

Cabinet



Please contact: Emma Denny

Please email: emma.denny@north-norfolk.gov.uk
Please Direct Dial on: 01263 516010

Wednesday 21st December

A meeting of the **Cabinet** of North Norfolk District Council will be held in the Council Chamber - Council Offices on **Tuesday, 3 January 2023 at 10.00 am.**

At the discretion of the Chairman, a short break will be taken after the meeting has been running for approximately one and a half hours

Members of the public who wish to ask a question or speak on an agenda item are requested to arrive at least 15 minutes before the start of the meeting so that the Chairman can re-order the agenda if necessary.

Further information on the procedure for public speaking can be obtained from Democratic Services, Tel: 01263 516010, Email: emma.denny@north-norfolk.gov.uk. Please note that this meeting is livestreamed: <https://www.youtube.com/channel/UCsShJeAVZMS0kSWcz-WyEzq>

Anyone attending this meeting may take photographs, film or audio-record the proceedings and report on the meeting. Anyone wishing to do so should inform the Chairman. If you are a member of the public and you wish to speak on an item on the agenda, please be aware that you may be filmed or photographed.

Emma Denny
Democratic Services Manager

To: Mrs W Fredericks, Mrs A Fitch-Tillett, Ms V Gay, Mr R Kershaw, Mr N Lloyd, Mr E Seward, Miss L Shires, Mr T Adams and Mr A Brown

All other Members of the Council for information.
Members of the Management Team, appropriate Officers, Press and Public



If you have any special requirements in order to attend this meeting, please let us know in advance
If you would like any document in large print, audio, Braille, alternative format or in a different language please contact us

Chief Executive: Steve Blatch
Tel 01263 513811 **Fax** 01263 515042 **Minicom** 01263 516005
Email districtcouncil@north-norfolk.gov.uk **Web site** www.north-norfolk.gov.uk

A G E N D A

1. **TO RECEIVE APOLOGIES FOR ABSENCE**
2. **MINUTES** 1 - 12

To approve, as a correct record, the minutes of the meeting of the Cabinet held on 05 December 2022.
3. **PUBLIC QUESTIONS AND STATEMENTS**

To receive questions and statements from the public, if any.
4. **ITEMS OF URGENT BUSINESS**

To determine any other items of business which the Chairman decides should be considered as a matter of urgency pursuant to Section 100B(4)(b) of the Local Government Act 1972
5. **DECLARATIONS OF INTEREST** 13 - 18

Members are asked at this stage to declare any interests that they may have in any of the following items on the agenda. The Code of Conduct for Members requires that declarations include the nature of the interest and whether it is a disclosable pecuniary interest (see attached guidance and flowchart)
6. **MEMBERS' QUESTIONS**

To receive oral questions from Members, if any
7. **RECOMMENDATIONS FROM CABINET WORKING PARTIES** 19 - 26
 1. **Cabinet Working Party for Projects**

To receive the minutes of the meeting held on 21st September 2022.
 2. **Planning Policy & Built Heritage Working Party – 14 November 2022**

The following recommendations were made:

AGENDA ITEM 8: COASTAL ADAPTATION SUPPLEMENTARY PLANNING DOCUMENT (SPD)

RESOLVED to recommend to Cabinet:

- a. That the draft Coastal Adaptation Supplementary Planning Document be published for formal consultation; and
- b. That delegated authority is given to the Planning Policy Manager in consultation with the Portfolio Holder, to make minor modifications and presentational or typographical amendments to the draft Coastal

Adaptation Supplementary Planning Document that arise from other relevant Local Planning Authority sign-off committees prior to it being published for formal consultation: and

- c. That the Planning Policy Manager to further consider as to how the Coastal Adaptation Supplementary Planning Document could be flexibly implemented including use of language

3. Planning Policy & Built Heritage Working Party – 12 December 2022

AGENDA ITEM 10: LOCAL DEVELOPMENT SCHEME

RESOLVED to recommend to Cabinet:

That the revised timetable for the submission, examination and adoption of the Norfolk Local Plan and that the Local Development Scheme be brought forward to the date of the next meeting and published as required by section 15 of the Local Planning Authorities and Compulsory Purchase Act 2004 (as amended).

AGENDA ITEM 11: LOCAL PLAN SUBMISSION: PROPOSED MODIFICATIONS (POLICIES)

RESOLVED to recommend to Cabinet

That the Schedules of proposed modifications along with the Proposed Submission version of the Local Plan be submitted for independent examination.

To delegate minor amendments in the finalisation of the submission version & Schedules and associated documents to the Planning Policy Manager in consultation with the Portfolio Holder and Policy Team Leader.

8. RECOMMENDATIONS FROM OVERVIEW & SCRUTINY COMMITTEE

To consider any recommendations referred to the Cabinet by the Overview & Scrutiny Committee at the meeting held on 14th December 2022.

9. BUSINESS CONTINUITY POLICY AND BUSINESS CONTINUITY MANAGEMENT FRAMEWORK 27 - 48

Summary: The current Business Continuity Policy has been separated into two documents, the Business Continuity Policy and the Business Continuity Management Framework, as part of a review of business continuity documentation and to comply with an audit recommendation.

Options considered: Retaining the current Business Continuity Policy.

Conclusions: Not applicable.

Recommendations: **To adopt the revised Business Continuity Policy and the new Business Continuity Management Framework**

Reasons for Recommendations: To enhance understanding of the Business Continuity Management Framework. To comply with an audit recommendation.

LIST OF BACKGROUND PAPERS AS REQUIRED BY LAW

(Papers relied on to write the report, which do not contain exempt information and which are not published elsewhere)

None

Cabinet Member(s) Cllr Nigel Lloyd	Ward(s) affected All
---------------------------------------	-------------------------

Contact Officer, telephone number and email:

Alison Sayer, 01263 516269, alison.sayer@north-norfolk.gov.uk

10. COUNCIL POLICY IN RELATION TO THE REGULATION OF REGULATORY POWERS ACT 2000 (RIPA) 49 - 106

Summary: The purpose of this report is to provide the Cabinet with an opportunity to review and approve the Council's revised Regulation of Investigatory Powers Act 2000 Policy and Procedures, to be assured that it is up to date and fit for purpose and to report on the use of the powers over the preceding months.

Options considered: The Policy is required to ensure proper application of the Act, so there is not an alternative option.

Recommendations: That the changes to the revised Regulation of Investigatory Powers Act 2000 Policy and Procedures, set out at Appendix A, be approved.

That Members note the activity undertaken under RIPA and the update in relation to the recent IPCO inspection.

Reasons for Recommendations: The Policy has been revised following an audit of the Council's activities by the Investigatory Powers Commissioners Office

(IPCO) conducted in 2021. Members are required to be aware of the RIPA activity undertaken by the Council.

LIST OF BACKGROUND PAPERS AS REQUIRED BY LAW

(Papers relied on to write the report, which do not contain exempt information and which are not published elsewhere)

--

Cabinet Member(s) Nigel Lloyd	Ward(s) affected All
----------------------------------	-------------------------

Contact Officer, telephone number and email:
Steve Hems, Director for Communities
01263 516192, steve.hems@north-norfolk.gov.uk

11. COASTAL TRANSITION ACCELERATOR PROGRAMME - UPDATE AND APPROVALS 107 - 122

Summary: This report provides the background to the Coastal Transition Accelerator Programme (CTAP), sets out what it seeks to achieve and updates Cabinet on progress to date.

Cabinet agreement is sought to approve project governance alongside delegated authorities to enable timely submission of an Outline Business Case to the Environment Agency alongside exempt decisions.

The report also sets out proposals to develop an initial phase of support for those at more immediate coastal erosion risk to begin to facilitate coastal transition and to buy time before wider opportunities are developed by the programme.

Options considered:

1. That Cabinet does not agree the CTAP arrangements as proposed within the report. This option is not recommended given the significance of the programme and the benefits that it will bring.
2. That Cabinet accepts the CTAP arrangements as detailed within this report. This option is recommended.

Conclusions: The Coastal Transition Accelerator Programme provides a significant opportunity to develop approaches to manage the impacts

of coastal change that will benefit our local communities. Furthermore, the learning generated will shape future guidance, funding and policy and could ultimately provide a long-term approach for coastal localities around the country, not just those in North Norfolk. CTAP therefore offers a tremendous opportunity to be at the forefront of this work in finding solutions that will benefit the nation and offer examples of best practice.

The development and submission of the Outline Business Case to the Environment Agency must follow the EA guidance and requires submission by the end of March 2023. The OBC will form a robust business case and programme framework from which the CTAP Programme Board can oversee the development and delivery of the projects and programme activities. Through the inclusion of external scrutiny, the board will be strengthened and ensure a wider outward looking programme of work. The active inclusion of wider stakeholder involvement and engagement is critical in order to understand local needs, to encourage participation and to develop preparedness and awareness.

The Phase 1 of Coastal Transition support seeks to provide assistance for those most in need in the short term whilst the wider programme and projects are developed. It also seeks to provide initial opportunities for coastal communities and in doing so help facilitate a coastal transition conversation. This support will also provide valuable learning to the project and may identify further opportunities or needs to be taken forward.

The details included within the Exempt appendices will enable NNDC to move forward with wider opportunities should it be required.

Recommendations:

- 1. That Cabinet notes progress to date.**
- 2. That Cabinet agrees that the Programme will be overseen by a Programme Board, which is to be constituted in accordance with NNDC project guidance.**
- 3. That Cabinet authorises the Director for Place and Climate Change, in consultation with the Coastal Portfolio**

Holder, to approve the submission of the Outline Business Case to the Environment Agency and undertake any subsequent amendments as necessary.

4. That Cabinet agrees that the approved Outline Business Case is to form the NNDC Programme Business Case.
5. That Cabinet agrees the development and delivery of the Stage 1 Coastal Transition Support Package and authorises the Director for Place and Climate Change, in consultation with the Coastal Portfolio Holder, to undertake any necessary amendments to the package provided they are within the CTAP budget.
6. That Cabinet agrees that land and asset purchases in excess of £100,000 for the purposes of the Coastal Transition Accelerator Programme are 'exceptional circumstances' and acquisition is delegated to the Leader of the Council, Portfolio Holder, Chief Executive and Monitoring Officer. With report to the next available Cabinet.
7. That Cabinet authorises the Director for Place and Climate Change to enter into legal agreements with land/asset owners in order to secure transition opportunities with advice from the Estates Team and in consultation with Legal Services and Portfolio Holder and Assistant Director Finance Assets

Reasons for Recommendations:	To enable timely progression of the Coastal Transition Accelerator Programme
	To ensure robust governance and oversight
	To enable immediate support to those most impacted by coastal change

LIST OF BACKGROUND PAPERS AS REQUIRED BY LAW

(Papers relied on to write the report, which do not contain exempt information and which are not published elsewhere)

- NNDC Project Proposal Template
- Environment Agency CTAP Principles

Cabinet Member(s)	Ward(s) affected
Cllr. A. Fitch-Tillett (portfolio Holder for Coast)	Coastal, Sheringham South, Sheringham North, Beeston Regis and the Runtons, Cromer Town, Suffield Park, Poppyland, Roughton, Mundesley, Bacton, Happisburgh

Contact Officer, telephone number and email:

Rob Goodliffe – Coastal Transition Accelerator Programme Manager –
Rob.Goodliffe@north-norfolk.gov.uk – 01263 516321

12. EXCLUSION OF PRESS AND PUBLIC

EXCLUSION OF THE PRESS AND PUBLIC

To pass the following resolution, if necessary:

- a. That under section 100A(4) of the Local Government Act 1972 the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraph 3, Part 1 of schedule 12A (as amended) to the Act, and:
- b. That the public interest in maintaining the exemption outweighs the public interest in disclosure for the following reasons:

Agenda Item Number	Paragraph of Part 1 Schedule 12A
14	3

Information relating to the financial or business affairs of any particular person (including the authority holding that information). The appended report contains commercially confidential information.

13. PRIVATE BUSINESS

14. EXEMPT APPENDIX 1 - COASTAL TRANSITION LAND AND PROPERTY PURCHASE 123 - 124

To consider the exempt appendix to the Coastal Transition Land and Property Purchase (if necessary).

CABINET

Minutes of the meeting of the Cabinet held on Monday, 5 December 2022 at the Council Chamber - Council Offices at 10.00 am

Committee

Members Present:

Cllr W Fredericks	Cllr A Fitch-Tillett
Cllr V Gay	Cllr R Kershaw
Cllr N Lloyd	Cllr E Seward
Cllr L Shires	Cllr T Adams (Chair)
Cllr A Brown	

Members also attending:

Cllr C Cushing, Cllr N Dixon, Cllr J Rest, Cllr J Toye, Cllr E Withington

Officers in Attendance:

Chief Executive, Democratic Services Manager, Director for Communities, Assistant Director for People Services, Assistant Director for Finance, Assets, Legal & Monitoring Officer, Economic Growth Manager, Director for Resources / S151 Officer and Assistant Director for Sustainable Growth

75 MINUTES

The minutes of the Cabinet meeting held on 7th November were approved as a correct record and signed by the Chairman.

76 PUBLIC QUESTIONS AND STATEMENTS

None received.

77 ITEMS OF URGENT BUSINESS

None received.

78 DECLARATIONS OF INTEREST

Cllr L Shires declared a non-pecuniary interest in Agenda item 13: North Walsham Market Place Improvement Scheme. She informed members that she belonged to North Walsham Phoenix Group which had been awarded a Building Improvement Grant (BIG) as part of the Heritage Action Zone Scheme. She added that she was also the County Councillor for North Walsham.

79 MEMBERS' QUESTIONS

The Chairman advised members that they could ask questions as matters arose.

80 RECOMMENDATIONS FROM OVERVIEW & SCRUTINY COMMITTEE

Cllr N Dixon, Chairman of the Overview & Scrutiny Committee confirmed that there were no recommendations to Cabinet from the November meeting.

81 FEES AND CHARGES 2023 - 2024

Cllr E Seward, Portfolio Holder for Finance & Assets, introduced this item. He explained that it was a statutory report which set out the fees and charges that would come into effect from April 2023. Cllr Seward asked that the car park designations for Sheringham (page 47) were amended to show Station Road as a resort category car park and Chequers as a coastal car park.

It was proposed by Cllr E Seward, seconded by Cllr R Kershaw and

RESOLVED

To recommend to Full Council:

a) The fees and charges from 1 April 2023 as included in Appendix A.

b) That Delegated Authority be given to the Section 151 Officer, in consultation w Portfolio Holder for Finance and relevant Heads of Service, to agree those fees charges not included within Appendix A as required as outlined within the report

Reason for the Recommendations:

To approve the fees and charges as set out in the report that will have been used to support the 2023/24 budget process.

82 TREASURY MANAGEMENT HALF YEAR REPORT

Cllr E Seward, Portfolio Holder for Finance & Assets, introduced this item. He said that it provided mid-year information on the Council's treasury activity.

It was proposed by Cllr E Seward, seconded by Cllr L Shires and
RESOLVED to recommend to Full Council:

That Full Council approves the Treasury Management Half Yearly Update

Reason for the Recommendation:

To comply with Local government requirements on reporting treasury activity regularly

83 MANAGING PERFORMANCE QUARTER 2 2022/23

The Chairman, Cllr T Adams, introduced this item. He explained that this was a regular report that outlined the work that had been achieved in the previous quarter. He drew members' attention to the completion of 8 new affordable homes in Southrepps and explained that there would be a much lower number of completions overall in 2022/2023 due to the nutrient neutrality issue.

The Chairman said that significant time had been taken up during the early part of the second quarter finalising the Levelling Up Fund bids for Fakenham and Cromer. It was now anticipated that the outcome would be known by the end of the calendar year.

The Chairman referred to page 95 and queried the inclusion of the purple section of the pie chart for the Climate, Coast & Environment. He wondered if this was an

error.

Cllr E Seward referred to page 99, which referred to the completion of changing places facilities in Fakenham and Wells by June 2022. He said that the work at Wells would be completed shortly and in Fakenham it was likely to be June 2023.

Cllr A Fitch-Tillett said that she was disappointed that there was no table included for the Coast. The Chief Executive replied that it was an 'exceptions' report and that no commentary was a positive sign. He added that there was commentary regarding the Mundesley and Cromer coastal protection schemes included and the Coastal Transition Accelerator Programme (CTAP) would be covered in future reports.

The Chairman asked Cllr Fitch-Tillett if there had been an annual update to the Overview & Scrutiny committee on the work of the Coastal team. Cllr Fitch-Tillett replied that she was pleased to confirm that this had taken place in November.

It was proposed by Cllr T Adams, seconded by Cllr L Shires and

RESOLVED

To note the report and endorse the actions being taken by Corporate Leadership Team detailed in Appendix A – Managing Performance.

Reason for the decision:

To ensure the objectives of the Council are achieved.

84 NORTH NORFOLK DISTRICT COUNCIL COST OF LIVING SUMMIT AND POSSIBLE FUTURE ACTIONS

The Chairman began by thanking officers for contributing to the event and it was very beneficial having the expertise from external organisations too. He said that key findings showed that 60% of people didn't know where to go for support with cost of living issues and this showed how important communication was. He concluded by saying that the Community Connectors were supporting in excess of 20 'warm hubs' across the District.

The Assistant Director for People Services explained that the report outlined the issues that arose out of the summit, adding that most of them could be achieved without any additional resource and by working in partnership with community organisations. Financial support had been requested for food hubs, so more work would be undertaken regarding this to see if it was a cost-effective and sustainable approach for the Council to take. The Chairman agreed, saying that further consideration was needed regarding the provision of any support across the District.

Cllr J Toye said that he was amazed by the agility of officers and how quickly they had adapted and responded to the cost of living crisis. He thanked them for their continued hard work.

Cllr L Shires echoed Cllr Toye's comments. She said that she was grateful for the way in which officers had responded to the Cost of Living Motion. She said that it was important to remember that 66% of people felt that their mental health had been impacted by the cost of living crisis. Several residents had spoken to her about their concerns for the winter and how they would manage to heat their homes. It was an appalling situation for people to be medicated against a situation that they were

powerless to prevent.

Cllr V Gay thanked officers for making the recording of the summit available as it made it accessible for a much wider audience.

The Chairman said that the Council would continue to monitor the cost of living crisis closely.

It was proposed by Cllr T Adams, seconded by Cllr L Shires and

RESOLVED

To consider the further actions identified and to decide which to develop further.

Reason for the decision

To support residents of the District during the cost of living crisis.

85 COMMUNITY ENGAGEMENT STRATEGY

Cllr V Gay, Portfolio Holder for Health & Wellbeing, introduced this item. She referred to the actions table and highlighted the way that the strategy fed through into democratic engagement. Other key measurements included increasing volunteering and work placements and these were all good outcomes for a community engagement strategy.

Cllr L Shires said that the strategy was predominantly customer focussed and it was based on what residents wanted and how they wanted North Norfolk to be. She thanked the Director for Communities for all his hard work in pulling the strategy together.

The Assistant Director for People Services, said that she had pulled together the responses that had been received as part of the consultation process, some of them had been excellent and had suggested different models of engagement which was helpful and would assist with learning and future development around working with partners and delivering the strategy.

Cllr J Rest referred to page 143 and the North Walsham Heritage Action Zone (HAZ) project. He said that there had coverage of the scheme on local radio which indicated that people were not very supportive – which was not implied within the strategy. The Portfolio Holder for Sustainable Growth, Cllr R Kershaw, replied that a project of this scale would always cause some level of disruption. He said it was unfortunate that the interviewer had not asked for a Council representative to respond. He added that some of the issues experienced by businesses were caused by the wider economic problems and not the HAZ scheme.

Cllr L Shires said that there had been an extensive consultation process for the HAZ scheme and a number of groups had been formed, including the business group, and there had been several public meetings. There was also a stakeholder consultation group which included representatives from across the town. So, although there were a few vocal objectors to the scheme, the level of consultation and engagement should not be dismissed.

The Director for Communities said that the Council needed a consistent approach to community engagement. The strategy was about setting out the Council's activity along project lines. There would always be differences in opinion but as long as the criteria were clearly set out, members could make informed decisions. He concluded by saying that the action plan was a living and evolving document.

It was proposed by Cllr T Adams, seconded by Cllr L Shires and

RESOLVED

**To approve the Community Engagement Strategy.
To agree the content of the Action Plan.**

Reason for the Recommendations:

To clearly support the Customer Focus element of the Corporate Plan and Corporate Delivery Plan and to set a high-level framework which ensures that engagement is undertaken in a consistent and effective manner; to ensure that people feel well informed about local issues, have opportunities to get involved, influence local decision making, shape their area and allow us to continue to improve services they receive.

The action plan identifies activities which support the transition of the Strategy into delivery of engagement.

86 NORTH WALSHAM MARKET PLACE IMPROVEMENT SCHEME

The Portfolio Holder for Sustainable Growth, Cllr R Kershaw, introduced this item. He said that the earlier reference to the radio interview on the scheme was pertinent, because that had arisen due to the report being placed in the public domain. He agreed with Cllr Shires summary of the extensive consultation process for the scheme and said that it had been revised to accommodate the majority of views. He said that he firmly believed in the scheme. It had already generated additional business in the town. It was well known that there were some people who were not supportive but this was always the case for any large project.

Cllr Kershaw explained that the original budget had been drawn up in 2020 and a lot of change had happened since then, including a pandemic and an economic crisis. He said that the Project Manager had had the foresight to pre-purchase a lot of the construction materials which had already saved a considerable amount of money. He reminded members that costs for the Kings Lynn HAZ scheme had increased by 48%, whereas the North Walsham scheme had increased by 18%.

Cllr E Seward said it was important to remember why the scheme had commenced. North Walsham Town Centre had been in decline for some time and to arrest this decline, there was a need to improve the environment of the town centre. There had been small projects undertaken in the past which had not been done properly. He went on to say that there were a small number of individuals on social media which said certain things about the project which had not truth in them. He gave the example of the travel hub and false comments that had suggested that the buses would not be able to turn and they would hit the bus shelters. This had not happened and since its opening, it was now a welcome improvement to the town.

Regarding inflation, Cllr Seward said that as Finance Portfolio Holder, he was concerned about escalating construction costs. It was a struggle faced by all

councils but it must be remembered that the cost increases for this project were relatively low compared to others. He concluded by saying that, as a resident of the town, he was confident that the project would be completed and it would be done properly. Ultimately, people would say what a success it was.

Cllr N Lloyd said that he had been a resident of North Walsham for 40 years and during that time he had seen huge change – including housing growth and the closure of some businesses. Very little had been spent on the town and a project of this scale was well overdue. He said that Church Slope looked wonderful now. It was very unfortunate that there were a few, very vocal people who seemed to get all the media attention.

Cllr N Dixon said that he had no issue regarding the merits of the scheme or the impact of cost inflation on the purchase of construction materials. His main concerns focussed on governance and project management. The Overview & Scrutiny Committee had taken an interest in following the project and a report had been presented in September 2022 and several recommendations had been made. It came back in October with a more informed report. He said that the committee had spent some time discussing cost increase, labour shortages and how these were reflected in the Council's risk register. The Committee had asked what the contingency fund was comprised of and specific information about this had been requested. However, it had never been provided. He went onto say that he had been surprised to see this latest report coming through to Cabinet requesting the substantial sum of £400,000. There had been no indication at the October meeting of the Overview & Scrutiny Committee that there was a shortfall in funding and it made the discussion about contingency funds even more relevant now. He said that he was very concerned that there had been no mention of this in October and he found it hard to believe that it was not on the horizon at all. It raised questions about the standard of governance and project management.

Cllr Dixon said that the report presented to members gave no detail at all about what the additional £400,000 would be comprised of. He asked how the contingency fund had been spent as again, no detail had been provided. He concluded by saying that £400,000 would have a huge impact on the Business Rates reserve as it held £600,000 in total. The Chairman asked that the information regarding the contingency fund was provided to the Overview & Scrutiny Committee as soon as possible.

Cllr R Kershaw commented that a lot had changed politically at national Government level since September, including a rapid rise in interest rates.

The Assistant Director for Sustainable Growth apologised for not providing the contingency data to the Overview & Scrutiny Committee. He said that the Market Place scheme works began in September and he had been focussing on working with the Quantity Surveyor and contractors regarding laying rates and this kind of detail informed the level of contingency. He explained that the scheme was a grand master plan exercise for North Walsham and there had never been a fixed scheme designed with a costed and fixed budget. This meant that the project was much more fluid because they were trying to do as much as possible with the funding available. In effect, this report was the contingency. The Council now wanted to do more with the project than the funding allowed. He concluded that he would provide a budget breakdown to the Overview & Scrutiny Committee.

Cllr L Shires referred to section 3.6 of the report and said it provided more detail on the costs.

Cllr C Cushing said that when the previous report came to Overview & Scrutiny Committee in September, it was essentially an 'apple pie' paper with just generic costs and no specific detail included. He said that for a project of this size, he would expect an in-depth breakdown of costs along with an explanation.

Cllr E Seward said that when the budget for this project was conceived in 2019/20, it was fixed, with certain funding allocations coming from various sources. Since then, the economic situation had changed considerably and the assumption that the budget would cover all the required works was just no longer feasible.

Cllr J Rest commented on the earlier reference to the quality of the Yorkshire stone used in a previous project in the town. He said that it had been purchased on the recommendation of a senior officer and wondered if there was a possibility of seeking compensation. Cllr Seward replied that this was being looked into as the stone was not of the high quality that would have been expected, given the cost. Cllr Gay said that she had queried the quality of the stone at the time and had been told that there was no issue. It was intended that it would be re-used as part of the HAZ scheme but it was not suitable as the quality was so poor. Cllr Gay then responded to Cllr Dixon's comments regarding the governance of the project. She said that it had received more attention than any other Council project.

Cllr Dixon said that as Chairman of Overview and Scrutiny Committee, he would like to request a breakdown of the additional £400,000 funding. It was in the interest of public transparency. He added that there must be an impact of taking so much money out of the Business Rates Reserve and this should be monitored. The Chief Executive replied that the Business Rates Reserve was historically generated at county level via a pooled mechanism. Previously it had been held by the County Council but two years ago it was agreed that the Districts should receive a share. He explained that no other projects would be impacted on or deprived of funding as the reserve was not currently allocated. The requirement was simply that it had to be spent on economic regeneration projects.

