is subject to as part of its budget and medium term financial strategy (MTFS). The presentation will also provide details of potential future funding models. From this, the Committee are recommended to identify how it wishes to further scrutinise the funding streams available to the County Council.

Consultations

NA

Implications:

This item has the following implications, as indicated:

Risk management

No specific risks are deemed to arise as a result of this report.

Local Government (Access to Information) Act 1985

List of Background Papers

Paper	Date	Contact/Tel
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NA	NA	NA
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Reason for inclusion in Part II, if appropriate

NA

Local Authority Funding Update Scrutiny Committee 21st July 2017

The County Council's Budget

- On 9th February 2017 the County Council set a net budget of £724.821m for 2017/18

This includes the following:

- Expenditure – £1,396m
 - Income – (£567m)
 - Net contribution from reserves – (£104m)
 - Net Budget - £725m
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- Please note - a specific contribution from reserves of £57.106m (included within the figures above) is needed to fill the identified funding gap and balance the budget.
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- There is still a funding gap of £88.040m in 2018/19 so there is an urgent need to identify proposals for additional savings early in 2017/18 that can be delivered in 2018/19

The Funding Gap

	2017/18 £m	2018/19 £m	2019/20 £m	2020/21 £m	Total £m
Spending Gap as reported to Cabinet December 2016	60.350	26.497	31.032	28.254	146.133
Add change to forecast of spending:					
Pay and Pensions	0.000	0.000	0.000	0.000	0.000
Price Inflation and Cost Changes	0.502	0.179	0.009	0.115	0.805
Service Demand and Volume Pressures	-0.606	-0.536	-0.140	0.030	-1.252
Adjustments to Savings Programme	-0.414	0.000	0.000	0.000	-0.414
Total change to forecast of spending	-0.518	-0.357	-0.131	0.145	-0.861
Funding	-5.787	4.977	-0.671	9.598	8.117
Total change to forecast of resources	-5.787	4.977	-0.671	9.598	8.117
Revised funding gap reported to Cabinet 19th January 2017	54.045	31.117	30.230	37.997	153.389
Funding – change to Council Tax Base	-3.644	-0.183	-0.193	-0.121	-4.141
Loss of specific grant	6.705	0.000	0.000	0.000	6.705
Revised funding gap	57.106	30.934	30.037	37.876	155.953

Cumulative Funding Gap

If savings are not made each year to reduce the gap and balance the budget, by 2020/21 the funding gap will be £155.953m

					Total £m
2017/18 (£m)	57.106	57.106	57.106	57.106	228.424
2018/19 (£m)		30.934	30.934	30.934	92.802
2019/20 (£m)			30.037	30.037	60.074
2020/21 (£m)				37.876	37.876
Total	57.106	88.040	118.077	155.953	419.176

Funding

	2017/18 £m	2018/19 £m	2019/20 £m	2020/21 £m
Revenue Support Grant	81.508	56.979	32.894	26.928
Business Rates	181.391	186.747	193.323	198.540
Council Tax	434.271	456.115	479.056	493.475
New Homes Bonus	5.244	3.679	3.530	3.530
Better Care Fund	3.210	22.656	40.014	40.014
Adult Care Support Grant	5.543	0.000	0.000	0.000
Transitional Grant	1.154	0.000	0.000	0.000
Capital receipts	12.500	5.000	0.000	0.000
Total	724.821	731.176	748.817	762.487

Funding – Improved Better Care Fund

- At the 2017-18 Budget announcement a total of £2.021bn was announced as supplementary funding to the improved Better Care Fund (iBCF). This was to recognise that all local authorities face pressure on the provision of adult social care.
 - This resulted in Lancashire County Council receiving the following allocations:
 - 2017/18 – £24.886m
 - 2018/19 - £15.736m
 - 2019/20 - £7.799m
- *Please note that this is non-recurrent funding
- This funding has not yet been built into the County Council's budget as discussions are ongoing with NHS colleagues as to how the additional amount shall be spent.

Local Government Financial Settlement

- The Secretary of State announced the Provisional Local Government Finance Settlement on 15th December 2016. It is important to note that the Settlement only covers the period up to 2019/20.
- It is currently anticipated that a new system of local government finance will be in place in 2020/21 which involves local government retaining all of the business rates and the impact of a review of the funding formula. (However, details of the scheme and the impact on Lancashire are not known.)

Core Spending Power

- Core spending power measures the core revenue funding available for local authority services, including Council Tax and locally retained business rates.
- The core spending power details published by the Government includes items such as the Settlement Funding Assessment (SFA), Council Tax, New Homes Bonus, Improved Better Care Fund and the Transitional Grant.

Core Spending Power

- The average core spending per dwelling in 2017/18 was £1,804.8 across England.

£	
2017-18	
Lancashire / Unitary Comparision	
Lancashire Total**	1673.5
Blackburn**	1958.9
Blackpool**	1812.8
(**includes Lancashire Fire)	
England	1804.8
Lancashire Variation from England	131.3
Total resource gap using England average	70,651,729.8

NB: Lancashire Total includes both county and district spending power per dwelling (average £278.8)– table shows like for like comparison

Settlement Funding Assessment

- The Secretary of State announces a Settlement Funding Assessment (SFA) for each authority.

	2016/17 £m	2017/18 £m	2018/19 £m	2019/20 £m
Settlement Funding Assessment (SFA)	292.249	258.456	239.621	222.032
Funded by:				
Revenue Support Grant		81.508	56.979	32.894
Business Rate Baseline		176.948	182.642	189.138
Total		258.456	239.621	222.032
Reduction in SFA		-33.793	-18.835	-17.589

Settlement Funding Assessment

- The County Council chose not to accept the four year funding settlement offered by the Government as analysis indicates there are insufficient resources to cover statutory services in later years. Therefore the following funding figures may be subject to change
- Although the Revenue Support Grant has been confirmed for 2017/18 the decision not to take the four year settlement could result in future years grant being subject to change. As part of this forecast Revenue Support Grant is assumed to reduce each year until ultimately it is phased out completely by April 2021 at the latest.