Cllr Seward reiterated that no other project would lose out by funding the Heritage Action Zone scheme. There were other projects that had been impacted by rising costs and inflation – such as the listed wall in Fakenham. Ultimately, the Council's capital programme would not be delivered if these rising costs were not addressed. He added that the HAZ scheme budget was being watched extremely closely and had been since its inception.

Cllr Dixon said that he was relieved to hear that no other earmarked project would be affected, although removing such a large sum of money from the reserve would still have an impact. He said that members should recognise that by 'plugging' one gap they were simply creating another. The Chief Executive reminded members that this was a recommendation to Full Council and that no binding decision or commitment was being made at this meeting.

It was proposed by Cllr E Seward, seconded by Cllr R Kershaw and

RESOLVED:

To recommend to Full Council that £400,000 be allocated from the Business Rates Retention Reserve for the completion of the NWHSHAZ place-making scheme.

Reason for the recommendation:

This recommendation is made in order to deliver the additional town centre improvements as part of the HSHAZ place-making scheme.

87 GO-GO DISCOVER MAMMOTH SCULPTURE (LUMI) LOCATION

Cllr V Gay, Portfolio Holder for Culture, introduced this item. She explained that, following the successful conclusion of the GO_GO Discover Sculpture Trail, as lead sponsor for the countywide trail, NNDC retained ownership of two sculptures, including 'Lumi' which was temporarily placed at the DHC discovery point at Cart Gap. Sheringham Museum had expressed an interest in hosting the sculpture permanently and it would accept Lumi on a gift or loan basis, allowing the Council to 'borrow' it for events such as Greenbuild in the future, if necessary. The sculpture was currently on display at the museum's entrance.

Cllr E Withington, said that, as local member for Sheringham, she would be delighted for it to be permanently hosted at the museum.

Cllr N Dixon asked if there would be any scope for the sculpture to be located at other locations across the District during the tourist season. Cllr Gay replied that this could be considered in the future, however, as yet no other places had expressed an interest. The sculpture was extremely heavy and required a low-loader to transport it as well as a proper base if it was to be sited outdoors.

Cllr L Shires said that she welcomed the request for it to be hosted safely at the Sheringham museum.

It was proposed by Cllr V Gay, seconded by Cllr N Lloyd and

RESOLVED

- 1. Lumi be donated to Sheringham Museum to display as part of its climate change and Deep History Coast collection;**
- 2. Delegation to finalise the arrangements is given to the Assistant Director for Sustainable Growth in consultation with the portfolio holder for Leisure, Wellbeing and Culture.**

Reason for the recommendation:

The sculpture would be a welcome and relevant addition to the Museum's collection, strengthening local links to the Deep History Coast. The museum is also able to offer a safe and secure location to display the sculpture and ensure its long-term maintenance

88 SUPPORT FOR UK100 AND ADEPT ENVIRONMENTAL INITIATIVES

Cllr N Lloyd, Portfolio Holder for Environment & Climate Change, introduced this item. He explained that it was recommended that the Council joined the UK100 network to share knowledge and collaborate on environmental issues. Doing so required a change to the wording of the Council's environmental charter, to reinforce the commitment to the wider district to assist decarbonisation. In addition, it was proposed that the Council demonstrated support for the ADEPT Blueprint to accelerate climate action and green recovery at local level, by the Portfolio Holder for Environment & Climate Change signing an online petition.

It was proposed by Cllr N Lloyd, seconded by Cllr R Kershaw and

RESOLVED

- **To make the suggested changes to the Environmental Charter**
- **To join the UK100 network**
- **That the portfolio holder for Environmental Services, Climate Change and Environment signs the online form showing support for ADEPT a Blueprint for accelerating climate action and a green recovery at the local level.**

Reason for the decision:

To access assistance from and show support for initiatives to help the Council meet its Net Zero targets

89 FORMER SHANNOCKS HOTEL SITE, SHERINGHAM

The Assistant Director for Planning introduced this item. He said there was a small error at section 2.3 of the report. It should state £10,000 not £50,000.

He went on to explain that this was a long-standing matter and the Compulsory Purchase Order (CPO) had been granted some time ago. The building had been demolished in June 2021 and no further work had been commenced to take forward the development of the approved new building. Work should have started by June 2022, with an extended date of 23rd November 2022. This date had now passed and with increasing public concern about the lack of progress made, it was felt that it was an appropriate time for the Council to consider whether it should exercise the CPO by serving the General Vesting Document on the site owner as soon as possible. He informed members that the deadline for completion of the new development was June 2023. It was therefore proposed that the Council proceeded with the CPO and took control of the site.

Cllr A Brown, Portfolio Holder for Planning and Enforcement, said that it was a myth that the CPO process was straightforward. It was extremely complex. He explained that this had begun in 2014 and if no action was taken by the Council now, it would run until 2024, when the CPO expired. That essentially meant Sheringham had been subjected to 10 years of blight on a prominent site on the seafront. It was time to take decisive action as it was clear that very little was being done by the owner to progress the development of the site.

Cllr E Withington, Local member for Sheringham, thanked officers for all their hard work. She said that the community was very appreciative, adding that the owner of the adjacent building was becoming increasingly concerned that no action was being taken.

Cllr R Kershaw commented that it was incumbent on the Council to act decisively and serve documents on the owner. It was a prime site in the town and could not be left any longer.

Cllr N Dixon said that he recognised the need for the Council to support and deliver effective planning enforcement, however, he was concerned that any action taken

could commit the Council to delivering the CPO and regenerating the site too. He asked whether the costs and risks had been robustly and reliably addressed in the Savills report (included in the exempt appendix)

The Assistant Director for Planning replied that Savills had provided an updated report to support this process in terms of the General Vesting Document. The process in terms of the Council becoming a developer was not confirmed at this stage. It was intended that the Council would take ownership of the site and then work with property experts to move the matter forward. It was possible that a further report would come to Cabinet, looking at a back to back project, limiting the risk, by using a partner as a developer for the site. The risk regarding the CPO was limited because there was a live, extant planning permission, for the redevelopment of the site for a mixed-use residential and commercial development.

Cllr Dixon said that he was reassured to some extent but said that he would prefer a precautionary approach was taken so that the Council did not find that costs were rapidly increasing and were faced with having to take hard decisions in the future as to how the project was delivered. He added that he appreciated that the Council had done what it could to mitigate any issues. He was just concerned that it could sit with NNDC to see the project right through to the end. Members had not seen a CPO being delivered before, so a cautious approach was understandable. The Assistant Director for Planning confirmed that it was very rare for a CPO to run its full term.

Cllr C Cushing sought clarification as to whether the figure would be disclosed to Full Council, as well as the estimated costs if the Council was to take control of the site, as it was potentially a major financial risk to the Council.

The Assistant Director for Planning replied that the unknowns were so significant and complex that it would be very difficult to provide an immediate oversight report. It was likely to be a report to cabinet at a later stage setting out opinions of property experts which would highlight all of the options and any associated risks.

Cllr J Toye commented that there would be risks to any venture of this scale. However, there was also the need to consider the risk of not taking any action. Proceeding with the CPO would send very strong signal.

Cllr J Rest said that it was important that projects were supported by details and all the options must be set out clearly. Decision making must open and risk averse and members must fully understand what they were being asked to do.

It was proposed by Cllr A Brown, seconded by Cllr R Kershaw and

RESOLVED

1. To confirm support for the serving of the General Vesting Document to take ownership of the site as soon as possible

2. To recommend to Full Council that it approves the addition of a capital budget of the valuation cost as set out at section 6 of the confidential appended report, and an additional £10,000 to cover the costs associated with the purchase of the property to be financed by the use of capital receipts, use of reserves and borrowing if required.

Reason for the decision:

To secure timely redevelopment of the site, in accordance with the previously

agreed Compulsory Purchase Order process, and the decision of the public inquiry to confirm the Order.

90 EXCLUSION OF PRESS AND PUBLIC

91 PRIVATE BUSINESS

The meeting ended at 11.32 am.

Chairman

This page is intentionally left blank

Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

"Disclosable Pecuniary Interest" means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

"Partner" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it

Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
 - a. your own financial interest or well-being;
 - b. a financial interest or well-being of a relative, close associate; or
 - c. a body included in those you need to disclose under Other Registrable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter **affects** your financial interest or well-being:
 - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
 - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. Where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must make sure that any written statement of that decision records the existence and nature of your interest.

Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain. [Any unpaid directorship.]
Sponsorship	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the

	<p>councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council —</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land and Property	<p>Any beneficial interest in land which is within the area of the council.</p> <p>'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
Licenses	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>
Corporate tenancies	<p>Any tenancy where (to the councillor's knowledge)—</p> <p>(a) the landlord is the council; and</p> <p>(b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>
Securities	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were</p>

	spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.
--	---

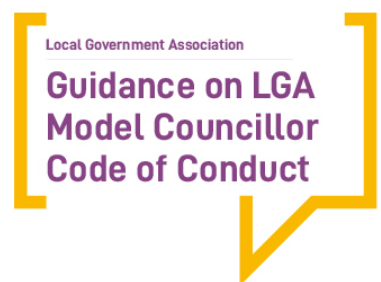
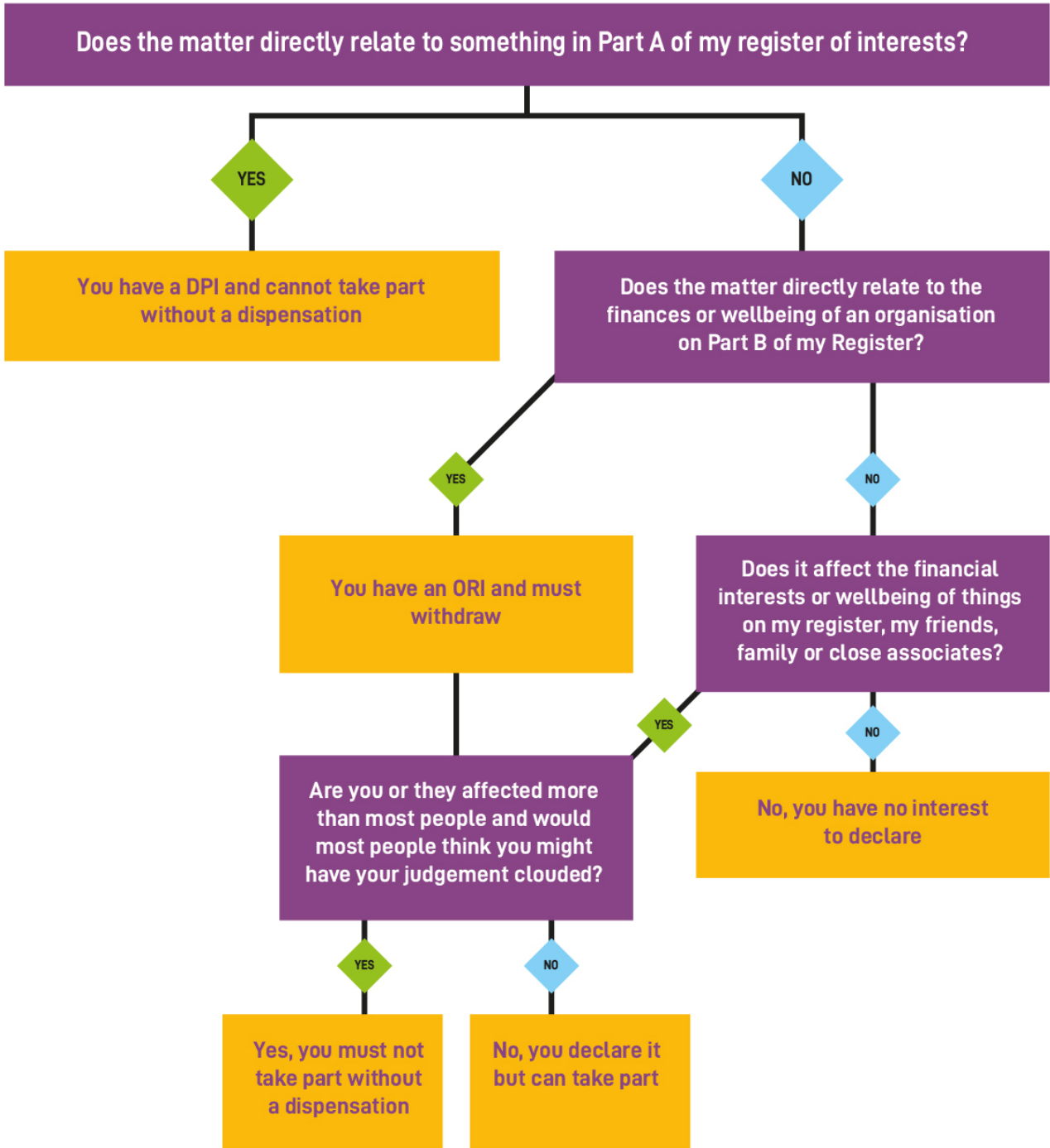
* 'director' includes a member of the committee of management of an industrial and provident society.

* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Table 2: Other Registrable Interests

You have a personal interest in any business of your authority where it relates to or is likely to affect:

- a) any body of which you are in general control or management and to which you are nominated or appointed by your authority
- b) any body
 - (i) exercising functions of a public nature
 - (ii) any body directed to charitable purposes or
 - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)



CABINET WORKING PARTY - PROJECTS

Minutes of the meeting of the Cabinet Working Party - Projects held on Wednesday, 21 September 2022 in the remotely via Zoom at 10.00 am

Committee	Cllr T Adams (Chairman)	Cllr V Gay
Members Present:	Cllr R Kershaw	Cllr E Seward
Members also attending:	Cllr A Brown Cllr N Lloyd Cllr W Fredericks	
Officers in Attendance:	Chief Executive, Democratic Services Manager, Director for Place & Climate Change, Project Manager North Walsham Heritage Action Zone and the Climate & Environmental Policy Manager	

8 APOLOGIES

Apologies were received from Cllr A Fitch-Tillett.
The Assistant Director for Sustainable Growth also submitted his apologies.

9 MINUTES

The minutes of the meeting held 18th May were approved as a correct record

10 DECLARATIONS OF INTEREST

None received.

11 ITEMS OF URGENT BUSINESS

12 PROJECT UPDATE REPORTS

1. North Walsham Heritage Action Zone Project

Cllr R Kershaw, Portfolio Holder for Sustainable Growth, introduced this item. He began by saying that the project had now entered Phase 2, with work starting on the Market Place. The plans for the market place had been redrawn to reuse materials which would save money and time and reduce any inconvenience caused. Church Approach was now looking very smart with the benches installed and only a few snagging issues to resolve. Business in the new market had held up well and he said that the time had come to be more positive about the project. It was important to start promoting the wider beneficial impact of the work that was being undertaken and the improvement to the town. He said that he was pleased with the project but he felt that it was now time to focus on positive promotion and move forwards with a proactive communications campaign. He added that once the work on Church Approach was complete, he would like to see a report setting out the timeliness of it and where improvements could have been made.

The Chairman asked about the impact of cost inflation on the price of materials purchased for the project and whether the Portfolio Holder and officers were happy

with the communications push in advance of the planned work – particularly regarding access to the shops and parking. Cllr Kershaw replied that he felt an opportunity had been missed, particularly regarding parking and that more signage could have been out in place. Regarding the cost of materials, he said that thanks to the work done by the Project Manager in early January to purchase materials in advance, there was some protection from inflation. It was on the risk register and would be closely monitored.

The Project Manager agreed, adding that she had tried to mitigate against rising materials costs when it became clear several months ago that prices were rising rapidly. The issue now was getting supplies delivered on time, even if they had been ordered 3-4 months ago. She said that there was a huge amount of work going on now in terms of communication and an article on the project was in the September issue of 'Just North Walsham'. There was a challenge in terms of cross-messaging but a clear route for messaging had been established and it was hoped that communication would remain positive and consistent going forwards.

The Chairman asked whether signage for the car parks had been resolved. Cllr Kershaw replied that this was still being resolved.

The Chief Executive said that he agreed with the comments so far. It was a huge project and it had been very farsighted to pre-order materials to mitigate against inflation. He said that he agreed with Cllr Kershaw that it was time to be openly proud of the scheme and the investment made by the Council. He added that there should be a focus on setting out the wider context of the future growth of the town and that the council was facilitating the evolution of the town centre. He went on to say that anything involving the HAZ needed to be signed off in advance by Historic England and this was a challenge. This made responding on the ground difficult. It was known that there was a small number of voluble people with vested interests who were not supportive of the project but there were positive comments – particularly the location of the new market and these should be built on. He added that it was important that the Council was able to lead on such messaging. On two occasions recently, specifically the unveiling of Church Approach and the announcement of the new travel hub, the Council had not been able to lead on the communication as it was pushed out on social media by other groups first. This was very frustrating as the Council had been crucial in delivering these projects.

Cllr E Seward said that he agreed with the comments so far. The bus interchange and the toilet refurbishment had now been completed and the development adjacent to the Shambles was impressive but had been behind schedule. He said that there was a lot happening but it was not always clear what was being progressed. He highlighted the work at the market place, the Cedars and the resurfacing of the Mundesley Road car park. In addition the Building Improvement Grants were currently underway, with two approved so far and the completion of the wall behind the Shambles. This totalled five projects that were currently 'live', with two more to go – the Vicarage Street toilets and the Lokes. There was £700k for economic regeneration that could fund this work. In terms of moving forward, a tighter management control and reporting system was required that covered every aspect of the project, not just the HAZ element. It needed one senior manager with oversight. Tight control of projects was also required – as demonstrated by the recent work on the Shambles. Regular reports were required, ideally on a weekly basis so that any slippage could be quickly addressed.

Cllr Seward agreed that there was an internal communications issue and that sometimes things were happening that members and some officers were not aware of. There did not seem to be collaboration between departments. It was imperative

that Local Members were kept up to date as they were often stopped in the town and asked questions that they could not respond to which was not helpful. He concluded by saying that he was excited by the project but also aware that some of the funding needed to be spent during the current financial year or it would be lost and he did not want the momentum to slip.

Cllr V Gay agreed that the Heritage Action Zone (HAZ) project should not be treated as a 'silo' on its own. There was a great story to be told, beginning with the District Council seizing the chance to apply for the funding, and then, once it was received, moved ahead with implementing the work, whilst having the foresight to purchase materials in advance to ensure that the project was not delayed. She said this was the story of a pro-active Council and it had not been told yet. Cllr Gay then added that as the opening date for the new toilets at Vicarage Street approached, it was vital that the Council demonstrated that they had listened to the extensive consultation and acted on it. The same applied to the Lokes in the town, they had been part of the original plan and the Council had bought a piece of land to support the vision for them. She concluded by saying that the Shambles was also a good story and there could have been more done to explain why there were delays as the reasons were interesting. She said that she understood some of the restrictions regarding media and members had ensured that their piece for the local free paper was quite general and didn't go into too much detail. This meant that the argument for bringing everything together was absolutely vital and she was fully supportive.

The Communications & PR Manager said that he agreed with the comments so far and supported the cohesive approach. He reminded members that for the first two years of the project, there were no concrete works to talk about just the vision of the project and the ongoing consultations. In the last six months, however, the scheme had entered a new phase and there were visible changes now which made it much more interesting to cover from a communications point of view. He acknowledged that there were some practical difficulties which made the situation challenging, including poor communication between departments at the Council and external challenge from some business owners. All of this meant that the communications landscape was very difficult. To be truly effective, communications for a project of this size, needed speed – or the ability to push out information quickly and positively. Everyone needed to be giving the same positive message. One way of achieving this would be to refer people to a central point of contact. This would facilitate a consistent, considered response.

The Chairman requested that a single point of contact should be agreed and notified to members and officers.

The Chief Executive agreed and said that he would action this. He added that it didn't just sit with officers to address this issue. He referred to several posts on social media recently regarding car parking issues when members had responded directly to comments without engaging with the Council's Communications Team. He said that it had been agreed some time ago that Cllr R Kershaw, as Portfolio Holder and Cllr V Gay as the Local Member, would be the principle respondents on behalf of elected members and initial responses should be channelled via the Communications & PR Manager.

Cllr Kershaw said that Local Members were trying to be helpful by responding to social media posts but sometimes this could backfire and pausing to take a more considered approach would be more beneficial.

Cllr E Seward said that the issue with the car park in Mundesley Road was that

signs had been erected to say that work would commence on 19th September but no one in the Communications Team was aware of this and neither were the Local Members aware. Once NNDC's Property Services Team decided to undertake the works on the 19th September, they should have informed the Communications Team to initiate the necessary messaging.

The Project Manager concurred with the comments regarding messaging. She said that everyone should stick to a clear corporate message. She reminded everyone that the travel hub was a separate project and not part of the HAZ scheme but they were closely linked and it had been important that the messaging on the travel hub was clear and that it emphasised that it was a partnership effort. She added that the HAZ project was not just about improvement works.

Cllr N Lloyd said that he understood why members felt compelled to respond to comments on social media, it was an attempt to ensure people understood the reasons behind certain actions and decisions and was done for the right reasons. However, he did support the need for a clear corporate message and a more proactive approach.

The Chairman commented that it might be helpful to give some feedback to Historic England on the pace and timeliness of communications.

The Chief Executive said that he would pick this up after the meeting, following further discussion with the Project Manager. He suggested that a mid-term review with HE could be beneficial – regarding the timeliness of communications and some other issues relating to the Cedars and terms for letting the building.

Cllr W Fredericks commented that in previous meetings, the Chief Executive had suggested that there was a lot more promotional work that could be done in the town. She wondered why this hadn't happened and said that if she wasn't a member of Cabinet, she wouldn't have known about the HAZ project and what was being achieved.

The Chairman asked about the current situation regarding the Building Improvement Grants (BIGs). The Project Manager replied that six applications had now been approved. Three of them had started work and one was completed. She explained that it was a very complicated scheme as most of the eligible buildings were listed and they may require planning permission to make any changes, which was a lengthy process. She added that it was also challenging to get contractors to undertake the work at the moment and this was causing delays. A large amount of funding was now committed to this part of the scheme and work was underway to prioritise those with the biggest visual impact.

The Chairman asked how many of the Building Improvement Grants would be awarded. The Project Manager replied that it was hard to say. There was one project that the team had been working with for over a year and they had just reached the point where they were going out to tender for the building work. Cllr R Kershaw added that there had been 28 applications for BIG funding and there was no possibility of funding them all, however, their interest would be logged for the future. He said it was a real concern that it took so long to get through the very complex process and there was a real risk that the lengthy process would result in the funding being withdrawn. The Project Manager said that it was a particular challenge in North Walsham because of the age and type of the buildings that were being worked on. Officers were being as pro-active as possible, by providing designs for shop fronts to try and speed up the process.

Cllr Gay said that it was helpful for people to understand how complex the process was because it was about protecting and restoring historic buildings for the future. She suggested that it could be covered in Outlook, the Council's magazine.

2. Fakenham Roundabout

The Chairman said that there had been some concerns about the rising cost of this project and it had been suggested that there was further dialogue with the County Council on this.

The Director for Place & Climate Change said that the Chief Executive had submitted a bid for additional funding and the Council was awaiting feedback on this. There had been a planned meeting with the landowner, Trinity College, but this had unfortunately been delayed. Otherwise, there was nothing else to update on at the current time.

Cllr E Seward said that a huge amount of extra money was needed for this project and the Council could not accommodate this on its own. He then sought clarification on the impact of nutrient neutrality on the scheme, as he understood Fakenham to be covered by the guidance on this. The Director for Place & Climate Change replied that it was covered for the residential element of the development but not for the roundabout.

3. Local Plan

The Chairman asked about the impact of nutrient neutrality on the timescale for Local plan production. Cllr A Brown, Portfolio Holder for Planning, replied that there was already significant slippage in the Local Plan timetable. Several local authorities were holding back on submitting their Local Plan due to the impact of nutrient neutrality. He said that it was hugely challenging. It had been hoped to submit the Local Plan to the Inspector under Regulation 22 around now but this was now more likely to be early 2023. He said that he felt the Council was in a good position and although there was additional work to do on some elements of the Plan, he was confident it could be submitted soon.

Cllr E Seward asked whether a change of Prime Minister was likely to instigate a relaxation of the regime around nutrient neutrality. Cllr Brown replied that it had been suggested that it was caused by Brussels red tape – which was not true. It was a ruling from the European Court of Human Rights (ECHR) and any challenge to this would probably not succeed.

Cllr N Lloyd asked whether there was an intention to update the public who had responded to the section 19 consultation on the current situation. Cllr Brown replied that there would be a report collating all of the responses to the next meeting of the Working Party in October.

Cllr W Fredericks said that developers were getting increasingly concerned about the delay to the Local Plan and the impact on housing delivery.

4. Net Zero Strategy and Action Plan

The Climate & Environmental Policy Manager summarised the report. She began by explaining that the focus had been undertaken on putting all the governance procedures in place.

She then spoke about recent successes, including the launch of an animation which had reached 22k people and the huge amount of work which had been done in relation to Greenbuild 202. The satellite and online events that had been held in the run-up to the live event had been very well attended. Unfortunately, the main event had been cancelled following the death of her Majesty the Queen and the team was now reviewing the format of Greenbuild for the future.

She then outlined key projects that had been prioritised for the team. These included identifying Council owned assets for decarbonisation. A new surveyor with experience in this sector had recently been recruited. There had also been discussions with tenants in these buildings on energy saving options. The Council's temporary housing stock had been identified as an area where action could be taken quickly – particularly for lighting and energy efficiency. She added that the installation of LED lighting throughout the main council offices was progressing well.

The Chairman commented that it was very disappointing that Greenbuild had been cancelled. He then asked about the Council's carbon footprint. He was concerned that an increase in travel to the office and the purchase of more temporary accommodation, could have a negative impact on attempts to reduce the carbon footprint. He added that Bristol City Council worked in partnership with a company to deliver carbon reduction projects and wondered whether this was worth exploring in the future. The Climate & Environmental Policy Manager replied that there were several companies that would undertake this sort of work on the Council's behalf.

Cllr N Lloyd said that it was possible that the Council's carbon footprint would go up over the current four year administration. A carbon busting project was needed now to address this issue. He added that the focus of the team had been on organising Greenbuild and now the emphasis switched to tree planting. It was a small team and this impacted heavily on resource. Corporate backing was now needed to address climate change. A consistent approach to addressing basic issues such as screens left on in the office, heaters under desks and the encouragement of car sharing. He said he was very concerned indeed that not enough was being done. The Chairman said that he shared his concerns and more resources must be directed to addressing the issue.

Cllr R Kershaw asked whether the Government business grant scheme for energy support applied to the Council. He added that until there was funding available to help insulate housing stock, he could not see that it was feasible for the Council to undertake this work. Cllr Lloyd replied that South Cambridgeshire DC had a large housing stock and they had an insulation programme in place which was very effective and which would have a significant impact on their carbon footprint. He agreed that more support was needed from the Government but he was genuinely concerned that if the Council did not act soon, it would not make any progress. He highlighted that the Council still had several diesel vehicles in its fleet. It wasn't good enough.

Cllr E Seward commented that the Council had a strategy but was open to the challenge that not enough was being done. He said that it was important that each project was clearly set out and any costs highlighted and budgeted for. A clear programme for the next 3 -4 years was imperative. He referred to the installation of LED lighting and suggested that members were updated on the project and the savings made.

Cllr W Fredericks said that there were several local building firms that were seeking to become qualified as installers for energy efficiency schemes. She suggested that

the Council could assist with promoting training for this and encouraging more builders to undertake the relevant qualifications.

5. The Reef Leisure Centre, Sheringham

In the absence of the Assistant Director for Sustainable Growth, the Chief Executive provided an update. He said that there was a new Project Manager due to be appointed shortly and it was anticipated that the Project Completion Review would be their first substantive piece of work.

Cllr Gay, Portfolio Holder for Leisure, said that she had contacted the Chief Executive on 29th July outlining her concerns that there was no sign-off for the project and the finances had not yet been concluded. She said that she understood that the Assistant Director for Sustainable Growth was going to write a letter to the contractors, Metnor, for the Chief Executive to sign requesting that the accounts were closed down. She had not received an update at all since the end of July. She agreed it was important to have a final project report.

The Chief Executive said that a new project manager had been appointed since he last met with Cllr Gay. Regarding the letter, he said that the Assistant Director for Sustainable Growth had told him that there would not be a final account until 12 months after the project was completed and therefore no letter had been sent.

Cllr Gay sought reassurance that the Council would not be put at risk by not having settled the final account. The Chief Executive replied that the Assistant Director for Sustainable Growth had informed him that it was standard practice to wait for 12 months to allow for any defects to occur and be dealt with under warranty.

Cllr Gay then said that the Overview & Scrutiny Committee had twice requested attendance from herself and the Assistant Director for Sustainable Growth to provide an update. She had advised them that there was nothing to update the committee on yet. She asked whether she should inform them that they should wait until the project review report was completed. The Chief Executive agreed, saying that it would come to Cllr Gay first and would then go to Overview & Scrutiny Committee for discussion. He advised Cllr Gay that the project review report should be ready by the end of the year and should be able to go to the Committee on 11th January 2023. The Climate & Environmental Policy Manager said that there had been some correspondence regarding the settling of the final account for the Reef. It would be a year old at the start of November. There were some outstanding issues regarding the performance of the pool which needed to be resolved. The final Sport England funding also needed to be drawn down. Cllr Gay thanked her for the update, particularly as she had moved into a different role now.

13 EXCLUSION OF THE PRESS AND PUBLIC

The meeting ended at 11.38 am.

Chairman

This page is intentionally left blank

Business Continuity Policy and Business Continuity Management Framework

Summary: The current Business Continuity Policy has been separated into two documents, the Business Continuity Policy and the Business Continuity Management Framework, as part of a review of business continuity documentation and to comply with an audit recommendation.

Options considered: Retaining the current Business Continuity Policy.

Conclusions: Not applicable.

Recommendations: **To adopt the revised Business Continuity Policy and the new Business Continuity Management Framework**

Reasons for Recommendations: To enhance understanding of the Business Continuity Management Framework. To comply with an audit recommendation.

LIST OF BACKGROUND PAPERS AS REQUIRED BY LAW

(Papers relied on to write the report, which do not contain exempt information and which are not published elsewhere)

None

Cabinet Member(s) Cllr Nigel Lloyd	Ward(s) affected All
Contact Officer, telephone number and email: Alison Sayer, 01263 516269, alison.sayer@north-norfolk.gov.uk	

1. Introduction

1.1 As part of an audit of Procurement and Contract Management (NN/21/07), audit recommendation 3 is: 'That management review and update the Business Continuity Plan and other relevant policies in light of the COVID response, including reference to review of contracts.' The suite of Business Continuity documentation has been reviewed.

2. Changes introduced

2.1 The current Business Continuity Policy includes only a short section on the strategic framework and at very high level. To enhance understanding of the Business Continuity Management (BCM) process, and to comply with the audit recommendation, a separate Business Continuity Management Framework has been created which contains more detail on the process

generally, and specifically in relation to suppliers and procurement. The BCM Framework links to the Council's Risk Management Policy and Framework. The Business Continuity Policy has been revised and made more concise.

3. Corporate Plan Objectives

- 3.1 The Business Continuity Management process supports all Corporate Plan objectives; the aim of the Business Continuity Policy is to ensure the Council can continue to fulfil its critical functions in the event of disruption; the aim of the Business Continuity Management Framework is to develop a resilient Council.

4. Medium Term Financial Strategy

N/A

5. Financial and Resource Implications

None

6. Legal Implications

None

7. Risks

None

8. Sustainability

Not applicable

9. Climate / Carbon impact

Not applicable

10. Equality and Diversity

Not affected

11. Section 17 Crime and Disorder considerations

Not applicable

12. Conclusion and Recommendations

The recommendation is to agree to adopt the revised Business Continuity Policy and the new Business Continuity Management Framework.

Business Continuity Policy

December 2022

Version 3.0

Record of Amendments

Date	Details	Amended by
11/11/2022	Policy fully revised. Terminology updated following reorganisation.	A Sayer

Contents

Foreword3
Context..... 4
Aim and Objectives..... 4
Policy statement 4
Policy requirements5
Policy monitoring5
Policy review5
Roles and responsibilities 6
Related policies and plans..... 6
Relevant legislation..... 6

Foreword

The residents and businesses of North Norfolk expect the services provided by the Council to be delivered effectively and consistently. It is important to ensure there are procedures in place to enable the Council to continue to provide services in the face of a range of potential disruptions.

North Norfolk District Council's Business Continuity Plans identify the procedures and resources required to prepare for and respond to disruptions that may affect its ability to provide essential services.

The Business Continuity Policy establishes the basis on which the Corporate Business Continuity Plan and individual Business Continuity Plans are developed, implemented and reviewed.

Signed:

Steve Blatch
Chief Executive
North Norfolk District Council

Signed:

Tim Adams
Leader of the Council
North Norfolk District Council

Context

The Civil Contingencies Act 2004 places a duty on local authorities to ensure they have in place Business Continuity Management arrangements.

Business Continuity Management (BCM) is the process that helps North Norfolk District Council (NNDC) to prevent or minimise the impact of disruptions and ensure that whenever disruptive incidents occur:

- Critical operations continue and products and services are delivered at predefined levels
- The return to 'business as usual,' or 'the new normal,' is achieved as quickly as possible.

This policy establishes the basis for the BCM Framework, within which the Corporate Business Continuity Plan and service Business Continuity Plans are developed, implemented and reviewed.

Aim and Objectives

The aim of the policy is to ensure the Council can continue to fulfil its critical functions in the event of disruption.

The objectives of the policy are to ensure that the Council:

- Can respond to a business disruption through embedding BCM processes and developing the overarching Corporate Business Continuity Plan (BC Plan) and underlying service BC Plans in accordance with best practice
- Understands its critical activities and maintains the capability to resume operations within agreed timeframes
- Increases resilience within the organisation by supporting the protection of critical assets and data (electronic or otherwise) through a coordinated approach to management & recovery
- Minimises impacts to both the Council and its stakeholders using a well-managed response structure
- Builds on work already in place for risk management, ensuring existing processes are integrated into the BCM Framework
- Includes all departments in the preparation of the Corporate BC Plan, so that there is an effective and consistent response to service continuity
- Develops a process to monitor, review, update and validate the Corporate BC Plan and Service BC Plans.

Policy statement

The policy of North Norfolk District Council is to ensure that the duties set out in the Civil Contingencies Act 2004 are met, through the application of the Business Continuity Institute's 'Business Continuity Good Practice Guidelines (GPG)' so that the Council can respond appropriately to business disruptions. Specifically, it is the policy of the Council, as far as reasonably practicable, to maintain the continuity of its activities, systems, facilities and services and, where these are disrupted by any event, to enable it to return to 'business as usual' operations as soon as possible.

This policy is intended to ensure:

Business Continuity Policy Version 3.0

- The concept of business continuity management and the Council's approach is understood by all stakeholders
- Business continuity plans are developed to enable the council to respond to disruptive incidents
- These plans are systematically maintained and validated
- Staff are adequately trained and supported to respond to business continuity incidents.

Policy requirements

- The development of a Business Continuity Framework setting out the BCM principles and how they will be applied at NNDC, in accordance with the Business Continuity GPG. The BC framework to be reviewed every two years
- The maintenance of a Corporate Business Continuity Plan to guide the Council in response to an incident affecting the council's ability to deliver its services. This to be reviewed annually, updated every two years and be tested at least once every three years
- Each service to be responsible for maintaining their own BC plans and procedures in accordance with the Business Impact Analysis and corporate policies and procedures. The BC Plans to be reviewed annually and the BIAs to be reviewed every two years
- The maintenance of other suitable documentation, processes and procedures to assist the Council in meeting the requirements of the Civil Contingencies Act 2004
- An appropriate roster of trained council staff to carry out the roles and responsibilities listed in the Corporate Business Continuity Plan.

Policy monitoring

The Resilience Manager will:

- Follow the work plan which includes checking that the activities undertaken are in line with this policy
- Produce an annual report for review by the Governance Risk and Audit Committee which will outline the achievements and challenges of the programme for each year. The report will be made available and circulated to the Corporate Leadership Team.

The Governance, Risk and Audit Committee will:

- Monitor risks associated with and the effectiveness of Business Continuity Management (BCM) arrangements
- Review the BC Policy and associated documentation.

Policy review

- The Policy will be reviewed every two years, when there are significant structural re-organisations, or when new duties or responsibilities are taken on. It is the responsibility of the Corporate Leadership Team, Assistant Directors and Service Managers to notify the Resilience Manager of any significant changes that occur between these updates.
- Periodically and in line with the Council's auditing policy, the Corporate BC Plan and service BC Plans may be audited by either the internal audit team or external auditors appointed by the Council.

Roles and responsibilities

Corporate Leadership Team

- Act to enable the embedding of Business Continuity Management across the Council
- Ensure that this Policy and associated plans are implemented and resourced appropriately.

Director for Communities

- Ensure adoption of and adherence to Policy

Assistant Director Environment & Leisure Service

- Implementation of Policy

Resilience Manager

- Implementation of Policy
- Overall responsibility for coordinating the BCM programme.

Governance, Risk and Audit Committee

- Review the BC Policy and associated documentation

Cabinet

- Set the strategic direction of Business Continuity Management across the Council
- Approve the Business Continuity Policy, which does not form part of the Council's Policy Framework.

Related policies and plans

- Business Continuity Framework
- Corporate Business Continuity Plan
- Business continuity plans for individual service areas
- Business continuity risks identified in the Corporate Risk Register
- Risk Management Policy and Framework
- Emergency Response Plan.

Relevant legislation

- The Civil Contingencies Act 2004.

Business Continuity Management Framework

December 2022

Version 1.0

Record of Amendments

Date	Details	Amended by
11/11/2022	Framework created.	A Sayer



NORTH
NORFOLK
DISTRICT
COUNCIL

Contents

Foreword.....	3
Context.....	4
1. Aim and Objectives.....	4
2. An effective BCM programme.....	5
2.1. Policy and Programme Management.....	5
2.2. Analysis.....	7
2.3. Design.....	8
2.4. Implementation.....	10
2.5 Validation.....	11
2.6 Embedding Business Continuity.....	12
3. Monitoring and review of the BCM Framework.....	12
4. Related policies and plans.....	13

Foreword

The residents and businesses of North Norfolk expect the services provided by the Council to be delivered effectively and consistently. It is important to ensure there are procedures in place to enable the Council to continue to provide services in the face of a range of potential disruptions.

All departments must ensure they have effective Business Continuity arrangements in place not just because it is good management practice but also because it is a requirement of the Civil Contingencies Act 2004.

North Norfolk District Council's Business Continuity Plans identify the procedures and resources required to prepare for and respond to disruptions that may affect its ability to provide essential services.

This Business Continuity Framework establishes the basis on which the Corporate Business Continuity Plan and individual Business Continuity Plans are developed, implemented and reviewed.

Signed:

Steve Blatch
Chief Executive
North Norfolk District Council

Signed:

Tim Adams
Leader of the Council
North Norfolk District Council

Context

Business Continuity is both good management practice and a statutory requirement for local authorities under the Civil Contingencies Act (CCA) 2004.

Business Continuity Management (BCM) is a process which identifies and prepares for potential disruptions and seeks to ensure that steps are taken to increase the resilience of “prioritised activities” in advance of a disruption, enabling the Council to maintain delivery of essential functions. BCM is not a one-off project; it is an ongoing activity that should be embedded into the core of the organisation.

This framework explains what Business Continuity Management is, how it is adopted at North Norfolk District Council, and establishes the basis within which the Corporate Business Continuity Plan and service Business Continuity Plans are developed, implemented and reviewed, so that the Council meets its duties in legislation and complies with best practice.

The short-term objective of BCM is to ensure that during a business disruption critical services continue uninterrupted. The longer-term objective of BCM is to ensure that the Council can resume normal services as quickly as possible in the aftermath of any disruption / emergency event.

The framework should be read in conjunction with the Business Continuity Policy and the Corporate Business Continuity Plan.

1. Aim and Objectives

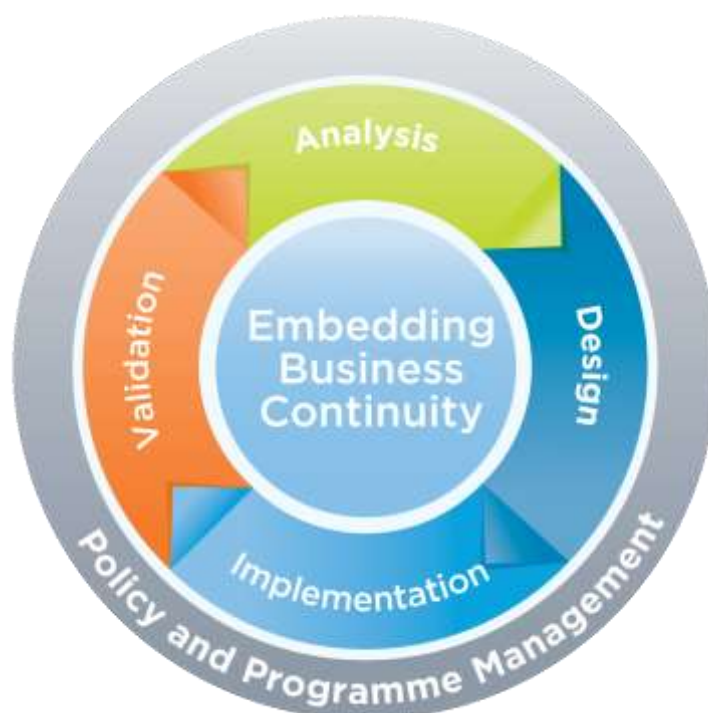
The aim of the Business Continuity Management Framework is to develop a resilient Council. The objectives are to:

- Ensure, where practicable, the Council can continue to deliver its Key Activities in the event of a disruption
- Identify areas of vulnerability in Council services so that effective mitigation measures can be put in place
- Prioritise corporate functions and responsibilities which are essential for the Council to deliver so that overall priorities for recovery are clear
- Describe contingency arrangements to respond to serious disruption, allocating resources and priorities for action to recover critical functions and prepare for return to normal working as quickly as possible
- Describe the communication strategy to ensure information is disseminated effectively during a service disruption
- Ensure all Council service areas are involved in the preparation of service level Business Continuity Plans, to inform the Corporate Business Continuity Plan and so that there is an effective and consistent response to service continuity
- Provide a basis for cost benefit analysis based on risk appetite to determine which specific risk prevention and mitigation actions will be adopted corporately and within service areas
- Build on work already in place for risk management, ensuring existing processes are integrated into the BCM Framework and BC Plans that this is incorporated appropriately into BC plans

- Develop a process to monitor, review, update and validate the Corporate BC Plan and Service BC Plans
- Deliver training and awareness programmes for staff, Elected Members, suppliers, partners and contractors
- Carry out regular tests of plans to validate and further develop BC arrangements
- Embed BCM throughout the organisation.

2. An effective BCM programme

The elements comprising Business Continuity Management are set out in the Business Continuity Institute's Good Practice Guidelines, 2018. The Business Continuity Lifecycle is shown below:



2.1. Policy and Programme Management

Legislation and Guidance

As a defined Category 1 responder under the Civil Contingencies Act 2004, NNDC must demonstrate that it meets the requirements for Business Continuity as detailed within this legislation. In addition, NNDC must ensure that it complies with the Business Continuity Good Practice Guidelines (GPG) 2018.

Governance Risk and Audit Committee (GRAC)

This group agrees, supports and guides the BCM work across the authority. This group is responsible for ensuring the CLT is kept informed of progress toward embedding BCM practices.

Business Continuity Policy

The policy outlines the approach to BCM within NNDC. The policy describes the governance arrangements which have been agreed by the Corporate Leadership Team and Members.

Related roles and responsibilities are as follows:

Chief Executive

- To be a positive champion for BCM across the Council
- Ultimately responsible for the Council's overall BCM arrangements

Corporate Leadership Team (CLT)

- Has overall responsibility for NNDC's services and their continuity
- Maintains an overview of the work associated with Business Continuity, with one member of the Team having overarching responsibility
- Enables the embedding of BCM across the Council
- Ensures that this framework and associated plans are implemented and resourced appropriately
- Supports business continuity planning activity

Resilience Manager (Civil Contingencies Team)

- Responsible for coordinating the BCM programme, supporting the implementation of the BCM process and ensuring information is collated for GRAC
- Makes available best practice tools (such as templates) to support Service Managers
- Supports and advises service areas
- Identifies training needs and supports delivery
- Undertakes basic Quality Control - reviews BIAs and service BC Plans
- Supports the facilitation of testing and exercising of the Council's BCPs when requested by the Chief Executive, Directors or Service Managers
- Following an incident, facilitates debriefing session(s) if required
- Leads on the council's statutory duty to promote BCM in the community

Service Managers

- Lead on Business Continuity arrangements within their service area
- Ensure the BC Plan for their service area remains current
- Review the Business Impact Analysis for their service area every two years
- Attend training commensurate with their role
- Identify staff from their teams that have a role to play in any recovery for suitable training
- Implement the agreed arrangements in the event of a disruption
- Advise the Resilience Manager of any changes that may impact on the contents or procedures outlined in this policy

All Staff

- Familiarise themselves with BC arrangements within their area
- Attend training commensurate with their role
- Engage with testing and exercising

2.2. Analysis

It is vital to understand the critical activities of NNDC. These are the Key Activities which must be maintained as a priority during an incident. A Business Impact Analysis (BIA) must be completed for all services delivered by the authority.

The purpose of the BIA is to:

- List the organisation's services and the Key Activities supporting these
- Document the impacts over time that would result from loss or disruption of a service/activity, aligned with the Council's Risk Management Policy and Framework
- Identify when a disruption would cause significant adverse impacts on services
- Determine priorities for continuity and recovery
- Identify the dependencies and resources that are required to achieve service expectations
- Prevent incidents from occurring by taking preventative steps in advance of, or whilst developing, a BC plan.

Key Activities which have an impact score of 4 ('Major') or 5 ('Extreme') within a week are considered 'Critical activities' for NNDC. Mitigations are considered in more detail for these activities.

Critical activities and non-critical activities have been reviewed and agreed by the Corporate Leadership Team. Critical activities are documented in the Corporate Business Continuity Plan. Departments have considered risks to their critical activities. Many of these risks have already been captured and are being managed on the Corporate Risk Register.

To implement this we will:

- Complete the Business Impact Analysis for each service area every 2 years, this must be consistently completed across the organisation
- Complete the BIA at a high level, capturing activities broadly; avoiding operational detail will minimise the resource required and ensure activities can be prioritised consistently across the organisation.
- Agree NNDC-Critical activities and non-critical activities through CLT
- Demonstrate that departments have taken steps to increase the resilience of their service/critical activities
- Ensure steps are taken to connect the Risk Management process and Business Continuity process actively, to remove duplication
- Ensure all services will have agreed Recovery Timescales assigned to them.

2.3. Design

Once critical activities have been agreed and have recovery timescales assigned to them, it is important that services consider how these timescales may be met in the event of an incident.

There are different solutions to help ensure continuity of services, those considered by NNDC are categorised as follows:

- People (skills and knowledge)
- Premises (buildings and facilities)
- Resources (IT, information, equipment, materials, etc.)
- Suppliers (products and services supplied by third parties)

The table below details the actions required to ensure activities are more resilient and the level of disruption experienced in an incident will be minimised when these are embedded.

<p>People</p> <ul style="list-style-type: none">• Ensure that succession planning is considered appropriately.• Ensure key processes are documented and process maps written, enabling others who are less familiar with tasks to complete or support activities.• Ensure critical skills for prioritised activities are documented.• Ensure there is a process to support the transfer of knowledge for those joining the authority, leaving the authority and transferring to new departments.• Ensure staff are trained appropriately and are aware of their BC roles and responsibilities. Ensure there is clarity on out-of-hours working arrangements and remuneration during BC disruptions.• Ensure managers share the contents of their Business Continuity plan with their team.• Ensure managers keep a copy of their plan(s) securely (which is not dependent on a network connection; for example print a hard copy and keep it securely offsite).• Consider how critical activities would be maintained and which services would be potentially suspended in the event of having 25% + staff off sick e.g. as a result of Pandemic Influenza• Ensure managers have arrangements to multi-train/skill all appropriate staff, so that activities are not reliant on a small number of individuals.• Ensure staff skills not utilised within their existing roles are captured to allow maximum flexibility or redeployment.• Test staff contact numbers regularly.• Ensure contact details in Business Continuity plans are reviewed every 6 months.• Encourage staff to take advantage of the NNDC Well Being programme which includes developing personal resilience.
<p>Premises</p> <ul style="list-style-type: none">• Ensure that Fakenham Connect is available as a Work Area Recovery site for critical services.• Assess other suitable sites for Work Area Recovery purposes in the event of the Cromer office being inaccessible.

- Ensure an assessment is made on the resilience of existing and future premises.
- Ensure evacuation procedures are in place which minimise disruption and support recovery.
- Develop plans for key premises.

Information and Technology

- IT Services must have suitable BC plans in place that link with service/departmental BC plans
- Service BC plans with Critical Activities must include their IT requirements/software to enable IT Services to prioritise systems recovery
- IT Services to develop and maintain a Disaster Recovery plan including arrangements for Cyber attack and National Power Outage/rolling power outage.
- Maintain sufficient planned capacity for remote working – with critical services having priority.
- Ensure IT Continuity/Disaster Recovery arrangements and plans are developed and exercised.
- Ensure staff follow all relevant IT guidelines i.e. not saving key documents in locations colleagues cannot access.
- Ensure IT work is developed in accordance with requirements of the agreed critical activities.
- Ensure consideration is given to Business Continuity arrangements within ICT projects.
- Copies of vital records and essential documentation should be kept separate from originals, possibly at a work area recovery location.
- Where services can continue without IT, “manual workarounds” should be documented.
- IT Services should include Business Continuity within their ICT contracts and involve the Civil Contingencies Team within the process.
- IT Services should have a clearly documented process for managing ICT disruptions affecting external clients and ensuring effective communications with clients.
- IT Services will provide ongoing briefings to CLT to ensure they are aware of the risks to business continuity of any new technology introduced.
- Ensure that guidelines exist on the use of personal devices in an incident.e.g. using WhatsApp on personal devices.

Suppliers

- As NNDC is a commissioning organisation BC must be an important part of all procurement documents and procedures.
- Critical suppliers (suppliers supporting our critical activities) must have Business Continuity arrangements, including documented plans.
- Business Continuity must be referenced within the contractual process as well as in the contract itself.
- Business Continuity must be actively promoted to the supply chain.
- Business Continuity must be included as part of the QA and review process of provider’s arrangements.
- NNDC must review a sample of providers/suppliers BC arrangements each year.

General

- All departments to assess the risks which could impact their critical activities and ensure that these, together with mitigation measures, have been documented appropriately on risk registers.

To implement this we will:

- Review the above actions for increasing service resilience annually with the service managers
- Liaise with Directors and Assistant Directors to ensure that appropriate action is being taken.

2.4. Implementation

As a result of the Business Impact Analysis (BIA), and the development of the above actions to enable continuity and support recovery, BC plans must be created and developed/updated. The term “business continuity plan” is defined as “documented procedures that guide organisations to respond, recover, resume, and restore to a pre-defined level of operation following disruption.”

Documents include:

- A Corporate Business Continuity Plan to guide the Council in response to an incident affecting the council's ability to deliver its services, each service is to be responsible for creating its own BC plan. The Corporate BC Plan is to be reviewed annually, updated every two years and be tested at least once every three years.
- Each service to be responsible for maintaining their own BC plans and procedures in accordance with the Business Impact Analysis and corporate policies and procedures. The BC Plans to be reviewed annually and the BIAs to be reviewed every two years
- The maintenance of other suitable documentation, processes and procedures to assist the Council in meeting the requirements of the Civil Contingencies Act 2004

Business continuity plans should be held securely online and in hard copy securely offsite, so that managers have access to a copy in the event of losing access to IT. Consideration should be given to having plans available on Resilience Direct as a backup (facilitated through the Civil Contingencies Team).