Settlement Funding Assessment

The business rates budget consists of:

- Business rate top up grant
- Business rate income from District Councils
- Section 31 grants
- In addition, Lancashire has a pooled business rates arrangement which has resulted in an additional £0.400m income being included within financial forecasts.

Council Tax

- Local Authorities can raise Council Tax by a maximum of 1.99% annually, a higher increase would result in a required referendum.
- In addition upper tier Authorities are able to increase council tax further from to support Adult Social Care budgets (with a cap of 3% rather than the previously announced 2% each year) but can only increase Council Tax by a maximum of 6% over the financial years 2017/18 – 2019/20. The settlement also announced that there would be no Adult Social Care Precept in 2020/21.
- The County Council's Medium Term Financial Strategy (MTFS) currently contains an Adult Social Care precept increase of 2% for 2017/18, 2018/19 and 2019/20.

Council Tax

- In recent benchmarking information completed by PwC comparator analysis with the other 26 County Councils demonstrated that Council Tax income was the 3rd lowest nationally based on income per head population. (Appendix A shows the Council Tax yield comparisons)
- The findings also indicated that the composition of the Council Tax base in Lancashire plays a key role in the relatively low level of Council Tax income.
- The band D Council Tax rate for Lancashire was found to be 13th highest out of 27 Counties but the number of Band D equivalent properties per head of population is relatively low in comparison to other County Councils.

New Homes Bonus and Transitional Grant

- The New Homes Bonus (NHB) was introduced to encourage Local Authorities to grant planning permissions for building new homes in return for additional revenue.
- As part of the provisional settlement announced in December 2016 the Secretary of State announced that payments would be received for 5 years from 2017/18 and 4 years in future years. In addition no NHB will be given for the first 0.4% of growth. These changes were made to wholly fund the 2017/18 Adult Care Support Grant which has resulted in a new gain for Lancashire overall (County Council, District Council and Unitary Councils) benefitting by £4.033m.
- Transitional Grant relates to 2 year additional funding announced by the Secretary of State to support the transition to a lower level of Revenue Support Grant in 2016/17 and 2017/18

Capital Receipts

- In previous years the use of capital receipts (income derived from the sale of long term assets) has been restricted to funding capital expenditure or the repayment of debt.
- However, from 1st April 2016 the Government introduced the flexibility for capital receipts to be used to fund revenue expenditure which meets certain criteria.
- To meet the qualifying criteria the revenue expenditure needs to relate to activity which is designed to generate ongoing revenue savings or to transform a service which results in revenue savings or improvements in the quality of provision.

Capital Receipts

- In 2016/17 £5.000m of capital receipts were used to support the revenue budget
- In addition, based on estimates of the capital receipts that can be generated, and utilised in supporting revenue expenditure (and therefore built into the MTFS), are as follows:

	2017/18 £m	2018/19 £m	Total £m
Capital receipts generated	12.500	5.000	17.500

Adult Care Support Grant & Better Care Fund

- A key announcement by the Secretary of State as part of the provisional settlement in December 2016 was a new £240m Adult Care Support Grant for 2017/18 only with Lancashire County Council's allocation being £5.543m. This has been wholly funded by the changes that the Secretary of State announced in relation to New Homes Bonus allocations.
- Last year the Government announced a new Better Care Fund with an additional £1.5bn being provided by 2019/20 to support the cost of social care. The first allocation was due in 2017/18 with allocations increasing up to 2019/20.

Improved Better Care Fund (iBCF)

- At the 2017-18 Budget announcement a total of £2.021 was announced as supplementary funding to the improved Better Care Fund (iBCF) nationally. This is to be distributed as £1.01 billion in 2017-18, £674 million in 2018-19 and £337 million in 2019-20.
- This determination may be used only for the purposes of meeting adult social care needs; reducing pressures on the NHS, including supporting more people to be discharged from hospital when they are ready; and ensuring that the local social care provider market is supported.
- Discussions are ongoing with NHS colleagues across Lancashire to determine the appropriate use of the additional funding.

100% Business Rates Retention and Funding Formula Review

- In 2015 the Chancellor announced that local government as a whole would be able to keep 100% of business rates by 2020.
- There is currently a system of redistribution (top-ups and tariffs) to reflect there are councils with relatively higher needs but lower income from business rates and vice versa.
- The Secretary of State for Communities and Local Government has also announced a full review of needs and redistribution which will be used as the starting point for the new system when it comes into force.
- The County Council currently receives a top-up grant, primarily as a result of having Adult Social Care responsibilities, and there is insufficient information currently, although work is progressing nationally with a number of complete and planned consultations regarding the changes, to model what the financial impact of the changes will be and the financial impact on the County Council.

100% Business Rates Retention and Funding Formula Review

- Although the recent General Election may have caused some delays in progressing the scheduled timetable surrounding 100% business rates retention and funding formula review a representative from DCLG recently stated that:

“Ministers remain committed to local government taking greater control of their income, as outlined in the Manifesto. We [DCLG] are engaging Ministers on the options for future reform without an immediate Bill and we will be touch once we are in a position to resume working with you on the future of local government finance reform”.

APPENDIX A - Yield from a 2% increase in Council Tax

	Yield	Population (Mid-year population estimates 2015)	Yield per 10,000 population
Surrey	11,735,946	1,168,809	100,409
Dorset	3,917,379	420,585	93,141
Herefordshire	1,679,132	188,099	89,269
Northumberland	2,790,314	315,263	88,508
Buckinghamshire	4,652,177	528,400	88,043
West Sussex	7,215,790	836,256	86,287
Wiltshire	4,177,099	486,093	85,932
Oxfordshire	5,765,246	677,810	85,057
Cornwall	4,654,381	549,404	84,717
East Sussex	4,533,355	544,064	83,324
Hertfordshire	9,640,651	1,166,339	82,657
Devon	6,343,483	773,077	82,055
Warwickshire	4,532,323	554,002	81,811
North Yorkshire	4,835,970	602,277	80,295
Cumbria	3,841,215	497,996	77,133
Shropshire	2,385,160	311,380	76,600
Cambridgeshire	4,882,590	647,238	75,437
Gloucestershire	4,622,322	617,162	74,896
Essex	10,805,080	1,443,151	74,871
Hampshire	10,094,107	1,353,043	74,603
Worcestershire	4,242,575	578,593	73,326
Kent	10,970,707	1,524,719	71,952
Suffolk	5,316,183	741,895	71,657
Norfolk	6,228,282	884,978	70,378
Somerset	3,834,619	545,390	70,310
Leicestershire	4,667,444	675,309	69,116
Nottinghamshire	5,530,832	805,848	68,634
Derbyshire	5,244,680	782,365	67,036
Durham	3,482,850	519,695	67,017
Northamptonshire	4,764,270	723,026	65,893
Lancashire	7,743,582	1,191,691	64,980
Staffordshire	5,578,294	862,562	64,671
Lincolnshire	4,666,390	736,665	63,345

Internal Scrutiny Committee

Meeting to be held on Friday, 21 July 2017

Electoral Division affected: (All Divisions);
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Regulation of Investigatory Powers Act 2000

Appendix 'A' refers

Contact for further information:

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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. The use of RIPA by a public authority provides protection against a claim of infringement of the right to respect for a private and family life, home and correspondence.

Members are required to review the use of RIPA and Cabinet 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 Internal Scrutiny Committee.

Recommendation

The Committee is asked to note the content of this report.

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.

Where an officer believes that covert surveillance is necessary and proportionate to an investigation, they must seek authorisation from an authorising officer using the statutory forms provided by the Home Office. There are currently four senior managers in Trading Standards designated as authorising officers along with the Director of Legal and Democratic Services.

Once authorised, the application must also then be presented to a magistrate's court for approval, before surveillance can be undertaken.

RIPA covers directed surveillance, the use of a Covert Human Intelligence Source (CHIS), and the acquisition, disclosure and retention of communications data. However, the acquisition of communications data takes place under a formal regime established with communications providers and is therefore not required to be the subject of review by Members.

Directed surveillance is covert where the subject is unaware of the surveillance 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 is specifically identified for the purposes of the investigation or operation), and
- c) Is not by way of an immediate response to events or circumstances where it would not be reasonably practicable for an authorisation to be sought for the carrying out of the surveillance.

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.

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

Within the County Council covert surveillance authorised pursuant to RIPA is used very infrequently and primarily in connection with Trading Standards activities, typically against rogue traders, counterfeiters or individuals engaged in selling tobacco or alcohol products to children. This is because local authorities are only able to have recourse to the protection that RIPA provides where the activities undertaken relate to the prevention or detection of crime for offences carrying a penalty of at least six months imprisonment, or offences relating to the sale of alcohol and tobacco 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.

The Council is required to designate a Senior Responsible Officer (SRO), who is the Director of Governance, Finance and Public Services. All authorisations are held centrally and the SRO's role is to review them on a regular (at least quarterly) basis.

Local authorities are subject to triennial inspections undertaken by OSC, the most recent OSC inspection having taken place on 28 February 2017. The resulting report was positive and was considered in June 2017 by Cabinet. A redacted copy of the report is at Appendix A. The redactions have been made to protect the integrity of specific investigations.

RIPA Directed surveillance and CHIS activity

Since February 2016 there have been 6 authorisations for the use of covert surveillance. Four of these were for the use of a CHIS in connection with the supply of counterfeit goods over the internet, and two were for directed surveillance, one in connection with unsafe furniture and one into motor vehicle fraud. No prosecutions resulted from the social media investigations, but all sellers have ceased their activity. A warrant was executed in relation to the motor vehicle fraud and the case will be reported for prosecution in the near future. In the product safety case a Limited company and one of its directors were convicted of two offences in connection with the supply of furniture which failed to comply with fire safety regulations. The prosecution would not have been possible without the surveillance which had been authorised to monitor activity at a premise to identify the owner of the business.

Non-RIPA Surveillance

Although RIPA authorisations can only be granted in connection with the prevention or detection of crime, this does not mean that surveillance cannot be authorised in other circumstances, only that the Council cannot obtain the protection that RIPA provides.

There are therefore circumstances in which officers may need to undertake covert surveillance for other important purposes, for example in serious disciplinary matters involving employee misconduct, or for investigations into child protection matters, or abuse of vulnerable individuals, or for investigations into criminal offences where the penalty of six months imprisonment does not apply.

In such cases, based on advice provided by OSC, the Council adopts the same procedures that apply to RIPA on a "shadow" basis, where the Director of Legal and Democratic Services is the authorising officer. There is however no requirement in such cases to obtain approval from the Magistrates Court.

One such authorisation has been granted, in September 2016, in relation to covert surveillance carried out by the Trading Standards Service, for the purposes of conducting a social experiment in relation to public attitudes to the proxy sales of alcohol.

A social experiment of this nature is a real field experimentation of how people/society react to situations both real and hypothetical. The most prolific supply

channels of alcohol to under 18s in Lancashire is via parents. The Alcohol and Tobacco team from Trading Standards conducted a social experiment at a store in Clitheroe. Professional actors were used to play lead roles, comprehensive risk assessments and a 'shadow' RIPA authorisation were put in place. The experiment was covertly recorded on film by a specialist production company.

An actor played the role of father in a store, accompanied by an actress who played the role of his 15 year old daughter. The father exaggeratedly stated his intention, to other customers, to purchase a large amount of alcohol for her 16th birthday party and in another scenario the daughter put immense pressure on her father to buy her a bottle of vodka for a party she was attending that evening. The store was a partner in the controlled experiment and fully aware of the circumstances. The team were on site from 08:30 to 18:30.

There were 12 significant reactions to the social experiment. Some agreed that it was ok for the 16 year old to have the alcohol, whilst others had much stronger views to the contrary. 12 members of the public were approached by the team outside the store and all were supportive when the experiment was fully explained to them. They all signed consents for Trading Standards to use the footage for our campaign

The resulting film will be professionally edited and used in a social media campaign to educate parents and others of the risks and the law.