Service managers should share the contents of the BC plan with the team, with due regard to the General Data Protection Regulation, so the team is aware of the plan and requirements in the response to an incident.

Critical or prioritised activities have a shorter recovery timescale or “Recovery Time Objective” than other activities and so will be given priority during service disruptions or major incidents. It is imperative that there are comprehensive Business Continuity plans in place for all critical activities. Activities which are not critical may have simplified BC plans.

The content of plans is shown below.

Corporate BC Plan

The Corporate Business Continuity Plan identifies recovery objectives, the structure for implementation, mitigation measures and the communication process to keep staff, members, partners and the public informed. It includes:

- Critical activities as agreed by CLT

- Invocation procedures
- IT system priorities
- Work area recovery strategy and arrangements
- Key contacts
- Roles and Responsibilities
- Incident categories
- Incident action checklists

Service/Team plans

Service/Team Plans draw on the recovery objectives from the Business Impact Analysis and set out the team's response during a disruption. They include:

- Team priorities
- Invocation procedures
- Numbers of staff required and when
- Resources required and when - including IT systems and software. This must be agreed through the BIA and recovery timescales.
- Key requirements such as vital data or equipment
- Incident action checklists
- Key contacts

Note: Teams undertaking NNDC Critical activities must have comprehensive Business Continuity plans.

To implement this we will:

- Review the Business Continuity Framework every two years
- Review the Corporate and service BC plans once a year
- Ensure all teams undertaking corporately agreed critical activities have comprehensive BC plans.

2.5 Validation

Validation is achieved through a combination of the following three activities:

- **Exercising** - a process to train for, test, assess, practice and improve the business continuity capability of the organisation
- **Maintenance** - a process to ensure that the organisation's business continuity arrangements and plans are kept relevant, up-to-date, and operationally ready to respond
- **Review** - a process for assessing the suitability, adequacy and effectiveness of the business continuity programme and identifying opportunities for improvement

To meet the requirements of best practice as set out in the Good Practice Guidelines (GPG) service plans must be exercised (tested) at least once a year. In the event of a service having several live incidents, it may be acceptable not to run an exercise that year, provided that the incident is fully debriefed, and any necessary changes are made to the plan.

Following disruption to 'business as usual' a debrief must always take place with lessons identified being captured. The debrief can be completed by the team itself or in collaboration with the Civil Contingencies Team. It is important for BC

arrangements to be updated and for plans and procedures to be kept up-to-date as a result of these actions.

Audits should be completed regularly to check plans are fit for purpose and are being updated and are kept current.

To implement this we will:

- Establish an exercise and training programme
- Ensure the Corporate BC plan is validated annually and that senior managers are involved and briefed
- Complete a debrief after every incident and cascade the results to those involved. For a significant incident a face to face debrief will be organised, for a minor incident an email asking for feedback may be more appropriate
- Ensure departments have an annual programme of exercises
- Ensure each plan is exercised annually.

2.6 Embedding Business Continuity

To be successful, BCM must become part of the culture of NNDC. The culture plays an important role in the effectiveness of embedding the business continuity programme and the overall level of organisational resilience.

Awareness-raising events such as training, workshops, exercises and regular management briefings will help to ensure that staff are aware of why BCM is important to NNDC.

To embed Business Continuity into the organisation we will;

- Consider the willingness of individuals to undertake BC-related tasks, such as maintaining plans, in addition to their normal roles
- Share best practice information within departments
- Implement a programme of training at different levels within the organisation
- Ensure exercises are being completed at appropriate intervals
- Highlight concerns and non-compliance to CLT
- Agree a programme of communications to NNDC staff with the Communications Team to develop awareness and understanding
- Establish levels of awareness of Business Continuity within the organisation and then review this on an annual basis.

3. Monitoring and review of the BCM Framework

- The BCM Framework will be reviewed every two years, when there are significant structural re-organisations, or when new duties or responsibilities are taken on. It is the responsibility of the Corporate Leadership Team, Assistant Directors and Service Managers to notify the Resilience Manager of any significant changes that occur between these updates.
- Periodically and in line with the Council's auditing policy, the Corporate BC Plan and service BC Plans may be audited by either the internal audit team or external auditors appointed by the Council. The Resilience Manager will complete audits on a minimum of 20% of Business Continuity plans each year

The Resilience Manager will:

- Follow the work plan which includes checking that the activities undertaken are in line with the BCM Framework
- Produce an annual report for review by the Governance Risk and Audit Committee which will outline the achievements and challenges of the programme for each year. The report will be made available and circulated to the Corporate Leadership Team
- Ensure service BC plans are reviewed by the plan owners every 12 months, with a 6-monthly check on all contacts
- Produce a BCM progress report for CLT/GRAC once a year or when there is an organisational requirement

The Governance, Risk and Audit Committee will:

- Monitor risks associated with and the effectiveness of Business Continuity Management (BCM) arrangements
- Review the BC Framework and associated documentation

Cabinet will:

- Set the strategic direction of Business Continuity Management across the Council
- Approve the Business Continuity Management Framework

4. Related policies and plans

- Business Continuity Policy
- Corporate Business Continuity Plan
- Business continuity plans for individual service areas
- Business continuity risks identified in the Corporate Risk Register
- Risk Management Policy and Framework
- Emergency Response Plan.

This page is intentionally left blank

Council Policy in Relation to the Regulation of Regulatory Powers Act 2000 (RIPA)

Summary:	The purpose of this report is to provide the Cabinet with an opportunity to review and approve the Council's revised Regulation of Investigatory Powers Act 2000 Policy and Procedures, to be assured that it is up to date and fit for purpose and to report on the use of the powers over the preceding months.
Options considered:	The Policy is required to ensure proper application of the Act, so there is not an alternative option.
Recommendations:	<p>That the changes to the revised Regulation of Investigatory Powers Act 2000 Policy and Procedures, set out at Appendix A, be approved.</p> <p>That Members note the activity undertaken under RIPA and the update in relation to the recent IPCO inspection.</p>
Reasons for Recommendations:	The Policy has been revised following an audit of the Council's activities by the Investigatory Powers Commissioners Office (IPCO) conducted in 2021. Members are required to be aware of the RIPA activity undertaken by the Council.

LIST OF BACKGROUND PAPERS AS REQUIRED BY LAW

(Papers relied on to write the report, which do not contain exempt information and which are not published elsewhere)

--

Cabinet Member(s) Nigel Lloyd	Ward(s) affected All
----------------------------------	-------------------------

Contact Officer, telephone number and email: Steve Hems, Director for Communities 01263 516192 steve.hems@north-norfolk.gov.uk

1. Introduction

- 1.1 The Regulation of Investigatory Powers Act 2000 (RIPA) governs public authorities' use of 'directed covert surveillance' and of 'covert human intelligence sources' (CHIS).
- 1.2 The legislation was introduced to ensure that an individual's human rights are protected whilst also ensuring that law enforcement and security agencies have the powers they need to do their job effectively.
- 1.3 RIPA requires that when a Council undertakes covert directed surveillance or uses a CHIS, these activities must be authorised in advance by an officer who must then seek, as from November 2012, the approval by a Magistrate/Justice of the Peace.
- 1.4 The Home Office's guidance reaffirms the recommendation that, to attain best practice: "...elected members of a local authority should review the authority's use of the 2000 Act and set out the policy at least once a year. They should also consider internal reports on use of the 2000 Act on a regular basis to ensure that it is being used consistently with the local authority's policy and that the policy remains fit for purpose."

2. Background

- 2.1 Councils, in common with all other Local Authorities, have powers granted to them by way of RIPA 2000 to carry out covert surveillance by way of direct surveillance and use of covert human intelligence source (CHIS).
- 2.2 To ensure the Council applies its powers lawfully and in accordance with RIPA and relevant Home Office guidance, the Policy has been revised to ensure it is up to date and reflects best practice across the Alliance.
- 2.3 The only purpose for which local authorities are able to rely on RIPA is where the authorisation is necessary "for the purpose of preventing and detecting crime and disorder". Additionally, authorisation for directed covert surveillance is also subject to a 'crime threshold test' under which the crime is punishable by a maximum term of at least 6 months imprisonment. No Covert surveillance can be undertaken without the formal authority of a Magistrate.
- 2.4 This Authority will only ever be required to deal with matters relating to directed surveillance and covert human intelligence sources (CHIS). This Authority is not authorised to nor will it undertake any other forms of surveillance. Public bodies are required to formally establish arrangements and responsibilities for approving directed surveillance under RIPA and these arrangements are described in the Policy and Procedure.

3. Use of RIPA Powers by the Council

- 3.1 The Council has not authorised any directed covert surveillance or covert human intelligence source (CHIS) activity in the last 2 months. Investigations have been progressed using other means of gathering information and evidence which is consistent with the approach set out in the Policy and Procedures.

4. Investigatory Powers Commissioners Office (IPCO) Inspection and Recommendations

4.1 All public authorities are subject to periodic inspection by the Investigatory Powers Commissioners Office (IPCO) who independently oversee the use of investigatory powers, ensuring they are used in accordance with the law and in the public interest. The Council was subject to a remote inspection by an IPCO Inspector on the 17 February 2021.

4.2 The Inspector was satisfied that the information provided to him discharged the need for a physical inspection and that the majority of recommendations made at the previous inspection had been largely discharged. Those that remained outstanding were either in hand and delayed or had been superseded by further changes.

4.3 The Inspector made a number of recommendations to strengthen further the Council's position in relation to RIPA.

4.4 Ensuring that the Regulation of Investigatory Powers Act 2000 Policy and Procedures was updated to

- reflect recent changes in the Codes of Practice
- strengthen the safeguarding measures regarding material acquired under RIPA; essentially how this is retained, reviewed and destroyed
- expand the procedure in place for ensuring that all online activity in connection with enforcement or investigative functions is recorded and periodically scrutinised for oversight purposes
- update the names and role information to reflect changes following the recent management restructure

These changes have been updated in the revised Policy and Procedures appended to this report.

4.5 The inspector stressed the importance for maintaining regular training for those performing the Authorising Officers roles, but accepted that this had been booked for delivery in 2020 but had been delayed due to Covid19 restrictions. The training was delivered in June 2021 and all relevant officers have received appropriate training.

5. RIPA Policy and Procedures

5.1 The Policy and Procedures document has been updated to cover all of the points raised during the recent IPCO inspection. It has also been reviewed by the training provider, delivering the Authorised Officer training, who suggested some further minor changes to wording to reflect accepted good practice contained in the government guidance and relevant Codes of Practice.

5.2 This is an Operational Policy outside the Policy Framework so a recommendation for Council to approve it is not required.

6. Corporate Plan Objectives

6.1 This item does not directly relate to delivery of the Corporate Plan objectives but is a statutory requirement.

7. Medium Term Financial Strategy

7.1 There is no direct impact on the Medium Term Financial Strategy.

8. Financial and resource implications

8.1 There are no financial or resource implications associated directly with the implementation of the Policy.

8.2 Non-compliance with the legislation associated with covert surveillance leaves the Authority open to challenge and formal claims for compensation from individuals or corporate bodies should it be found that appropriate guidelines and procedures have not been followed. IPCO may also audit our compliance with RIPA and impose penalties where the authority is found to be in non-conformance. Evidence obtained from surveillance conducted under an outdated or non-compliant RIPA Policy and Procedures would be inadmissible or liable to fail challenge in any legal proceedings which could result in the award of costs against the Council.

9. Legal implications

9.1 There are reputational and legal risk implications if the RIPA policy is out of date and/or out of step with legal obligations under the act or relevant Home Office Guidance.

9.2 If surveillance is conducted which does not comply with the Act, Home Office guidance and/or best practice the Council is open to challenge under the Human Rights Act or may face sanctions being imposed by the Investigatory Powers Commissioners Office.

9.3 Any evidence obtained from surveillance conducted outside of the RIPA Policy would be inadmissible or liable to fail challenge in any legal proceedings.

10. Sustainability

10.1 There are no sustainability issues arising from this report.

11. Equality and Diversity

11.1 There are no equality and diversity issues arising directly from this report, as these are considered automatically, when making decisions regarding the use of RIPA powers.

12. Section 17 Crime and Disorder considerations

12.1 The RIPA Policy and Procedure provides a framework against which the Council can investigate cases where other more conventional forms of investigation would not succeed but within tightly controlled and defined parameters.

13. Recommendations

- 13.1 That the changes to the revised Regulation of Investigatory Powers Act 2000 Policy and Procedures, set out at Appendix A, be approved.
- 13.2 That Members note the activity undertaken under RIPA and the update in relation to the recent IPCO inspection.

This page is intentionally left blank

Regulation of Investigatory Powers Act 2000 (RIPA)

Policy and Guidance

Revision	Revision Date
1.	September 2021
2.	October 2022



NORTH
NORFOLK
DISTRICT
COUNCIL

Contents

PART A - Introduction & RIPA General	5
1. Introduction.....	5
2. Scope of Policy	5
3. Background to RIPA and Lawful Criteria.....	6
4. Consequences of Not Following RIPA.....	6
5. Independent Oversight	7
PART B - Surveillance, Types and Criteria	8
6. Introduction.....	8
7. Surveillance Definition.....	8
7.1 Surveillance is:.....	8
8. Overt Surveillance.....	8
9. Covert Surveillance.....	8
11. Directed Surveillance Definition.....	9
12. Private information	9
13. Confidential or Privileged Material.....	10
15. Test Purchases.....	11
16. Urgent cases	11
17. Surveillance for Preventing Disorder.....	11
18. CCTV.....	12
19. Automatic Number Plate Recognition (ANPR)	13
20. Internet and Social Media Investigations	13
21. Surveillance Outside of RIPA	14
22. Disciplinary Investigations.....	14
23. Joint Agency Surveillance.....	15
PART C - Covert Human Intelligence Sources (CHIS)	17
24. Use of Third-Party Surveillance.....	17
25. Surveillance Equipment.....	17
26. Introduction.....	17
27. Definition of CHIS	18
28. Vulnerable and Juvenile CHIS.....	18
29. Lawful Criteria	19
30. Conduct and Use of a Source	19
31. Handler and Controller	20
32. Undercover Officers	21
33. Tasking.....	21

34.	Risk Assessments	21
35.	Use of Equipment by a CHIS	22
36.	CHIS Management.....	22
37.	CHIS Record Keeping	22
37.4	Individual Source Records of Authorisation and Use of CHIS.....	22
37.9.	Further Documentation	24

PART D - RIPA Roles and Responsibilities..... 26

38.	The Senior Responsible Officer (SRO).....	26
39.	RIPA Co-Ordinator.....	26
40.	Managers Responsibility and Management of the Activity	27
41.	Investigating Officers/Applicant.....	27
42.	Authorising Officers	28
43.	Necessity	29
44.	Proportionality.....	29
45.	Collateral Intrusion.....	30

PART E - The Application and Authorisation Process 32

46.	Relevant Forms	32
47.	Duration of Authorisations.....	32
48.	Applications/Authorisation.....	32
49.	Arranging the Court Hearing.....	33
50.	Attending the Hearing	34
51.	Decision of the Magistrate	34
52.	Post Court Procedure	35
53.	Reviews.....	35
54.	Renewal	36
55.	Cancellation.....	36

PART F - Central Record and Safeguarding the Material..... 38

56.	Introduction.....	38
57.	Central Record	38
58.	Safeguarding and the Use of Surveillance Material.....	39
59.	Authorised Purpose.....	39
60.	Handling and Retention of Material	40
61.	Use of Material as Evidence.....	40
62.	Dissemination of Information	41
63.	Storage.....	41

64. Copying.....	42
65. Destruction	42
PART G - Errors and Complaints.....	43
66. Errors	43
PART H - Appendix	45
Flowchart 1: Directed Surveillance	45
Flowchart 2: CHIS.....	46

PART A - Introduction & RIPA General

1. Introduction

The performance of certain investigatory functions of Local Authorities may require the surveillance of individuals or the use of undercover officers and informants. Such actions may intrude on the privacy of individuals and can result in private information being obtained and as such, should not be undertaken without full and proper consideration. The Regulation of Investigatory Powers Act 2000 (RIPA) governs these activities and provides a means of ensuring that they are carried out in accordance with law and subject to safeguards against abuse.

All surveillance activity can pose a risk to the Council from challenges under the Human Rights Act (HRA) or other processes. Therefore, it must be stressed that all staff involved in the process must take their responsibilities seriously which will assist with the integrity of the Council's processes, procedures and oversight responsibilities.

In preparing this policy the Council has followed the RIPA Codes of Practice (August 2018), Office of Surveillance Commissioners (OSC) Procedures and Guidance 2016 (still current).

If having read this document you are unclear about any aspect of the process, seek the advice from

Stephen Hems - Senior Responsible Officer (SRO),

Cara Jordan - RIPA Gatekeeper,

Emily Capps - Authorising Officer,

Kaye Skinner - RIPA Co-ordinator.

2. Scope of Policy

- 2.1 The purpose of this Policy is to ensure there is a consistent approach to the undertaking and authorisation of surveillance activity that is carried out by the Council. This includes the use of undercover officers and informants, known as Covert Human Intelligence Sources (CHIS). This will ensure that the Council complies with the Regulation of Investigatory Powers Act 2000 (RIPA).
- 2.2 This document provides guidance on the authorisation processes and the roles of the respective staff involved.
- 2.3 The policy also provides guidance on surveillance which is necessary to be undertaken by the authority but cannot be authorised under the RIPA legislation. This type of surveillance will have to be compliant with the Human Rights Act. (See Section 21).
- 2.4 The policy also identifies the cross over with other policies and legislation, particularly with the Data Protection Act and the Criminal Procedures Act.
- 2.5 All RIPA covert activity will have to be authorised and conducted in accordance with this policy, the RIPA legislation and Codes of Practice. Therefore, all officers involved in the process will have regard to this document and the statutory RIPA Codes of Practice issued under section 71 RIPA (current version issued in August 2018) for both Directed Surveillance and the use of Covert Human Intelligence Sources (CHIS). The Codes of Practice are available from:
<https://www.gov.uk/government/collections/ripa-codes>

2.6 This policy will be monitored and reviewed where necessary by the SRO for RIPA. The minimum of an annual review will take place.

3. Background to RIPA and Lawful Criteria

3.1 On 2nd October 2000 the Human Rights Act 1998 (HRA) came into force making it potentially unlawful for a Local Authority to breach any article of the European Convention on Human Rights (ECHR).

3.2 Article 8 of the European Convention on Human Rights states that: -

- 1) Everyone has the right of respect for his private and family life, his home and his correspondence.
- 2) There shall be no interference by a Public Authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health and morals or for the protection of the rights and freedoms of others.

3.3 The right under Article 8 is a qualified right and Public Authorities can interfere with this right for the reasons given in 3.2 (2) above if it is necessary and proportionate to do so.

3.4 Those who undertake Directed Surveillance or CHIS activity on behalf of a Local Authority may breach an individual's Human Rights, unless such surveillance is **lawful**, consistent with Article 8 of the ECHR and is both **necessary** (see Part D section 43) and **proportionate** (see Part D section 44) to the matter being investigated.

3.5 RIPA provides the legal framework for lawful interference to ensure that any activity undertaken, together with the information obtained, is HRA compatible.

3.6 However, under RIPA, Local Authorities can now only authorise Directed Surveillance for the purpose of preventing or detecting conduct which constitutes a criminal offence which is punishable (whether on summary conviction or indictment) by a maximum term of at least six months imprisonment; (serious crime criteria) or involves the sale of alcohol or tobacco to children. (See Part B Section 15)

3.7 The **lawful criteria for CHIS** authorisation is **prevention and detection of crime and prevention of disorder** and the offence does not have to have a sentence of 6 months imprisonment.

3.8 Furthermore, the Council's authorisation can only take effect once an Order approving the authorisation has been granted by a Magistrate.

3.9 RIPA ensures that any surveillance which is undertaken following a correct authorisation and approval from a Justice of the Peace is lawful. Therefore, it protects the authority from legal challenge. It also renders evidence obtained lawful for all purposes.

4. Consequences of Not Following RIPA

4.1 Although not obtaining authorisation does not make the authorisation unlawful per se, it does have significant consequences: -

- Evidence that is gathered may be inadmissible in court;
- The subjects of surveillance can bring their own claim on Human Rights grounds i.e. we have infringed their rights under Article 8;
- If a challenge under Article 8 is successful, the Council be subject to reputational damage and could face a claim for financial compensation;
- The Government has also introduced a system of tribunal to deal with complaints. Any person who believes that their rights have been breached can have their complaint dealt with by the Investigatory Powers Tribunal (IPTC) (See Complaints Part G section 67)
- It is likely that the activity could be construed as an error and therefore have to be investigated and a report submitted by the Senior Responsible Officer to the Investigatory Powers Commissioner's Office (IPCO). (See Part G Section 66 Errors)

5. Independent Oversight

5.1 RIPA was overseen by the Office of Surveillance Commissioners (OSC). However, from 1 Sept 2017 oversight is now provided by the Investigatory Powers Commissioner's Office (IPCO). They are the independent inspection office whose remit includes providing comprehensive oversight of the use of the powers to which the RIPA code applies, and adherence to the practices and processes described in it. They also provide guidance to be followed which is separate to the codes.

5.2 They have unfettered access to all locations, documentation and information systems as is necessary to carry out their full functions and duties and they will periodically inspect the records and procedures of the Council to ensure the appropriate authorisations have been given, reviewed, cancelled, and recorded properly.

5.3 It is the duty of any person who uses these powers to comply with any request made by a Commissioner to disclose or provide any information they require for the purpose of enabling them to carry out their functions. Therefore, it is important that the Council can show it complies with this Policy and with the provisions of RIPA.

PART B – Surveillance, Types and Criteria

6. Introduction

6.1 It is important to understand the definition of surveillance; what activities are classed as surveillance and the different types of surveillance covered by RIPA and the HRA. Surveillance can be both overt and covert and depending on their nature, are either allowed to be authorised under RIPA or not. There are also different degrees of authorisation depending on the circumstances.

7. Surveillance Definition

7.1 Surveillance is:

- Monitoring, observing or listening to persons, their movements, their conversations or their other activities or communications.
- Recording anything monitored, observed or listened to in the course of surveillance, with or without the assistance of a device.

8. Overt Surveillance

8.1 Overt surveillance is where the subject of surveillance is aware that it is taking place. Either by way of signage such as in the use of CCTV or because the person subject of the surveillance has been informed of the activity. Overt surveillance is outside the scope of RIPA and therefore does not require authorisation. However, it still must take account of privacy under the Human Rights Act and be necessary and proportionate. Any personal data obtained will also be subject of the Data Protection Act.

9. Covert Surveillance

9.1 Covert Surveillance is defined as “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” and is covered by RIPA. Covert surveillance is categorised as either **intrusive** or **directed**.

9.2 There are three categories of covert surveillance regulated by RIPA: -
1) **Intrusive surveillance** (Local Authorities are not permitted to carry out intrusive surveillance).
2) Directed Surveillance;
3) **Covert Human Intelligence Sources** (CHIS);

10. Intrusive Surveillance

10.1 North Norfolk District Council has no authority in law to carry out Intrusive Surveillance. It is only the Police and other law enforcement agencies that can lawfully carry out intrusive surveillance.

10.2 Intrusive surveillance is defined in section 26(3) of the 2000 Act as 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 an individual on the premises or in the vehicle or is carried out by means of a surveillance device.

10.3 Where surveillance is carried out in relation to anything taking place on any residential premises or in any private vehicle by means of a device, without that device being present on the premises, or in the vehicle, it is not intrusive unless the device consistently provides information of the same quality and detail as might be expected to be obtained from a device actually present on the premises or in the vehicle. Thus, an observation post outside premises, which provides a limited view and no sound of what is happening inside the premises, would not be considered as intrusive surveillance.

10.4 A risk assessment of the capability of equipment being used for surveillance on residential premises and private vehicles, such as high-powered zoom lenses, should be carried out to ensure that its use does not meet the criteria of Intrusive Surveillance.

11. Directed Surveillance Definition

11.1 The Council can lawfully carry out Directed Surveillance. Surveillance is Directed Surveillance if the following are all true:

- It is covert, but not intrusive surveillance;
- It is conducted for the purposes of a specific investigation or operation;
- It is likely to result in the obtaining of private information (see private information below) about a person (whether or not one specifically identified for the purposes of the investigation or operation);
- It is conducted otherwise than by way of an immediate response to events or circumstances the nature of which is such that it would not be reasonably practicable for an authorisation to be sought.

12. Private information

12.1 By its very nature, surveillance may involve invading an individual's right to privacy. The level of privacy which individuals can expect depends upon the nature of the environment they are in at the time. For example, within an individual's own home or private vehicle, an individual can expect the highest level of privacy. The level of expectation of privacy may reduce if the individual transfers out into public areas.

12.2 The Code of Practice provides guidance on what is private information. They state private information includes any information relating to a person's private or family life. As a result, private information is capable of including any aspect of a person's private or personal relationship with others, such as family and professional or business relationships.

- 12.3 Whilst a person may have a reduced expectation of privacy when in a public place, covert surveillance of that person's activities in public may still result in the obtaining of private information. This is likely to be the case where that person has a reasonable expectation of privacy even though acting in public and where a record is being made by a Public Authority of that person's activities for future consideration or analysis. Surveillance of publicly accessible areas of the internet should be treated in a similar way, recognising that there may be an expectation of privacy over information which is on the internet, particularly where accessing information on social media websites.
- 12.4 Private life considerations are particularly likely to arise if several records are to be analysed together in order to establish, for example, a pattern of behaviour, or if one or more pieces of information (whether or not available in the public domain) are covertly (or in some cases overtly) obtained for the purpose of making a permanent record about a person or for subsequent data processing to generate further information. In such circumstances, the totality of information gleaned may constitute private information even if individual records do not. Where such conduct includes covert surveillance, a Directed Surveillance authorisation may be considered appropriate.
- 12.5 Private information may include personal data, such as names, telephone numbers and address details. Where such information is acquired by means of covert surveillance of a person having a reasonable expectation of privacy, a Directed Surveillance authorisation is appropriate.
- 12.6 Information which is non-private may include publicly available information such as, books, newspapers, journals, TV and radio broadcasts, newswires, websites, mapping imagery, academic articles, conference proceedings, business reports, and more. Such information may also include commercially available data where a fee may be charged, and any data which is available on request or made available at a meeting to a member of the public.
- 12.7 There is also an assessment to be made regarding the risk of obtaining collateral intrusion which is private information about persons who are not subjects of the surveillance (see Part D section 45).