Consultations

N/A

Implications:

This item has the following implications, as indicated:

Risk management

Failure to maintain a robust and clear corporate approach to RIPA principles could expose the Council to the risk of action by individuals who claim that their human rights have been infringed. This could lead to reputational damage, and potential damage to criminal proceedings with the financial implications (costs/compensation) that this could present also being a key factor.

Reason for inclusion in Part II, if appropriate

N/A



OSC/INSP/075

Office of Surveillance
Commissioners

The Rt. Hon. Lord Igor Judge
Chief Surveillance Commissioner
Office of Surveillance Commissioners
PO Box 29105
London
SW1V 1ZU

2nd March 2017

OSC INSPECTION – LANCASHIRE COUNTY COUNCIL

1. Date of inspection

28th February 2017

2. Inspector

Graham Wright

3. Introduction

3.1 Lancashire County Council is an upper-tier authority serving a county area comprising 12 district councils. These include Preston City Council, which has not acquired unitary status, but excludes the unitary councils of Blackpool and Blackburn with Darwen. The Council employs approximately 10,000 staff (not including teaching staff) serving a population of approximately 1.2 million.

3.2 The Senior Corporate Management structure comprises the Chief Executive, two Corporate Directors and four Directors.

3.3 The previous OSC inspection of the Council was conducted by Sir David Clarke, Assistant Surveillance Commissioner, on 3rd February 2014. Since that inspection there have been two directed surveillance authorisations and five Covert Human Intelligence Source (CHIS) authorisations granted. None was concerned with the likely acquisition of confidential information and I was not informed of any breaches.

3.4 The Chief Executive is Ms Jo Turton and the address for correspondence is County Hall, Fishergate, Preston, Lancashire, PR1 8XJ.

4. Inspection approach

4.1 The purpose of the inspection was to examine policies, procedures and operations in respect of Part II of the Regulation of Investigatory Powers Act (RIPA) 2000.

4.2 My visit commenced with a meeting with Ian Young, Corporate Director and Deputy Chief Executive (I had been scheduled to meet with the Chief Executive but she had been called away at short notice to be part of the selection panel in connection with the appointment of a new Chief Constable for Lancashire Constabulary). We discussed collaborative working in the County and the recent application to central government for greater devolved powers, the outcome of which was awaited. We also discussed the Council's use of covert activity, social networking sites (SNS) and the internet in support of its statutory functions.

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- 4.3 I then met with Laura Sales, Director of Legal and Democratic Services, who has day to day oversight of RIPA matters, and Amanda Maxim, Trading Standards Manager, who is the main authorising officer. We discussed the response to the previous recommendations, training provision, core authorisation processes and I gave feed-back on the pre-read material that I had been provided with. We were later joined by Ian Young, Director of Governance Finance and Public Services, who is the 'senior responsible officer'. I discussed with him his role as SRO and engagement with elected members.
- 4.4 I examined the Central Record of authorisations and several authorisations granted in the period since the previous inspection
- 4.5 There was a group meeting with the under mentioned staff during which we discussed the use of covert activity, SNS and the internet by staff from the departments represented:

- 4.6 I gave feed-back to Trading Standards staff on the authorisations that I examined.
- 4.7 I concluded my visit by providing feed-back on the main findings to Laura Sales, Ian Young and Amanda Maxim.

5. Review of progress on recommendations

- 5.1 The 2014 inspection made four recommendations.
- 5.2 *That Authorising Officers be appointed so that the Senior Responsible Officer no longer acts as an Authorising Officer but exercises the oversight responsibility described in the Codes of Practice; (this is effectively a repeat recommendation)*
- The SRO is no longer an authorising officer. Four Trading Standards Managers now carry out this function. Completed.
- 5.3 *That the extant CHIS authorisation should be cancelled.*
- The case was cancelled a short time after the inspection. Completed.
- 5.4 *That LCC's RIPA Policy be further revised in accordance with this report.*
- The points for revision have all been addressed in the latest policy document. Completed.
- 5.5 *That LCC consider conducting its future juvenile test purchase operations under directed surveillance authorisation, the premises to be tested being limited to a manageable number, addressing the issues of necessity and proportionality in relation to each.*

The Council has reconsidered its position in relation to how it conducts under-age test purchase operations and consider that authorisations for directed surveillance are not appropriate as there is little likelihood of acquiring private information. It was agreed that all such operations should be considered on an individual basis (for more details in this regard see this report section *Directed Surveillance* below). Completed.

6. Policies and procedures

6.1 As I have mentioned above, I had been provided with a copy of the policy and guidance documents to examine prior to my visit and I gave feed-back on them during the inspection. Those documents and my comments in relation to them are as follows:

- i. *Corporate Policy and Guidance on RIPA* – the main policy document and in many ways it is comprehensive and useful. There is reference at paragraph 1.2.2 that any child custody/protection investigation must use a Non RIPA process if covert surveillance is to be conducted. When I queried this I was told that several years ago during an OSC inspection staff had been told that RIPA was not to be used for child protection matters. I can find no reference in previous inspection reports but I accept that there has been this interpretation put on advice given during an inspection. I pointed out that similar to many aspects of RIPA, there needs to be a case by case assessment and it may be that some child care cases may not meet the criterion of 'preventing or detecting crime' but many cases/investigations would ultimately be to prevent or detect cruelty, abuse, neglect, other harm be posed against a child and would thus be afforded the full protection of RIPA.

Paragraph 4.2.8 refers to a member of staff making a telephone call to a person who does not know the real identity of the caller and a relationship being formed. In such case an authorisation for CHIS and directed surveillance will be required. This is not correct; an authorisation for CHIS would suffice.¹

- ii. *Shadow RIPA Surveillance Policy* – a recently revised policy intending to cater for covert activity in support of investigations into matters that are not criminal, or where the matter under investigation does not meet the threshold imposed by the Protection of Freedoms Act 2012. There is a clear explanation of the rationale and procedure to be adopted, which is closely aligned to that for full RIPA authorisation.
- iii. *CCTV Policy* – a comprehensive policy covering the usual subjects of Data Protection Act compliance, subject access, signage, retention of images etc. There is very little reference to RIPA but the CCTV systems that the Council owns are not city centre systems, they are highway related. There is a protocol with Lancashire Constabulary relating to the use of the system under a RIPA authorisation.
- iv. *Covert Social Networking Checks and Surveillance Policy* – a recently drawn up policy (November 2016) and described as 'a piece of work in progress'. It contains basic and accurate advice and recognises the potential that this form of activity may meet the criteria for authorisation as directed surveillance or CHIS. What it lacks is more specific and practically based guidance for practitioners and based upon my findings there is a need for this and careful consideration as to how such guidance is best disseminated. I make a recommendation in this regard.