13. Confidential or Privileged Material

- 13.1 Particular consideration should be given in cases where the subject of the investigation or operation might reasonably assume a high degree of confidentiality. This includes where the material contains information that is legally privileged, confidential journalistic material or where material identifies a journalist's source, where material contains confidential personal information or communications between a Member of Parliament and another person on constituency business. Directed Surveillance likely or intended to result in the acquisition of knowledge of confidential or privileged material must be authorised by the Chief Executive.
- 13.2 Advice should be sought from Legal Services if there is a likelihood of obtaining this type of material.

14. Lawful Grounds

14.1 As mentioned earlier the Lawful Grounds for Directed Surveillance is a higher threshold for Local Authorities and cannot be granted unless it is to be carried out for the purpose of preventing or detecting a criminal offence(s) and it meets the serious crime test i.e. that the criminal offence(s) which is sought to be prevented or detected is

1) Punishable, whether on summary conviction or on indictment, by a maximum term **of at least 6 months of imprisonment**, or,

2) Would constitute an offence under sections 146, 147 or 147A of the Licensing Act 2003 or section 7 of the Children and Young Persons Act 1933 (see 1.4 above). This is the only ground available to the Council and hence the only justification.

14.2 Preventing or detecting crime goes beyond the prosecution of offenders and includes actions taken to avert, end or disrupt the commission of criminal offences

15. Test Purchases

15.1 Test purchase activity does not in general require authorisation as a CHIS under RIPA as vendor-purchaser activity does not normally constitute a relationship as the contact is likely to be so limited. However, if a number of visits are undertaken at the same establishment to encourage familiarity, a relationship may be established and authorisation as a CHIS should be considered. If the test purchaser is wearing recording equipment and is not authorised as a CHIS, or an adult is observing, consideration should be given to granting a Directed Surveillance authorisation.

15.2 When conducting covert test purchase operations at more than one establishment, it is not necessary to construct an authorisation for each premise to be visited but the intelligence must be sufficient to prevent “fishing trips”. Premises may be combined within a single authorisation provided that each is identified at the outset. Necessity, proportionality, and collateral intrusion must be carefully addressed in relation to each of the premises. It is unlikely that authorisations will be considered proportionate without demonstration that overt methods have been considered or attempted and failed. (Sec 245 OSC Procedures & Guidance 2016)

16. Urgent cases

16.1 As from 1 November 2012 there is no provision to authorise urgent oral authorisations under RIPA for urgent cases as all authorisations have to be approved by a J.P. If surveillance was required to be carried out in an urgent situation or as an immediate response, this would still have to be justified as necessary and proportionate under HRA. This type of surveillance is surveillance outside of RIPA.

17. Surveillance for Preventing Disorder

17.1 Authorisation for the purpose of preventing disorder can only be granted if it
Page **11 of 46**

involves a criminal offence(s) punishable (whether on summary conviction or indictment) by a maximum term of at least 6 months' imprisonment. Surveillance for disorder not meeting these criteria would need to be carried out as surveillance outside of RIPA. (See below)

18. CCTV

18.1 CCTV is now known as a Surveillance Camera Systems Section 29(6) Protection of Freedoms Act 2012. ∴ "Surveillance camera systems" is taken to include:

- (a) closed circuit television (CCTV) or automatic number plate recognition (ANPR) systems;
- (b) any other systems for recording or viewing visual images for surveillance purposes;

This includes

- CCTV;
 - Body Worn Video (BWV)
 - Automatic Number Plate Recognition;
 - Deployable mobile overt mobile camera systems.
 - Any other system for recording or viewing visual images for surveillance purposes;
 - Any systems for storing, receiving, transmitting, processing or checking images or information obtained by those systems; and
 - Any other systems associated with, or otherwise connected with those systems.
- 18.2 North Norfolk District Council no longer operates any Town Centre CCTV systems. Some of the town centre CTV systems were transferred to the ownership of Town Councils who expressed a desire to continue the provision.
- 18.3 The use of the conventional town centre CCTV systems do not normally fall under the RIPA regulations. However, it does fall under the Data Protection Act 2018, the Surveillance Camera Code 2013, Information Commissioner's Office (ICO) 'In the picture: a data protection code of practice for surveillance cameras and personal information' and the Councils CCTV policy.
- 18.4 Should there be a requirement for the town centre CCTV cameras operated by Town Councils to be used for a specific purpose to conduct surveillance meeting the RIPA criteria it will require an authorisation.
- 18.5 Operators of Town Council's CCTV systems need to be aware of the RIPA issues associated with using CCTV and that continued, prolonged systematic surveillance of an individual may require an authorisation.
- 18.6 On the occasions when the CCTV cameras are to be used in a Directed Surveillance situation either by enforcement officers from relevant departments

within the Council, the RIPA Codes of Practice should be followed.

- 18.7 The CCTV staff are to be provided with a copy of the authorisation form in a redacted format, or a copy of the authorisation page. It is important that the staff check the authority and only carry out what is authorised. A copy of the application or notes is also to be forwarded to the central register for filing. This will assist the Council to evaluate the authorisations and assist with oversight.
- 18.8 The Surveillance Camera Code of Practice 2013 defines a 'surveillance camera system' as:
- any other systems for recording or viewing visual images for surveillance purposes;
 - any systems for storing, receiving, transmitting, processing or checking the images or information obtained.
- 18.9 This definition will include body worn video (BWV) and overt cameras deployed to detect waste offences such as fly-tipping. This definition has far reaching implications as the use of any cameras that meet the requirement will have to be used in a manner that complies with the codes of practice mentioned above and the Data Protection Act.

19. Automatic Number Plate Recognition (ANPR)

- 19.1 Automated Number Plate Recognition (ANPR) does not engage RIPA if it is used for the purpose it is registered for, such as traffic flow management or safety and enforcement within car parks. However, it is capable of being a surveillance device if used in a pre-planned way to carry out surveillance by monitoring a particular vehicle by plotting its locations, e.g. in connection with illegally depositing waste (fly-tipping).
- 19.2 Should it be necessary to use any ANPR systems to monitor vehicles, the same RIPA principles apply where a Directed Surveillance Authorisation should be sought.

20. Internet and Social Media Investigations

- 20.1 Online open source research is widely regarded as the collection, evaluation and analysis of material from online sources available to the public, whether by payment or otherwise to use as intelligence and evidence.
- 20.2 The use of online open source internet and social media research techniques has become a productive method of obtaining information to assist the Council with its regulatory and enforcement functions. It can also assist with service delivery issues and debt recovery. However, the use of the internet and social media is constantly evolving and with it the risks associated with these types of enquiries, particularly regarding breaches of privacy under Article 8 Human Rights Act (HRA) and other operational risks.
- 20.3 The internet is another method of carrying out surveillance (See definition section 20) and a computer is a surveillance device. Repeat viewing of individual 'open source' sites for the purpose of intelligence gathering and data collation may constitute Directed Surveillance. Activities of monitoring through, for example, a Facebook profile for a period of time and a record of the information is kept for

later analysis or evidential purposes is likely to require a RIPA authorisation. Where covert contact is made with another person on the internet a CHIS authority may be required.

- 20.4 Where this is the case, the application process and the contents of this policy is to be followed.
- 20.5 Where the activity falls within the criteria of surveillance or CHIS outside of RIPA, again this will require authorising on a non RIPA form which will be authorised internally.
- 20.6 There is a detailed separate corporate policy, Internet & Social Media Research & Investigation Policy, that covers online open source research which should be read and followed in conjunction with this policy.

21. Surveillance Outside of RIPA

- 21.1 As already explained, for Directed Surveillance the criminal offence must carry a **6-month prison sentence** (Directed Surveillance crime threshold) or relate to the sale of alcohol or tobacco to children. This means that there are scenarios within an investigation that do not meet this threshold, however it is necessary to undertake surveillance. This will fall outside of RIPA. Examples include:
- Surveillance for anti-social behaviour disorder which do not attract a maximum custodial sentence of at least six months imprisonment.
 - Planning enforcement prior to the serving of a notice or to establish whether a notice has been breached.
 - Most licensing breaches.
 - Safeguarding vulnerable people.
 - Civil matters.
- 21.2 In the above scenarios they are likely to be a targeted surveillance which are likely to breach someone's article 8 rights to privacy. Therefore, the activity should be conducted in way which is HRA compliant, which will include the criteria of necessary and proportionate surveillance.

22 Disciplinary Investigations

- 22.1 Non RIPA surveillance also includes staff surveillance in serious disciplinary investigations. Guidance dictates that this type of surveillance must be compliant with the Monitoring at Work Guidance issued by the Information Commissioner. This is to ensure that it complies with the HRA.
- 22.2 Should the investigation also involve a criminal offence which meet the RIPA criteria such as fraud, the option to carry out the surveillance under RIPA should be considered. However, it must be a genuine criminal investigation with a view to prosecuting the offender.
- 22.3 Should it be necessary to undertake disciplinary surveillance advice should be sought from the Legal Services Team.
- 22.4 The RIPA codes also provide guidance that authorisation under RIPA is not

required for the following types of activity:

- General observations as per section 3.33 in the codes of practice that do not involve the systematic surveillance of an individual or a group of people and should an incident be witnessed the officer will overtly respond to the situation.
- Use of overt CCTV and Automatic Number Plate Recognition systems.
- Surveillance where no private information is likely to be obtained.
- Surveillance undertaken as an immediate response to a situation.
- Covert surveillance not relating to criminal offence which carries a maximum sentence of 6 months imprisonment or relate to the sale of alcohol or tobacco to children (surveillance outside of RIPA).
- The use of a recording device by a CHIS in respect of whom an appropriate use or conduct authorisation has been granted permitting them to record any information in their presence.
- The covert recording of noise where the recording is of decibels only or constitutes non-verbal noise (such as music, machinery or an alarm), or the recording of verbal content is made at a level which does not exceed that which can be heard from the street outside or adjoining property with the naked ear. In the latter circumstance, the perpetrator would normally be regarded as having forfeited any claim to privacy. In either circumstance this is outside of RIPA.

22.5 As part of the process of formally recording and monitoring non RIPA surveillance, a non RIPA surveillance application form should be completed and authorised by an Authorising Officer. (It has always been recommended that it should still be an AO. This will also improve their authorisation skills.) A copy of the non RIPA surveillance application form can be obtained from the RIPA Coordinator or Authorising Officer

22.6 The SRO will therefore maintain an oversight of non RIPA surveillance to ensure that such use is compliant with Human Rights legislation. The RIPA Co Ordinator will maintain a central record of non RIPA surveillance.

23. Joint Agency Surveillance

23.1 In cases where one agency is acting on behalf of another, it is usually for the tasking agency to obtain or provide the authorisation. For example, where surveillance is carried out by Council employees on behalf of the Police, authorisation would be sought by the Police. If it is a joint operation involving both agencies, the lead agency should seek authorisation.

23.2 Council staff involved with joint agency surveillance are to ensure that all parties taking part are authorised on the authorisation form to carry out the activity. When staff are operating on another organisation's authorisation they are to ensure they see what activity they are authorised to carry out and make a written

record. They should also provide a copy of the authorisation to the RIPA Co Ordinator. This will assist with oversight of the use of Council staff carrying out these types of operations. Line Managers should be made aware if their staff are involved in this type of surveillance.

PART C – Covert Human Intelligence Sources (CHIS)

24. Use of Third-Party Surveillance

- 24.1 In some circumstances it may be appropriate or necessary for North Norfolk District Council to work with third parties who are not themselves a Public Authority (such as an individual, company or non-governmental organisation) to assist with an investigation. Where that third party is acting in partnership with or under the direction of the Council, then they are acting as our agent and any activities that the third party conducts which meet the RIPA definitions of Directed Surveillance should be authorised. This is because the agent will be subject to RIPA in the same way as any employee of the Council would be. The Authorising Officer should ensure that the agents are qualified or have the necessary skills to achieve the objectives. They should also ensure that they understand their obligations under RIPA. If advice is required, please contact the Senior Responsible Officer, RIPA Co-ordinator or Authorising Officer.
- 24.2 Similarly, a surveillance authorisation should also be considered where the Council is aware that a third party (that is not a Public Authority) is independently conducting surveillance and the Council intends to make use of any suitable material obtained by the third party for the purposes of a specific investigation.

25. Surveillance Equipment

- 25.1 The Council will maintain a central register of all surveillance equipment such as cameras and noise monitoring devices. This will require a description, Serial Number, an explanation of its capabilities.
- 25.2 The register will be held and maintained by the RIPA Co-Ordinator. This equipment is available for all departments use.
- 25.3 All equipment capable of being used for Directed Surveillance such as cameras etc. should be fit for purpose for which they are intended.
- 25.4 When completing an Authorisation, the applicant must provide the Authorising Officer with details of any equipment to be used and its technical capabilities. The Authorising Officer will have to take this into account when considering the intrusion issues, proportionality and whether the equipment is fit for the required purpose. The Authorising Officer must make it clear on the Authorisation exactly what equipment if any they are authorising and in what circumstances.

26. Introduction

- 26.1 RIPA covers the activities of Covert Human Intelligence Sources (CHIS) which relates not only to sources commonly known as informants (members of the public providing the Council with information), but also the activities of undercover officers. It matters not whether they are employees of the Council, agents or members of the public engaged by the Council to establish or maintain a covert relationship with someone to obtain information.
- 26.2 Not all human source activity will meet the definition of a CHIS. For example, a source may be a public volunteer or someone who discloses information out of professional or statutory duty or has been tasked to obtain information other than by way of a covert relationship. However, Officers must be aware that such

information may have been obtained in the course of an ongoing relationship with a family member, friend or business associate. The Council has a duty of care to all members of the public who provide information to us and appropriate measures must be taken to protect that source. How the information was obtained should be established to determine the best course of action. The source and information should also be managed correctly in line with the Criminal Procedures and Investigations Act (CPIA) and the disclosure provisions.

- 26.3 Recognising when a source becomes a CHIS is therefore important as this type of activity may need authorisation. Should a CHIS authority be required, all of the staff involved in the process should make themselves fully aware of the contents of this Policy and the CHIS codes of Practice.
- 26.4 A CHIS, their conduct, and the use to which they are put is defined within Section 26(7) and (8) of RIPA. Chapter 2 of the relevant Code provides examples of where this regime may apply.
- 26.5 Legal advice should always be sought where consideration is given to the use of CHIS.

27. Definition of CHIS

- 27.1 Individuals act as a covert human intelligence sources (CHIS) if they:
 - i) establish or maintain a covert relationship with another person to obtain information.
 - ii) covertly give access to information to another person, or
 - iii) disclose information covertly which they have obtained using the relationship or they have obtained because the relationship exists.
- 27.2 A relationship is established, maintained or used for a covert purpose if and only if it is conducted in a manner that is calculated to ensure that one of the parties to the relationship is unaware of the purpose. This does not mean the relationship with the Council Officer and the person providing the information, as this is not covert. It relates to how the information was either obtained or will be obtained. Was it or will it be obtained from a third party without them knowing it was being passed on to the Council? This would amount to a covert relationship.
- 27.3 It is possible, that a person will become engaged in the conduct of a CHIS without a public authority inducing, asking or assisting the person to engage in that conduct. An authorisation should be considered, for example, where a public authority is aware that a third party is independently maintaining a relationship (i.e. "self-tasking") in order to obtain evidence of criminal activity, and the public authority intends to make use of that material for its own investigative purposes. (Section 2.26 Codes of CHIS Codes of Practice)

28. Vulnerable and Juvenile CHIS

- 28.1 Special consideration must be given to the use of a Vulnerable Individual as a CHIS. A 'Vulnerable Individual' is a person who is or may be in need of community care services by reason of mental or other disability, age or illness and who is or

may be unable to take care of himself, or unable to protect himself against significant harm or exploitation. Any individual of this description, or a Juvenile as defined below, should only be authorised to act as a source in the most exceptional circumstances and only then when authorised by the Chief Executive (or, in his absence, the Corporate Director – Monitoring Officer).

- 28.2 Special safeguards also apply to the use or conduct of Juvenile Sources; that is sources under the age of 18 years. On no occasion should the use or conduct of a source under 16 years of age be authorised to give information against their parents or any person who has parental responsibility for them.
- 28.3 If the use of a Vulnerable Individual or a Juvenile is being considered as a CHIS you must consult Legal Services before authorisation is sought as authorisations should not be granted in respect of a Juvenile CHIS unless the special provisions contained within the Regulation of Investigatory Powers (Juveniles) Order 2000; SI No. 2793 are satisfied.

29. Lawful Criteria

- 29.1 The lawful criteria for CHIS authorisation is **prevention and detection of crime and prevention of disorder**. The serious crime criteria of the offence carrying a 6-month sentence etc. does not apply to CHIS.
- 29.2 Authorisations for Juvenile Sources must be authorised by the Chief Executive of the Council (or, in their absence, the Corporate Director – Monitoring Officer).

30. Conduct and Use of a Source

- 30.1 The way the Council use a CHIS for covert activities is known as ‘the use and conduct’ of a source.
- 30.2 The use of a CHIS involves any action on behalf of a Public Authority to induce, ask or assist a person to engage in the conduct of a CHIS, or to obtain information by means of the conduct of a CHIS.
- 30.3 The conduct of a CHIS is establishing or maintaining 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 or
 - c. Is incidental to anything falling within a and b above.
- 30.4 In other words, an authorisation for conduct will authorise steps taken by the CHIS on behalf, or at the request, of a Public Authority.
- 30.5 The use of a source is what the Authority does in connection with the source, such as tasking (see section 33), and the conduct is what a source does to fulfil whatever tasks are given to them or which is incidental to it. The Use and Conduct require separate consideration before authorisation. However, they are normally authorised within the same authorisation.

- 30.6 The same authorisation form is utilised for both use and conduct. A Handler and Controller must also be designated, as part of the authorisation process (see Part E and section 42), and the application can only be authorised if necessary and proportionate. Detailed records of the use, conduct and tasking of the source also have to be maintained (see section 37).
- 30.7 Care should be taken to ensure that the CHIS is clear on what is or is not authorised at any given time, and that all the CHIS's activities are properly risk assessed. Care should also be taken to ensure that relevant applications, reviews, renewals and cancellations are correctly performed. (Section 210 CHIS Codes of Practice)
- 30.8 Careful consideration must be given to any particular sensitivities in the local community where the CHIS is being used and of similar activities being undertaken by other public authorities which could have an impact on the deployment of the CHIS. Consideration should also be given to any adverse impact on community confidence or safety that may result from the use or conduct of a CHIS or use of information obtained from that CHIS. (Section 3.18 CHIS Codes of Practice)

31. Handler and Controller

- 31.1 Covert Human Intelligence Sources may only be authorised if the following arrangements are in place:
- That there will at all times be an officer (the **Handler**) within the Council who will have day to day responsibility for dealing with the source on behalf of the authority, and for the source's security. The Handler is likely to be the investigating officer.
 - That there will at all times be another officer within the Council who will have general oversight of the use made of the source; (**Controller**) i.e. the line manager.
 - That there will at all times be an officer within the Council who has responsibility for maintaining a record of the use made of the source. See CHIS record keeping (see Section 37)
- 31.2 The **Handler** will have day to day responsibility for:
- Dealing with the source on behalf of the Local Authority concerned;
 - Risk assessments
 - Directing the day to day activities of the source;
 - Recording the information supplied by the source; and
 - Monitoring the source's security and welfare.
 - Informing the Controller of concerns about the personal circumstances of the CHIS that might effect the validity of the risk assessment or conduct of

the CHIS

31.3 The **Controller** will be responsible for:

- The management and supervision of the “Handler” and
- General oversight of the use of the CHIS;
- maintaining an audit of case work sufficient to ensure that the use or conduct of the CHIS remains within the parameters of the extant authorisation.

32. Undercover Officers

32.1 Oversight and management arrangements for **undercover operatives**, while following the principles of the Act, will differ, in order to reflect the specific role of such individuals as members of the Council. The role of the handler will be undertaken by a person referred to as a ‘**cover officer**’. (Section 6.9 CHIS Codes of Practice).

33. Tasking

33.1 Tasking is the assignment given to the source by the Handler or Controller such as by asking them to obtain information, to provide access to information or to otherwise act, incidentally, for the benefit of the relevant Local Authority. Authorisation for the use or conduct of a source is required prior to any tasking where such tasking requires the source to establish or maintain a personal or other relationship for a covert purpose.

33.2 In some instances, the tasking given to a person will not require the source to establish a personal or other relationship for a covert purpose. For example, a member of the public is asked to maintain a record of all vehicles arriving and leaving a specific location or to record the details of visitors to a neighbouring house. A relationship has not been established or maintained in order to gather the information and a CHIS authorisation is therefore not available. Other authorisations under the Act, for example, Directed Surveillance, may need to be considered where there is a possible interference with the Article 8 rights of an individual.

33.3 Authorisations should not be drawn so narrowly that a separate authorisation is required each time the CHIS is tasked. Rather, an authorisation might cover, in broad terms, the nature of the source’s task.

34. Risk Assessments

34.1 The Council has a responsibility for the safety and welfare of the source and for the consequences to others of any tasks given to the source. It is a requirement of the codes that a risk assessment is carried out. This should be submitted with the authorisation request. The risk assessment should provide details of how the CHIS is going to be handled. It should also take into account the safety and welfare of the CHIS in relation to the activity and should consider the likely consequences should the role of the CHIS become known. The ongoing security and welfare of

the CHIS after the cancellation of the authorisation should also be considered at the outset.

35. Use of Equipment by a CHIS

- 35.1 If a CHIS is required to wear or carrying a surveillance device such as a covert camera it does not need a separate intrusive or Directed Surveillance authorisation, provided the device will only be used in the presence of the CHIS. It should be authorised as part of the conduct of the CHIS.
- 35.2 CHIS, whether or not wearing or carrying a surveillance device, in residential premises or a private vehicle, does not require additional authorisation to record any activity taking place inside those premises or that vehicle which takes place in their presence. This also applies to the recording of telephone conversations. This should have been identified at the planning stage.

36. CHIS Management

- 36.1 The operation will require managing by the Handler and Controller which will include ensuring that the activities of the source and the operation remain focused and there is no status drift. It is important that the intrusion is assessed to ensure the operation remains proportionate. The security and welfare of the source will also be monitored. The Authorising Officer should maintain general oversight of these functions.
- 36.2 During CHIS activity, there may be occasions when unforeseen actions or undertakings occur. Such incidences should be recorded as soon as practicable after the event and if the existing authorisation is insufficient, it should either be dealt with by way of a review and re-authorised (for minor amendments only) or it should be cancelled, and a new authorisation obtained before any further action is carried out. Similarly, where it is intended to task a CHIS in a new significantly different way than previously identified, the proposed tasking should be referred to the Authorising Officer, who should consider whether a separate authorisation is required. This should be done in advance of any tasking and details of such referrals must be recorded.

37. CHIS Record Keeping

37.1 Centrally Retrievable Record of Authorisations

- 37.2 A centrally retrievable record of all authorisations is held by North Norfolk District Council. This record contains the relevant information to comply with the Codes of Practice. These records are updated whenever an authorisation is granted, renewed or cancelled and are available to the Investigatory Powers Commissioner (IPCO) upon request.

- 37.3 The records are retained for 5 years from the ending of the authorisation.

37.4 Individual Source Records of Authorisation and Use of CHIS

- 37.5 Detailed records must be kept of the authorisation and the use made of a CHIS.

An authorising officer must not grant an authorisation for the use or conduct of a CHIS unless they believe that there are arrangements in place for ensuring that there is at all times a person with the responsibility for maintaining a record of the use made of the CHIS. The Regulation of Investigatory Powers (Source Records) Regulations 2000; SI No: 2725 details the particulars that must be included in these records.

- 37.6 The particulars to be contained within the records are;
- a. The identity of the source;
 - b. The identity, where known, used by the source;
 - c. Any relevant investigating authority other than the authority maintaining the records;
 - d. The means by which the source is referred to within each relevant investigating authority;
 - e. Any other significant information connected with the security and welfare of the source;
 - f. Any confirmation made by a person granting or renewing an authorisation for the conduct or use of a source that the information in paragraph (d) has been considered and that any identified risks to the security and welfare of the source have where appropriate been properly explained to and understood by the source;
 - g. The date when, and the circumstances in which the source was recruited;
 - h. Identity of the Handler and Controller (and details of any changes)
 - i. The periods during which those persons have discharged those responsibilities;
 - j. The tasks given to the source and the demands made of him in relation to his activities as a source;
 - k. All contacts or communications between the source and a person acting on behalf of any relevant investigating authority;
 - l. The information obtained by each relevant investigating authority by the conduct or use of the source;
 - m. Any dissemination by that authority of information obtained in that way; and
 - n. In the case of a source who is not an undercover operative, every payment, benefit or reward and every offer of a payment, benefit or reward that is made or provided by or on behalf of any relevant investigating authority in respect of the source's activities for the benefit of that or any other relevant investigating authority.

37.7 The person maintaining these records is the RIPA Co-ordinator

37.8 Public authorities are also encouraged to maintain auditable records for individuals providing intelligence who do not meet the definition of a CHIS. This will assist authorities to monitor the status of a human source and identify whether that person should be duly authorised as a CHIS. This should be updated regularly to explain why authorisation is not considered necessary. Such decisions should rest with those designated as Authorising Officers within Public Authorities. (Section 7.5 CHIS Codes of Practice).

37.9. Further Documentation

37.10 In addition to the above, when appropriate records or copies of the following, as are retained by North Norfolk District Council for 5 years:

- A copy of the authorisation together with any supplementary documentation and notification of the approval given by the authorising officer;
- A copy of any renewal of an authorisation, together with the supporting documentation submitted when the renewal was requested;
- The reason why the person renewing an authorisation considered it necessary to do so;
- Any authorisation which was granted or renewed orally (in an urgent case) and the reason why the case was considered urgent;
- Any risk assessment made in relation to the CHIS;
- The circumstances in which tasks were given to the CHIS;
- The value of the CHIS to the investigating authority;
- A record of the results of any reviews of the authorisation;
- The reasons, if any, for not renewing an authorisation;
- The reasons for cancelling an authorisation; and
 - The date and time when any instruction was given by the authorising officer that the conduct or use of a CHIS must cease.
 - A copy of the decision by a Judicial Commissioner on the renewal of an authorisation beyond 12 months (where applicable).

37.11 The records kept by the Council should be maintained in such a way as to preserve the confidentiality, or prevent disclosure of the identity of the CHIS, and

the information provided by that CHIS. (Sec 7.7 CHIS Codes of Practice)

37.12 The forms are available in the Appendices: Current link to the Home office Forms is <https://www.gov.uk/government/collections/ripa-forms--2>

- [Application for the conduct or use of Covert Human Intelligence Source \(CHIS\)](#)
- [Review of a Covert Human Intelligence Source \(CHIS\) operation](#)
- [Application for renewal of a Covert Human Intelligence Source \(CHIS\) operation](#)
- [Cancellation of an authorisation for a Covert Human Intelligence Source \(CHIS\) operation](#)

References in these forms to the 'Code' are to the [Covert Human Intelligence Sources Code of Practice](#), which should be consulted for further guidance.

PART D – RIPA Roles and Responsibilities

38. The Senior Responsible Officer (SRO)

38.1 The nominated Senior Responsible Officer is Stephen Hems Director for Communities. The SRO with responsibilities for:

- The integrity of the process in place within North Norfolk District Council to authorise Directed and Intrusive Surveillance;
- Compliance with the relevant sections of RIPA and the Codes of Practice;
- Oversight of the reporting of errors to the Investigatory Powers Commissioner (IPC) and the identification of both the cause(s) of errors and the implementation of processes to minimise repetition of errors;
- Engagement with the Investigatory Powers Commissioner Office (IPCO) and the inspectors who support the Commissioner when they conduct their inspections;
- Where necessary, overseeing the implementation of any recommended post- inspection action plans and
- Ensuring that all Authorising Officers are of an appropriate standard, addressing any recommendations and concerns in the inspection reports prepared by the Investigatory Powers Commissioner.

39. RIPA Co-Ordinator

39.1 The RIPA Co-Ordinator is responsible for storing all the original authorisations, reviews, renewals and cancellation forms and the signed approval or refusal documentation from the Magistrate. This will include any authorisations that have not been authorised by the Authorising Officer or refused by a Magistrate.

39.2 The RIPA Co-ordinator will: -

- Keep the copies of the forms for a period of at least 5 years
- Keep the Central Register (a requirement of the Codes of Practice) of all of the authorisations, renewals and cancellations; and Issue the unique reference number.
- Keep a database for identifying and monitoring expiry dates and renewal dates.
- Along with, Directors, Service Managers, Authorising Officers, and the Investigating Officers must ensure that any electronic and paper records relating to a RIPA investigation are used, retained or destroyed in line with the Councils Information Management policies, departmental retention schedules and the Data Protection Act 2008. (DPA)

- Provide administrative support and guidance on the processes involved.
- Monitor the authorisations, renewals and cancellations with a view to ensuring consistency throughout the Council;
- Monitor each department's compliance and act on any cases of non-compliance;
- Ensure adequate training is provided including guidance and awareness of RIPA and the provisions of this Policy; and Review the contents of this Policy.

40. Managers Responsibility and Management of the Activity

- 40.1 Line Managers within each area of the Council are responsible for ensuring that in all cases where surveillance is required, due consideration is given to the need for covert surveillance before an application is made for authorisation. That includes the consideration of using overt action, routine enquiries or inspections which are less intrusive.
- 40.2 If authorised it is important that all those involved in undertaking Directed Surveillance activities, including Line managers, are fully aware of the extent and limits of the authorisation. There should be an ongoing assessment for the need for the activity to continue including ongoing assessments of the intrusion. All material obtained, including evidence, should be stored in line with relevant legislation and procedures to safeguard its integrity and reduce a risk of challenge. (See use of material as evidence (Section 61))
- 40.3 Line Managers should also ensure that the relevant reviews (see section 53), renewals (see section 54) and cancellations (see section 55) are completed by the applicant in accordant with the codes and the dates set throughout the process.

41. Investigating Officers/Applicant

- 41.1 The applicant is normally an investigating officer who completes the application section of the RIPA form. Investigating Officers should think about the need to undertake Directed Surveillance or the use of a CHIS before they seek authorisation and discuss it with their Line manager. Investigating Officers need to consider whether they can obtain the information or achieve their objective by using techniques other than covert surveillance.
- 41.2 The applicant or some other person must carry out a feasibility study as this should be seen by the Authorising Officer. The person seeking the authorisation should then complete the application form having regard to the guidance given in this Policy and the statutory Codes of Practice. There should not be any real delay between the feasibility study and the completion of the application form to ensure that the details within the application are accurate and will not have changed. The form should then be submitted to the Authorising Officer for authorisation.
- 41.3 The applicant is likely to attend court to seek the approval of a Magistrate. and if

approved and involved in the covert activity they must only carry out what is authorised and approved. They, or some other person will also be responsible for the submission of any reviews (see section 53) renewals (see section 54) and cancellations (see section 55).

42. Authorising Officers

- 42.1 The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 prescribes that for Local Authorities the Authorising Officer shall be a Director, Head of Service, Service Manager or equivalent as distinct from the officer responsible for the conduct of an investigation.
- 42.2 Appendix A lists the Authorising Officers within the Council who can grant authorisations all of which are either Director or Assistant Director.
- 42.3 The role of the Authorising Officers is to consider whether to authorise, review, or renew an authorisation. They must also officially cancel the RIPA covert activity. Authorising Officers must have been trained to an appropriate level so as to have an understanding of the requirements in the Codes of Practice and that must be satisfied before an authorisation can be granted.
- 42.4 Authorising Officers should not be responsible for authorising investigations or operations in which they are directly involved. Where an Authorising Officer authorises such an investigation or operation, the central record of authorisations should highlight this, and it should be brought to the attention of a Commissioner or Inspector during their next inspection.
- 42.5 Authorisations must be given in writing by the Authorising Officer by completing the relevant section on the authorisation form. When completing an authorisation, the case should be presented in a fair and balanced way. In particular, all reasonable efforts should be made to take into account information which weakens the case for the authorisation.
- 42.6 Authorising Officers must explain why they believe the activity is both necessary (see section 43) and proportionate (see section 44), having regard to the collateral intrusion. They must also consider any similar activity which may be taking place, or sensitivities in the area.
- 42.7 They also need to explain exactly what they are authorising, against who, in what circumstances, where etc. and that the level of the surveillance is appropriate to achieve the objectives. It is important that this is made clear on the authorisation as the surveillance operatives are only allowed to carry out what is authorised. This will assist with avoiding errors.
- 42.8 If any equipment such as covert cameras are to be used, the Authorising Officer should know the capability of the equipment before authorising its use. This will have an impact on collateral intrusion, necessity and proportionality. They should not rubber-stamp a request. It is important that they consider all the facts to justify their decision. They may be required to justify their actions in a court of law or some other tribunal.
- 42.9 The Authorising Officer may be required to attend court to explain what has been authorised and why.

42.10 Authorised Officers must acquaint themselves with the relevant Codes of Practice issued by the Home Office regarding RIPA and the current Procedures and Guidance issued by the Commissioner. This document also details the latest operational guidance to be followed. It is recommended that Authorising Officers hold their own copy of this document. This can be obtained from The RIPA Coordinator.

43 Necessity

43.1 Obtaining an authorisation under RIPA will only ensure that there is a justifiable interference with an individual's Article 8 rights if it is necessary and proportionate for these activities to take place.

43.2 The Act first requires that the person granting an authorisation believe that the authorisation is necessary in the circumstances of the particular case for one or more of the statutory grounds which for Local Authority Directed Surveillance is the prevention and detection of crime and that the crime attracts a custodial sentence of a maximum of 6 months or more, or for the purpose of preventing or detecting specified criminal offences relating to the underage sale of alcohol and tobacco.

43.3 The lawful criteria for CHIS is prevention and detection of crime and prevention of disorder and the offence does not have to have a sentence of 6 months imprisonment.

43.4 The applicant and Authorising Officers must also be able to demonstrate why it is necessary to carry out the covert activity to achieve the objectives and that there were no other means of obtaining the same information in a less intrusive method. This is a part of the authorisation form.

44. Proportionality

44.1 If the activities are deemed necessary, the Authorising Officer must also believe that they are proportionate to what is sought to be achieved by carrying them out. This involves balancing the seriousness of the intrusion into the privacy of the subject of the operation (or any other person who may be affected) against the need for the activity in investigative and operational terms.

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

44.3 When explaining proportionality, the Authorising Officer should explain why the methods and tactics to be adopted during the surveillance is not disproportionate.

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

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

45. Collateral Intrusion

45.1 Before authorising applications for Directed Surveillance, the Authorising Officer should also take into account the risk of obtaining collateral intrusion which is private information about persons who are not subjects of the surveillance.

45.2 Staff should take measures, wherever practicable, to avoid or minimise unnecessary intrusion into the privacy of those who are not the intended subjects of the surveillance. Where such collateral intrusion is unavoidable, the activities may still be authorised, provided this intrusion is considered proportionate to what is sought to be achieved. The same proportionality tests apply to anticipated collateral intrusion as to intrusion into the privacy of the intended subject of the surveillance.

45.3 All applications must therefore include an assessment of the risk of collateral intrusion and detail the measures taken to limit this to enable the Authorising Officer fully to consider the proportionality of the proposed actions. This is detailed in a section within the authorisation form (Contained within the following link) <https://www.gov.uk/government/collections/ripa-forms--2>

45.4 In order to give proper consideration to collateral intrusion, an Authorising Officer should be given full information regarding the potential scope of the anticipated surveillance, including the likelihood that any equipment deployed may cause intrusion on persons or property other than the subject(s) of the application. If an automated system such as an online search engine is used to obtain the information, the Authorising Officer should be made aware of its potential extent and limitations. Material which is not necessary or proportionate to the aims of the operation or investigation should be discarded or securely retained separately where it may be required for future evidential purposes. It may also need retaining under CPIA. The Authorising Officer should ensure appropriate safeguards for the handling, retention or destruction of such material, as well as compliance with Data Protection Act requirements.

45.5 Where it is proposed to conduct surveillance activity specifically against individuals who are not suspected of direct or culpable involvement in the overall matter being investigated, interference with the privacy of such individuals should not be considered as collateral intrusion but rather as intended intrusion.

45.6 In the event that authorised surveillance unexpectedly and unintentionally interferes with the privacy of any individual other than the intended subject, the authorising

officer should be informed by submitting a review form. Consideration should be given in any such case to the need for any separate or additional authorisation.

- 45.7 Where a Public Authority intends to access a social media or other online account to which they have been given access with the consent of the owner, the authority will still need to consider whether the account(s) may contain information about others who have not given their consent. If there is a likelihood of obtaining private information about others, the need for a Directed Surveillance authorisation should be considered, particularly (though not exclusively) where it is intended to monitor the account going forward.

PART E – The Application and Authorisation Process

46. Relevant Forms

46.1 For both Directed Surveillance and CHIS authorisations there are 4 forms within the process. They are:

- Authorisation
- Review
- Renewal
- Cancellation

46.2 All the forms can be obtained from the Government Website at <https://www.gov.uk/government/collections/ripaforms--2>

47. Duration of Authorisations

47.1 Authorisations must be given for the maximum duration from the Date approved by the Magistrate but reviewed on a regular basis and formally cancelled when no longer needed. They do not expire, they must be cancelled when the surveillance is no longer proportionate or necessary. Therefore, a Directed Surveillance authorisation will cease to have effect after three months from the date of approval by the Magistrate unless renewed or cancelled. Durations detailed below:

Directed Surveillance	3 Months
Renewal	3 Months
Covert Human Intelligence Source	12 Months
Renewal	12 months
Juvenile Sources	4 Months
Renewal	4 Months

47.2 It is the responsibility of the Investigating Officer to make sure that the authorisation is still valid when they undertake surveillance.

48. Applications/Authorisation

48.1 The applicant or some other person must carry out a surveillance assessment as this may be required by the Authorising Officer. The person seeking the authorisation should then complete the application form having regard to the guidance given in this Policy and the statutory Codes of Practice. There should not be any real delay between the feasibility study and the completion of the application form to ensure that the details within the application are accurate and will not have changed. The form should then be submitted to the Authorising Officer for authorisation.

48.2 When completing an application for authorisation, the applicant must ensure that

the case for the authorisation is presented in the application in a fair and balanced way. In particular, all reasonable efforts should be made to take into account information which weakens the case for the warrant or authorisation. This is a requirement of the codes.

- 48.3 All the relevant sections must be completed with sufficient information to ensure that applications are sufficiently detailed for the Authorising Officer to consider Necessity, Proportionality having taken into account the Collateral Intrusion issues **Cutting and pasting or using template entries should not take place as this would leave the process open to challenge.**
- 48.4 If it is intended to undertake both Directed Surveillance and the use of a CHIS on the same surveillance subject, the respective authorisation should be completed and the respective procedures followed. Both activities should be considered separately on their own merits.
- 48.5 All applications will be submitted to the Authorising Officer via the Line Manager of the appropriate enforcement team in order that they are aware of the application and activities being undertaken by the staff. The Line Manager will perform an initial quality check of the application. However, they should not be involved in the sanctioning of the authorisation. The form should then be submitted to the Authorising Officer.
- 48.6 Applications whether authorised or refused will be issued with a unique number, which is obtained from the RIPA Co-Ordinator. The number will be taken from the next available number in the central record of authorisations which is held by the RIPA Coordinator.
- 48.7 If not authorised, feedback will be provided to the applicant and the application will be forwarded to the RIPA Co-Ordinator for recording and filing. If having received the feedback, the applicant feels it is appropriate to re submit the application, they can do so and it will then be considered again.

48.8 Following authorisation, the applicant will then complete the relevant section of the judicial application/order form (Contained within the following link) [RIPA forms - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

Although this form requires the applicant to provide a brief summary of the circumstances of the case, this is supplementary to and does not replace the need to supply a copy and the original RIPA authorisation as well.

49. Arranging the Court Hearing

- 49.1 It will be necessary within office hours to contact the administration at the Magistrates' Court to arrange a hearing. The hearing will be in private and heard by a single Magistrate. The application to the Magistrate will be on oath.
- 49.2 Officers who may present the application at these proceedings will need to be formally designated by the Council under section 223 of the Local Government Act 1972 to appear, be sworn in and present evidence or information as required by the Magistrate. If in doubt as to whether you are able to present the application seek advice from the Legal Services Team.

50. Attending the Hearing

50.1 The applicant in addition to the Authorising Officer will attend the hearing. Upon attending the hearing, the officer must present to the Magistrate the partially completed judicial application/order form, the original and a copy of the RIPA application/authorisation form, together with any supporting documents setting out the case. The original RIPA authorisation should be shown to the Magistrate but will be retained by the Council so that it is available for inspection by IPCO, and in the event of any legal challenge or investigations by the Investigatory Powers Tribunal (IPT).

50.2 The Magistrate will read and consider the RIPA authorisation and the judicial application/order form (contained within the following link)
<https://www.gov.uk/government/collections/ripa-forms--2>

They may have questions to clarify points or require additional reassurance on particular matters. These questions are supplementary to the content of the application form. **However, the forms and supporting papers must by themselves make the case. It is not sufficient for the Council to provide oral evidence where this is not reflected or supported in the papers provided.**

50.3 The Magistrate will consider whether they are satisfied that at the time the authorisation was granted or renewed, there were reasonable grounds for believing that the authorisation was necessary and proportionate. In addition, they must be satisfied that the person who granted the authorisation was an appropriate Designated Person within the Council to authorise the activity and the authorisation was made in accordance with any applicable legal restrictions, for example, the crime threshold for Directed Surveillance.

51. Decision of the Magistrate

51.1 The Magistrate has a number of options which are:

51.2 **Approve or renew an authorisation.** If approved by the Magistrate, the date of the approval becomes the commencement date for the duration of the three months and the officers are now allowed to undertake the activity.

51.3 **Refuse to approve or renew an authorisation.** The RIPA authorisation will not take effect and the Council may **not** use the technique in that case.

51.4 Where an application has been refused, the applicant may wish to consider the reasons for that refusal. If more information was required by the Magistrate to determine whether the authorisation has met the tests, and this is the reason for refusal, the officer should consider whether they can reapply. For example, if there was information to support the application which was available to the Council, but not included in the papers provided at the hearing.

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

51.6 **Refuse to approve or renew and quash the authorisation.** This applies where the Magistrate refuses to approve or renew the authorisation and decides to quash the original authorisation. However, the court must not exercise its power to

quash the authorisation unless the applicant has had at least 2 business days from the date of the refusal in which to make representations. If this is the case, the officer will inform the Legal who will consider whether to make any representations.

- 51.7 The Magistrate will record their decision on the order section of the judicial application/order form. The court administration will retain a copy of the Council's RIPA application and authorisation form and the judicial application/order form. The officer will retain the original authorisation and a copy of the judicial application/order form.
- 51.8 The Council may only appeal a Magistrate decision on a point of law by judicial review. If such a concern arises, the Legal Services Team will decide what action if any should be taken.

52. Post Court Procedure

- 52.1 It will be necessary to work out the cancellation date from the date of approval and ensure that the applicant and the Authorising Officer is aware. The original application and the copy of the judicial application/order form should be forwarded to the RIPA Co-Ordinator. A copy will be retained by the applicant and if necessary by the Authorising Officer. The central register will be updated with the relevant information to comply with the Codes of Practice and the original documents filed and stored securely.
- 52.2 Where dates are set within the process such as reviews, they must be adhered to. This will help with demonstrating that the process has been managed correctly in line with the Codes of Practice and reduce the risk of errors.

53. Reviews

- 53.1 When an application has been authorised and approved by a Magistrate, regular reviews must be undertaken by the Authorising Officer to assess the need for the surveillance to continue.
- 53.2 In each case the Authorising Officer should determine how often a review should take place at the outset. This should be as frequently as is considered necessary and practicable. Particular attention is drawn to the need to review authorisations frequently where the surveillance provides a high level of intrusion into private life or significant collateral intrusion, or confidential information. They will record when they are to take place on the application form. This decision will be based on the circumstances of each application. However, reviews will be conducted on a monthly or less basis to ensure that the activity is managed. It will be important for the Authorising Officer to be aware of when reviews are required to ensure that the applicants submit the review form on time.
- 53.3 Applicants should submit a review form by the review date set by the Authorising Officer. They should also use a review form for changes in circumstances to the original application which would include a change to the level of intrusion so that the need to continue the activity can be re-assessed. However, if the circumstances or the objectives have changed considerably, or the techniques to be used are now different, a new application form should be submitted, and it will

be necessary to follow the process again and be approved by a Magistrate. The applicant does not have to wait until the review date if it is being submitted for a change in circumstances.

- 53.4 Line managers of applicants should also make themselves aware of when the reviews are required to ensure that the relevant forms are completed on time.
- 53.5 The reviews are dealt with internally by submitting the review form to the Authorising Officer. There is no requirement for a review form to be submitted to a Magistrate.
- 53.6 The results of a review should be recorded on the central record of authorisations.

54. Renewal

- 54.1 A renewal form is to be completed by the applicant when the original authorisation period is about to expire but Directed Surveillance or the use of a CHIS is still required.
- 54.2 Should it be necessary to renew an authorisation for Directed Surveillance or CHIS, this must be approved by a Magistrate.
- 54.3 Applications for renewals should not be made until shortly before the original authorisation period is due to expire. However, they must take account of factors which may delay the renewal process (e.g. intervening weekends or the availability of the relevant Authorising Officer and a Magistrate to consider the application).
- 54.4 The applicant should complete all the sections within the renewal form and submit the form to the Authorising Officer for consideration.
- 54.5 Authorising Officers should examine the circumstances with regard to Necessity, Proportionality and the Collateral Intrusions issues before making a decision to renew the activity. A CHIS application should not be renewed unless a thorough review has been carried out covering the use made of the source, the tasks given to them and information obtained. The Authorising Officer must consider the results of the review when deciding whether to renew or not. The review and the consideration must be documented.
- 54.6 If the Authorising Officer refuses to renew the application, the cancellation process should be completed. If the Authorising Officer authorises the renewal of the activity, the same process is to be followed as mentioned earlier for the initial application whereby approval must be sought from a Magistrate.
- 54.7 A renewal takes effect on the day on which the authorisation would have ceased and lasts for a further period of three months.

55. Cancellation

- 55.1 The cancellation form (contained in the following link)
[RIPA forms - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

is to be submitted by the applicant or another investigator in their absence. The Authorising Officer who granted or last renewed the authorisation must cancel it if

they are satisfied that the Directed Surveillance no longer meets the criteria upon which it was authorised. Where the Authorising Officer is no longer available, this duty will fall on the person who has taken over the role of Authorising Officer or the person who is acting as Authorising Officer.

- 55.2 As soon as the decision is taken that Directed Surveillance should be discontinued, the applicant or other investigating officer involved in the investigation should inform the Authorising Officer. The Authorising Officer will formally instruct the investigating officer to cease the surveillance, noting the time and date of their decision. This will be required for the cancellation form. The date and time when such an instruction was given should also be recorded in the central record of authorisations.
- 55.3 The Investigating Officer submitting the cancellation should complete in detail the relevant sections of the form and include the period of surveillance and detail if any images were obtained, particularly any images containing innocent third parties. The Authorising Officer should then take this into account and issues instructions regarding the management and disposal of the images etc. See sections 58 to 65 Safeguarding and the Use of Surveillance Material below.
- 55.4 The cancellation process should also be used to evaluate whether the objectives have been achieved and whether the applicant carried out what was authorised. This check will form part of the oversight function. Where issues are identified including errors (see Part G) they will be brought to the attention of the Line Manager and the Senior Responsible Officer (SRO). This will assist with future audits and oversight and comply with the Codes of Practice.
- 55.5 When cancelling a CHIS authorisation, an assessment of the welfare and safety of the source should also be assessed and any issues identified.
- 55.6 All cancellations must be submitted to the RIPA Co-Ordinator for inclusion in the central Record and storing securely with the other associated forms.
- 55.7 Do not wait until the 3 month period is up to cancel. Cancel it at the earliest opportunity when no longer necessary and proportionate. Line Managers should be aware of when the activity needs cancelling and ensure that staff comply with the procedure.

PART F – Central Record and Safeguarding the Material

56. Introduction

56.1 Authorising Officers, applicants and Line Managers of relevant enforcement departments may keep whatever records they see fit to administer and manage the RIPA application process. This includes the legal obligations under the Criminal Procedures and Investigations Act. However, this will not replace the requirements under the Codes of Practice, which includes the fact that the Council must hold a centrally held and retrievable record.

57. Central Record

57.1 The centrally retrievable record of all authorisations will be held and maintained by the - RIPA Co-Ordinator. It will be regularly updated whenever an authorisation is applied for, refused, granted, renewed or cancelled. The record will be made available to the relevant Commissioner or an Inspector from IPCO, upon request.

57.2 All original authorisations and copies of Judicial applications/order forms whether authorised or refused, together with review, renewal and cancellation documents, must be sent within 48 hours to the – RIPA Co-Ordinator who will be responsible for maintaining the central record of authorisations. They will ensure that all records are held securely with no unauthorised access. If in paper format, they must be forwarded in a sealed envelope marked confidential.

57.3 The documents contained in the centrally held register should be retained for at least three years from the ending of the authorisation or for the period stipulated by the Council's document retention policy, whichever is greater. The centrally held register contains the following information:

- If refused, (the application was not authorised by the AO) a brief explanation of the reason why. The refused application should be retained as part of the central record of authorisation;
- If granted, the type of authorisation and the date the authorisation was given;
- Details of attendances at the magistrates' court to include the date of attendances at court, the determining magistrate, the decision of the court and the time and date of that decision;
- Name and rank/grade of the authorising officer;
- The unique reference number (URN) of the investigation or operation;
- The title of the investigation or operation, including a brief description and names of subjects, if known;
- Frequency and the result of each review of the authorisation;
- If the authorisation is renewed, when it was renewed and who authorised

the renewal, including the name and rank/grade of the authorising officer and the date renewed by the Magistrate;

- Whether the investigation or operation is likely to result in obtaining confidential information as defined in this code of practice;
- The date the authorisation was cancelled;
- Authorisations by an Authorising Officer where they are directly involved in the investigation or operation. If this has taken place it must be brought to the attention of a Commissioner or Inspector during their next RIPA inspection.

57.4 As well as the central record the RIPA Co-Ordinator will also retain:

- The original of each application, review, renewal and cancellation, copy of the judicial application/order form, together with any supplementary documentation of the approval given by the Authorising Officer;
- The frequency and result of reviews prescribed by the Authorising Officer;
- The date and time when any instruction to cease surveillance was given;
- The date and time when any other instruction was given by the Authorising Officer;
- A record of the period over which the surveillance has taken place. This should have been included within the cancellation form.

57.5 These documents will also be retained for three years from the ending of the authorisation.

58. Safeguarding and the Use of Surveillance Material

58.1 This section provides guidance on the procedures and safeguards to be applied in relation to the handling of any material obtained through Directed Surveillance or CHIS activity. This material may include private, confidential or legal privilege information. It will also show the link to other relevant legislation.