6.2 The core authorisation procedure is that applicants would complete the requisite forms, which are available in electronic format on the Intranet. There would usually be discussion between the applicant, manager and authorising officer prior to an application being generated. The application is forwarded to an authorising officer for completion of their input. When this is done the applicant will take the authorisation to a local Magistrates' Court for approval. Original documents are retained by the authorising officer and a copy is sent to Information Governance for completion of the Central Record and secure retention.

¹ CHIS Code of Practice paragraphs 3.24 and 3.25 refer

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- 6.3 In relation to the Shadow RIPA process, applicants will complete forms designed for this purpose (basically RIPA forms but with all references to RIPA taken out) which are available electronically. As above, there would be discussion regarding the proposed activity with managers etc. The completed form will be submitted to the Director of Legal and Democratic Services (who is trained as an authorising officer) for approval and then a copy is forwarded to a Trading Standards Manager (who is an authorising officer) who will retain the record and complete an entry on the Central Record created for this purpose. I pointed out that it would make more sense for there to be a more aligned process for RIPA and Shadow RIPA authorisations (except for the Magisterial approval).
- 6.4 The 'senior responsible officer' is the Director of Governance Finance and Public Services. This officer is a trained authorising officer but no longer acts in this capacity. He carries out quarterly checks of the Central Record and authorisations granted. The SRO has provided RIPA refresher briefings to the Chief Executive and Deputy Chief Executive.
- 6.5 Annual reports on RIPA usage are provided by the SRO to the Executive Scrutiny Committee and Cabinet.
7. **Related training**
- 7.1 In 2015 authorising officers, managers and applicants attended a one day RIPA Conference in Leeds. Staff from councils throughout the North of England attended.
- 7.2 In September 2016 an external trainer carried out a one day training event for authorising officers, the SRO and applicants from LCC. Staff from other councils in the County were also able to attend. I saw the contents of the training and found it to be comprehensive and accurate. There was good use made of scenarios pertinent to the audience.
8. **Significant issues arising**
- Central Record and Oversight*
- 8.1 There is currently a single Central Record of authorisations that contains details of directed surveillance and CHIS authorisations. It is in the form of a computerised spreadsheet. Whilst all the required information is recorded, it would be preferable that separate records for CHIS and directed surveillance be maintained. When I pointed this out, it was accepted and could be easily implemented.
- 8.2 Within the processes for authorisation there is a lack of objective oversight in a formal manner, albeit that I accepted that throughout the application and authorisation process dialogue took place and advice would be sought. Only the quarterly checks made by the SRO provides any quality assurance but this can be several months after an authorisation is granted, which is a long time if there is a flaw in the authorisation. This can still happen notwithstanding the requirement for judicial approval by a Magistrate.
- Directed Surveillance*
- 8.3 The usage of this form of covert activity has continued to decrease in recent years, due to staffing cuts and a reversion to more overt enforcement activity. In the group meeting I was assured that no unauthorised activity was being undertaken. I did question Trading Standards staff regarding the methodology for conducting under-age test purchase operations. I was told that each premises to be visited was assessed regarding the likelihood of obtaining private information and in all cases the member of staff accompanied the volunteer as a safety measure and merely observed the transaction involving the volunteer rather than any other activity taking place inside the premises. I advised that, if not already done so, that these considerations should be recorded.

- 8.4 There was some discussion of the use to be made of the Shadow RIPA process and it was apparent, from discussions as well as references in the policy document, that there is a misconception that only Trading Standards investigations could use RIPA, therefore all other investigations seeking to carry out covert surveillance should use the Shadow RIPA process. I pointed out that any investigation that met the necessity criteria of being *'for the purpose of preventing or detecting crime'*, and the 'serious crime' threshold, could seek authorisation under RIPA (as long as other conditions were met, e.g. proportionality) no matter which department was undertaking the investigation/operation.

8.8 The comments that I have in relation to the authorisations that I examined are:

- i. As is now recognised, an authorisation should be for a single CHIS and should be accompanied by a Risk Assessment for that CHIS;
- ii. At reviews there was a lack of detail regarding what activity the CHIS had undertaken;
- iii. At cancellation a similar lack of detail left one wondering what exactly a CHIS had done and in the case where there were two CHIS authorised there was even greater confusion as to the extent of activity of each.

8.9 The purpose of CHIS records is that they should give a clear picture of how a CHIS is being safely managed and used, the intelligence or evidential product they obtain and what use is made of that product.

Use of Social Networking Sites (SNS) and the Internet

8.10 This issue is increasingly a subject of detailed discussion during inspections of local authorities and this council was no exception. I had specifically requested that representatives from departments that, whilst not carrying out 'conventional covert activity', experience has shown were making use of these media.

8.11 It became apparent during the group meeting that regular use is being made of SNS and the internet in support of council business. Trading Standards do this on a regular basis in support of investigations into counterfeit goods and have sought authorisations for directed surveillance and CHIS in relation to this sort of activity. Other departments such as Schools Admission, Litigation, Human Resources and Children's Services use the media to varying degrees. Among the staff that I met there is a mixture of overly cautious use and naive/innocent usage, whereby the activity might meet the criteria for RIPA authorisation or at the least might be an infringement of privacy.

8.12 I certainly felt that there was a lack of clear understanding as to where the boundaries lie, even among staff that have an understanding of RIPA and most definitely among staff from departments which are outside of the usual 'RIPA audience'. There is a need for guidance to be provided to all staff to whom it may be applicable and I make a recommendation in this regard.

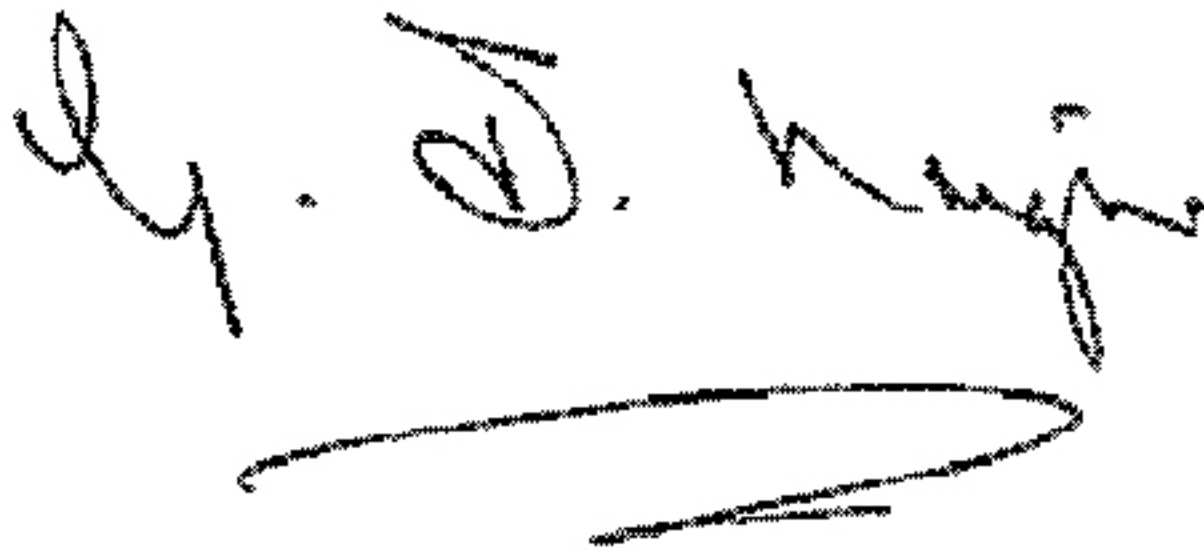
9. Conclusions

9.1 Lancashire County Council has always made infrequent use of the powers vested under the Regulation of Investigatory Powers Act 2000 and its usage has declined over a number of years to its current level.

9.2 There is a sound guidance and advice regime in place (notwithstanding the challenge regarding the use of SNS and the internet) and those with oversight and authorising officer responsibilities are knowledgeable and conscientious. Some rationalising of current systems and processes would be an improvement, i.e. a re-formatting of the Central Record and unifying authorisation procedures for RIPA and Shadow RIPA. I also draw out some learning points from the authorisations that I examined. Whilst not making them the subject of a recommendation I urge that attention is given to those points.

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- 9.3 I did at times feel that staff were uncertain regarding how they could use, or if they could use, the powers under RIPA and this related to both real world activity and virtual world activity. Hopefully the inspection will have provided some clarification to those areas of uncertainty. To be fair staff tended to err on the side of caution, demonstrating a reluctance to conduct covert activity under RIPA.
- 9.4 The one recommendation I make is in relation to the need for more expansive and relevant guidance regarding use of SNS and the internet. The challenge for the council is how this can be disseminated proactively to all relevant departments.
- 9.5 I would like to thank all the staff that I met for their co-operation and courtesy and in particular Laura Sales, who made the arrangements for my visit and provided me with comprehensive pre-read material.
- 10 Recommendation
- 10.1 Guidance in relation to the use of social networking sites and the internet by staff in support of their work for the council should be expanded and made more relevant to council functions, and this guidance then needs to be actively disseminated to all relevant staff – paragraphs 6.1 (iv) and 8.12.



Surveillance Inspector

Internal Scrutiny Committee

Meeting to be held on Friday, 21 July 2017

Electoral Divisions affected: All

Internal Scrutiny Committee Work Plan 2017/18

(Appendices A, B, C, D and E refer)

Contact for further information:

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Executive Summary

The Plan at Appendix 'A' is the work plan for the Internal Scrutiny Committee.

The topics included were identified at the work planning workshop held on 23 June 2017.

Recommendation

The Internal Scrutiny Committee is asked to:

- i. Note and comment on the report;
- ii. Confirm the topic(s) to be considered at the next scheduled meeting; and
- iii. Discuss and identify information required for each topic to be considered at the next scheduled meeting

Background and Advice

A statement of the work to be undertaken and considered by the Internal Scrutiny Committee for the remainder of the 2017/18 municipal year is set out at Appendix A. The work plan is presented to each meeting for information.

The Committee is asked to confirm the topic(s) to be considered at the next scheduled meeting on 22 September 2017. The Committee is also asked to make suggestions on the information they would like to receive as part of the report.

In addition, the Committee are requested to note and comment on the work plans included for all other Scrutiny Committees as set out in Appendices B through to E (Children's Services, Education, External Services and Health).

Consultations

N/A

Implications:

This item has the following implications, as indicated:

Risk management

This report has no significant risk implications.

Local Government (Access to Information) Act 1985 List of Background Papers

Paper	Date	Contact/Directorate/Tel
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N/A

Reason for inclusion in Part II, if appropriate

N/A

Internal Scrutiny Committee Work Plan 2017/18

28.6.17

Date to Committee	Report	Lead Officers	Outline reasons for scrutiny/scrutiny method
21 July 2017	LA funding	Steve Browne	To ascertain the funding streams and mechanisms that the County Council is subject to
	RIPA	Ian Young	Annual report of the Regulation of Investigatory Powers Act 2000 activities
22 September 2017	Statutory and non-statutory services	Steve Browne	To also include what the council currently doesn't do but if it did could potentially save money in the future
	Income generation	Steve Browne	Report on the current and potential income streams of the county council
17 November 2017	TAMP	Mel Ormesher	Update
	Winter gritting	tbc	Preparedness
	Highway verges	tbc	Grass cutting
	Street lighting	tbc	Energy spend

19 January 2018	Council budget	tbc	Budget proposals from the following Cabinet Members: <ul style="list-style-type: none"> • Michael Green – Economic Development & Planning • Keith Iddon – Highways and Transport • Peter Buckley – Community & Cultural Services • Leader & Deputy Leader
16 March 2018	Civil Contingencies	tbc	Information relating to risk
	Emergency resilience	Alan Wilton	Update on the preparedness of the county council
	Libraries	tbc	Update on the progress of the re-opening of libraries
18 May 2018	Economic Development	tbc	Skills and apprenticeships – gaps post 18
	Household Waste Recycling Centres	tbc	Changes and risks Recycling
Other topics not yet scheduled	Enforcement of planning controls		
	Risk management – risk register		
	Countryside matters		
	Update on planning matters		
	LSAB Annual Report		

Children's Services Scrutiny Committee – Work Plan 2017/18

Date to Committee	Report	Lead Officers	Outline reasons for scrutiny/scrutiny method
26 July 2017	Wellbeing, Prevention and Early Help Service (WPEHs) – Overview	Debbie Duffell	Overview of WPEHs offers in particular – the early offer and universal services accessibility - identification of any gaps in provision around the Continuum of Need, CAF, children's centres, partnership and integrated working challenges, CAMHS, MASH
6 September 2017	New SEND Pathway	Brendan Lee	Overview
	Medicine management in schools	Brendan Lee	Reviewing the impact of withdrawing School nurses from special schools
	Ofsted feedback	Amanda Hatton	Following monitoring visit in July
18 October 2017	Homelessness of young people	TBC	District level data – who do we pay? Who do we work with? What's the accommodation offer? And links with CAMHS
	Tracking of Care Leavers	Audrey Swann?	Overview of new process
	Youth Accommodation for LAC	TBC	Care leavers and accommodation issues – what's the offer? Is it up to standard?
	LSCB Annual Report – feedback and issues identified	Jane Booth/Victoria Gibson	To note and provide feedback and to identify any areas for review
6 December 2017	Children in secure accommodation – out of area	Sally Allen/David Hynes	Exit strategies and update on Audit exercise
	Children's social worker	Amanda Hatton/Tracy	Update on the ongoing challenges

Children's Services Scrutiny Committee – Work Plan 2017/18

Date to Committee	Report	Lead Officers	Outline reasons for scrutiny/scrutiny method
	recruitment and retention challenges (strategy and support)	Poole-Nandy	
	Buildings and accommodation for social workers	Tracy Poole-Nandy	Overcrowding, access to IT equipment and lack of desk space for social workers
31 January 2018	New models of delivery (overspend on children's social care)	Amanda Hatton? Neil Kissock	Overview of New Models of Delivery in response to overspend on Children's Services
	Budget proposals	Neil Kissock	Budget Proposals from Susie Charles – Cabinet Member for Children, Young People and Schools
14 March 2018	Criteria for EHCP and the role of Local Moderating Panels	Brendan Lee	Overview of the criteria and the role of Local Moderating Panels
	EHCP progress update	Brendan Lee	Update on progressing with conversions
11 April 2018	Children's Partnership Boards	Clare Platt	Review of the Boards effectiveness and their future
22 May 2018	tbc		

Children's Services Scrutiny Committee – Work Plan 2017/18

Potential topics for the Committee:

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Education Scrutiny – Work plan 2017/18

Date to Committee	Report	Lead Officers	Outline reasons for scrutiny/scrutiny method
26 September 2017	Implementation of the School Places Provision Strategy (Basic Need funding and S106 funding)	Mel Ormesher	Overview and update on basic need funding and the allocation of S106 funding
	Summer Born Policy	Debbie Ormerod	Overview on the Policy and Implementation of deferred/delayed places
	School Admissions Appeals	Angela Esslinger and Debbie Ormerod	Report on the effectiveness of the service for parents and schools
	SEND Transport Policy 2013/14	Brendan Lee	Overview on the policy
28 November 2017	Foundation Stage Standards and level of progress through each Key Stage	Steve Belbin	Tracking progression of pupil attainment through the key stages
	GCSE Performance	Steve Belbin	Data report
	LAC Attainment	tbc	Narrowing the gap of attainment
	Elective Home Education	tbc	Overview report on the service, attainment and take up
27 March 2018	Personal Education Plans	tbc	Overview of the process, how they are being progressed and risk management

Potential topics for the Committee:

- TA to teacher career path initiatives

Education Scrutiny – Work plan 2017/18

- Recruitment and retention of teachers (support and strategy)
- School attendance – missing from home and education

External Services Scrutiny – Work plan 2017/18

Date to C'ttee	Report	Lead Officers	Outline reasons for scrutiny/scrutiny method
25 July 2017	Safer Lancashire – Community Safety Partnerships (CSP)	Clare Platt, Debbie Thompson, Angela Harrison, Robert Ruston	Overview report of CSPs across Lancashire and their priority areas for 2017/18
10 October	Franklaw Event – Drinking Water Inspectorate (DWI)* tbc	Sue Pennison, DWI	Report on the Franklaw Water Treatment Works Summer 2015 water contamination event
16 January 2018	Lancashire Enterprise Partnership (LEP) tbc	Martin Kelly	Report on the LEP
24 April	tbc tbc		

*= Provisional

Statutory requirements:

- Crime and Disorder Partnerships/Community Safety Partnerships
- Flooding (flood risk management functions or coastal erosion risk management functions)

Potential external organisations/topics for the Committee:

- United Utilities – capacity of sewers, new housing developments, reservoir capacity and chalk streams

Continued...

External Services Scrutiny – Work plan 2017/18

- Electricity North West
- Flooding – Lancashire County Council and Environment Agency
- Arriva/Northern Rail – transforming rail in the north
- Lancashire's Universities
- Third sector – One Lancashire
- Local Member Grants
- Bus services
- Partnerships – BTLS, Road Safety, Resilience Forum
- Fire Authority
- Traded services – Travelcare, school catering, Lancashire Teaching Agency, Outdoor Education
- Business rates – new funding formula and the County Council
- Future of Local Government (Lancashire County Council) by 2020

Heath Scrutiny – Work plan 2017/18

Date to C'ttee	Report	STP Governance Meeting Workstream*/Priority area**	Lead Officers (including STP SRO)	Outline reasons for scrutiny/scrutiny method
24 July	STP Workforce – Scrutiny Inquiry Day Report	Workforce*	CC Steve Holgate, former Chair of the Health Scrutiny Committee	To formulate recommendations from the report and to determine who to circulate to.
	Update on the Local Workforce Action Board	Workforce*	Heather Tierney-Moore and Damian Gallagher, LCFT	Update on the work of the Board.
	Chorley Hospital Emergency Department mobilisation	Workforce*/Hospitals** and Urgent Care**	Karen Partington, Mark Pugh, LTHFT	Update on the mobilisation of the Emergency Department and recruitment issues
19 Sept	Next Steps on the NHS Five Year Forward View – Sustainability and Transformation Partnerships; Accountable Care Systems and Local Delivery Plans	-	NHSE North, Healthier Lancashire and South Cumbria, Fylde and Wyre CCG, Morecambe Bay CCG,	Overview of the next steps on the NHS five year forward view and update on the Accountable Care System.
31 Oct	Winter pressures and preparations (A&E)	All	Heather Tierney-Moore (AEDB), NWAS, LTHFT.	Overview of pressures and preparations.

Date to C'ttee	Report	STP Governance Meeting Workstream*/Priority area**	Lead Officers (including STP SRO)	Outline reasons for scrutiny/scrutiny method
12 Dec	Mental Health	Care Professional Board* Mental Health**	LCFT tbc	Focus on <ul style="list-style-type: none"> i. In-patient provision across Lancashire ii. Community mental health; early intervention and prevention
	Suicide Prevention	Care Professional Board* Mental Health**	tbc	To assess suicide prevention plans
23 Jan 2018	Adult Social Care – and Public Health Budget Proposals	-	Tony Pounder, Dr Sakthi Karunanithi and Neil Kissock	Budget proposals from the following Cabinet Members: <ul style="list-style-type: none"> • Graham Gooch – Adult Services • Vivien Taylor – Health and Wellbeing
	Delayed Transfers of Care	Care Professional Board*	Tony Pounder, LTHFT	Overview and update on DTOC and discharge policies

Date to C'ttee	Report	STP Governance Meeting Workstream*/Priority area**	Lead Officers (including STP SRO)	Outline reasons for scrutiny/scrutiny method
5 March	Public Health - Life expectancy	Care Professional Board* Prevention**	Dr Sakthi Karunanithi	Overview of Life Expectancy, causes, prevention and self-help work, key service issues, challenges and opportunities
	Learning disabilities (Calderstones)	Care Professional Board* Health and social care**, Mental Health**	Mersey Care NHS Foundation Trust	Update on Specialist Learning Disability Services
17 April	Skin cancer awareness	Care Professional Board* Prevention**	Sofiane Rimouche, LTHFT, Dr Sakthi Karunanithi	Raising awareness, prevention

Potential topics for the Committee and its Steering Group:

- Data sharing
- Dementia awareness
- Care Home Quality

Heath Scrutiny Steering Group – Work plan 2017/18

Date to C'ttee	Report	Lead Officers	Outline reasons for scrutiny/scrutiny method
4 July 2017	<ul style="list-style-type: none"> i. Royal Preston Hospital – bid for new primary care front end at Emergency Department and Urgent Care Centre (A&E) ii. WLCCG – Termination of single handed GP contract iii. FWCCG – Improving health services in Kirkham and Wesham 	<ul style="list-style-type: none"> i. Stephen Gough and David Armstrong, NHS England – Lancashire ii. Jackie Moran, WLCCG iii. Kate Hurry and Andrew Harrison, FWCCG 	<ul style="list-style-type: none"> i. Unique bid for capital – need to identify appropriate funding stream to expedite and assist with overall A&E function ii. To receive updates on progress – wider concerns around single handed GPs in Lancashire iii. Overview of the proposals – concerns also raised by local councillor
27 Sept	<ul style="list-style-type: none"> i. Our Health, Our Care Local Delivery Plan (LDP) ii. Proposal for a Central Lancashire Mental Health Inpatient Unit 	<ul style="list-style-type: none"> i. Jan Ledward, GPCCG + CSRCCG ii. Steve Winterson, LCFT 	<ul style="list-style-type: none"> i. Updates on progress relating to Solution Design Events and the LDP ii. Overview of proposals
11 Oct	<ul style="list-style-type: none"> i. VirginCare – Community Health and Urgent Care Services Contract ii. Health and Wellbeing Board (HWB) – Update iii. Update on the completion of the new primary care front-end at Royal Preston Hospital 	<ul style="list-style-type: none"> i. Jackie Moran, WLCCG ii. Sakthi Karunanithi, LCC iii. Stephen Gough and David Armstrong, NHS England – Lancashire 	<ul style="list-style-type: none"> i. Update on contract awarded to private provider ii. Update on HWB Partnerships iii. Update – briefing note/attendance at meeting
15 Nov	<ul style="list-style-type: none"> i. Adult Social Care and Registered Care Managers Network (RCMN) 	<ul style="list-style-type: none"> i. Tony Pounder, LCC and Paul Simic, 	<ul style="list-style-type: none"> i. To receive updates regarding the Health and Social Care Partnership Steering

Date to C'ttee	Report	Lead Officers	Outline reasons for scrutiny/scrutiny method
		LCA	Group and RCMN meetings
6 Dec	i. Better Care Together	i. Morecambe Bay CCG	i. Update on the Bay Health and Care Partners LDP and outcomes of Trust Boards in relation to integrated hospital community and primary care services (Integrated Care Communities ICC).
10 Jan 2018	i. Quality Accounts for Trusts	i. Steering Group and Healthwatch Lancashire	i. To formulate responses to requests from Trusts on their Quality Accounts
7 Feb			
14 Mar			
11 Apr			
16 May			

Potential topics for Steering Group:

- Pharmacies and prescriptions – volume of returned medicines and disposal of same, failure to collect, patient medicine reviews, change to current practice
- Low priority prescribing – consultations across CCGs - update
- Update from NWAS