58.2 The Council should ensure that their actions when handling information obtained by means of covert surveillance or CHIS activity comply with relevant legal frameworks and the Codes of Practice, so that any interference with privacy is justified in accordance with Article 8(2) of the European Convention on Human Rights. Compliance with these legal frameworks, including Data Protection requirements, will ensure that the handling of private information obtained continues to be lawful, justified and strictly controlled, and is subject to robust and effective safeguards. The material will also be subject to the Criminal Procedures Investigations Act (CPIA), [Criminal Procedure and Investigations Act 1996 \(section 23\(1\)\) Code of Practice - GOV.UK \(www.gov.uk\)](#)

59. Authorised Purpose

59.1 Dissemination, copying and retention of material must be limited to the minimum

necessary for authorised purposes. For the purposes of the RIPA codes, something is necessary for the authorised purposes if the material:

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

60. Handling and Retention of Material

- 60.1 As mentioned above, all material associated and obtained with an application will be subject of the provisions of the Data Protection Act (DPA) 2018 and CPIA Codes of Practice. All officers involved within this process should make themselves aware of the provisions within this legislation and how it impacts on the whole RIPA process. Material obtained, together with relevant associated paperwork should be held securely. Extra care needs to be taken if the application and material relates to a CHIS.
- 60.2 Material required to be retained under CPIA should be retained until a decision is taken whether to institute proceedings against a person for an offence or if proceedings have been instituted, at least until the accused is acquitted or convicted or the prosecutor decides not to proceed with the case.
- 60.3 Where the accused is convicted, all material which may be relevant must be retained at least until the convicted person is released from custody, or six months from the date of conviction, in all other cases.
- 60.4 If the court imposes a custodial sentence and the convicted person is released from custody earlier than six months from the date of conviction, all material which may be relevant must be retained at least until six months from the date of conviction.
- 60.5 If an appeal against conviction is in progress when released, or at the end of the period of six months, all material which may be relevant must be retained until the appeal is determined.
- 60.6 If retention is beyond these periods it must be justified under DPA. Each relevant service within the Council may have its own provisions under their Data Retention Policy which will also need to be consulted to ensure that the data is retained lawfully and for as long as is necessary

61. Use of Material as Evidence

- 61.1 Material obtained through Directed Surveillance, may be used as evidence in criminal proceedings. The admissibility of evidence is governed primarily by the

common law, the Criminal Procedure and Investigations Act 1996 (CPIA), the Civil Procedure Rules, section 78 of the Police and Criminal Evidence Act 1996 and the Human Rights Act 1998.

- 61.2 Ensuring the continuity and integrity of evidence is critical to every prosecution. Accordingly, considerations as to evidential integrity are an important part of the disclosure regime under the CPIA and these considerations will apply to any material acquired through covert surveillance that is used in evidence. When information obtained under a covert surveillance authorisation is used evidentially, the Council will be able to demonstrate how the evidence has been obtained, to the extent required by the relevant rules of evidence and disclosure.
- 61.3 Where the product of surveillance could be relevant to pending or future criminal or civil proceedings, it should be retained in accordance with established disclosure requirements. In a criminal case the codes issued under CPIA will apply. They require that the investigator record and retain all relevant material obtained in an investigation and later disclose relevant material to the Prosecuting Solicitor. They in turn will decide what is disclosed to the Defence Solicitors.
- 61.4 There is nothing in RIPA which prevents material obtained under Directed Surveillance authorisations from being used to further other investigations

62. Dissemination of Information

- 62.1 It may be necessary to disseminate material acquired through the RIPA covert activity within North Norfolk District Council or shared outside with other Councils or agencies, including the Police. The number of persons to whom any of the information is disclosed, and the extent of disclosure, should be limited to the minimum necessary. It must also be in connection with an authorised purpose as set out in sec 59 above. It will be necessary to consider exactly what and how much information should be disclosed. Only so much of the material may be disclosed as the recipient needs; for example, if a summary of the material will suffice, no more than that should be disclosed.
- 62.2 The obligations apply not just to North Norfolk District Council as the original authority acquiring the information, but also to anyone to whom the material is subsequently disclosed. In some cases, this will be achieved by requiring the latter to obtain permission from North Norfolk District Council before disclosing the material further. It is important that the Officer In Charge (OIC) of the enquiry considers these implications at the point of dissemination to ensure that safeguards are applied to the data.
- 62.3 A record will be maintained justifying any dissemination of material. If in doubt, seek advice.

63. Storage

- 63.1 Material obtained through covert surveillance and CHIS authorisations, and all copies, extracts and summaries of it, must be handled and stored securely, so as to minimise the risk of loss. It must be held so as to be inaccessible to persons who are not required to see the material (where applicable). This requirement to store such material securely applies to all those who are responsible for the handling of the material. It will be necessary to ensure that both physical and IT

security and an appropriate security clearance regime is in place to safeguard the material.

64. Copying

- 64.1 Material obtained through covert surveillance may only be copied to the extent necessary for the authorised purposes set out above. Copies include not only direct copies of the whole of the material, but also extracts and summaries which identify themselves as the product of covert surveillance, and any record which refers to the covert surveillance and the identities of the persons to whom the material relates.
- 64.2 In the course of an investigation, North Norfolk District Council must not act on or further disseminate legally privileged items unless it has first informed the Investigatory Powers Commissioner that the items have been obtained.

65. Destruction

- 65.1 Information obtained through covert surveillance, and all copies, extracts and summaries which contain such material, should be scheduled for deletion or destruction and securely destroyed as soon as they are no longer needed for the authorised purpose(s) set out above. If such information is retained, it should be reviewed at appropriate intervals to confirm that the justification for its retention is still valid. In this context, destroying material means taking such steps as might be necessary to make access to the data impossible.

PART G – Errors and Complaints

66. Errors

- 66.1 Errors can have very significant consequences on an affected individual's rights. Proper application of the surveillance and CHIS provisions in the RIPA codes and this Policy should reduce the scope for making errors.
- 66.2. There are two types of errors within the codes of practice which are:
- Relevant error and
 - Serious error

67. Relevant Error

- 67.1 An error must be reported if it is a “**relevant error**”. A relevant error is any error by a Public Authority in complying with any requirements that are imposed on it by any enactment which are subject to review by a Judicial Commissioner. This would include compliance by public authorities with Part II of the 2000 Act (RIPA). This would include with the content of the Codes of Practice.
- 67.2 Examples of relevant errors occurring would include circumstances where:
- Surveillance activity has taken place without lawful authorisation.
 - There has been a failure to adhere to the safeguards set out in the relevant statutory provisions and Chapter 9 of the Surveillance Codes of Practice relating to the safeguards of the material.
- 67.3 All relevant errors made by Public Authorities must be reported to the Investigatory Powers Commissioner by the Council as soon as reasonably practicable and a full report no later than ten working days. The report should include information on the cause of the error; the amount of surveillance conducted, and material obtained or disclosed; any unintended collateral intrusion; any analysis or action taken; whether any material has been retained or destroyed; and a summary of the steps taken to prevent recurrence.

68. Serious Errors

- 68.1 The Investigatory Powers Commissioner must inform a person of any relevant error relating to that person if the Commissioner considers that the error is a serious error and that it is in the public interest for the person concerned to be informed of error. The Commissioner may not decide that an error is a serious error unless they consider that the error has caused significant prejudice or harm to the person concerned. The fact that there has been a breach of a person's Convention rights (within the meaning of the Human Rights Act 1998) is not sufficient by itself for an error to be a serious error.
- 68.2 It is important that all staff involved in the RIPA process report any issues, so they can be assessed as to whether it constitutes an error which requires reporting

69. Complaints

- 69.1 Any person who reasonably believes they have been adversely affected by surveillance activity by or on behalf of the Council may complain to the Borough

Solicitor who will investigate the complaint. A complaint can also be made to the official body which is the Investigatory Powers Tribunal (IPT). They have jurisdiction to investigate and determine complaints against any Public Authority's use of RIPA powers, including those covered by this Policy.

69.2 Complaints should be addressed to:

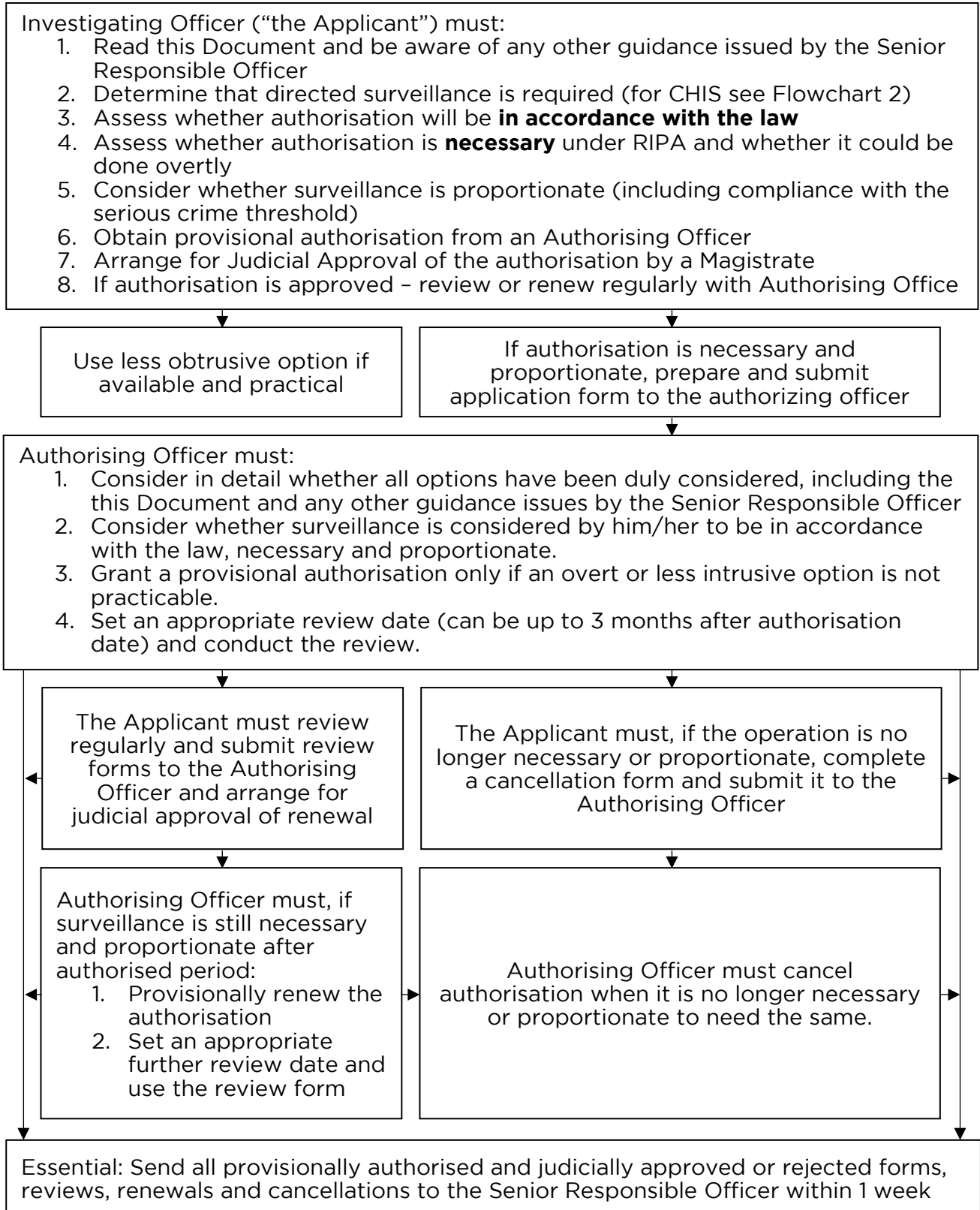
The Investigatory Powers Tribunal PO

Box 33220

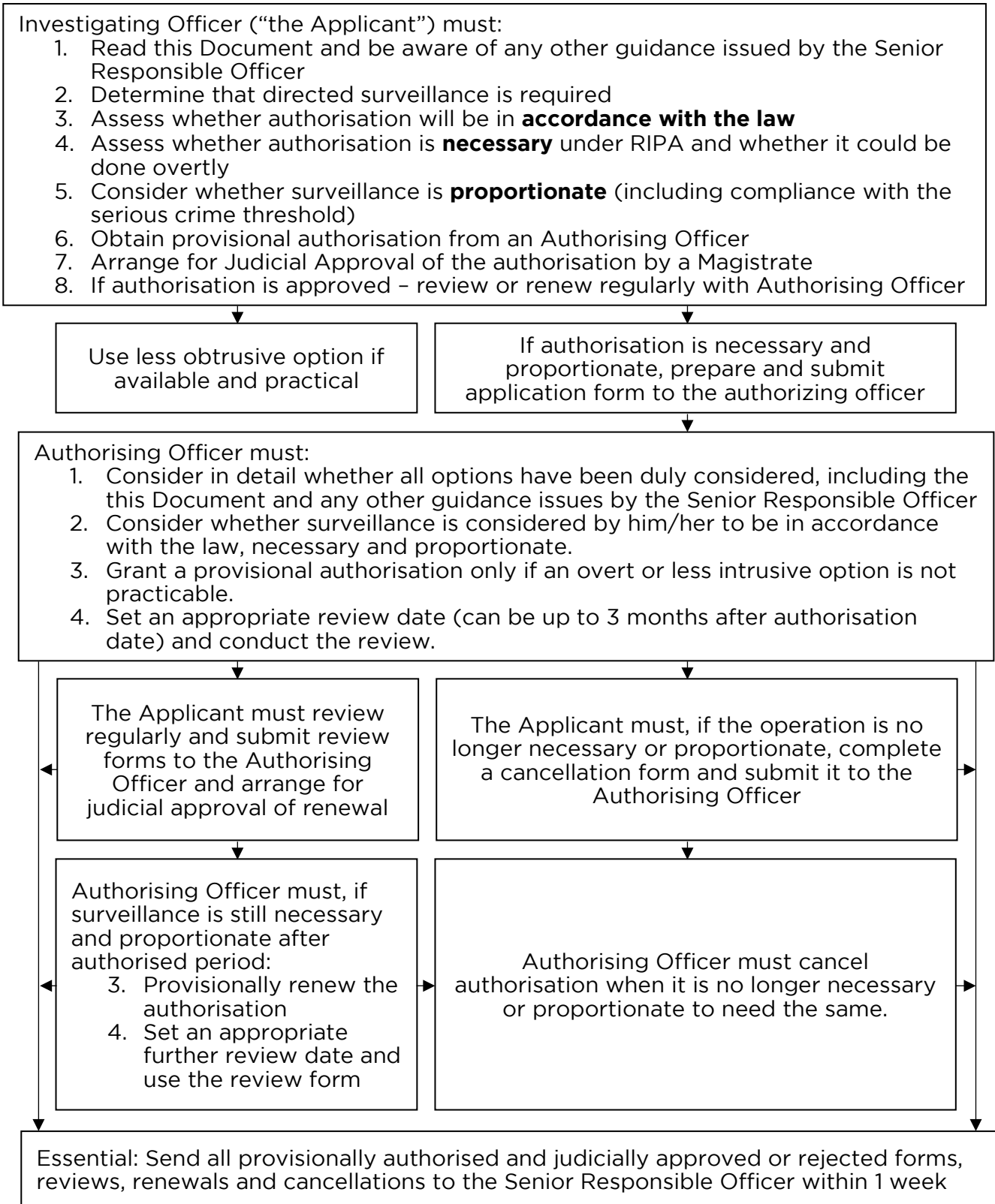
London SW1H 9

PART H – Appendix

Flowchart 1: Directed Surveillance



Flowchart 2: CHIS



Internet & Social Media Research & Investigations

Policy

Revision	Revision Date
1.	October 2022



NORTH
NORFOLK
DISTRICT
COUNCIL

Contents

1. Introduction	3
2. Scope of Policy	3
3. Risk	4
4. Necessity / Justification.....	4
5. Proportionality.....	4
6. Private information	5
7. Reviewing the Activity.....	5
8. Use of Material.....	5
9. Monitoring and Review of Policy	5

1. Introduction

- 1.1 Online open source research is widely regarded as the collection, evaluation and analysis of material from online sources available to the public, whether by payment or otherwise to use as intelligence and evidence.
- 1.2 The use of online open source internet and Social Media research is a method of obtaining information to assist North Norfolk District Council with its regulatory and enforcement functions. It can also assist with service delivery issues. However, the use of the internet and Social Media is constantly evolving and with it the risks, particularly regarding breaches of privacy under Article 8 Human Rights Act (HRA) and other operational risks.
- 1.3 North Norfolk District Council is a Public Authority in law under the Human Rights Act 1998, and as such, the staff of the authority must always work within this legislation. This applies to research on the internet.
- 1.4 Researching, recording, storing, and using open source information regarding a person or group of people must be both necessary and proportionate and take account of the level of intrusion against any person. The activity may also require authorisation and approval by a Magistrate under the Regulation of Investigatory Powers Act (RIPA) 2000. To ensure that any resultant interference with a person's Article 8 right to respect for their private and family life is lawful, the material must be retained and processed in accordance with the principles of the General Data Protection Regulations (GDPR).

2. Scope of Policy

- 2.1 This policy and associated procedure establishes North Norfolk District Council's approach to ensure that all online research and investigations are conducted lawfully and ethically to reduce risk. It provides guidance to all staff within the authority, when engaged in their official capacity of the implications and legislative framework associated with online internet and Social Media research. It will also ensure that the activity undertaken, and any evidence obtained will stand scrutiny.
- 2.2 This policy takes account of the Human Rights Act 1998, Regulation of Investigatory Powers Act (RIPA) 2000, Criminal Procedures Investigations Act (CPIA) 1996, General Data Protection Regulations (GDPR), NPCC Guidance on Open Source Investigation/Research.
- 2.3 This policy and associated procedure will be followed at all times and should be read, where required with the RIPA Codes of Practice and any other legislation and relevant North Norfolk District Council policies mentioned in this document. Should there be any queries, advice can be sought from the SRO.

2.4 Not adhering to this policy and procedure could result in members of staff being dealt with through the Council's disciplinary procedure.

2.5 This policy should not be exempt from disclosure under the Freedom of Information Act 2000

3. Risk

3.1 Staff must be aware that any activity carried out over the internet leaves a trace or footprint which can identify the device used, and, in some circumstances, the individual carrying out the activity. This may pose a legal and reputational risk to North Norfolk District Council from being challenged by the subject of the research for breaching Article 8.1 of the HRA which states "Everyone has the right to respect for his private and family life, his home and his correspondence". 8.2 states "There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others".

3.2 There is also a risk of compromise to other investigations, therefore, the activity should be conducted in a manner that does not compromise any current or future investigation or tactics.

4. Necessity / Justification

4.1 To justify the research, there must be a clear lawful reason, and it must be necessary. Therefore, the reason for the research, such as, the criminal conduct that it is aimed to prevent or detect must be identified and clearly described. This should be documented with clear objectives. Should the research fall within RIPA activity, the RIPA authorisation deals with this criterion for it to be lawful.

5. Proportionality

5.1 Proportionality involves balancing the intrusiveness of the research on the subject and other innocent third parties who might be affected by it (collateral intrusion) against the need for the activity in operational terms. What is the benefit to carrying out the activity? how will the benefit outweigh the intrusion?

5.2 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

6. Private information

- 6.1 Private information is defined in the RIPA Codes of Practice and states it “includes any information relating to a person’s private or family life. Private information should be taken generally to include any aspect of a person’s private or personal relationship with others, including family and professional or business relationships.
- 6.2 Prior to, and during any research, staff must take into account the privacy issues regarding any person associated with the research.

7. Reviewing the Activity

- 7.1 During the course of conducting the internet open source research, the nature of the online activity may evolve. It is important staff continually assess and review their activity to ensure it remains lawful and compliant. Where it evolves into RIPA activity, the RIPA procedure should be followed. If in doubt, seek advice.

8. Use of Material

- 8.1 The material obtained from conducting open source internet and Social Media research may be used as intelligence or evidence.
- 8.2 Any material gathered from the internet during the course of a criminal investigation must be retained in compliance with the Criminal Procedure and Investigations Act (CPIA) Codes of Practice and all material stored in line with the General Data Protection Regulations (GDPR) data retention policy

9. Monitoring and Review of Policy

- 9.1 This policy will monitored and reviewed where necessary by the SRO for RIPA. The minimum of an annual review will take place.

This page is intentionally left blank

COASTAL TRANSITION ACCELERATOR PROGRAMME - UPDATE AND APPROVALS

Summary:

This report provides the background to the Coastal Transition Accelerator Programme (CTAP), sets out what it seeks to achieve and updates Cabinet on progress to date.

Cabinet agreement is sought to approve project governance alongside delegated authorities to enable timely submission of an Outline Business Case to the Environment Agency alongside exempt decisions.

The report also sets out proposals to develop an initial phase of support for those at more immediate coastal erosion risk to begin to facilitate coastal transition and to buy time before wider opportunities are developed by the programme.

Options considered:

1. That Cabinet does not agree the CTAP arrangements as proposed within the report. This option is not recommended given the significance of the programme and the benefits that it will bring.
2. That Cabinet accepts the CTAP arrangements as detailed within this report. This option is recommended.

Conclusions:

The Coastal Transition Accelerator Programme provides a significant opportunity to develop approaches to manage the impacts of coastal change that will benefit our local communities. Furthermore, the learning generated will shape future guidance, funding and policy and could ultimately provide a long-term approach for coastal localities around the country, not just those in North Norfolk. CTAP therefore offers a tremendous opportunity to be at the forefront of this work in finding solutions that will benefit the nation and offer examples of best practice.

The development and submission of the Outline Business Case to the Environment Agency must follow the EA guidance and requires submission by the end of March 2023. The OBC will form a robust business case and programme framework from which the CTAP Programme Board can oversee the development and delivery of the projects and programme activities. Through the inclusion of external scrutiny, the board will be strengthened and ensure a wider outward looking programme of work. The active inclusion of wider stakeholder involvement and engagement is critical in order to understand local

needs, to encourage participation and to develop preparedness and awareness.

The Phase 1 of Coastal Transition support seeks to provide assistance for those most in need in the short term whilst the wider programme and projects are developed. It also seeks to provide initial opportunities for coastal communities and in doing so help facilitate a coastal transition conversation. This support will also provide valuable learning to the project and may identify further opportunities or needs to be taken forward.

The details included within the Exempt appendices will enable NNDC to move forward with wider opportunities should it be required.

Recommendations:

- 1. That Cabinet notes progress to date.**
- 2. That Cabinet agrees that the Programme will be overseen by a Programme Board, which is to be constituted in accordance with NNDC project guidance.**
- 3. That Cabinet authorises the Director for Place and Climate Change, in consultation with the Coastal Portfolio Holder, to approve the submission of the Outline Business Case to the Environment Agency and undertake any subsequent amendments as necessary.**
- 4. That Cabinet agrees that the approved Outline Business Case is to form the NNDC Programme Business Case.**
- 5. That Cabinet agrees the development and delivery of the Stage 1 Coastal Transition Support Package and authorises the Director for Place and Climate Change, in consultation with the Coastal Portfolio Holder, to undertake any necessary amendments to the package provided they are within the CTAP budget.**
- 6. That Cabinet agrees that land and asset purchases in excess of £100,000 for the purposes of the Coastal Transition Accelerator Programme are 'exceptional circumstances' and acquisition is delegated to the Leader the of the Council, Portfolio Holder, Chief Executive and Monitoring Officer. With report to the next available Cabinet.**
- 7. That Cabinet authorises the Director for Place and Climate Change to enter into legal agreements with land/asset owners in order to secure transition opportunities with advice from the Estates Team and in consultation with Legal Services and Portfolio Holder and Assistant Director Finance Assets**

Reasons for Recommendations:

- To enable timely progression of the Coastal Transition Accelerator Programme
- To ensure robust governance and oversight
- To enable immediate support to those most impacted by coastal change

LIST OF BACKGROUND PAPERS AS REQUIRED BY LAW

(Papers relied on to write the report, which do not contain exempt information and which are not published elsewhere)

- | |
|--|
| <ul style="list-style-type: none"> • NNDC Project Proposal Template • Environment Agency CTAP Principles |
|--|

Cabinet Member(s)	Ward(s) affected
Cllr. A. Fitch-Tillett (portfolio Holder for Coast)	Coastal, Sheringham South, Sheringham North, Beeston Regis and the Runtons, Cromer Town, Suffield Park, Poppyland, Roughton, Mundesley, Bacton, Happisburgh

<p>Contact Officer, telephone number and email:</p> <p>Rob Goodliffe – Coastal Transition Accelerator Programme Manager – Rob.Goodliffe@north-norfolk.gov.uk – 01263 516321</p>

1. Introduction

- 1.1 The North Norfolk coast has some of the most rapidly eroding coastline in Europe, due to its soft erodible cliffs and natural coastal processes. The rates of erosion are expected to accelerate due to climate change, particularly in response to increased storminess, intense rainfall and sea level rise. Coupled with aging defence assets and a long-term trend of falling beach levels, many homes, businesses and infrastructure along the 21 miles of the cliffed North Norfolk coast are at risk from erosion.
- 1.2 The Shoreline Management Plan (SMP6) sets out the strategic policies for managing coastal erosion risk management. Whilst in some locations it is the policy intent to seek to ‘hold the line’ of erosion risk management assets in the long term, the SMP recognises that the continued maintenance of these assets, such as sea walls and groynes, is considered neither affordable, technically feasible or environmentally sustainable in many locations. As such the SMP identifies that there is a need for measures to be developed to support those impacted by coastal change.
- 1.3 North Norfolk District Council and our communities have been at the forefront of coastal change management since the development of the current SMP. This has included some of the earliest coastal change planning policies, now nationally incorporated into guidance and further developed. North Norfolk also received a significant share in the national Pathfinder coastal adaptation trails

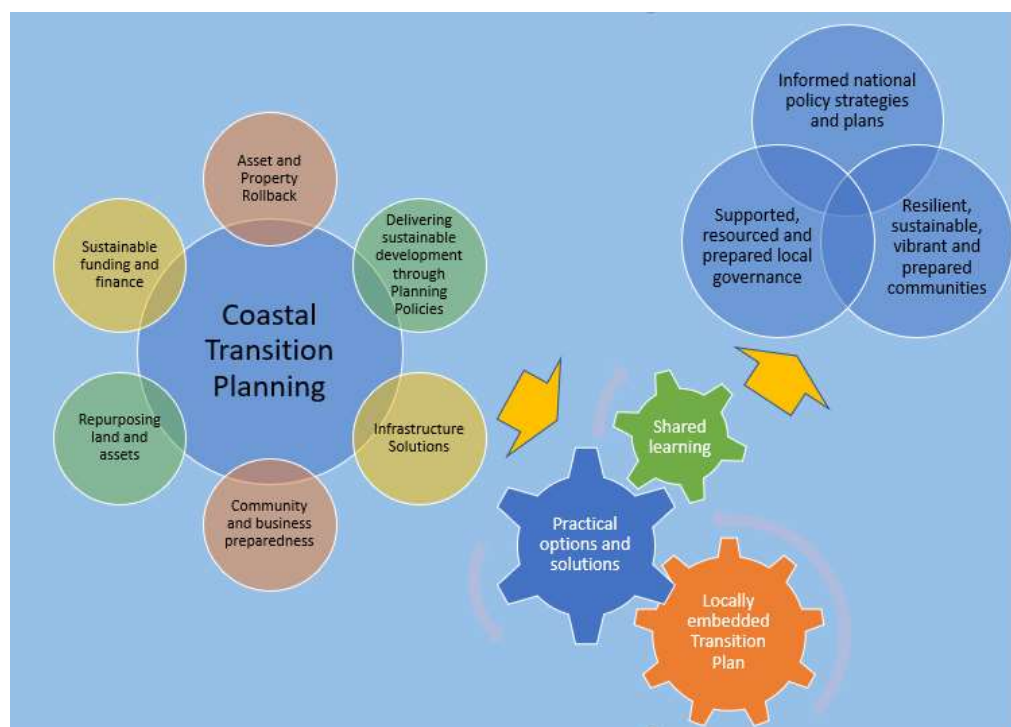
in 2010. This enabled the Council to work alongside local communities and business in developing and implementing practical ways to manage the impacts of coastal change. Key learning included the importance of all parties working together and that through availability of focused resources and funds, it is possible to manage the impacts of erosion. Details of the Pathfinder projects investigated and delivered are available at [NNDC Pathfinder - Home \(north-norfolk.gov.uk\)](https://www.north-norfolk.gov.uk).

- 1.4 Although the SMP highlights a need to manage coastal change, the successes of the Pathfinder and the ongoing discussions with government, actions to support communities, asset owners and individuals in managing coastal change has, until now, remained limited. Beyond provision of coastal information, housing advice and planning policy opportunities to 'rollback or relocate' properties, support has been limited to a £6k national Coastal Erosion Assistance Grant which assists with demolition costs for residential properties purchased before 15 June 2009.
- 1.5 North Norfolk District Council has long recognised the challenges around coastal erosion and the [Corporate Plan](#) sets out the objective to "continue to take a lead role nationally in coastal management initiatives recognising our position as a "frontline" authority in meeting the challenge of rising sea levels".
- 1.6 NNDC, alongside Coastal Partnership East, other Local Authorities and the Local Government Association Coastal Special Interest Group, have been working with Government and the Environment Agency (EA) to highlight the needs and challenges faced by local communities on eroding coasts. Awareness of these challenges has been heightened with the rising understanding of the anticipated impacts of climate change.
- 1.7 In 2020 the Government published the first [Flood and Coastal Erosion Risk Management Policy Statement](#) which was followed by the Environment Agency's [National Flood and Coastal Erosion Risk Management Strategy](#) (*N.B. the EA have national strategic oversight of coastal management*). This national policy and strategy have highlighted the need to support local authorities and communities in transitioning from the risks of coastal change. This in turn led in 2022 to the announcement of the [Coastal Transition Accelerator Programme](#) (CTAP).
- 1.8 This report provides the background to the Coastal Transition Accelerator Programme, sets out what it seeks to achieve and updates Cabinet on progress to date (see Section 2).
- 1.9 Cabinet approval is sought for the proposed project governance measures and authority is sought to allow the Director for Place and Climate Change, in consultation with the Portfolio Holder for Coast, to submit an Outline Business Case to the Environment Agency (alongside exempt decisions - see Section 3).
- 1.10 The report also sets out proposals to develop an initial phase of support for those at more immediate coastal erosion risk to begin to facilitate coastal transition and allow time to progress and develop wider opportunities of the programme (see Section 4).

2. The Coastal Transition Accelerator Programme (CTAP)

- 2.1 The Coastal Transition Accelerator Programme is part of the Government's £200 million flood and coast innovation programme. North Norfolk District Council is one of only two English coastal authorities to have been selected and is to receive part of a £36 million investment from 2022-2027 to explore innovative approaches of adapting to the effects of coastal erosion. The other selected Council is East Riding of Yorkshire. It is understood that the Council can apply for £14 million of funding from this programme.
- 2.2 The programme aims to:
- accelerate strategic planning (and associated action planning) to set out how coastal local authorities, partners and communities will address the long-term transition of communities, businesses and assets away from the coastline at risk
 - support the trialling of early on the ground innovative actions in support of medium and long term plans, that enable those coastal areas at significant risk to address the challenges posed by a changing climate
- 2.3 This programme provides a significant opportunity for North Norfolk, as a community, to plan and prepare for where coastal change will occur, whilst also gathering learning and evidence to support the case for new, longer term initiatives alongside identifying necessary changes to wider policy, strategy and legislation.
- 2.4 The key principles and requirements of the programme are set out in the below diagram which captures the core areas for activities, outputs and outcomes.

Diagram 1. CTAP core areas of activity, outputs and outcomes



- 2.5 Department for Environment, Food & Rural Affairs (DEFRA) have set out some key deliverables which include the need to develop Coastal Transition Plans

that are integrated into wider policy and plans, the need to generate and disseminate learning for longer term sustainable transition approaches for eroding coasts and to deliver 'practical actions'.

- 2.6 EA guidance states the funding cannot be used for traditional coast protection or compensation for losses due to erosion. Coast protection already has a well-established process for central government funding and compensation for coastal erosion loss has been a successive and established position of government.
- 2.7 To initiate and develop the North Norfolk CTAP, DEFRA have already provided a first phase of funds. In order for NNDC to access the full funding, there is a requirement that an Outline Business Case (OBC) is developed in accordance with the Environment Agency (EA) guidance and EA approval is sought. This is the normal process for traditional coastal management schemes where government grant is required, although in this case, the guidance has been amended in recognition of the innovative nature of the programme.

3. Programme / Project Development and Governance

- 3.1 In early 2022 DEFRA approached the Council to offer the opportunity of participating in CTAP. Over the following weeks an initial proposal was prepared, in confidence, for DEFRA outlining the initial activities proposed. CTAP was formally announced on 24 March by Rebecca Pow MP, Parliamentary Under-Secretary of State for DEFRA. Since the announcement, work has progressed on the development of the proposal, including internal cross-service area workshops and Member input.
- 3.2 An Outline Business Case (OBC) is currently being developed for submission to the Environment Agency, to secure their approval for the full funding. This OBC document will form the key Business Case document for the project and will set out the overarching themes and activities of work. The OBC will be completed in line with the Government Five Case Business Model process, which includes Strategic Case, Economic Case, Commercial Case, Financial Case and Management Case.
- 3.3 As the programme by its very nature is innovative, it is not expected or intended that the Business Case will set out in detail all the actions to be implemented, but rather provide a framework from which to develop ideas, engage with stakeholders and capture and share learning.
- 3.4 It is essential to highlight that whilst the OBC identifies the overarching areas of work, the details of what will be delivered will come through a process of involvement of those communities, individuals, infrastructure providers and businesses on the coast.

High level programme objectives

- 3.5 The below box sets out the high-level North Norfolk CTAP business objective.

The North Norfolk Coastal Transition Accelerator programme will develop and embed whole coast strategic planning approach which facilitates and delivers practical actions to support communities through coastal change.

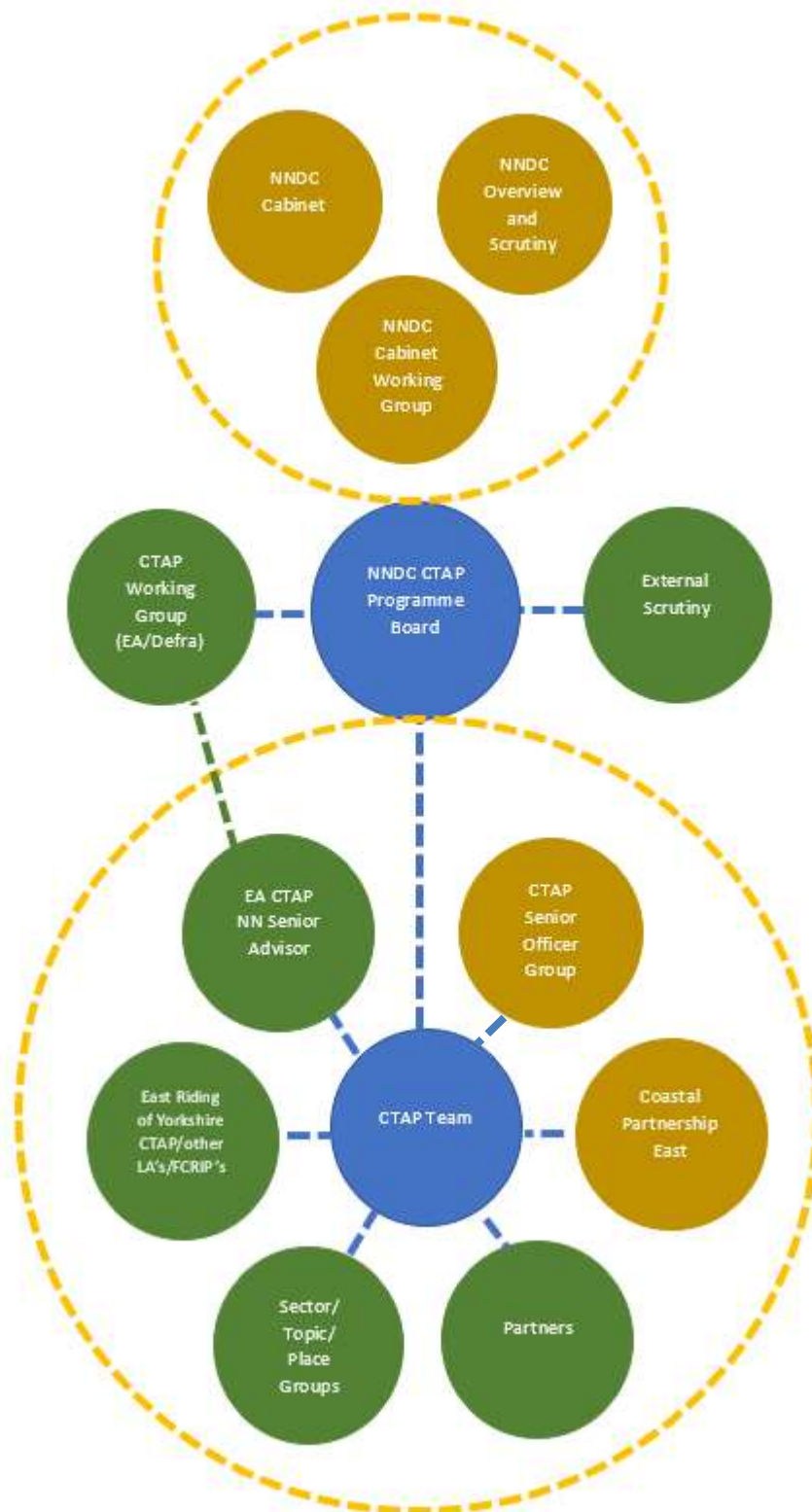
By 2027 we will have worked with communities in North Norfolk at imminent risk of erosion to explore, develop and facilitate a transition planning process, trial practical actions and capture evidence to demonstrate learning.

- 3.6 Details of the CTAP objectives, outcomes, outputs and work themes are in development and will be included in the Outline Business case. These will also be integrated into the DEFRA programme evaluation process that has recently been initiated.

Governance and Resources

- 3.7 The OBC will form the adopted NNDC Business Case from which the programme and associated projects will be delivered. By the nature of the programme, it is seeking to innovate and therefore in the initial discovery and development phase, through key themes such as community engagement, details of activities will be identified for delivery.
- 3.8 With innovation at the programme core, it will be essential for robust project and programme management to oversee project development and change processes. Accordingly, the NNDC Project Management Guidance will form the framework from which the programme will be delivered.
- 3.9 The proposed programme governance structure, as set out below, will fully link into the NNDC reporting structures and Environment Agency Programme governance, whilst also identifying the benefit of external scrutiny alongside topic area and local community insight. Draft terms of reference for the Programme Board and key roles are set out in appendix 2.
- 3.10 The CTAP team will be overseen by the Director for Place and Climate Change and managed by the recently appointed Coastal Transition Accelerator Programme Manager (funded via the CTAP Programme budget for the duration). The Project team will be recruited and appointed as the programme develops and is likely to include skills such as communications, community engagement and planning specialists. Opportunities to utilise the existing skills and knowledge of the CPE team and NNDC teams is already being actively investigated alongside the valuable input from partners, most notably the Environment Agency, East Riding of Yorkshire Council and the University of East Anglia.

Diagram 2. Programme Governance



4. Phase 1 – Coastal Transition Support Package

- 4.1 The programme will be seeking to create initiatives and guidance in order to develop local preparedness to coastal change for years to come. As with many programmes it will take time to develop and move forward with planned practical assistance, however, there is an immediate need to those at imminent erosion risk.
- 4.2 This initial support package seeks to provide more immediate assistance to help those in need, begin local discussions and provide time to generate the longer-term innovative solutions. It has been based upon responses from coastal communities who have approached the Council before and since the CTAP announcement and utilises knowledge from previous North Norfolk District Council initiatives.
- 4.3 It is proposed to set aside an initial £150,000 (excluding administration costs) in this phase of assistance. This support is not immediately available as resources and processes will need to be put into place, however, initial expressions of interest can be directed to coastal.management@north-norfolk.gov.uk.
- 4.4 NNDC currently has community grant schemes such as the Sustainable Communities Fund and Arts and Culture Fund. It is understood that through the UK Shared Prosperity Fund and Rural Prosperity Fund that further local grants may be offered in the coming year. The opportunity to utilise the skills and knowledge of existing funding administration alongside the development of additional grants schemes will be investigated to make best use of existing resources, identify additional administrative resource needs, ensure efficient working and to integrate CTAP into wider Council activities.
- 4.5 The below sets out the draft package of support.

Stage 1 Coastal Transition Support Package

1. Provision of **Town and Country Planning Advice** to residential and commercial properties within the coastal change management area (see Local Plan) for planning proposals which support coastal transition.
 - Resources required to be provided by CTAP
 - To be made available once resources are available
 - Expressions of interest welcome
2. **Coastal Transition Professional Services Fund** to support residential and commercial properties at short term coastal erosion risk to investigate opportunities for rolling back the asset/property or preparing for coastal change. To include but not limited to land agents, planning consultants, legal assistance, business advice, coastal erosion vulnerability assessment.
 - Grant conditions to be developed with legal guidance
 - Grant value per property to a maximum of £10,000 unless otherwise agreed
 - Appropriate subsidy control guidance to be followed for commercial properties
 - Administration and resourcing to be agreed

3. **Practical Coastal Transition Fund** to support physical actions to enable the continued use of properties/community assets at erosion risk in the short term to provide time whilst wider CTAP activities are developed.
 - Grant conditions to be developed with legal guidance
 - Grant value per applicant to a maximum of £5,000 unless otherwise agreed
 - Administration and resourcing to be agreed
 4. **Coastal Community Transition Fund** to delivering practical actions to support transition, repurposing land or assets at risk of erosion, investigating coastal change, recording heritage at risk, improve awareness of coastal change
 - For established and constituted groups including Coastal Parish Councils.
 - Potential be administered via existing NNDC Sustainable Communities and Arts and Culture Fund, to be agreed.
 - Grant value per applicant to a maximum of £3,500 agreed for arts and culture, up to £15,000 for sustainable communities fund.
 - Administration and resourcing to be agreed
- 4.6 Details of grant criteria, terms and conditions and administration are to be finalised. Administration costs to be met by the CTAP funds. Evaluation of uptake, feedback and learning will be essential and there will be a need to develop a methodology of capturing key information and case studies created through these schemes.

5. Conclusions

- 5.1 The Coastal Transition Accelerator Programme provides a significant opportunity to develop approaches to manage the impacts of coastal change that will benefit our local communities. Furthermore, the learning generated will shape future guidance, funding and policy and could ultimately provide a long-term approach for coastal localities around the country, not just those in North Norfolk. CTAP therefore offers a tremendous opportunity to be at the forefront of this work in finding solutions that will benefit the nation and offer examples of best practice.
- 5.2 The development and submission of the Outline Business Case to the Environment Agency must follow the EA guidance and requires submission by the end of March 2023. The OBC will form a robust business case and programme framework from which the CTAP Programme Board can oversee the development and delivery of the projects and programme activities. Through the inclusion of external scrutiny, the board will be strengthened and ensure a wider outward looking programme of work. The active inclusion of wider stakeholder involvement and engagement is critical in order to understand local needs, to encourage participation and to develop preparedness and awareness.
- 5.3 The Phase 1 of Coastal Transition support seeks to provide assistance for those most in need in the short term whilst the wider programme and projects are developed. It also seeks to provide initial opportunities for coastal communities and in doing so help facilitate a coastal transition conversation.

This support will also provide valuable learning to the project and may identify further opportunities or needs to be taken forward.

- 5.4 The details included within the Exempt appendices will enable NNDC to move forward with wider opportunities should it be required.

6. Implications and Risks

- 6.1 A full risk log will be developed as part of the programme management moving forwards. Key programme risks include:

Risk	Likelihood	Mitigation
OBC not being approved by the EA	Low	NNDC is working closely with the EA in the development of the OBC.
Stakeholders e.g. communities, individuals, businesses do not engage with the opportunity	Medium	Communications and engagement is a key theme for CTAP and will be properly resourced.
Inflation, cost increases and changes to national economy	High	Risk contingencies to be incorporated into financial planning. Flexibility in delivery and fluidity of approach.
Unable to access skills required to deliver programme	Medium	A number of procurement and recruitment opportunities are available. As a nationally significant project there is wide interest.
Changes in government direction over delivery period	Low	Programme is embedded in national policy and strategy. Climate change impacts are now more widely recognised and integrated in national approach.
Programme scope expansion	Low	Robust governance.

7. Financial Implications and Risks

- 7.1 NNDC has already received, £1,015,000 capital and £405,000 revenue funding from DEFRA during 2022/23 under CTAP Memorandum of Understanding's, in order to begin the early phases of the programme. A request to roll forward of

the funds not already utilised during this financial year has been submitted to DEFRA at their request. All financial commitments DEFRA.

- 7.2 The OBC, once approved, will enable NNDC to draw down funds from the Environment Agency to fund the delivery of the wider programme. It is anticipated total funding from CTAP to the North Norfolk will be approximately £14million.
- 7.3 Common with most significant projects, the risk of cost escalation is real (see implications and risk). The OBC is required to include contingencies within the funding allocation of between 20-40%.
- 7.4 The innovative nature of the programme is accepted by EA and there may be a need to adjust elements of the OBC as the themes are developed and delivered.
- 7.5 Currently, programme delivery following EA approval does not present any financial risks to NNDC due to the funding already committed. In the longer term, the learning from CTAP is anticipated to improve the sustainability of coastal management, including funding and financing and this is likely to reduce coastal risk and financial implications for the authority.

8. Sustainability

- 8.1 The Council has declared a climate change emergency and climate change is a key factor in future accelerated coastal change as such part of CTAP will need to consider how carbon emissions can be minimized and mitigated. As part of the baselining for the programme we will be exploring the carbon baseline for Business As Usual and then consider how we can evaluate carbon values for the projects implemented. Coupled with ongoing development of this field in more traditional flood and coastal erosion risk management, comparisons between options will be able to be considered.
- 8.2 The NNDC Net Zero 2020 Strategy and Climate Action Plan sets out how NNDC will seek to meet the net zero ambition. It will need to be explored as to how CTAP can assist NNDC in meeting this goal. For example, opportunities may exist with the repurposing of coastal land for carbon capture or in replacement of inefficient at risk coastal properties with well insulated and efficient homes built from sustainable materials.
- 8.3 A key objective set by DEFRA is to seek to find sustainable approaches for coastal transition and long term funding and financing which are not solely reliant of Flood and Coastal Erosion Risk Management Funding. This will form a key theme and learning from the programme and the ambition is for North Norfolk to have a long term and sustained transition approach by the end of 2027.

9. Equality and Diversity

- 9.1 Under the general equality duty as set out in the Equality Act 2010, public authorities are required to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation as well as advancing equality of opportunity and fostering good relations between people who share a protected characteristic and those who do not.
- 9.2 The protected grounds covered by the equality duty are age, disability, sex, gender reassignment, pregnancy and maternity, race, religion or belief, and

sexual orientation. The equality duty also covers marriage and civil partnership, but only in respect of eliminating unlawful discrimination.

- 9.3 The law requires that this duty to have due regard be demonstrated in decision making processes such as the award of a grant or the removal of a grant. Assessing the potential impact on equality of proposed changes to policies, procedures and practices is one of the keyways in which public authorities can demonstrate that they have had due regard to the aims of the equality duty.
- 9.4 NNDC Equality, Diversity and Inclusion Policy will be followed. The recently adopted North Norfolk Community Engagement Strategy 2022-24 will be fully considered and incorporated into engagement planning.
- 9.5 An Equalities and Inclusion assessment is required by the Environment Agency and will form part of the OBC, further guidance will be requested.

10. Section 17 Crime and Disorder considerations

- 10.1 No specific crime and disorder considerations have been identified. In developing coastal transition options and plans with communities it will be possible to consider what improvements could be made with regard to reducing crime when delivering coastal transition practical actions.

North Norfolk Coastal Transition Accelerator Programme Board

Terms of Reference

1.0 Purpose

- 1.1 The Programme Board is an essential part of the North Norfolk District Council (NNDC) project management governance. The Project Board provides overall direction to the project and is accountable for its success – ensuring the project remains within timeframes, scope and budget.

2.0 Objectives

- a) The Board ensures that the required resources are committed and arbitrates on any conflicts in the project.
 - b) It has a remit to make project decisions wholly within the approved scope and budgets as defined in the cabinet approved business case.
 - c) These decisions should be made according to the principles of decision making outlined in the constitution (Chapter 1 Part 12) and if a formal vote is required then decisions will be passed by a majority.
 - d) The board provides progress updates as requested to the North Norfolk District Council Cabinet Working Group (CWG) – Major Projects, using the appropriate template.
 - e) Any significant changes to scope, budget or risk should be elevated to the CWG for decision (using the appropriate template) but ultimately may require Cabinet approval to change (see Terms of Reference for the Cabinet Working Group – Major Projects).
- 2.1 In addition, the board has responsibility for:
- Championing the project and raising awareness at a senior level
 - Recruiting project staff and consultants (where required)
 - Ensuring the Project team / Senior Officer Group (CTAP SOG) function satisfactorily
 - Communicating with other key organisational representatives
 - Approving detail of proposals that involve external parties
 - Approving project documentation
 - Resolving issues and mitigating risks in programme scope
- 2.2 The minutes provide a record of progress and the decisions made by the board and those escalated to the North Norfolk District Council Cabinet Working Party Group.

3.0 Values and behaviours

- 3.1 The values and behaviours of the board should align with our corporate values and key behaviours and with particular reference to the Member Code of Conduct, the Employee Code of Conduct and the protocol on Member Officer relations. Attendees are expected to respect other attendees and treat others as they would, as an individual, like to be treated.

4.0 Membership

- 4.1 The North Norfolk Coastal Transition Accelerator Programme Board shall comprise of the following:

Name	Programme Role	Position
Martyn Fulcher	Chair, Project Sponsor	Director for Place and Climate Change
Karen Thomas	Senior Officer representative	Head of CPE
Rob Young	Senior Officer representative	Assistant Director Sustainable Growth
Rob Goodliffe	CTAP Programme Manager – Senior Responsible Officer	CTAP Manager
Kellie Fisher	CTAP Advisor	Environment Agency Senior Advisor CTAP
TBC	Finance Representative	TBA
TBC	Communications Representative	TBA
TBC	RFCC Eastern Rep	TBA
Cllr Angie Fitch-Tillett	Responsible Member and Programme Champion	Portfolio Holder for Coast - NNDC
TBC (up to 3)	External Scrutiny	National Trust/EA/Other LA representative

- 4.2 The Chair of the Board will agree representatives and appoint further representatives to the Board as required.

Additional attendees

- 4.3 Representatives of other interests or other organisations may be invited to attend specific Board meetings, where relevant to matters on the agenda. Similarly additional elected Members may be invited to attend as necessary.

5.0 Meetings

- 5.1 The North Norfolk Coastal Transition Accelerator Programme Board shall meet as directed by programme need (minimum four times per year) and items for the agenda will be agreed in advance.
- 5.2 Attendees are expected to have read the agenda and any supporting documentation so that they attend the meeting well prepared and able to participate fully.
- 5.3 Items and papers for the agenda should be received no less than two full working days prior to the meeting, inclusion of meeting papers after the circulation of papers is to be negotiated with the Chair.
- 5.4 North Norfolk Coastal Transition Accelerator Programme Board representatives are expected to attend meetings wherever possible. However,

in consultation with the Chair, members may authorise an appropriate colleague to represent them if they are unable to attend a meeting.

5.5 Meetings should be restricted to no longer than 1.5 hours to ensure a suitable focus. It will be the responsibility of the Chair, in conjunction with report authors/other Board members, to agree timings for report discussions. Where an agenda contains too much business a discussion will be held regarding items for potential slippage/discussion outside of the wider meeting.

5.6 Notes and actions from meetings will be recorded and confirmed at the end of the meeting. Draft minutes will be available within five working days of the meeting.

6.0 Reporting

6.1 North Norfolk Coastal Transition Accelerator Programme Board agendas, papers and minutes will be shared on the programme SharePoint site.

7.0 Version control

7.1 These terms of reference were compiled as draft on 12.12.22

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank