

Notice of Meeting

Joint Public Protection Committee

A shared service provided by Bracknell Forest Council,
West Berkshire Council and Wokingham Borough Council

Tuesday 15 December 2020 at 4.00pm

This meeting will be held in a virtual format in accordance with The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panels Meetings) (England and Wales) Regulations 2020

This meeting will be streamed live here:

<https://www.westberks.gov.uk/jointpublicprotectioncommitteelive>

To: Councillors Parry Batth (Wokingham Borough Council), Chris Bowring (Wokingham Borough Council), Hilary Cole (West Berkshire Council), James Cole (West Berkshire Council), John Harrison (Bracknell Forest Council) and John Porter (Bracknell Forest Council)

Part I

Page No.

- 1 **Apologies**
To receive apologies for inability to attend the meeting.
- 2 **Minutes**
To approve as a correct record the Minutes of the meeting of this Committee held on 28 September 2020. 1 - 8
- 3 **Declarations of Interest**
Any Member with a Disclosable Pecuniary Interest in a matter should withdraw from the meeting when the matter is under consideration, and should notify the Democratic Services Officer in attendance that they are withdrawing as they have such an interest. If the Disclosable Pecuniary Interest is not entered on the register of Members' Interests, the Monitoring Officer must be notified of the interest within 28 days.

Public Protection Partnership Agenda - Tuesday, 15 December 2020 *(continued)*

4 Notice of Public Speaking and Questions

To note those agenda items which have received an application for public speaking. The Partnership welcomes questions from members of the public about their work.

Subject to meeting certain timescales, questions can relate to general issues concerned with the work of the Partnership or an item which is on the agenda for this meeting. For full details of the procedure for submitting questions please contact Democratic Services.

5 Future Plan

To detail future items that the Committee will be considering.

6 Fee Policy for Relevant Protected Sites under Caravan Sites and Mobile Homes Legislation

9 - 26

To provide the Joint Public Protection Committee with an update to the Fee Policy for Relevant Protected sites, following on from the Private Sector Housing Policy presented to the JPPC September 2020 meeting, and to seek authority from the Committee to go out to consultation with Licensees.

7 Surveillance and implementation of RIPA within the PPP

27 - 66

The Joint Management Board requested an update on the subject following external audits of the partner authorities by the Investigatory Powers Commissioner's Office (IPCO).

To follow up on feedback from senior officers across each of the 3 partners that this process (external audit) could be improved if there was a greater collective understanding of how officers in the PPP may use the methods and powers incorporated under the relevant legislation and associated policy.

To circulate information about body worn cameras and CCTV for enforcement purposes.

To highlight the work of the National Anti-Fraud Network and how it links to the PPP.

8 PPP Covid-19 Response and Service Update

67 - 106

To provide the Joint Public Protection Committee with an update on the service response to Covid19.

To provide an update on other service delivery matters including performance.

To provide an update on the work of the case management unit as requested at the last JPPC meeting.

Public Protection Partnership Agenda - Tuesday, 15 December 2020 *(continued)*

9 **Any other items the Chairman considers to be urgent**

Contact Officer:

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Note: These Minutes will remain DRAFT until approved at the next meeting of the Committee

JOINT PUBLIC PROTECTION COMMITTEE

Minutes of the meeting held on Monday 28 September 2020

Present: Parry Batth (Chairman), Chris Bowring, Hilary Cole, James Cole, John Harrison (Vice-Chairman) and John Porter

Also Present: Paul Anstey (Head of Public Protection and Culture), John Ashworth (Executive Director - Place), Rosalyn Gater (Team Manager - Commercial), George Lawrence (Residential Team Leader), Sean Murphy (Public Protection Manager), Anna Smy (Strategic Manager - Response), Richard Bisset (Wokingham Borough Council), Stephen Chard (Principal Policy Officer), Kevin Gibbs (Bracknell Forest Council), Damian James (Chair of the PPP Joint Management Board), Clare Lawrence (Wokingham Borough Council) and Chris Trail (Wokingham Borough Council)

PART I

11 Minutes

The minutes of the previous meeting held on 24 June 2020 were approved as a true and correct record and signed by the Chairman.

12 Declarations of Interest

There were no declarations of interest received.

13 Notice of Public Speaking and Questions

A full transcription of the public question and answer session is available from the following link: [Transcription of Q&As](#).

a Question submitted by Ms Jackie Whitbread to the Chairman of the Committee

The question submitted by Ms Jackie Whitbread in relation to the recovery rate for all licensed local home dog boarders served by the Public Protection Partnership would receive a written response from the Chairman of the Joint Public Protection Committee.

b Question submitted by Ms Karen Fleck to the Chairman of the Committee

The question submitted by Ms Karen Fleck in relation to the revised dog home boarding licence fees would receive a written response from the Chairman of the Joint Public Protection Committee.

c Question submitted by Mr Phil Hope to the Chairman of the Committee

The question submitted by Mr Phil Hope in relation to the legislation for the licensing of Houses in Multiple Occupation would receive a written response from the Chairman of the Joint Public Protection Committee.

d Question submitted by Mr Phil Hope to the Chairman of the Committee

The question submitted by Mr Phil Hope in relation to the hourly fee for the licensing of Houses in Multiple Occupation would receive a written response from the Chairman of the Joint Public Protection Committee.

14 Future Plan

RESOLVED that the Future Plan be noted.

15 Draft Revenue Budget 2021/22

The Committee considered the report (Agenda Item 6) which set out the draft revenue budget for 2021/22 including fees and charges. The report sought approval of:

- the draft budget, draft fees and the charges schedule prior to submission to the Councils in accordance with the Inter-Authority Agreement.
- the recommendation to revise the fees for licences issued under the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.
- the recommendation to revise the fees for Houses in Multiple Occupation issued under the Housing Act 2004.

Councillor Parry Bath introduced the item by informing the Committee of a request from Councillor Mary Temperton of Bracknell Forest Council to address Members on the licence fee for small businesses to look after dogs from their homes. The Committee would need to suspend standing orders in order to permit this.

Councillor John Harrison proposed to suspend standing orders and this was seconded by Councillor John Porter. The Committee voted to suspend standing orders.

Councillor Temperton addressed the Committee and made the following points:

- As stated, she wanted to address the Committee in relation to the licence fee for small businesses to look after dogs from their homes.
- She started by pointing out that the licence fee for hackney carriages and for private hire was £288 for new applications and £288 for renewals. The renewal fee did not include a new application fee.
- She therefore asked why home dog boarders were required to pay, each year, an application fee of £228 and a renewal fee of £342. A total annual charge of £570. Councillor Temperton felt that the annual application fee needed to be reconsidered as she considered this to be unjust.
- She supported this by pointing out that the initial application process took more time than for a renewal. The initial application visit could take three hours and this was followed by an unannounced 30 minute visit during the year. The duration of the renewal application visit, which was more of a tick box exercise, was much shorter at 30 minutes. There was also the unannounced 30 minute visit. Councillor Temperton

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felt that the fees should reflect the time taken for the application and renewal processes.

- There was no support available to new applicants on how to comply with the requirements. Applicants would either have to look to existing licence holders for advice or undertake research online. Greater support should be provided.
- If a boarder did not comply with the requirements then the licence was not issued and they would need to reapply. A fine would be levied if a boarder operated without a licence. However, Councillor Temperton asked why enforcement costs were incorporated into the licensing application fee. Why was this the case when they had a licence? The unlicensed operators should be fined and the costs should not be passed on to the licensed boarders. They should not be penalised in this way.
- Boarders should be made aware of and consulted on any increases in fees. Proposals to increase fees needed to be publicised and this was an area to improve upon.
- Councillor Temperton closed her comments by requesting that the application fee and the renewal fee be reconsidered.

Councillor Bath thanked Councillor Temperton for her contribution.

The Committee then voted to reinstate standing orders.

Paul Anstey, Head of Public Protection and Culture, introduced the report. The recommendations in the report had been approved by senior officers at the Joint Management Board. The proposed draft budget, which had to be set annually, incorporated the fees and charges for 2021/22, and took account of costs and inflationary rises.

The points raised within the public questions and by Councillor Temperton meant that additional work was proposed on discretionary fees and charges. He acknowledged that it was important to be transparent on the methodology for setting fees and charges for the different services that were provided. Mr Anstey drew attention to Appendix A to the report which gave further detail on the fees and charges, how the total budget requirement of £3.876m was calculated and how that would be allocated across the three local authorities (outlined in paragraph 5.11 of the report). The allocation took account of the agreed percentages and the demand assessment of the three partner authorities to ensure the necessary service provision for the coming year. The expenditure levels of previous years were also taken into account.

It was the intention to improve transparency for businesses on the methodology for setting fees and charges. This was described in the report. Much work had been undertaken on specific hourly rates for different services.

Mr Anstey clarified that the Committee was being asked to recommend a budget for the Public Protection Partnership (PPP) to the three local authorities for approval at the three separate Council meetings. The Committee needed to form a view on the fees and charges as part of that. He added that any decision to reduce the budget requirement of £3.876m could have an impact at an operational level and could result in some service reductions.

In conclusion, Mr Anstey stated that the Joint Management Board had acknowledged that there were significant issues to resolve in the budget, in particular in light of the impact of Covid-19, and to take account of annual inflationary rises.

There had been an acknowledgement of the need to review discretionary fees and charges. It was also necessary to enhance communications, for example, it was important for the PPP to be transparent on its fees and charges, and demonstrate that

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costs had been set on a reasonable and proportionate basis. This information needed to be publicly available.

Councillor Bath gave thanks for the report and the hard work undertaken.

Councillor John Harrison raised two points of concern. Firstly, did the proposed hourly rates accurately take into account the work undertaken by officers. Secondly, was too long a period of time allocated to some inspections? Could the service be more efficient and reduce costs to users? Councillor Harrison queried if these points had been addressed in the proposals and what work had taken place as a result, i.e. consultation.

Mr Anstey explained that a methodology was followed for the setting of fees and charges. Data was analysed where possible to inform the time taken on an activity and was multiplied by the hourly rate in order to arrive at a fee. Peer local authorities were also benchmarked and if the PPP did not align then fees and charges would be reviewed. However, a cost recovery approach was taken.

Analysis had been undertaken in response to challenges on hourly rates. There were a variety of points to consider which included the number of licence types, the high number of premises and the different pay rates of officers. Mr Anstey felt that the fees and charges were reasonable and could be explained.

Guidance from the Local Government Association (LGA) stated that local authorities should not generate a budget surplus from businesses. This was adhered to. It was the aim to protect local businesses as much as possible with any budget deficiencies managed within the local authorities.

It was a very complicated process to differentiate between the different fees and hourly rates, although this was the intention and efforts had been made to ensure transparency. It was necessary for local authorities to cover their overheads in order to operate and this did perhaps raise some costs beyond what operators expected from the services they received and resulted in queries from them. There was a great deal of work behind the scenes to support the service and this contributed towards the total fee.

Mr Anstey then referred to the LGA document 'Open for Business'. This permitted local authorities to include a range of areas when setting fees and charges (both discretionary and non-discretionary). He did repeat however the aim to achieve genuine cost recovery. There was a complication however when setting fees and charges for newly established licences and requirements, i.e. for animal welfare licences, which came in as a result of new legislation. In such cases it was necessary to estimate the length of time allocated to new activities in order to set a fee.

Mr Anstey added that if it became the case that the service could not deliver a particular service, i.e. due to pressures arising from Covid-19, then a refund could be provided if the service was not delivered. This was an area for ongoing review.

The service would annually review lessons learnt and consider if greater efficiencies could be found. However, it was still necessary to cover costs, including on enforcement activity. Enforcement of unlicensed animal welfare activity was important and resource needed to be funded to conduct this work.

A lesson learnt was to improve communications, i.e. with licence holders, and achieve greater transparency.

Mr Anstey concluded his response by stating that over time the full licensing regime needed to be reviewed and all costs covered when setting fees and charges. This would need to be prioritised and future agenda items could be agreed.

Councillor Harrison noted that a reason for cost increases came as a result of a heightened inspection regime to ensure animal welfare. This would help to raise

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standards, but this increased costs of the service which had a cost impact on businesses. Councillor Harrison also pointed out that the cost subsidy of previous years provided by the service could be removed by the proposed cost increases.

Mr Anstey advised that he was in regular contact with members of the trade and there remained issues to resolve between how business interpreted the law in terms of charging and how this was interpreted by the service. For animal home boarding, there were different grades of compliance. Businesses able to achieve a higher standard of compliance could benefit from a reduced inspection regime and/or reduced service costs. It was however recognised that animal boarding businesses were often operated from people's homes and greater compliance could only be achieved by installing certain adaptations which incurred costs and therefore made it difficult to reach the highest levels of compliance.

The legislation was clear in stating that animal boarders were regulated businesses. While this contrasted with the views of the trade who felt that they operated a more informal business, animal boarders needed to be defined as regulated businesses and they therefore incurred the costs associated with that. Mr Anstey remained of the view that fees and charges were reasonable and proportionate.

Councillor Chris Bowring sought clarification on enforcement. A Court of Appeal ruling stated that licensing fees should not be used to pursue unlicensed businesses. He therefore queried if this was accounted for separately.

In response, Mr Anstey explained that he was aware of the view amongst the trade that enforcement costs should not be included in licensing fees and that enforcement costs incurred by the service should be recouped via the award of court costs. However, and Mr Anstey would double check this point, the LGA guidance stated that enforcement costs of unlicensed operators could be met from fees and charges. The scope of the legislation extended to the entire licensing cost and therefore the service applied a per licence cost which included enforcement of unlicensed operators.

RESOLVED:

- **That the Committee had considered the draft revenue budget including the fees and charges set out in the report.**
- **To recommend to the Councils the contributions set out at 5.11 of the report (total budget of £3.876M) along with the fees and charges set out in Appendix B.**
- **That the proposed revisions to the 2019/20 fees for licences issued under the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 and the fees for the licences issued under the Housing Act 2004 be approved as set out at Appendix C.**
- **That with respect to any monies received under the Asset Recovery Incentivisation Scheme, the Committee approved that the policy position approved at its meeting on the 14 March 2017 remained the policy to be applied to the spend or allocation of any such monies. In 2019/20, the total money received under the terms of the scheme was £36.7K.**

16 PPP Private Sector Housing Policy

The Committee considered the report (Agenda Item 7) which provided an update on the work of the PPP within Private Sector Housing and which highlighted the high level priorities which would be undertaken over the next two years.

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Rosalyn Gater, Commercial Team Manager, presented the report. She explained that the areas of priority over the next two years would include work with houses in multiple occupation (HMOs). The first phase of this work had already been undertaken with visits to approximately 450 licensed HMOs in the past year.

The second phase would cover those premises without a licence. Action would be taken to ensure that these licensing applications were processed and premises inspected to ensure compliance.

A survey would be conducted to inform the third phase of activity to identify HMOs that the service was unaware of and needed a licence.

The current capacity to undertake this extensive work was limited and three new officers had been recruited who would all take up their posts very soon. The recruitment of this additional resource showed the high priority given to this area of work.

Rosalyn Gater then explained that inspection work of caravan and park home sites was another key feature of the forthcoming work programme. The work included programmed visits to licensed sites (approximately 50 sites) and work to ensure that unlicensed sites applied for a licence and met the required standards. It was also the hope that the reactive work undertaken for caravan sites could be reduced by regularising sites.

It was also the intention to increase joint working with local authority housing services. Landlord forums would be established and condition surveys undertaken. A landlord accreditation scheme would be introduced.

Approval was sought from the Committee to issue civil penalty notices as an additional tool for the prosecution of relevant offences under the Housing act. There was a strong commitment to ensuring compliance within private sector housing.

Rosalyn Gater then drew Members attention to some revisions and additions to the report that had originally been circulated with the agenda. This revised version had been circulated but Rosalyn described where the changes had been made. This included greater information in some areas, i.e. cost recovery, and a simplification of information in some cases.

Councillor Parry Bath gave thanks for the excellent report.

Councillor James Cole queried the use of 2017 figures in relation to modern day slavery and whether this should be updated. Rosalyn Gater confirmed that she would double check this information to ensure it was accurate.

Councillor James Cole then asked if the rogue landlord database was in existence and if so the numbers on the database. Rosalyn Gater advised that the national database was in place. The numbers were extremely low for the Public Protection Partnership. The database was established on a national level as landlords often covered different local authority areas.

RESOLVED that:

- **the PPP role in relation to Private Sector Housing be noted.**
- **the direction the PPP was taking in Private Sector Housing be approved.**
- **the issue of civil penalty notices as an additional tool to prosecution for relevant offences under the Housing Act 2004 be approved.**
- **the development and sign off of an internal appeals process with respect to civil penalty notices would be delegated to the Joint Management Board.**

17 PPP Covid-19 Response and Recovery Update

The Committee considered the report (Agenda Item 8) which provided an update on the service response to Covid-19 and recovery work, and on the challenge of balancing Covid-19 related work with business as usual.

The report also provided an update on interim service delivery arrangements. The interim restructure commenced as planned on 1 August 2020 with the teams structured to undertake the wide range of services delivered by the Public Protection Partnership (PPP). The report highlighted this wide range of service delivery.

Sean Murphy, Public Protection Manager, explained that the report detailed areas of increased demand, such as an increase in bonfire enquiries, licensing enquiries, noise complaints and reports of fly tipping. However, there was a reduced requirement in some areas, i.e. for food standard inspections while the hospitality sector had been closed for a period of time.

A further section of the report described the PPP's involvement in Covid-19 outbreak planning and investigation. The Service had been involved in the response to outbreaks in care homes and work places.

Work in relation to organised events had also increased with more events needing an assessment, with Covid-19 requirements to meet, than had been the case in previous years.

The PPP would continue its work with local businesses to support them and the economy. Online sessions had been made available to support businesses. In response to requests from businesses, premises had been visited to assist them either immediately prior to or post reopening. It was important to support businesses which in turn would improve consumer confidence.

Further detail was provided in the two Member updates and in the communications update appended to the report.

An ongoing challenge was the balancing of additional Covid-19 work with business as usual. This could result in difficult decisions needing to be taken in future based on the resources available.

Moving forward, there were also potential implications arising from Brexit. Regulatory services currently followed European legislation and this was clearly an area of change.

Councillor Chris Bowring queried the impact of Covid-19 on activity relating to the Licensing Act. For example, could the licence of a public house be called in if there was not adherence to requirements. Mr Murphy advised that legal action could be taken as outlined in the Coronavirus No. 3 Regulations. He was aware of some local authorities that had taken action against premises that had breached Covid-19 safety requirements.

Councillor John Porter queried if information could be provided, perhaps by the next meeting, on the number of Covid compliance tests that had been undertaken alongside conducting business as usual. Mr Murphy agreed to circulate this information.

Councillor Porter felt that it was important for premises to clearly understand that breaches of Covid-19 regulations would be taken very seriously. He felt this would support officers in conducting their work.

Councillor James Cole made a request for the next meeting for more information on case management work. The hours taken on the work and the costs incurred. Mr Murphy agreed to provide this information.

RESOLVED that:

- **the role the PPP was playing across the Councils with respect to the Covid-19 response be noted.**
- **the status of ongoing service recovery/delivery arrangements be noted.**
- **the effect of additional Covid related workload on the ability to perform certain functions be noted.**
- **a further progress update would be received at the December 2020 meeting.**

18 Air Quality Status Reports

The Committee considered the report (Agenda Item 9) which informed Members of the submission and results of the annual air quality reports for the three local authorities. These reports were the monitoring data and action plan progress for the calendar year 2019. The annual status reports were available in full on the Partnership’s website.

Anna Smy, the Strategic Manager for Response, described the extensive work undertaken across the three local authorities in particular with transport policy, highways, public health and climate emergency colleagues, to seek improvements to air quality. This had involved discussions at existing meetings and internal working groups had been set up where necessary.

The annual status reports had been submitted to Defra and much positive feedback had been received from Defra.

Anna Smy explained that air quality had continued to be monitored throughout this calendar year. There had been an impact on traffic flows during Covid-19 and there had been a significant reduction in pollution during the lockdown period in comparison to the same period in previous years. There had been greater pedestrianisation during lockdown. Traffic flow information had been analysed with highway services to identify areas of learning.

It was also the case however that there had been reductions in the use of public transport and reduced car sharing arrangements and these were factors that could impact on air quality moving forward.

RESOLVED that:

- **the contents of the report and the three separate Air Quality Annual Status reports be noted.**
- **the feedback from Defra on the reports be noted.**
- **the progress on the measures to improve air quality set out in each report be noted.**
- **the ongoing and planned future measures to improve air quality set out in each report be approved.**

19 Any other items the Chairman considers to be urgent

No urgent items were raised.

(The meeting commenced at 6.30pm and closed at 7.50pm)

CHAIRMAN

Date of Signature

FEE POLICY FOR RELEVANT PROTECTED SITES UNDER CARAVAN SITES & MOBILE HOMES LEGISLATION

Committee considering report:	Joint Public Protection Committee
Date of Committee:	15 December 2020
Report Author:	Rosalynd Gater

Purpose of the Report

- 1.1 To provide the Joint Public Protection Committee with an update to the Fee Policy for Relevant Protected sites, following on from the Private Sector Housing Policy presented to JPPC September 2020 meeting, and to seek authority from the Committee to go out to consultation with Licensees.

Recommendations

- 1.1 The Committee **NOTES** the amended fee policy for Relevant Protected Sites.
- 1.2 The Committee **APPROVES** the options used or determining the level of fee to be charged
- 1.3 The Committee **APPROVES** the direction whereby the policy will be put to consultation with Caravan Site Licensees and any other relevant parties. The results of which will be brought back to the February meeting of JPPC for discussion, with a view to implementing the fee structure from 1 April 2021.

Implications and Impact Assessment

Implication	Commentary
Financial:	Annual Fee – This is no change from the current fee structure. Fee payable for New License - This is no change from the current fee structure; with exception of a cap put on where unit number are above 200. Alteration Fee - The fee for Alterations has changed from a set fee to a fee based on actual hours taken.
Human Resource:	The continued resource required to inspect such sites, and to ensure invoicing and follow up of the fees.
Legal:	In the Fee Policy we have reiterated that should annual fee not paid as required, the Council may apply to the First Tier Tribunal (Property Chamber) for an order requiring the licence holder to pay

	the amount due by the date specified in the order; and the order may make provision about the manner in which the payment is to be made. Where a licence holder fails to comply with an order made by the First Tier Tribunal within the period of three months beginning with the date specified in the order, the local authority may apply to the First Tier Tribunal for an order revoking the site licence.			
Risk Management:	<p>Financial risk is managed elsewhere.</p> <p>The proposal will be sent to relevant parties for consultation before returning to JPPC in 2021 for approval.</p> <p>JMB will be kept informed of any service changes and adjustments and any consequences arising from these will be notified.</p>			
Property:	Not applicable			
Policy:	Should this be approved at the February JPPC, following the results of the consultation, this fee structure will then be reflected in the Fees and Charges policy; it is in line with the PPP Private Sector Housing Policy			
	Positive	Neutral	Negative	Commentary
Equalities Impact:				
A Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?	x			<p>It is essential for premises who operate sites to have a level playing field and as such we will ensure that non-payment is acted on.</p> <p>We have carried out a review in 2020 to ensure that the information we are using to determine the annual renewal is correct with regard to unit numbers.</p>
B Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?	x			By its nature, this policy will effect on the vulnerable groups in society. By PPP targeting non-compliance in this sector we can improve living conditions and lives.
Environmental Impact:		x		

Health Impact:	x			The proposals create no direct health impacts on staff. They do however set out community based health protection measures.
ICT or Digital Services Impact:		x		
PPP Priorities :	x			The Policy is in line with the priorities of PPP
Data Impact:		x		None
Consultation and Engagement:	To be carried out once JPPC agree on the direction in this proposal.			

Summary

- 1.1 This amended Fee policy builds on the policies which are currently in place. The Policy is included as **Appendix A**.
- 1.2 There are 2 options for the determination of Annual Fee put forward by the DCLG (Department of Communities and Local Government) 'A Guide for Local Authorities on setting site licensing fees'

Number of pitches	Worked examples using 20 21 fee of £14 per pitch; based on option 1 of DCLG guidance	Calculation using Option 2 of the DCLG guidance; based on national average admin time and inspection time and using the PPP hourly rate
1-5	£14 - £70	£320
6-24	£84 - £336	£403
25-99	£350 - £1,386	£649
100-199	£1,400 - £2,786	£1,155
200+	£2,800	£1,505

- 1.3 The proposal in the Fee Policy attached as Appendix A is that we retain the use of Option 1. Worked examples looking at the actual sites we have across PPP and their respective unit numbers shows Option 1 to be the fairest charging option based on local site profile. Some benchmarking has also been carried out and this is produced at Appendix C.
- 1.4 The attached Fee Policy has amalgamated the area of 'alteration' and 'variation' which were charged differently in previous fee structures. This will now be processed as Alterations and will be charged on a cost recovery basis based on the number of hours the officer has actually carried out. This will be fairer bearing in mind the wide range of complexities that can be presented as part of an alteration.
- 1.5 The Fees Policy retains the method of charging for new applications as a fixed fee plus an additional payment per unit to reflect the additional work required on larger sites. However, in this proposal we seek to put a cap on this payment per unit at

200 units. In this way we are still charging larger sites more but we are reflecting the Government charging regime which caps at 200 units to ensure we are charging fairly for the work we carry out.

- 1.6 The policy simplifies the use of definition for determining the annual fees by the use of 'unit'.
- 1.7 The policy clarifies the route PPP will take should there be non-payment of fees.
- 1.8 As the PPP Fees and Charges Policy for 2021/22 has been through Committee, should these changes be agreed by JPPC following the consultation, we will seek to include a recommendation in the JPPC paper in February that this fee structure replaces the existing for Caravan Fees.
- 1.9 The Proposed Fees for 2021 22 have been included as **Appendix B**.

Appendices

Appendix A - PPP Fee Policy for Relevant Protected Sites Dec 2020

Appendix B – Proposed Fees for 2021/22

Appendix C – Benchmarking Data

Public Protection Partnership

Fee Policy for Relevant Protect Sites

**Caravan Sites and Control of Development Act 1960 & Mobile Homes Act
2013**

Date: December 2020
Version: 7 12 20
Classification: Internal, public

Authors

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Quality Assurance: Sean Murphy PPP Manager

A shared service provided by
Bracknell Forest Council,
West Berkshire Council and
Wokingham Borough Council



Document Control Information

Version	DATE	DESCRIPTION
1	August 2020	Initial drafting by Mary Glomé
24 11 20 draft	Oct 2020	Mary Glomé
30 11 20 draft	Sept 2020	Final draft RGater for JMB/SM
7 12 20		Final version RG

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- 7) Annual fees
- 8) Enforcement action
- 9) Depositing site rules
- 10) Revising the fee
- 11) Elements included in fee setting
- 12) Current fees and charges

Appendix 1 Definitions

1. Executive Summary

This policy sets out the licensing process under the Caravan Sites and Control of Development Act 1960. These fees have been arrived at in accordance with guidance issued under the Mobile Homes Act 2013 and will be reviewed regularly as part of the Councils' annual review of its fees and charges.

2. Introduction

The Caravan Sites and Control of Development Act 1960 (CSCDA60) introduced a licensing system to regulate the establishment and operation of caravan sites.

The Mobile Homes Act 2013 (MHA 13) was introduced in order to provide greater protection to occupiers of residential park homes and caravans as the enforcement provisions had received no significant update since the original legislation. This Act also introduced some important changes to the buying, selling or gifting of a park home and the pitch fee review process which enhances the civil law provisions pertaining to the contract between the site owner and home owner.

There is an expectation that councils will inspect sites regularly in line with risk based assessment and use the additional powers to ensure compliance with the site licence

conditions. The council can also charge a fee for different licensing functions. The legislation also allows the council to serve compliance notices upon the site owner, take on works in default and require the council to satisfy itself on the legitimacy of and publish any site rules relating to a site.

The charges introduced by the MHA 13 only apply to relevant protected sites.

A relevant protected site is defined in section 5A (5) and (6) of CSCDA60 (as amended), and further guidance has also been issued by the Department for Communities and Local Government (DCLG) entitled 'Park Homes: Site Licensing, Definition of relevant protected sites (January 2014), and lists the types of sites which fall within the definition. In summary:

'Any licensable caravan site is a 'relevant protected site' unless it is specifically exempted from being so. A site is exempted if:

- It has planning permission or a site licence for exclusive holiday use
- Sites where conditions require that there are times of the year when no caravan may be stationed on the land for human habitation
- Sites are occupied only by the site owner and his/her family or by persons employed by the site owner except where under an agreement to which the Mobile Homes Act 1983 applies.

Section 10 (2) of CSCDA60 (as amended) requires a local authority to prepare and publish a Fee Policy where they propose to charge for functions associated with the regulation of relevant protected sites.

Sites which do not fall within the definition of 'relevant protected sites' are still subject to the licensing requirements contained within the CSCDA60, but the provisions relating to payment of fees do not apply.

3. Fee Structure

The Council has calculated fees in accordance with the provisions of MHA 2013, which allows a local authority to include all reasonable costs and this includes administrative costs, officer visits to the site, travel costs, consultations, meetings undertakings and informal advice.

It is based on the guidance issued by the Department for Communities and Local Government (DCLG) 'A Guide Local Authorities on setting site licensing fees'.

The fees in this policy are based on the Public Protection Partnership (PPP) hourly rate which is reviewed annually and presented to Council as part of the Fees and Charges, and is published on Council websites.

The number of caravans taken for the calculations are from the number of caravans applied for within the caravan site licensing application.

4. Application for a new licence

All sites (subject to exemptions contained within the Act) requires a site licence to operate; failure to apply for a licence is an offence under Section 1 (2) of CSCDA 60. Section 3 (2A) of the amended Act allows the local authority to require a fee to

accompany applications for licences, and this should accompany any new application. The council may only issue a licence for a site with a valid and correct planning permission for the use.

The fee reflects the costs which would apply to any new licence application plus an amount to reflect the variation in the cost of processing the application according to the size of the site. This amount per unit additional cost will be capped at 200 units as reflects the Government charging regime.

5. Transfer of an existing licence

Where a licence holder wishes to transfer the licence an application must be made to the council. An application form produced by Public Protection Partnership (PPP) is available for this purpose. The fee must accompany the application.

6. Alteration of conditions on an existing licence (also known as a variation of site licence conditions)

Where a site owner requests an alteration to the site licence conditions the council will charge a fee.

Applications can be made by licence holders to alter or cancel conditions. An application form produced by PPP is available for this purpose.

If the council instigates the process to alter the conditions, no fee is payable.

7. Annual fees

All relevant protected sites must pay an annual fee to the council (subject to any exemptions stated in this policy). The process will begin on 1st April each year.

Public Protection Partnership have adopted the DCLG (Ministry of Housing, Communities and Local Government) guidance in calculating the annual fee as it is considered to offer transparency and fairness to both residents and site owners.

The annual fee covers the costs associated with site inspections and reviews to ensure compliance with the site licence conditions and any follow up visit to ensure compliance with any informal schedule of works identified.

The fee takes into account the variation in size of the sites as it is based on the number of units on the site.

If there is still a breach in site licence conditions at the point of the follow up visit further charges may be payable to cover the cost of any enforcement action which may be taken. Further details can be found in section 8 – Enforcement Action.

The council is not permitted to make surplus from this function.

Exemption from annual fees; sites where there is only 1 unit are excluded from the annual fee. This category of site is exempt from the annual licensing fee as the council do not intend to carry out annual inspections of these sites, however, any complaints or enquiries would be dealt with as appropriate. This is in line with the DCLG guidance.

Charging arrangements; the calculation is based on the number of caravans stated within the caravan site licensing application. Annual fee per unit is £14.00 (this is in line with the DCLG guidance option 1).

Where a new caravan site licence is issued part way through the year the annual fee will be pro-rata for that year.

Where an amended licence is issued part way through the year (which included either additional units or a reduction in units), the change in annual fee will be calculated on a pro-rata basis for the remainder of the year.

In the event an annual fee is not paid as required, the Council may apply to the First Tier Tribunal (Property Chamber) for an order requiring the licence holder to pay the amount due by the date specified in the order; and the order may make provision about the manner in which the payment is to be made. Where a licence holder fails to comply with an order made by the First Tier Tribunal within the period of three months beginning with the date specified in the order for the purposes of that subsection, the local authority may apply to the First Tier Tribunal for an order revoking the site licence.

8. Enforcement Action

Where there has been a breach in a site licence condition the Council may serve a compliance notice. Section 9C of the CSCDA 60 (as amended) details the elements which a local authority may include when imposing a charge for enforcement action. A detailed breakdown of the relevant expenses would be provided with the compliance notice. Charges would be based on the hourly rate for the relevant officers.

If any works in the compliance notice are not carried out the licence holder commits an offence and the local authority may consider taking legal proceedings. Any costs associated with this process would be at the discretion of the court.

9. Fees for depositing, varying or deleting site rules

Site rules are put in place by the owner of a site to ensure acceptable standards which benefit residents and promote and maintain community cohesion on the site.

The Mobile Home Act 2013 (MHA 13) changes the way site rules must be agreed between both parties. The Council must keep an up to date register of site rules in relevant protected sites and publish the register on line.

Before publishing the site rules the Council will ensure the rules deposited have been made in accordance with the statutory procedure.

The Council can charge a fee for depositing, varying or deleting site rules.

Any site rules deposited with the local authority for the first time or applications to vary or delete existing site rules must be accompanied by the appropriate fee. The fee is the same for either a first deposit or for a subsequent variation or deletion as the process is very similar for all three types of deposits.

10. Revising the Fee

The fees detailed in this policy have been determined based on full recovery of costs.

Fees will be reviewed as part of the annual review of Council fees and charges.

The fee policy for relevant protected sites will be reviewed as part of the wider review of the Public Protection Partnership Private Sector Housing Policy.

The fee policy has been approved for consultation with relevant parties by JPPC.

11. Elements included in fee setting

The DCLG guidance sets out the activities that the Council can and cannot include when calculating its annual fee. A local authority can include:

- Letter writing/calls etc. to make appointments and request documents or other information from the site owner or any third party in connection with the licensing process;
- Handling enquiries and complaints;
- Updating hard files/computer systems;
- Updating the EU Directive website if appropriate;
- Processing the licensing fee;
- Land registry searches;
- Time for reviewing necessary documents and certificates;
- Downloading photographs;
- Preparing reports on contraventions;
- Preparing draft and final licences;
- Review by manager or lawyers;
- Review any consultation responses from third parties;
- Updating public register;
- Carrying out any risk assessment process considered necessary;
- Reviews of decisions or in defending appeals;
- A pre-programmed full site inspection;
- A follow-up inspection to check compliance following programmed inspection.

A local authority cannot take into account when setting fee costs incurred in exercising their functions under:

- Section 9A-9I Caravan Sites and Control of Development Act 1960 (the Act) (relating to enforcement due to breach of licence conditions);
- Section 23 of the Act (prohibiting the siting of caravans on common land); or
- Section 24 of the Act (the provision of caravan sites by local authorities).

In addition, section 10A (4) (b) of the Act prohibits a local authority from taking into account when setting fee costs it incurs under the Act, other than those relating to a relevant protected site.

No fees can be charged for holiday or other non-permanent residential sites. Sites which are in mixed use i.e. partly holiday with some residential homes which fall within the definition of relevant protected site fees can therefore be charged.

A local authority cannot make a profit. Any charges must be limited to recovering the costs of exercising their licensing function as it relates to relevant protected sites.

12. Current Fees and Charges

Available on request. Please contact Public Protection Partnership on 01635 519912 or email EHadvice@westberks.gov.uk for a current list of fees and charges.

Appendix 1

Definitions

For full interpretation/definition of terms please refer to:

The Caravan Sites and Control of Development Act 1960 (as amended)

The Mobile Homes Act 2013

The Mobile Homes Act 1983

The Mobile Homes (Site Rules) (England) Regulations 2014

A). “**caravan site**” has the meaning assigned to it by subsection (4) of section one of the Caravan Sites and Control of Development Act 1960.

B). **Pitch** is defined in Part 1 Chapter 1 of the Schedule 1 to the 1983 Act as meaning: the land, forming part of a protected site and including any garden area, on which an occupier is entitled to station a mobile home in terms of the agreement.

C). The term ‘**caravan**’ refers to all caravans, mobile homes and park homes that do not fall under the definition of a ‘dwelling’ in the Housing Act 2004, but that meet the definition of a caravan in the Caravan Sites and Control of Development Act 1960 (CSCDA).

D). **Alteration or variation** of site licences are deemed as having the same meaning for the purpose of setting fees.

APPENDIX 2 Proposed Caravan Site Fees for 2021 22

Pubic Protection Partnership

Caravan Site Licence Option 1 of DCLG Guide for Charging	2020 21	2021 22	% change	
Site licence new (in addition to fee per unit)	£437.00	£440.00	1%	
New licence per Unit	£16.00	£16.00	0%	New licence per Unit
Transfer of licence	£185.00	£186.00	1%	
Alteration of licence	£339.00	£59.00 per hour		Hourly rate as for activity as prescribed
Annual fee	£14.00 per pitch	£14.00 per pitch	0%	
Enforcement action -per hour	£57.00	£59.00 per hour	4%	Hourly rate as for activity as prescribed.
Deposit, vary or deleting site rules	£116.00	£117.00	1%	
Variation of licence	£115.00			Line Deleted from 2020 21 fees, as alteration and variation have been amalgamated

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Appendix C - Caravan Site Licensing Fees and Charges – Benchmarking Exercise

December 2020

Pubic Protection Partnership proposed fees for 2021/22 showing the Benchmarking should it be Option 1 (current) and Option 2 (actual comparison of real data is show in separate spreadsheet)

Caravan Site Licence Option 2 of DCLG Guide for Charging	2020/21		2021/22	% change	
Site licence new	£437.00	£439.62	£440.00	1%	
New licence per pitch	£16.00		£16.00	0%	New licence per pitch
Transfer of licence	£185.00	£186.11	£186.00	1%	
Alteration of licence	£339.00		£59.00 per hour		Hourly rate as for activity as prescribed
Annual Fee (Option 1)	£14.00 per pitch		£14.00 per pitch	0%	
Annual Fee (Option 2)			1-5 pitches £320 6-24 pitches £403 25-99 pitches £649 100-199 pitches £1155 200+ pitches £1505		
Enforcement action -per hour	£57.00	£59.00	£59.00 per hour	4%	Hourly rate as for activity as prescribed.
Deposit, vary or deleting site rules	£116.00	£116.70	£117.00	1%	
Variation of licence	£115.00				Line Deleted , as alteration and variation have

been
amalgamated

Number of Units	Cost of new application for a site licence 20 21	comparison	Annual fee (admin and monitoring)	Comparison if Option 1	Comparison if Option 2	Local Authority Details
	£437; plus £16 per unit			£14 per pitch	1-5 pitches £320 6-24 pitches £403 25-99 pitches £649 100-199 pitches £1155 200+ pitches £1505	Public Protection Partnership, service provided by Bracknell Forest Council, West Berkshire Council and Wokingham Borough Council (Berkshire Unitary)
1-5 6-15 16-45 >45	£495 £533 £571 £609	Comparable at lower units; PPP more at upper unit number	£80 £106 £160 £320	PPP Less at lower unit number; PPP more at upper unit number	PPP more	Guildford Surrey https://www.google.co.uk/search?source=hp&ei=YQzFX4DYKvCi1fAPvP6k8Ak&q=Guildford+caravan+site+licensing+fees&oq=Guildford+caravan+site+li

	£320.23	PPP more	£4.03 per pitch	PPP more	PPP more	Hart DC https://www.hart.gov.uk/sites/default/files/1_Residents/Housing/Mobile%20Home%20Sites%20Fees%20List%202019-20.pdf
	£453.20	PPP more	£6.18 per pitch	PPP More		Basingstoke & Deane (Unitary) https://www.basingstoke.gov.uk/content/doclib/3017.pdf
2-50 51-100 101-150 151-200	£280 £310 £525 £840	PPP More	£170 £200 £415 £730	PPP Less at lower unit number; PPP more at upper unit number	PPP more	Cornwall https://www.cornwall.gov.uk/environment-and-planning/environmental-health/neighbourhoods-and-public-protection-fees-and-charges/licensing-fees-and-charges/park-home-sites-licence-fees/

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Surveillance and Implementation of RIPA within the PPP

Committee considering report: Joint Public Protection Committee

Date of Committee: 15 December 2020

Report Author: Paul Anstey

1 Purpose of the Report

- 1.1 The Joint Management Board (JMB) requested an update on the subject following external audits of the partner authorities by the Investigatory Powers Commissioner’s Office (IPCO).
- 1.2 To follow up on feedback from senior officers across each of the 3 partners that this process (external audit) could be improved if there was a greater collective understanding of how officers in the PPP may use the methods and powers incorporated under the relevant legislation and associated policy.
- 1.3 To circulate information about body worn cameras and CCTV for enforcement purposes.
- 1.4 To highlight the work of the National Anti-Fraud Network and how it links to the PPP.

2 Recommendation

- 2.1 To note the information in the report.

3 Implications and Impact Assessment

Implication	Commentary
Financial:	None
Human Resource:	None
Legal:	Each partner LA must show compliance with the Regulation of Investigatory Powers Act 2000 and its associated guidance. IPCO monitor this compliance through external audits.

Surveillance and Implementation of RIPA within the PPP

Risk Management:	The PPP monitor their compliance with RIPA through the Case Management Unit, in conjunction with oversight from the PPP Manager. Any specific risks are escalated to the Joint Management Board (JMB)			
Property:	None			
Policy:	RIPA Policy			
	Positive	Neutral	Negative	Commentary
Equalities Impact:				
A Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		X		
B Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		X		
Environmental Impact:		X		
Health Impact:		X		
ICT Impact:		X		
Digital Services Impact:		X		

Council Strategy Priorities:		X		
Core Business:	X			The content of the report helps ensure smooth operation of the service.
Data Impact:		X		
Consultation and Engagement:	Sean Murphy			

4 Executive Summary

The work of the PPP includes investigations which require the use people and equipment to gather information. Each partner is required to have its own policy to meet the legal requirements of the Regulation of Investigatory Powers Act 2000 (RIPA).

The PPP has been intimately involved with the external audits conducted by the Investigatory Powers Commissioner’s Office (IPCO) across the 3 partner authorities.

Principally these audits have focussed on the levels of awareness, across each authority in total, of RIPA and in particular its application to the use of social media.

West Berkshire were audited in January 2019, Bracknell Forest and Wokingham in March 2019. This was followed up at Bracknell with a further visit in December 2019 and Wokingham were due to be included but unfortunately had to cancel at short notice. This visit is still to be re-scheduled with the Senior Responsible Officer (SRO) for Wokingham who is not employed within the PPP.

Feedback from IPCO was generally positive and this report highlights a range of practical scenarios where the RIPA policy has been applied.

5 Supporting Information

Introduction

5.2 Each partner has its own RIPA Policy (See **Appendix A** for an example) and IPCO recommend regular and ongoing oversight of the actual or potential use of these powers.

5.1 Each partner has its own Senior Responsible Officer (SRO):

- Kevin Gibbs – Bracknell Forest
- Sarah Clarke – West Berkshire

Surveillance and Implementation of RIPA within the PPP

- Susan Parsonage - Wokingham

5.2 The SRO works closely with the PPP Manager (Sean Murphy) who assists all 3 partners in their understanding of how RIPA applies to both PPP and non-PPP officers when conducting investigations.

Background – What is in the RIPA Policy?

5.3 RIPA is an acronym for the Regulation of Investigatory Powers Act 2000. This Act was introduced to ensure that surveillance and certain other intelligence gathering complies with the European Convention on Human Rights ('The Convention'), importantly Article 8 which provides:

- (a) Everyone has the right to respect for his private and family life, his home and his correspondence;
- (b) There shall be no interference by any 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 wellbeing 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.

5.4 Article 8 is a qualified right. If the right to respect for one's home, private and family life is interfered with it has to be proportionate and in accordance with the exceptions above.

5.5 Article 6 of The Convention is also applicable. This deals with the right of everyone to a fair and public hearing within a reasonable time by an independent tribunal. This can include the investigative process supporting that process.

5.6 Part II of RIPA provides a statutory framework that is compliant with The Convention when using surveillance techniques. It also introduces national standards that apply to the police and other law enforcement agencies. Local authorities are classified as law enforcement agencies as they are tasked to investigate certain crimes. For example the PPP could use it for:

- (a) Trading standards offences (running from fraud to animal welfare offences);
- (b) Noise nuisance; and
- (c) Non-compliance with enforcement notices.

5.7 By virtue of Section 48(2) of RIPA, surveillance includes:

- (a) Monitoring, observing, listening to persons, their movements, their conversations or their other activities or communications;
- (b) Recording anything monitored, observed or listened to in the course of surveillance; and
- (c) Surveillance by or with the assistance of a surveillance device.

Surveillance and Implementation of RIPA within the PPP

- 5.8 IPCO produce an annual report, the latest being for 2018. It stated that there had been a marginal increase in the number of the directed surveillance applications across all local authorities from 2017, from 233 to 309.
- 5.9 The PPP has applied for 1 authorisation at the magistrates this year to monitor social media for unlicensed waste carrier activity.

When would the PPP need to use the RIPA Policy?

- 5.10 The most likely use would be when a camera/cctv is needed to get information or when a person is used to gain information secretly. This would be for online investigations and finding out about people's communications data e.g. telephone numbers and registered billing addresses.
- 5.11 The PPP carries out many investigations and in doing so might gather private information about a person. It is therefore very important that there is a clear authorisation process for investigations which balances the risks and benefits of any such investigation. All applications are signed off by the Magistrates.
- 5.12 It is key for that authorisation process that officers know the seriousness of the offences they are investigating and be sure that what they are doing is necessary and proportionate.
- 5.13 The training and policy on these issues is of paramount importance to ensure that any evidence collected can be effective. The PPP has a good record of evidence gathering and the Case Management Unit has been very successful in its use of such evidence.
- 5.14 The PPP keep a list of all equipment that can be used for surveillance
- 5.15 The PPP use the National Anti-Fraud Network (NAFN) who are an independent body to process all the communication data requests, this is considered best practice.

Social Network Sites

- 5.16 The PPP operates in an open way across multiple sites to encourage good trading practices i.e. it uses its branded logo and account details to interact with people and businesses – usually to encourage fair trading and good practice.
- 5.17 It can be effective, on some occasions, to monitor online behaviours and actions of people and businesses without identifying PPP officers. The RIPA Policy also applies in these circumstances.
- 5.18 It is not easy for officers to investigate matters where social networks are involved, particularly when users post their information publicly. The PPP always consider the sensitivity of the information they are looking for and it is important to remain true to the proportionality and necessity tests in any investigation. They ask questions like 'do we think the person knows they have posted that personal information?'

Body Worn Cameras (BWC) and CCTV

- 5.19 Most of the time PPP Officers would use BWC openly as part of an investigation e.g. when conducting a search/seizure visit.

Surveillance and Implementation of RIPA within the PPP

5.20 The benefit of such equipment is to improve the evidential value and/or transparency in any encounter.

5.21 If the equipment is used it is very important to make sure that the recorded data is managed properly and in accordance with the Data Protection Act 2018.

5.22 This equipment will not be used in a secret way unless specific approval is given by the relevant SRO.

5.23 The RIPA Policy for each partner makes it clear that use of this equipment should be in line with the Surveillance camera code of practice (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/282774/SurveillanceCameraCodePractice.pdf). The most relevant principles for the PPP are listed below:

- Principle 1 - Use of a surveillance camera system must always be for a specified purpose which is in pursuit of a legitimate aim and necessary to meet an identified pressing need.
- Principle 2 - The use of a surveillance camera system must take into account its effect on individuals and their privacy, with regular reviews to ensure its use remains justified.
- Principle 3 - There must be as much transparency in the use of a surveillance camera system as possible, including a published contact point for access to information and complaints.
- Principle 4 - There must be clear responsibility and accountability for all surveillance camera system activities including images and information collected, held and used.
- Principle 5 - Clear rules, policies and procedures must be in place before a surveillance camera system is used, and these must be communicated to all who need to comply with them.
- Principle 6 - No more images and information should be stored than that which is strictly required for the stated purpose of a surveillance camera system, and such images and information should be deleted once their purposes have been discharged.
- Principle 7 - Access to retained images and information should be restricted and there must be clearly defined rules on who can gain access and for what purpose such access is granted; the disclosure of images and information should only take place when it is necessary for such a purpose or for law enforcement purposes.
- Principle 8 - Surveillance camera system operators should consider any approved operational, technical and competency standards relevant to a system and its purpose and work to meet and maintain those standards.
- Principle 9 Surveillance camera system images and information should be subject to appropriate security measures to safeguard against unauthorised access and use.

Surveillance and Implementation of RIPA within the PPP

- Principle 10 - There should be effective review and audit mechanisms to ensure legal requirements, policies and standards are complied with in practice, and regular reports should be published.
- Principle 11 - When the use of a surveillance camera system is in pursuit of a legitimate aim, and there is a pressing need for its use, it should then be used in the most effective way to support public safety and law enforcement with the aim of processing images and information of evidential value.
- Principle 12 - Any information used to support a surveillance camera system which compares against a reference database for matching purposes should be accurate and kept up to date.

5.24 Most recently the PPP has used either BWC or CCTV for the following types of investigations:

- Execution of a warrant for a complex regional fraud investigation (BWC).
- Surveillance of a fly-tipping hotspot (CCTV).

IPCO Key Findings when auditing the PPP

5.25 It was acknowledged that, like many local authorities, the PPP uses RIPA powers in a very limited way. There was some improvements required in relation to oversight of post authorisation checks and record keeping but that officers involved in the process were highly professional and committed.

5.26 The Rt.Hon. Lord Justice Fulford wrote to West Berkshire's Chief Executive stating *'Your Council was found to have a clear and comprehensive RIPA policy and arrangements in place for refresher training for the relevant key officers in February 2019. This is reassuring.'*

5.27 The Rt.Hon. Sir Brian Leveson wrote to Bracknell Forest's Chief Executive stating *'It is reassuring to note that your Council, under the direction of Sean Murphy, has embarked on an extensive training programme since the inspection in March. This has been both classroom based and via an e-learning package which includes a pass or fail knowledge test.'*

PPP Scenarios requiring the use of the RIPA Policy

5.28 An operation was conducted to investigate the sale of counterfeit and unsafe goods on eBay. This required PPP officers to establish and maintain a relationship with traders online to make test purchases.

5.29 An operation was conducted to investigate a rogue car dealer. This required PPP officers to act as a potential customer.

5.30 An investigation into waste carriers was conducted using social media to establish whether they had the appropriate licences and reduce the incidence of fly tipping.

Surveillance and Implementation of RIPA within the PPP

5.31 PPP Officers carry out alcohol test purchasing on a routine basis and whilst these do not require RIPA authorisation it is considered best practice to review each operation as if they did.

The use of the National Anti-Fraud Network (NAFN)

5.32 The PPP partners, along with many other local authorities up and down the country, are members of NAFN which works across government and police forces UK wide to promote collaboration, communication and effective information sharing on a not-for-profit basis.

5.33 The key elements of the NAFN service the PPP can access are:

- Investigatory Powers Act 2016, acquisition of **communications data service** (used only for the prevention and detection of crime)
- Authorised Officer Services including Prevention of Social Housing Fraud Act 2013 and Council Tax Reduction Scheme Regulations 2013
- Overnight service for DVLA current vehicle keeper details
- National Automatic Number Plate Recognition (Trading Standards Only)
- Direct access to TransUnion and Equifax providing instant retrieval of credit reports and bank account verification and validation; access to Experian Reports
- Sanction Information Database (National database holding all trading standards prosecutions, cautions and penalties)
- National Register for Refusals and Revocations (Database of all taxi and private hire license refusals and revocations)
- Intelligence Database

What is Communications Data and why is it needed?

5.34 Communications data is the who, where, when and how of a communication but not its content. It is a vital tool used to investigate crime, protect the public and safeguard national security.

5.35 It can include the address on an envelope, the time and duration of a communication, the telephone number or email address of the originator and recipient, and sometimes the location of the device from which the communication was made. It can also include data relating to unsuccessful call attempts i.e. when the person being dialled does not answer the call, but where the network has been able to connect it successfully. It does not include data relating to an unconnected call i.e. when a call is placed, but the network is unable to carry it to its intended recipient. It covers electronic communications (not just voice telephony) and also includes postal services.

5.36 The Home Office produces a range of guidance on the subject (<https://www.gov.uk/government/publications/code-of-practice-for-the-acquisition-and->

Surveillance and Implementation of RIPA within the PPP

[disclosure-of-communications-data](#)) and officers of the PPP receive training to understand how to use it in the course of their investigations.

5.37 The PPP make applications to NAFN to get targeted communications data about people or businesses they believe may have committed an offence. There is a clear authorisation process that is overseen by managers in the PPP.

5.38 It is often the information that NAFN is able to produce that helps track down people who have defrauded residents in the PPP area.

6 Other options considered

6.1 n/a for information only.

7 Conclusion

7.1 The PPP has been able to assist on 3 external audits for each of the partner authorities, helping to improve the overall levels of awareness of RIPA. The PPP only uses its RIPA powers in a very limited way, but when it does it takes great care to do so properly and in accordance with the comprehensive regulatory framework.

7.2 The PPP has an excellent track record in conducting high quality investigations and the use of RIPA is key to that success.

8 Appendices

8.1 Appendix A – Example of a RIPA Policy

Subject to Call-In:

Yes: No:

The item is due to be referred to Council for final approval

Delays in implementation could have serious financial implications for the Council

Delays in implementation could compromise the Council's position

Considered or reviewed by Overview and Scrutiny Management Committee or associated Task Groups within preceding six months

Item is Urgent Key Decision

Report is to note only

Wards affected: all

Officer details: Paul Anstey. Head of Public Protection and Culture

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REGULATION OF INVESTIGATORY POWERS ACT 2000 POLICY

Document Control

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Chief Executive	Sign & Date:	
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Change History

Version	Date	Description	Change ID
Draft 1	27/12/2018	Review and internal consultation with Peter Northey (Intel and Business Development – PPP) and Sean Murphy (PPP Manager)	
Draft 2	8/01/2019	Further comments from Sarah Clarke (Legal Services) and Peter Northey (PPP)	
Draft 3	8/01/2019	Additional content on Social Network Sites	
Draft 4	15/01/2019	Feedback from IPCO Assistant Commissioner audit	
Draft 5	31/01/2019	Further review from Head of Legal and Head of PPC following IPCO audit	

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1. Introduction to RIPA

1.1 RIPA is an acronym for the Regulation of Investigatory Powers Act 2000. This Act was introduced to ensure that surveillance and certain other intelligence gathering complies with the European Convention on Human Rights ('The Convention'), importantly Article 8 which provides:

1.1.1 Everyone has the right to respect for his private and family life, his home and his correspondence;

1.1.2 There shall be no interference by any 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 wellbeing 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.

1.2 Article 8 is a qualified right. If the right to respect for one's home, private and family life is interfered with it has to be proportionate and in accordance with the exceptions above.

1.3 Article 6 of The Convention is also applicable. This deals with the right of everyone to a fair and public hearing within a reasonable time by an independent tribunal. This can include the investigative process supporting that process.

1.4 Part II of RIPA provides a statutory framework that is compliant with The Convention when using surveillance techniques. It also introduces national standards that apply to the police and other law enforcement agencies. Local authorities are classified as law enforcement agencies as they are tasked to investigate certain crimes. For example (not exhaustive):

1.4.1 Benefit fraud;

1.4.2 Trading standards offences (running from fraud to animal welfare offences);

1.4.3 Noise nuisance; and

1.4.4 Non-compliance with planning enforcement notices.

1.5 By virtue of Section 48(2) of RIPA, surveillance includes:

1.5.1 Monitoring, observing, listening to persons, their movements, their conversations or their other activities or communications;

1.5.2 Recording anything monitored, observed or listened to in the course of surveillance; and

1.5.3 Surveillance by or with the assistance of a surveillance device.

1.6 The purpose of this policy is to provide certain guidance as regards RIPA as well as identifying key terms. Covert surveillance (that is essentially secret) requires authorisation otherwise the information gathered may not be admissible in court or compensation may be payable for a breach of an individuals human rights.

- 1.7 The Home Office has published a number of statutory Codes of Practice under RIPA, those relating to surveillance activity permitted by Local Authorities are referenced at [Appendix 1](#).
- 1.8 The Investigatory Powers Commissioner's Office (IPCO) provides independent oversight of the use of investigatory powers by intelligence agencies, police forces and other public bodies. A range of guidance materials is available via [Appendix 2.3](#). This includes those previously issued by the OSC and the Council will maintain a watching brief on the recommendations coming from the Consolidate Guidance to update the policy as required.
- 1.9 RIPA only applies to the core functions¹ of the Council. Covert activity undertaken as part of the general functions of the Council will not enjoy the protection of RIPA and are not covered by this document.
- 1.10 Where an activity takes place that has not been properly authorised, this must be reported to the Senior Responsible Officer (SRO) without delay. The SRO will be responsible for notifying IPCO in accordance with their requirements.
- 1.11 All nominated Officers are detailed at [Appendix 3](#).

2. Purpose

- 2.1 The purpose of this policy is to ensure that all covert surveillance carried out by Council employees (Officers) and the use of Covert Human Intelligence Sources (CHIS) is performed in accordance with the law.
- 2.2 When carrying out such activities Officers must comply with the relevant Code of Practice issued by the Home Office and have regard to any guidance issued by the Commissioner having oversight of that activity.
- 2.3 Officers must also have regard to guidance published by other bodies and, where they chose to deviate from such guidance, must be able to justify that decision if challenged. The Better Regulation Delivery Office Code of Practice² (BRDO Code) on under age sales is one such example.
- 2.4 The Head of Legal and Head of Public Protection and Culture liaise on the content of this policy and update both the Chief Executive and Corporate Board where appropriate.

3. Applicability

- 3.1 This Policy applies to:
- 3.1.1 All employees working for the Council, including those working from home or at non-Council locations.
- 3.1.2 Other persons including Elected Members, Consultants, Agency staff and Contractors working for the Council, external organisations working with the Council, whilst engaged on Council business .

¹ Investigatory Powers Tribunal (C v The Police and the Secretary of State for the Home Office – IPT/03/32/H of 14.11.2006)

² Age Restricted Products and Services: A Code of Practice for Regulatory Delivery – BIS April 2014
<https://www.gov.uk/government/publications/code-of-practice-age-restricted-products>

3.1.3 All cases where “Directed Surveillance” is being planned or carried out and “Covert Human Intelligence Sources” (CHIS) are used or planned to be used as part of the core function of the Council.

3.2 For clarity, Officers working within the Public Protection Partnership (PPP)³ are employees of the Council for the delivery of Environmental Health, Licensing and Trading Standards functions across the Bracknell Forest Borough Council and Wokingham Borough Council areas (in addition to the Council area of West Berkshire). This policy applies to the PPP and, where appropriate, the Council consults with its partners on its application and scope.

3.3 It is the responsibility of each Council employee and other person mentioned to familiarise themselves with and adhere to this Policy.

3.4 Adherence to this Policy is a condition of working for the council or using its assets.

3.5 The Head of Legal Services and Head of Public Protection and Culture will consult with Corporate Management Team (CMT) on this Policy where appropriate.

4. **Key Terminology for the Policy**

4.1 Directed Surveillance

This is defined in S26(2) of RIPA as surveillance which is covert, but not intrusive and undertaken:

4.1.1 For the purposes of a specific investigation or operation; and

4.1.2 In such a manner as is likely to result in the obtaining of private information about a person (whether or not the person is specifically identified for the purposes of the investigation or operation); and

4.1.3 Otherwise than by way of an immediate response to events or circumstances.

4.2 Intrusive Surveillance

4.2.1 Local authorities **CANNOT** conduct intrusive surveillance.

4.2.2 Intrusive surveillance includes:

4.2.2.1 Surveillance involving the presence of an individual or surveillance device on residential premises or in a private vehicle. .

4.2.2.2 Directed Surveillance on certain premises where material subject to legal privilege is likely to be obtained.

4.2.2.3 The use of a CHIS where material subject to legal privilege is likely to be obtained.

³ <http://decisionmaking.westberks.gov.uk/mgCommitteeDetails.aspx?ID=449>

4.3 Covert Human Intelligence Source (CHIS)

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.

4.3.1 The use of a CHIS involves inducing, asking or assisting a person to engage in conduct for covert purposes or to obtain information by the means of such conduct. A person is a CHIS if they establish or maintain a personal or other relationship with someone else for the covert purpose of facilitating:

4.3.1.1 Using the relationship to obtain information or to provide access to any information to another person; or

4.3.1.2 Covertly disclosing information obtained by the use of or as a consequence to another person; or

4.3.1.3 Covertly disclosing information obtained by the use of, or as a consequence of, the existence of such a relationship;

4.3.2 A relationship for a covert purpose is conducted in a manner that is calculated to ensure that one of the parties to the relationship is unaware of the purpose. This may include those participating in test purchase operations;

4.3.3 Circumstances where unsolicited information is provided to the Council (e.g. through the Consumer Advice or Action Fraud portals) will not normally be viewed as information obtained through the use of a CHIS. 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;

4.3.4 Once in receipt of this unsolicited information, Officers must consider carefully if or how they approach the provider to seek clarification or further information. An attempt to solicit further information may be deemed as “inducing, asking or assisting” and bring the informant within the definition of a CHIS. See appendices for more detail.

4.3.5 Where a CHIS application is completed, consideration should be given as to whether a Directed Surveillance Application is also required or whether all the surveillance activity contemplated can be dealt with in a single CHIS application.

4.4 Private Information

4.4.1 The likelihood of obtaining Private Information is a key consideration when undertaking Directed Surveillance. Officers must be able to demonstrate that they have a clear understanding of this concept and, where covert activities have been undertaken without a Directed Surveillance authorisation, they must be able to justify that decision.

4.4.2 RIPA (s26(2)(b)) makes it clear that considerations to the likelihood of obtaining private information should not be restricted to the target of the surveillance, collateral intrusion and the risk of obtaining private information from those not connected with the activity must be considered. Private information includes any aspect of a person's private or personal relationships with others, including family and business relationships. See appendices for more detail.

5. **The Need for Authorisation**

5.1 Whenever it is proposed to conduct Directed Surveillance or to use a Covert Human Intelligence Source an authorisation should be sought under Part II of RIPA.

5.2 All Authorising Officers shall be trained and have attended a refresher course approved by the Council within the preceding **three** years of signing any authorisation.

5.3 Applicants and Authorising Officers must have regard to this policy, the Codes of Practice listed at appendix 1, the latest guidance issued by the relevant statutory Commissioners and any other statutory Codes of Practice (e.g. The Regulators Code) when making their applications or determinations.

6. **General Rules on Authorisations**

6.1 Since 1st November 2012 authorisations for Directed Surveillance by Local Authorities may only be granted:

6.1.1 For the purpose of preventing or detecting conduct which constitutes one or more criminal offences; **AND**

6.1.2 That offence is punishable, whether on summary conviction or on indictment, by a maximum term of at least 6 months of imprisonment; **OR**

6.1.3 The offence relates to the sale of alcohol, tobacco or relevant nicotine inhaling products (e.g. e-cigarettes) to persons under the age of 18.

This is known as the Imprisonable Crime Threshold.

6.2 **Necessity and Proportionality:** An authorisation should not be granted unless the Directed Surveillance or use of CHIS (the activity) is both necessary **AND** proportionate.

6.3 The activity by a local authority can only be considered to be necessary where it is for the purpose of preventing or detecting crime.

6.4 The person considering the application for authorisation must consider whether the activities are proportionate to what is sought to be achieved by carrying them out. This involves balancing the intrusiveness of the activity on the target and others who might be affected by it, against the need for the activity in operational terms.

6.5 The proposed activity will not be proportionate if:

- 6.5.1 The intrusiveness is excessive in relation to the value of the information to be obtained; or
- 6.5.2 The information sought could be obtained by less intrusive means.
- 6.6 The following elements of proportionality must therefore be considered:
 - 6.6.1 Balancing the size and scope of the proposed activity against the gravity and extent of the perceived crime or offence;
 - 6.6.2 Explaining how and why the methods to be adopted will cause the least possible intrusion on the subject and others;
 - 6.6.3 Whether the activity is an appropriate use of the legislation and a reasonable way, having considered all reasonable alternatives, of obtaining the necessary result;
 - 6.6.4 Evidencing, as far as reasonably practicable, what other methods had been considered and why they were not implemented.
- 6.7 **Collateral Intrusion** refers to the intrusion into the privacy of persons other than those who are the subject of the investigation.
- 6.8 Measures should be taken to minimise both the risk and the extent of such intrusion. An application for authorisation should consider the risk of such intrusion and the Authorising Officer must take such risk into account in reaching a judgement as to whether or not the proposed directed surveillance/use of covert human intelligence source is proportionate.
- 6.9 If the investigation unexpectedly interferes with the privacy of persons who are not covered by the authorisation, the Authorised Officer must be informed without delay.
- 7. **Management of Covert Human Intelligence Sources**
- 7.1 An Authorising Officer should not grant an authorisation for use of a CHIS unless they are satisfied of the following:
 - 7.1.1 At all times there will be an officer (Handler) with day-to-day responsibility for dealing with the CHIS on behalf of the Council and for the source's security and welfare;
 - 7.1.2 At all times there will be an officer (Controller) within the Council who will have responsibility for the management and supervision of the Handler and general oversight of the use made of the CHIS;
 - 7.1.3 At all times there will be an officer responsible for maintaining a record of the use made of the CHIS and other matters as may be specified by regulation; and
 - 7.1.4 Records maintained by the Council that disclose the identity of the CHIS will not be available to persons except to the extent that there is a need for access to them to be made available to those persons.

- 7.2 The Authorising Officer should not be involved in the management of any investigation involving the use of a CHIS. Neither should they act as Controller or as Handler for an authorisation approved by them. These roles should not be carried out by the same person.
- 7.3 The safety and welfare of the CHIS and foreseeable consequences to others should be taken into account in deciding whether or not to grant an authorisation.
- 7.4 A risk assessment determining the risk to the CHIS in acting as a source of information to the Council, and in particular identifying and assessing the risks should the identity of the CHIS become known, should be carried out. The welfare and security of the CHIS after the operations has ceased should be considered at the outset.
- 7.5 The Handler should report to the Controller any concerns about the personal circumstances of the CHIS, insofar as they might affect;
- the validity of the risk assessment
 - the conduct of the CHIS, and
 - the safety and welfare of the CHIS.
- 7.6 If appropriate such concerns should be reported to the Authorising Officer who will need to determine whether or not to allow the authorisation to continue.

8. **Who can Grant an Authorisation?**

- 8.1 The law permits authorisations for directed surveillance and use of a CHIS to be granted by a Director, Head of Service, Service Manager or equivalent.
- 8.2 Where it is likely that confidential information may be obtained or a CHIS is to be deployed who is either a vulnerable individual or a juvenile, the activity must be authorised by the Head of Paid Service or (in their absence) the person acting as the Head of Paid Service.
- 8.3 Any application for an authorisation must be made to an Officer authorised by the Council and listed in [Appendix 3](#) as “Authorising Officers”. Officers should not normally authorise investigations in which they are directly involved. All Authorising Officers must have received relevant training.
- 8.4 Intrusive surveillance cannot be undertaken by local authorities. Officers CANNOT therefore authorise intrusive surveillance.
- 8.5 If there is any difficulty in assessing whether an application is necessary or appropriate, contact the Head of Legal Services.

9. **Obtaining an Authorisation – General**

- 9.1 An authorisation must be given in writing; the exception in relation to urgent cases permitting oral authorisation is not available to a Local Authority.
- 9.2 The Officer seeking an authorisation (Applicant) should apply through their own line management structure unless it is impracticable in the circumstances (e.g.

because no Authorising Officer in the relevant service is available or the Authorising Officer is, or has been, involved in the investigation.

- 9.3 It is acknowledged that both Public Protection and Legal Services have the greatest level of awareness of the authorisation process (due to the very nature of their operations) and the Council will signpost colleagues from other service areas to those with familiarity to ensure that the policy is followed.
- 9.4 An application for authorisation should be made on the relevant form listed at [Appendix 4](#). Both the Applicant and the Authorising Officer shall have regard to any guidance issued on the use of those forms.
- 9.5 Please refer to the general authorisation flowchart set out in [Appendix 5](#) and the notes thereto. The detailed process is set out below by reference to [Appendix 6](#). This information is very important to protecting the integrity of the process.
- 9.6 Authorising Officers must not consider an application that has not been registered with, and contains the URN assigned by, Legal Services.
- 9.7 Authorising Officers must state explicitly what conduct is being authorised (refer to s28(4) of RIPA). That is the “*who, what, where, when and how*” in relation to what is being authorised. They should avoid repetition or simple reference to what has been requested in the application.
- 9.8 Authorising officers must direct their mind to each of the relevant tests and satisfy themselves on matters such as proportionality and necessity. As noted above, any activity authorised should be the least intrusive option for securing the necessary information.
- 9.9 It is helpful, particularly in relation to a CHIS, to explain in the application the intended use and conduct of the CHIS using descriptive language about the specific activities that are being authorised and the reason why. The Code of Practice gives examples of how this could be applied.
- 9.10 Authorising officers must fully appreciate the capability of any surveillance equipment intended to be used together with an understanding of where and how it is to be deployed as a consequence of their authorisation.

10. **Service Equipment**

- 10.1 Where specific equipment is purchased to be used for surveillance purposes and is maintained by the Service for that purpose it will feature on a register. This register will list the full technical specification and capabilities of that equipment and may be referred to in the request by both the applicant and the authorising officer.
- 10.2 A copy of each Service Equipment Register will be held by the Senior Responsible Officer of the Council.
- 10.3 Standard ICT equipment which is issued by the Council to Officers such as lap tops or smart phones must never be used to undertake covert surveillance.

11. **CCTV**

- 11.1 Because CCTV is usually overt (i.e. members of the public are made aware that a CCTV system is in operation) an authorisation is not normally required for the use of CCTV equipment. However, there may be occasions when a covert CCTV system is used for the purposes of a specific investigation or operation in which case an application for directed surveillance may be required. Specialist advice from the Head of Legal Services should be sought in such circumstances.
- 11.2 The use of body worn video and/or audio recording equipment by Officers will normally be carried out overtly, they should comply with the requirements of the Surveillance Camera Code of Practice⁴ (2013 CoP). Where such equipment is to be used covertly, this policy will apply.
- 11.3 If any Service considers the use of body worn video and/or audio recording equipment advice should be sought from Legal Services after consideration of the guiding principles mentioned in the 2013 CoP.

12. **Underage Sales and Test Purchase Operations**

- 12.1 By their nature all test purchase operations are covert and conducted for a specific operation. When planning test purchase activities the Officer in Charge (OiC) of the specific operation must consider the application of RIPA, with regard to both Direct Surveillance and CHIS.
- 12.2 The Assistant Surveillance Commissioners report of 2015 made a number of observations with regard to the application of RIPA to such operations, including;
- 12.2.1 The IPCO Procedures and Guidance of 2014 (previously issued by the OSC) make reference to the desirability of obtaining authorisation where covert recording equipment or an observing officer are deployed (repeated at point 244 in the procedures and Guidance of 2016);
- 12.2.2 The BRDO Code emphasises the Chief Surveillance Commissioners' guidance on this aspect of operations;
- 12.2.3 The introduction of the 'Imprisonable Crime Test' clearly indicates the governments view that authorisation is appropriate.
- 12.3 Test purchase operations relating to alcohol are considered within the relevant RIPA Codes of Practice at [Appendix 1](#). These indicate that where a juvenile has been employed other than as a CHIS, and either covert equipment is used or an adult is observing, a Direct Surveillance authorisation must be considered.
- 12.4 The need for a Directed Surveillance authorisation will be determined by whether it is likely that private information will be obtained about a person. The OiC must have regard to this policy above when considering this.
- 12.5 Where there is to be any prolonged surveillance or repeated attempts at the same premises, an authorisation for a CHIS must also be considered. Officers

⁴ Home Office: Surveillance Camera Code of Practice; June 2013 <https://www.gov.uk/government/publications/surveillance-camera-code-of-practice>

should note that where a CHIS is used, the meaning of “information” is not restricted to private information⁵.

12.6 Where the OiC does not apply for an authorisation for either Directed Surveillance or the use of a CHIS, their rationale must be recorded and retained on file for a period of three years. These records will be subject to review by the Monitoring Officer and will be available for examination by IPCO.

13. **Third Party Authorisations**

13.1 On occasion Officers of the Council may work together with other agencies for the purpose of preventing or detecting crime. Where such work would require an authorisation under this policy, the other agency may take responsibility for obtaining that authorisation through its own procedure. That agency will be responsible for the recording and retention of the Authorisation in accordance with the Act.

13.2 The Line Manager of any West Berkshire Officer required to engage in third party authorised activity must obtain a copy of the authorisation to ensure that Officers are:

13.2.1 Properly authorised;

13.2.2 Acting at all times within the terms of that authorisation; and

13.2.3 Acting at all times within the parameters of the operating procedures of West Berkshire District Council.

13.3 That Line Manager will be responsible for passing details of the authorisation to Legal Services in accordance with the process at [Appendix 6](#). This also includes the completion of review meetings, cancellations and any revocation decisions.

14. **Social Network Sites (SNS) – Online Investigations**

14.1 The Surveillance Commissioner has made a series of comments about local authorities accessing information available on the internet. There was concern expressed that they were doing this without direction, oversight or regulation and reiterated the view that certain activities would require authorisation.

14.2 These concerns were raised again in the report of 2016⁶ and a letter was sent to all local authorities to highlight the matter. The OSC Procedures and Guidance July 2016 (now under IPCO), point 289, Covert Surveillance of Social Networking Sites, is reproduced at [Appendix 6.12](#).

14.3 The use of the internet to gather information to profile targets prior to and/or during an operation may be considered Directed Surveillance. The risk of Collateral Intrusion is also likely to be an issue and must be fully considered as part of any assessment of the application of RIPA prior to the activity taking place.

⁵ RIPA s. 26(8)

⁶ *Annual Report of the Chief Surveillance Commissioner to the Prime Minister and to the Scottish Ministers 2016 -2017*, <https://www.ipco.org.uk/docs/OSC%20Annual%20Report%202016-17.pdf>

- 14.4 All Officers proposing to access social media must be familiar with the relevant codes of practice and guidance listed at [Appendix 1](#). They should have particular regard to paragraphs 3.10 to 3.17 of the Code relating to Directed Surveillance and paragraph 4.11 to 4.17 of the Code relating to the use of a CHIS when considering the application of RIPA.
- 14.5 Where the activity is likely to require an ongoing, covert, relationship with other SNS users, this may come within the parameters of a CHIS. Where such activities are contemplated but no authorisation is sought, the Officer in Charge must record their reason and retain this in compliance with the policy.
- 14.6 On-line investigations shall only be conducted on equipment designated for that purpose. Such equipment will not be attached to the Council's network. Officers must not use personal accounts for accessing social media as part of their enquiries.
- 14.7 Only Officers who have attended suitable training will be authorised to conduct on-line investigations under a RIPA authorisation.
- 14.8 Officers must be familiar with, and have regard to, the Council's policy on the use of Social Media; section 13 of the Code of Conduct for Staff⁷.
- 14.9 Officers must comply with the requirements of [Appendix 8](#) which specifies the Investigatory Use of Social Network Sites.

15. **Roles and Responsibilities**

15.1 Senior Responsible Officer (SRO)

The Codes of Practice consider it good practice for a Senior Responsible Officer to be appointed and made responsible for the following:

- 15.1.1 The integrity of the process in place within the Council;
- 15.1.2 The management of covert human intelligence sources (CHIS);
- 15.1.3 Compliance with Part II of RIPA and with the Codes of Practice;
- 15.1.4 Oversight of the reporting of errors to the relevant oversight Commissioner and the identification of the causes of errors and the implementation of processes to minimise repetition of errors;
- 15.1.5 Engagement with the IPCO inspectors when they conduct their inspections;
- 15.1.6 Where necessary, oversight of the implementation of post inspection action plans approved by the relevant oversight Commissioner.

15.2 Heads of Service

- 15.2.1 In supporting the SRO, Heads of Service should ensure that the communications related to the policy are effective and comprehensive.

⁷ Code of Conduct of Staff <http://intranet/CHttpHandler.ashx?id=15446>

This is to minimise the risk of unauthorised activity and to improve awareness across the Council.

15.2.2 Head of Public Protection and Culture will ensure that the Joint Public Protection Committee is aware of the policy and advise on its application.

16. **Oversight of RIPA and its Use**

16.1 Elected members of the Council have an overview and scrutiny role in relation to the use of RIPA by its officers. The SRO will provide regular reports to designated members and facilitate an annual review of the use of RIPA to ensure it is in compliance with this policy and that the policy remains fit for purpose.

17. **Implementation of the Policy**

17.1 This Policy will be supported and implemented by the development and publication of standard documentation as listed in the Appendices. These documents may vary between different service areas but will be the responsibility of the relevant Head of Service to update in line with this policy.

18. **Failure to comply with the Council's RIPA Policy**

18.1 This document provides staff and others with essential information regarding RIPA and sets out conditions to be followed. It is the responsibility of all to whom this Policy document applies to adhere to these conditions. Failure to do so may result in:

- Withdrawal of access to relevant services;
- Informal disciplinary processes;
- Formal disciplinary action (in accordance with the relevant HR policies and procedures).

18.2 Additionally if, after internal investigation, a criminal offence is suspected, the Council may contact the police or other appropriate enforcement authority to investigate whether a criminal offence has been committed.

19. **Review**

19.1 This policy will be reviewed to respond to any changes and at least every 3 years.

19.2 The Service responsible for reviewing and maintaining this Policy is Public Protection and Culture in consultation with Legal Services.

Appendices

1. APPENDIX 1 - RIPA Codes of Practice

1.1 COVERT SURVEILLANCE AND PROPERTY INTERFERENCE.

1.2 COVERT HUMAN INTELLIGENCE SOURCES.

1.3 ACQUISITION, DISCLOSURE AND RETENTION OF COMMUNICATIONS DATA.

Above codes can be found on the Home Office web site under RIPA Codes;(www.gov.uk/government/collections/ripa-codes)

2. APPENDIX 2 - RIPA Guidance

2.1 ACQUISITION AND DISCLOSURE OF COMMUNICATIONS DATA.

Guidance for applicants and designated person considering necessity and proportionality. (www.gov.uk/government/publications/guidance-notes-for-chapter-ii-application)

2.2 Home Office guidance to local authorities in England and Wales on the judicial approval process for RIPA and the crime threshold for directed surveillance. (www.gov.uk/surveillance-and-counter-terrorism)

2.3 IPCO Procedures and Guidance (and previously issued by OSC).

Oversight arrangements for covert surveillance and property interference conducted by public authorities and to the activities of relevant sources (Available at www.ipco.org).

3. **APPENDIX 3 - Authorised Officers Under RIPA**

1. Name	2. Title	3. Service Area	4. Enhanced Authorisation
Nick Carter	Chief Executive	Head of Paid Service	Confidential Information Vulnerable Individual & Juvenile sources
MONITORING OFFICER AND SENIOR RESPONSIBLE OFFICER			
Sarah Clarke	Head of Legal Services	Legal Services	
AUTHORISING OFFICER AND DESIGNATED PERSON			
Paul Anstey	Head of Public Protection & Culture	Building Control, Emergency Planning, Energy Management, Heritage, Libraries, Museum, Public Protection, Sport and Leisure.	
AUTHORISING OFFICER			
Sean Murphy	Public Protection Partnership Manager	Building Control, Environmental Health, Licensing & Trading Standards	

4. APPENDIX 4 - Authorisation and Other Forms

4.1 Home Office Issue

- 4.1.1 Authorisation Directed Surveillance
- 4.1.2 Review of a Directed Surveillance Authorisation
- 4.1.3 Renewal of a Directed Surveillance Authorisation
- 4.1.4 Cancellation of a Directed Surveillance Authorisation
- 4.1.5 Application for the use of Covert Human Intelligence Sources
- 4.1.6 Reviewing the use of Covert Human Intelligence Sources
- 4.1.7 Renewal of authorisation to use Covert Human Intelligence Sources
- 4.1.8 Cancellation of Covert Human Intelligence Sources

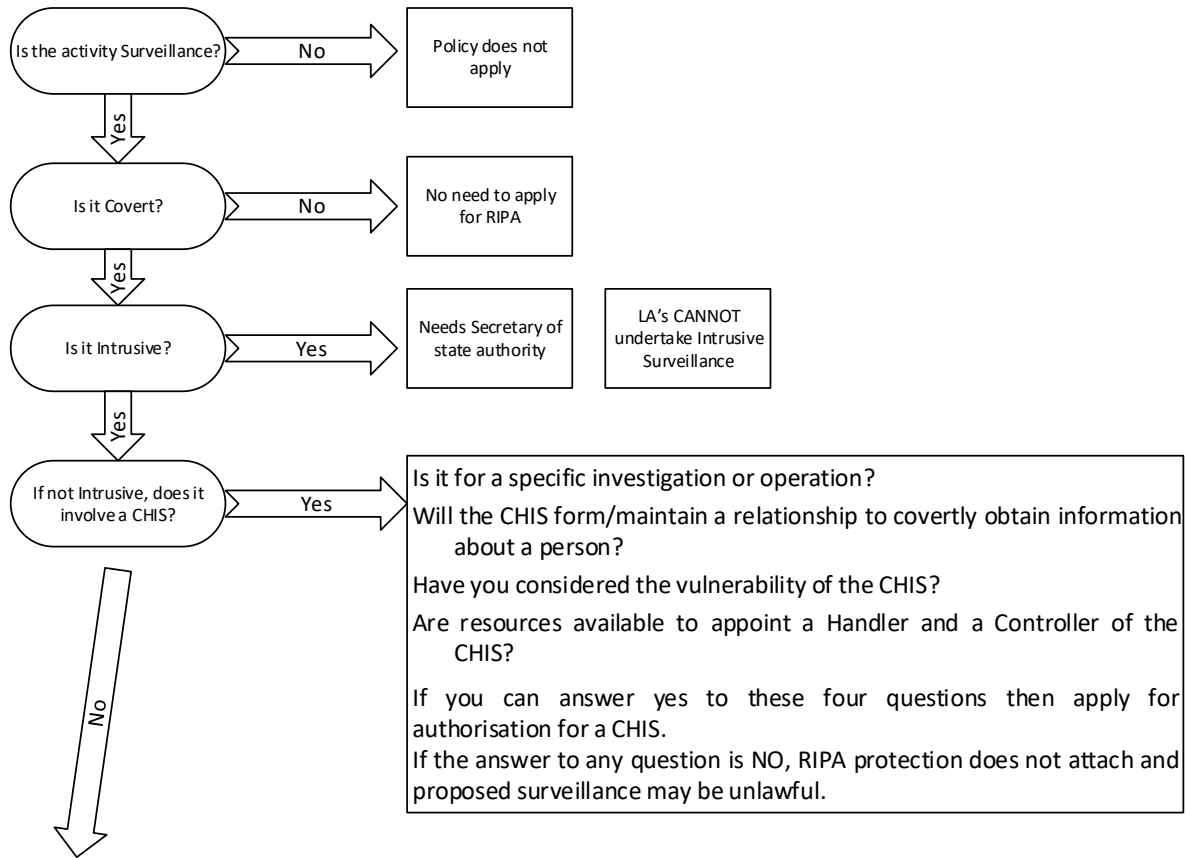
All current forms can be found on the Home Office web site by searching for “RIPA Forms” As at December 2018 they can be found here:

<https://www.gov.uk/government/collections/ripa-forms--2>

4.2 Internal Forms

- 4.2.1 RIPA/CR1 – Initial Notification to Legal Services
- 4.2.2 RIPA/CR2 – Notification of approval by Authorising Officer
- 4.2.3 RIPA/JA – Application for Judicial Approval, parts A and B
- 4.2.4 RIPA/JA1 – Application refused on Judicial Review - internal remedy
- 4.2.5 RIPA/JA2 – Application refused and quashed on Judicial Review – legal challenge considered

5. **APPENDIX 5 - Authorisation Process – General and Flowchart**



Is it:
 For the purposes of a specific investigation or operation?
 Likely to result in obtaining private information about any person?
 A Foreseen/planned response
 If the answer to all 3 questions is YES, apply for authorisation for DIRECTED SURVEILLANCE
 If the answer to any question is NO, RIPA protection does not attach and the proposed surveillance may be unlawful

POINTS TO CONSIDER BY AUTHORISING OFFICERS

1. Is the authorisation:
 - Necessary for detection or prevention of crime ?
 - Proportionate to what it seeks to achieve ?
 - Proportionate to the intrusion of privacy including collateral intrusion ?
2. Is the operation likely to result in obtaining Confidential Information?
 - If yes refer to Chapter 4 of the appropriate Code of Practice listed at appendix 1
3. In the case of a CHIS
 - Ensure an appropriately trained Handler and a Controller have been appointed and arrangements are in place to manage the source.
 - That a Risk Assessment is carried out.
 - Consider the Vulnerability of individuals and whether or not Juveniles involved.
 - Has the Secretary of State issued any Order [S29(7)] regarding a CHIS.

6. APPENDIX 6 - Authorisation Process – Detail and Flowchart

6.1 Introduction

6.1.1 This process sets out how applications must be processed and should be read in conjunction with the West Berkshire Council (the Council) policy for undertaking activities under the Regulation of Investigatory Powers Act (the Act).

6.1.2 Under the provision of RIPA the Council is required to maintain a Central Register (the Register) of all applications and subsequent activity for authorisation under the Act. This Register will be held by Legal Services (LS) on behalf of the Council.

6.1.3 Applications shall be made on the forms indicated at Appendix 4 of the Council RIPA policy. The internal forms listed can be found on the intranet [here](#).

6.2 Application

6.2.1 When an Officer (the Applicant) wishes to make an application under RIPA they must first obtain the agreement of their line manager or other senior officer, but not an Authorising Officer (AO). This agreement must be recorded on the appropriate Service investigation record. Once agreed, the Applicant will register their intent with LS by completing form RIPA/CR1 and sending it electronically to them via the following generic email account; ripa@westberks.gov.uk.

6.2.2 On receipt of the form LS will undertake the following actions:

- Assign a unique reference number (URN) to the application;
- Enter the detail from the form on to the Register; and
- E-mail the URN to the applicant.

6.2.3 The Applicant will enter this URN on all pages of the application and submit this in the normal way to an AO for consideration. Applications without the URN will be refused.

6.2.4 Applications should not be passed to an AO for an ‘informal review’ prior to the formal application process being commenced.

6.3 Consideration by AO

6.3.1 The AO will either refuse or approve the application. The application may be approved with modifications or restrictions on the activity requested.

6.4 Application Refused

6.4.1 The AO will inform the applicant of their reasons and send the completed application form to LS who will update the central register and retain the application in accordance with Council policy.

6.4.2 Where an application is refused because the AO indicates further detail is required, the Applicant may submit a new application. This second application must be registered with LS by following the process at paragraph 2 above and should be linked to the initial application by reference to the original URN.

6.5 Application Approved

6.5.1 The AO will pass the completed form to the Applicant, drawing their attention to any modifications/restrictions they have placed on the activity.

6.5.2 The AO will complete form RIPA/CR2 and pass this to LS via the generic email account.

6.6 Judicial Approval

6.6.1 The Applicant is responsible for liaising with the Magistrates' Court office to ensure the approved authorisation is put before a Justice of the Peace (JP) without delay.

6.6.2 They will complete the Application for Judicial Approval form, (RIPA/JA), and submit this together with the original RIPA application and supporting documentation, in person before a JP.

6.6.3 The JP will consider the application and make an Order in respect of it, completing part B of the Application for Judicial Approval form.

6.7 Authorisation Approved

6.7.1 The Applicant will pass the completed RIPA application, associated paperwork and Order to LS within ONE working day.

6.7.2 Copies should be retained for the investigation file. These documents must be available for the briefing of officers involved in the authorised activity.

6.7.3 LS will update the Register and set reminders to the AO for renewal and review dates as indicated on the application.

6.8 Authorisation Refused

6.8.1 When an application is refused the Order will be passed to LS within one working day. A copy shall be passed to the AO, together with the refused RIPA application, within one working day.

6.8.2 The reasons for refusal shall be considered by the AO who will consider:

- a) if the application can be enhanced to address the reasons for refusal;
- b) if a new application should be submitted;
- c) to cancel the application - alternative measures to RIPA should be considered; or

- d) whether the decision to refuse the application was, in their opinion, wrong in law.

6.8.3 Where (a) applies:

- This will only be applicable if the text of the original RIPA application remains unaltered through the review and reapplication process. The appropriate measures will be identified by the AO and recorded on Part A of form RIPA/JA1. This form, together with the RIPA application will be passed back to the applicant for action.
- A copy of form RIPA/JA1 will be sent to LS by use of the generic email address.
- LS will update the Register.
- Once actioned the applicant will complete Part B of form RIPA/JA1 and submit this together with the original application and supporting information to the AO.
- The AO will review the information and once satisfied with the information will complete part C of the RIPA/JA1. The completed paperwork will be passed to the applicant who will follow the procedure at point 6.

6.8.4 Where (b) applies:

- The AO will inform the applicant of his decision, complete part A of form RIPA/JA1 and send this together with the Order, original application and supporting paperwork to LS who will update the Register.
- The applicant will follow the process for a new application as at point 2 above. The new application must be linked to the refused application by reference to the URN of the first application.

6.8.5 Where (c) applies:

- The AO will inform the applicant of his decision, complete part A of form RIPA/JA1 and send this together with the Order, original application and supporting paperwork to LS who will update the Register.
- The applicant must, in consultation with their line manager, consider alternative operational methods to achieve the objective.

6.8.6 Where (d) applies:

- The AO will inform the applicant of his opinion, complete part A of form RIPA/JA2 and pass this together with the Order, original application and supporting paperwork to LS who will update the Register.
- The Head of Legal will assess whether a legal challenge should be made to the Order. His decision will be recorded on part B of form RIPA/JA2 and retained in accordance with the Policy. LS will be responsible for updating the Register with this decision.

- The AO and Applicant will be advised of the decision.

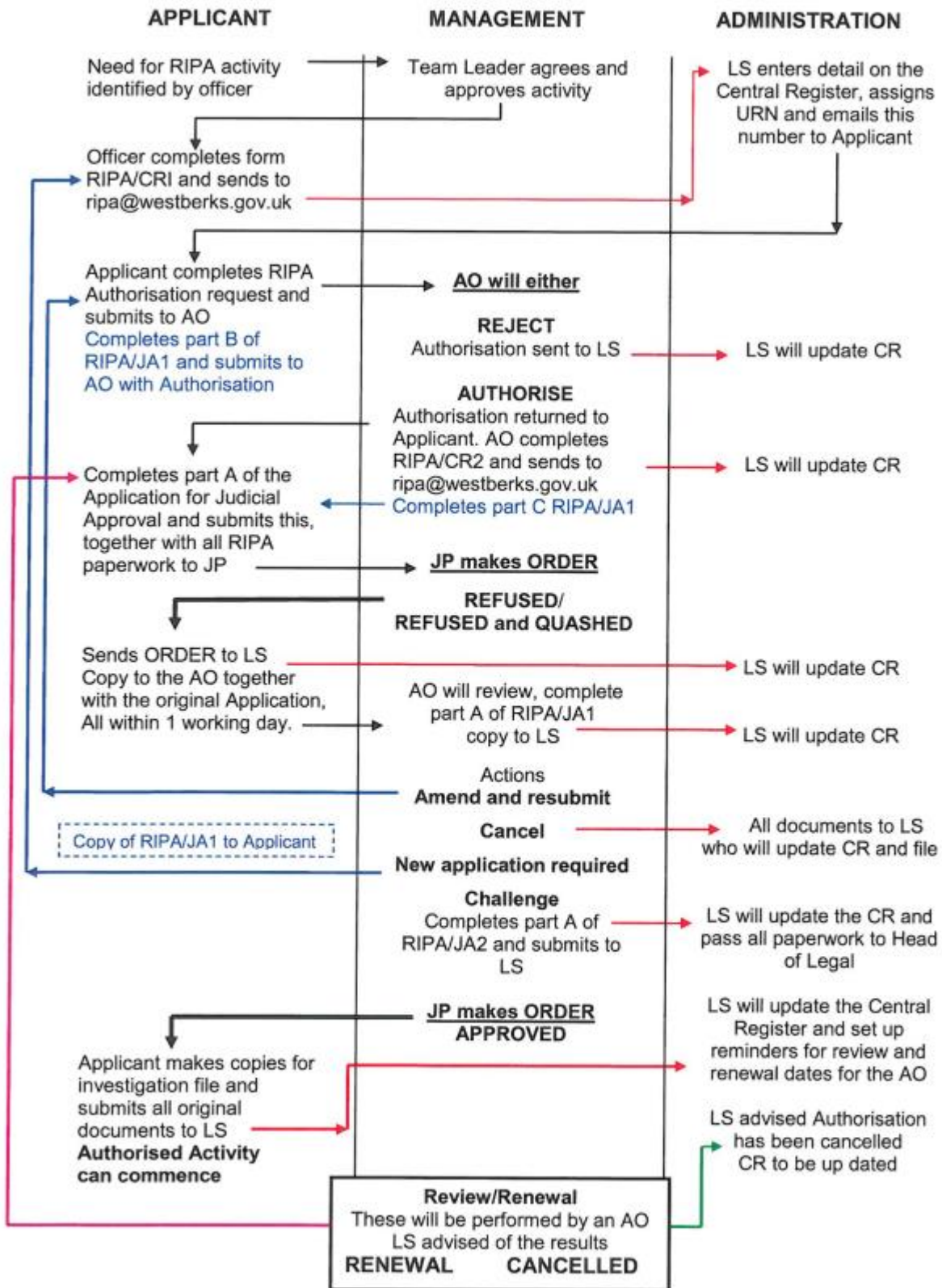
6.9 Authorisation refused and quashed

- 6.9.1 When an application is refused and quashed the Order will be passed to LS within one working day. A copy shall be passed to the AO, together with the refused application, within one working day.
- 6.9.2 The Order shall be considered by the AO who will complete part A of form RIPA/JA2 and pass this together with the Order, original application and supporting paperwork to LS who will update the Register.
- 6.9.3 The Head of Legal will determine whether a legal challenge should be made to the Order. His decision will be recorded on part B of form RIPA/JA2 and retained in accordance with the Policy. The Register will be updated with this decision and the Authorising Officer advised via email.

6.10 Third Party Authorisations

- 6.10.1 Where officers of the Council are authorised for surveillance activities by another agency a copy of the Authorisation must be passed to LS for recording on the Central Register before the activity commences.
- 6.10.2 An Officer of the Council must be identified as Lead Investigator with responsibility for ensuring all officers of this Council act in accordance with the specific Authorisation and all other legal requirements.
- 6.10.3 All activities undertaken by officers of the Council as part of the Authorisation will be recorded and reported by the Service as if the Authorisation was granted to the Council.

RIPA Authorisation flowchart



V1.1 2012

are applied. In some cases data may be deemed private communication still in transmission (instant messages for example). Where privacy settings are available but not applied the data may be considered open source and an authorisation is not usually required. Repeat viewing of “open source” sites may constitute directed surveillance on a case by case basis and this should be borne in mind.

289.2 Providing there is no warrant authorising interception in accordance with section 48(4) of the 2000 Act, if it is necessary and proportionate for a public authority to breach covertly access controls, the minimum requirement is an authorisation for directed surveillance. An authorisation for the use and conduct of a CHIS is necessary if a relationship is established or maintained by a member of a public authority or by a person acting on its behalf (i.e. the activity is more than mere reading of the site’s content).

289.3 It is not unlawful for a member of a public authority to set up a false identity but it is inadvisable for a member of a public authority to do so for a covert purpose without an authorisation for directed surveillance when private information is likely to be obtained. The SRO should be satisfied that there is a process in place to ensure compliance with the legislation. Using photographs of other persons without their permission to support the false identity infringes other laws.

289.4 A member of a public authority should not adopt the identity of a person known, or likely to be known, to the subject of interest or users of the site without authorisation, and without the consent of the person whose identity is used, and without considering the protection of that person. The consent must be explicit (i.e. the person from whom consent is sought must agree (preferably in writing) what is and is not to be done).’

8. **APPENDIX 8 - Investigatory Use of Social Network Sites (SNS)**

8.1 Introduction

This document sets out how Services within West Berkshire Council (the Council) will use social network sites and should be read in conjunction with other relevant policies including;

- ICT Policy and User Usage Agreement
- Security Policy
- Code of Conduct of Staff

8.2 Purposes for using SNS

Services will access SNS in different ways:

- 8.2.1 Open and overt exchange of information with users;
- 8.2.2 Viewing information about users which is openly available, without any need to log in to the SNS, in order to verify information. This may be done overtly or covertly; and
- 8.2.3 Covertly viewing information and/or engaging with a user to obtain information about them, another person or a business.

These are explained in more detail below.

The purposes for which Services may wish to access SNS will include but is not limited to the following and it will be for the officer to determine which of the methods of accessing the SNS is appropriate according to the circumstances:

- Monitoring activities of licensed premises with regard to irresponsible drink promotions.
- Monitoring the promotion of bands that are known to have caused complaints relating to noise levels.
- Viewing personal areas to verify the details provided by a benefit claimant (living alone, fitness to work, etc)
- Checking residency with regard to school catchments areas
- Gathering information which may later become intelligence used to direct resources.
- Obtaining any information which provides evidence of a prima facie offence.

8.3 Open and overt exchange of information with users

For the purpose of this document 'overt use' is defined as the use of a SNS by Services in an open manner with the intent of sharing information with individual stakeholders or groups of stakeholders.

Those individuals or groups will be aware of our presence on their area (wall, space, page, etc) of the SNS. This will include areas used by businesses for advertising their products or services (e.g. the 'fan' section on Face Book). Where information is obtained from such areas which may lead to any form of enforcement action, this information must be handled in accordance with paragraph 6 of this document.

When employees of a Service are engaging openly with a business or individual as a representative of the Council they will operate in accordance with the policy. Services should set up corporate accounts which do not supply private information about individual employees. Access will normally be via networked computers which are operated and maintained in accordance with the Council's policies.

SNS access in this manner will not require Regulation of Investigatory Powers Act (RIPA) authorisation. Officers must still act in accordance with the investigation policies and procedures relevant to their Service as well as the requirements of this document.

Access will be monitored in accordance with the Policy and other relevant corporate strategies.

8.4 Viewing information about users which is openly available

Although users will not be aware of activity undertaken by Officers in viewing their SNS pages, subject to the considerations referred to below, this may not be classed as covert surveillance for the purpose of RIPA.

There is unlikely to be a reasonable expectation of privacy by the user who has published this information about themselves and made it freely available for anyone to view.

Information that is considered as being openly accessible is only that which is capable of being accessed without logging on to the SNS as a user. If you need to log on to an SNS to access information about a person, that must be done either overtly or in accordance with the requirements for the covert acquisition of information.

Consideration should be given to the means of recording the information viewed and by what method. This information would also be required in order to comply with the provisions of the Criminal Procedure and Investigations Act 1996 (CPIA) where applicable.

Investigators should refer to their Service procedure notes for the method of doing this. Officers must still act in accordance with the investigation policies and procedures relevant to their Service as well as the requirements of this document.

Notwithstanding the above, those viewing information that is freely and openly available on an SNS must always consider in each case whether the user whose SNS is being viewed;

- might reasonably be aware of just how much of their personal information is openly accessible,
- and whether the SNS user might have inadvertently given public access to certain information.

This is not an easy task as it involves trying to guess what the SNS user was thinking. The more intimate or sensitive the personal information is likely to be, the greater the caution that should be exercised in viewing and recording the information. You may be required to demonstrate proportionality and necessity in relation to the user's Article 8 rights and in determine whether such information can properly be used in relation to the matter being investigated.

In circumstances where officers are considering accessing SNS for the purpose of obtaining information which is not required for a criminal investigation, the activity being contemplated would fall outside the scope of RIPA. However, in order to ensure that proper regard has been had to the Article 8 rights of the individual, consideration should be given to completing a "Consideration of RIPA to Directed Surveillance activities" form.

Before accessing SNS on any occasion, officers must first have regard to sections 3.10-3.17 of the Covert Surveillance and Property Interference Code of Practice.

8.5 Covertly engaging with a user to obtain information

For the purpose of this document covert use is defined as the use of SNS by Services to gather information to direct their activities in relation to the prevention and detection of crime, the apprehension or prosecution of offenders or to take any other action in respect

of a regulatory breach, except where that information is being obtained either by open and overt interaction with the user or where the information is openly available.

Before accessing an SNS covertly the investigating officer must give consideration to the provisions of RIPA. It is possible that the activity may be classified as Directed Surveillance or that the accessing officer may be acting as a Covert Human Intelligence Source (CHIS). The application for access will record those considerations along with the conclusion. Where it is determined that no RIPA application is required the appropriate paperwork on the case file will be endorsed to that effect by the appropriate officer or manager. If a RIPA authorisation is required then the Councils RIPA procedures together with any complementary Service policy for that process will be followed and access not granted until such time as the activity has been properly authorised in accordance with the legal process.

Where an officer wishes to access an SNS with the intent of gathering information about a business or individual (target) without the knowledge of that target, they will be deemed to be acting covertly for the purpose of this document. Covert access will always be considered as an investigation and all officers must act in accordance with the investigation policies and procedures relevant to their Service as well as the requirements of this document.

For covert operations an anonymous user account will be set up which can not be traced back to the Service or any individual employed by the Council. These accounts will be maintained by the individual Service who will put in place processes for controlling and monitoring the access and use of the accounts.

Officers must have regard to sections 4.11-4.17 of the CHIS Code of Practice which provides useful guidance and context regarding online covert activity. Where there is any doubt, advice should be sought from the Senior Responsible Officer.

Access will be monitored in accordance with the Policy and other relevant corporate strategies.

8.6 Human Rights and Data Protection Act considerations

During an investigation an important consideration is the right of respect for private and family life (Article 8) and any interference with this right must be lawful, necessary and proportionate. Whilst RIPA provides a framework that enables specific types of interference with this right e.g. for covert surveillance to be lawful, the Human Rights aspects must always be considered even where RIPA is not engaged.

When viewing SNS as described above, officers must consider whether the information that has been published on an SNS attracts any reasonable expectation of privacy. Guidance suggests that if any expectation of privacy is claimed it is unlikely to be reasonable given the various warnings that are usually contained on the SNS privacy policies.

Interference with any privacy right claimed will require a legal basis, which for investigations undertaken by the local authority will be found in the relevant legislation e.g. Health and Safety at Work Act or trading standards legislation. The carrying out of investigatory work that does not trigger the application of RIPA remains a lawful interference with any right of respect to private and family life, provided activity is both necessary and proportionate.

Any personal information that is collected from viewing SNS must be held and processed in accordance with the Data Protection Act, as well as any investigation and evidential protocols that are in place.

8.7 Authorisation

All access to SNSs must be authorised in advance by an appropriate Team Leader/Manager in accordance with the Policy. This authorisation is in addition to any authorisation that might be required under RIPA and it does not detract from the responsibility to keep appropriate records of the SNS access and the information viewed and used.

8.8 Equipment

Officers must not under any circumstances use their personal IT equipment or any other IT equipment that is not provided by the Council for undertaking any of the activities to which this document relates.

The Service should provide dedicated standalone computers for covert internet activity. Networked computers must not be used for this type of exercise. Printed information obtained from networked computers will not normally be sufficient for evidential purposes and officers should only resort to using these where there is no other means available to them.

SNS information is primarily transmitted and stored in a digital format and it is important that this is captured in such a way that the integrity of the information is not compromised. There are a number of published guides that are relevant to the capture, storage and production in court of computer based evidence. All officers charged with the production of computer based evidence which may result in legal proceedings should be familiar with these documents.⁸

8.9 Criminal Procedures and Investigations Act 1996 (CPIA)

Where officers acquire information which may result in regulatory action they must ensure they secure this information in such a way that the Service can discharge its duties under the CPIA in any future proceedings. Regulatory action includes, but is not restricted to, the following:

- Prosecution, Simple Caution, Administrative Penalties, Written or Verbal warnings relating to criminal breaches
- Issuing of Fixed Penalty Notices, Penalty Notice for Disorder or other statutory fines
- Suspension or review of any benefits
- Review of any licences issued by the Authority
- Use of Civil sanctions to prevent future breaches of legislation

⁸ Storage, Replay and Disposal of Digital Evidential Images, Home Office Publication 53/07
Digital Imaging Procedure v2.0 November 2007, Home Office Publication 58/07
Good Practice Guide for Computer-Based Electronic Evidence, ACPO 2007

8.10 Personal use

The Code of Conduct of Staff policy sets out the standards expected of employees of the Council in their personal use of Social Network Sites. Employees should ensure that in their personal use of SNS they do not provide details about their employment that might compromise their health & safety. This is particularly relevant where they are engaged in enforcement activities in their routine work.

PPP Covid19 Response and Service Update

Committee considering report:	Joint Public Protection Committee
Date of Committee:	15 December 2020
Report Author:	Sean Murphy

Purpose of the Report

- 1.1 To provide the Joint Public Protection Committee with an update on the service response to Covid19.
- 1.2 To provide an update on other service delivery matters including performance; and
- 1.3 To provide an update on the work of the case management unit as requested at the last JPPC meeting.

Recommendations

- 1.1 The Committee **NOTES** the role PPP are playing across the Councils with respect to Covid19 response.
- 1.2 The Committee **NOTES** the status of non-Covid related service delivery including the Q2 performance report.
- 1.3 The Committee **NOTES** the update on the Case Management Unit.
- 1.4 The Committee **RESOLVES** to receive a further update at its February 2021 meeting on progress.

Implications and Impact Assessment

Implication	Commentary
Financial:	<p>The Covid19 pandemic has presented a number of financial challenges for the service particularly with respect to income from licensing. Many sectors of the licence trade including hospitality, taxi and private hire, street trading and licensed animal establishments have been significantly hit by the combination of the Covid19 business restrictions and the restrictions around essential travel. This has resulted in a significant number of licences being surrendered or not renewed.</p> <p>At the time of writing the impact in terms of lost income from licence receipts is estimated to be around £180K for the period April – November 2020. The matter of emerging financial pressures is dealt with elsewhere on this agenda.</p> <p>In relation to the new duties the PPP has obtained, it has accessed a total £169K of the local outbreak response grant.</p>

	<p>Grant funding has also been accessed to support the local tracing functions set out in this report.</p> <p>The service has also accessed grant funding with respect to Covid compliance work. This has enabled additional staffing resource to support work around compliance checks, enforcement, business advice, events and safety advisory group meetings.</p>
<p>Human Resource:</p>	<p>The service now has only three full-time / part time vacancies and, at the time of writing, these are in the process of being recruited to. There are 15 agency and casual staff currently in the service. These are mostly grant funded for work around Covid and investigations as well as providing cover to long term absence such as maternity leave.</p> <p>The Housing Team is now fully staffed having recruited to the three vacant posts. Partnership support is also now fully staffed and is being supported by a number of temporary staff to support increased workload volumes.</p> <p>The new team structure and functional split set out to the Committee in the last update is functioning effectively and optimises the skills of the individuals within the teams.</p>
<p>Legal:</p>	<p>The service is the primary enforcement body for all three councils with respect to Covid legal controls.</p> <p>At the moment these controls fall into two categories:</p> <ul style="list-style-type: none"> - The first deals with business restrictions of which very few still exist. These can be re-introduced as a result of so-called local lockdowns. - The second category relates to controls on Premises, Events (gatherings) and Public Spaces where the Councils have powers to issue directions and prohibitions. <p>These are enforced through delegated authority from the secretary of state or through the existing scheme of delegations to officers.</p> <p>It is a statutory duty to enforce many of the provisions in place to tackle Covid19 at local level.</p>
<p>Risk Management:</p>	<p>We will continue to manage risk in line with the prevailing situation and corporate policies.</p> <p>The most significant Covid19 risks relate to workload and income. Mitigation includes:</p>

	<ul style="list-style-type: none"> - Effective prioritisation of workload and the deployment of additional grant funded resource. The long-term sustainability of working a seven day service with evening / late evening working is a challenge but many staff have come forward to assist with this to ensure that people can get effective breaks. - Lost income is being covered this year in part by government support schemes for local authorities. The long term future of this support is unknown at this time and consideration is being given as to how we manage what is likely to be a long term loss of income. A report will be brought to Committee on this issue once the picture is clearer. <p>A further major risk is around the balance of existing statutory duties with new workloads arising from Brexit. The PPP is providing routine briefings on the progress of negotiations and monitoring national bodies for new intelligence on the subject.</p> <p>JMB will be kept informed of any service changes and adjustments and any consequences arising from these will be notified.</p>			
Property:	<p>There are no direct implications arising from these proposals. Each Council is taking its own approach to property issues.</p> <p>Partnership Support largely operate from a central base in Theale. This has provided for efficiencies for example in the area of licence applications where it is now possible to produce licences for all three areas from one central office.</p>			
Policy:	There are no policy implications from this paper.			
	Positive	Neutral	Negative	Commentary
Equalities Impact:				
A Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		x		<p>This is not a decision report.</p> <p>The report does however set out the steps taken to protect vulnerable staff and address community need during this period.</p>

B Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		x		The level of service will be improved with competent and appropriately qualified staff delivering to our customers, from initial contact through to enforcement action. Staff will also have the opportunity for personal development and self-worth.
Environmental Impact:	x			There has been an unquantifiable environmental impact from the new service arrangements as travel has been significantly reduced. Longer term it is anticipated that this impact will be maintained as new ways of working are embedded in service delivery.
Health Impact:	x			The proposals create no direct health impacts on staff. They do however set out community based health protection measures.
ICT or Digital Services Impact:	x			The use of ICT on service delivery has been transformational. Telephone conferencing, MS Teams and Zoom have all been employed in the day today running of the service but also in the delivery of democratic decision making. Staff have engaged in planning meetings remotely and all three PPP authorities have held virtual licensing panels where the technology has delivered effectively.
PPP Priorities :	x			The proposed to maximise the use of resource to deliver against the JPPC priorities particularly around health protection, protection of vulnerable people and environmental protection on a risk led basis. The priority relating to effective and efficient service delivery has been at the core of arrangements.
Data Impact:		✓		None
Consultation and Engagement:	Managers and JMB have been involved in the development of the service recovery proposals. Discussions will take place with staff to ensure their competences and knowledge will be employed to deliver the best outcome for residents, businesses and the partner Councils.			

1.0 Executive Summary

- 1.1 In June 2020 the JPPC received two reports. The first set out the role PPP had served in the local response to Covid19. The second set out the proposals around recovery. The Committee resolved at that time to receive further updates, the last of which was in September.
- 1.2 This report builds on those previous two reports as well as providing an interim performance update.
- 1.3 The interim structure has been in operation for 4 months and is working effectively to deliver large elements of 'business as usual' work as well as providing for effective management of the public protection Covid19 response.
- 1.4 The interim structure has also proved effective in terms of a cross team / cross discipline response to the pandemic:
 - (a) The trading standards team have been dealing with business closure enforcement and advice;
 - (b) The commercial team have led Covid19 compliance on workplaces;
 - (c) Licensing have led on all forms of compliance in licenced establishments;
 - (d) The case management unit has provided oversight of all law changes and assisted with drafting prohibition notices; and
 - (e) The intelligence team have assisted with outbreak mapping.
- 1.5 This ability to build specialist knowledge bases, adapt quickly and build critical mass is one of the key assets of the shared service arrangement.

2.0 Local Covid19 Response

- 2.1 **Service Requests:** Since the last report, service requests for 'business as usual' matters have fallen back to broadly yearly average levels for this period. There continues to be a high level of service requests regarding Covid19 compliance issues.
- 2.2 There are broadly three categories:
 - businesses looking for compliance advice insofar as it relates health protection measures;
 - business enquiries relating to the recent national requirements on business closures;
 - more recently on business re-opening matters and complaints from members of the public regarding how businesses are operating.

Across Q1/Q2 the service received around 9850 service requests (including 826 relating to Covid). This compares to around 7280 for the equivalent period for 2019/20.

2.3 **Outbreak Planning and Local Outbreak Investigation:** Each Public Health Authority (all three Councils) have in place an outbreak plan. Our contribution to this plan is as follows:

- Advisory visits to Care Homes (West Berkshire) and Care Home outbreak visits in West Berkshire and Bracknell Forest.
- Monitoring and review of all Covid notifications from Public Health England (PHE) as well as 'soft intelligence' notifications from businesses, employees and members of the public. These notifications have increased significantly since the second wave of the outbreak has taken hold. We produce regular reports for all three Councils on local outbreaks including analysis and updates on any developing outbreaks in high risk settings such as schools, care homes and workplaces.
- Being 'Subject Matter Experts' with respect to commercial premises as well as advising in other subject areas. To this end we have conducted a significant number of reviews following workplace outbreaks ranging from hospitality to retailers and warehousing and distribution to manufacturing settings. These reviews provide feedback to local public health teams to determine such factors as testing requirements as well as providing advice to businesses to reduce the risk of further spread or further outbreaks.
- Monitoring of compliance at commercial premises including provision of advice, advisory and compliance visits and following up public concerns. In November alone the service conducted over 500 such visits to ensure compliance with prevailing guidance and / or to ensure business opening and other restrictions were being complied with. This has led to the issuing of advice in a number of cases.
- Develop enforcement and implementation of enforcement procedures for new local powers relating to premises, events and public spaces and providing training for relevant staff within authorities and the Police. Liaison with the police and public health on implementation. This has resulted in a number of premises being advised to close or prohibition notices being issued with respect to matters such as street traders (kebab vans etc.) and other businesses trading outside permitted hours, car washes operating when on the closure list. In one case a £1000 fixed penalty was issued for a subsequent breach. Powers were also used to issue directions to one hospitality setting following an outbreak.
- Finally since the last report we have also set up our local contact tracing cell. Currently the service is funded to carry out local tracing in West Berkshire on a seven day basis and conducts local tracing for Wokingham and Bracknell at weekends. This has proved effective we are contacting most people referred to us where the national system haven't been able to obtain tracing and managing to obtain tracing data in over 60% of cases. In all cases advice and support is offered and where appropriate residents are referred to the relevant local support mechanisms such as community hubs.

2.4 **Events and Gatherings:** The regulations that permit gatherings are changing on a regular basis but outside (and in certain circumstances during national restrictions) permitted organisers are allowed to hold events / gatherings subject to the production of both satisfactory Health and Safety and Covid risk assessments.

- 2.5 We have been involved (through the Safety Advisory Group) in reviewing a large number of risk assessments. These have ranged from amateur sporting events to Remembrance Sunday events. At the time of writing the rules are set to change again as we move to Tier 2 restrictions and we are considering the limited number of events taking place in the run up to Christmas.
- 2.6 The new Tier 2 Regulations also permit admission to spectator sporting events on a limited basis (up to 2000 people or 50% capacity whichever is the lower). We are now working with a number of sporting venues such as local semi-professional football clubs and Newbury Racecourse to review risk assessments.
- 2.7 Once an event has been assessed there is also the policing of the event / gathering to ensure risk assessments are being complied with but also to provide confidence to attendees and residents as well as to get a picture of the event delivery to aid any outbreak investigation should one be needed. We have attended a number of events or pre-event visits since the last report. Where appropriate we have done so with partners such as the Police and Fire Service.
- 2.8 **Support for the Businesses:** The service plays a pivotal role in supporting local businesses by the provision of advice and compliance visits. These serve two purposes namely ensuring business compliance and secondly providing assurance to customers of those businesses that necessary steps are being taken to ensure their safety. It is though this that we seek to provide confidence in the system which is important to businesses and residents alike.

3.0 Performance Update

- 3.1 It is a requirement of the PPP to provide the Joint Public Protection Committee with an overview of the performance of the service. The report (Appendix A) provides a summary of the information for both Q1 and Q2.
- 3.2 The report sets out the areas (as identified in the Covid19 updates provided) which have ceased or substantially reduced their activity. We have identified the likely year end position given that we have now gone through the second set of national restrictions.
- 3.3 The Joint Committee have already received substantive reports on the work of the PPP during Q1 and Q2 of this financial year and this report seeks to complement those reports with additional data and a number of indicators.
- 3.4 The performance summary report can be found at Appendix A to this report.
- 3.5 It should be noted that the service is developing a significant backlog of inspection work particularly around food premises and farms. This has been driven by a number of factors including business closures, national guidance to reduce visits and redeployment of staff to the Covid19 response effort. Whilst food enforcement work has never stopped it is being prioritised as follows:

Establishments where the local authority has identified potential public health/consumer protection concerns through proactive surveillance – this includes, for example, where such concerns are identified in relation to new businesses setting

up, businesses that have reopened after prolonged closure or businesses changing what they do, such as pubs providing takeaway food.

Establishments subject to ongoing formal enforcement action; and

Establishments overdue/due an enforcement revisit - unless the local authority is content from prior remote interaction with the business that that non-compliances have been rectified.

4.0 Case Management Unit

4.1 At its last meeting the Committee received a brief report on the work of the Joint Case Management Unit. As agreed we have brought forward further information to the Committee including an indication of workload since its inception in 2018. This can be found at Appendix B to this report.

5.0 Communications

5.1 Communication remains a key element of effective service delivery and is an important part of the delivery model which has a focus on prevention and intelligence gathering as well as enforcement. We use many channels to communicate including visits to businesses and residents, press releases, website and social media. We have also contributed to the corporate communication channels of all three councils.

5.2 New ways of communication are also being developed and during the pandemic we have organised around 10 on-line business briefings which have been attended by over 200 business and community participants. This is an area we are looking to develop with sector specific briefings on a whole range of matters. The service communication plan is being adopted to reflect this new way of working.

5.3 A range of communication channels have been deployed since the last update. These have included:

- Further staff briefing notes
- 1 further Members Bulletins (No6)
- PPP website – Update at Appendix D
- Social Media – Update at Appendix D
- News releases – available on PPP website
www.publicprotectionpartnership.org.uk/news

6.0 Service Development and Improvement

6.1 Whilst the service has been responding to 'business as usual' and Covid demands, it continues with a number of key service development and improvement themes. More detail is provided in the Performance Report.

6.2 The single system database remains one of the highest priorities. The system is seen as key to service efficiency in a number of respects including reducing officer time accessing the existing three systems, cost savings, improved reporting and importantly allowing customer submissions to the service using a number of on-line forms along with integrated payment options. Procurement was completed in the summer and now work is underway to prepare data for transfer.

- 6.3 The service continue to find new ways to use of technology to provide support for residents and businesses. This includes the introduction of the 'noise app', the series of on-line business briefings and becoming equipped to produce licences across all three authorities through a centralised customer services team.
- 6.4 Finally, we continue to invest in training and development with a number of staff on Apprenticeships (our first Regulatory Compliance Officer (RCO) Apprentice has just passed their end point assessment) as well as two staff qualifying as professionally registered Environmental Health Officers this year. We are one of the leading authorities involved in the development of RCO2 higher level apprenticeship standard through our Lead Officer for Training and Development.

7.0 Concluding Comments

7.1 As the report was being prepared we had just received the legislation that takes the whole PPP area into Tier 2 restrictions. We have already held discussions with delivery partners including the police, economic development and public health teams to look at service implementation in a manner that meets the law and balances support for the economy with health protection. The vaccination programme would appear close but the final months of 2020/21 are set to be very challenging for the service. Features include:

- Increased need for Covid compliance checks;
- Continued high levels of outbreak related enforcement and investigation work;
- Development of local tracing;
- Loss of income and challenges this will bring going forward; and
- Recovery of the service.

It is proposed to bring a further report to the Committee when it meets in February setting out in more detail the road to recovery.

8.0 Appendices

Appendix A – Performance Report

Appendix B – Case Management Update

Appendix C – Website / Social Media Update

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A shared service provided by Bracknell Forest Council, West Berkshire District Council and Wokingham Borough Council

PERFORMANCE INFORMATION

Summary for Members of the Joint Public Protection
Committee

Q1 and Q2 2020-21

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1. Executive Summary

This report covers a period where the service has worked to deliver new statutory roles and responsibilities and at the same time maintain a high standard of business as usual. The economic uncertainties and impact of the current pandemic have started to be seen with the pressures predominantly linked to the licenced trade. Due to when annual fees are due we have not seen the true impact on the hospitality business, however with the second lockdown this may change. The budget report has already set out for 2021/22 the position and we will continue to feed into corporate finance teams.

As already reported we have revised our ways of working to maximise the capacity for delivering on Covid issues. We have also supported business as usual. We recognised the ability to deal with nuisance was compromised (with visits to properties limited) and we looked at alternative service deliver which reduced the need to visit complainant's properties such as the Noise App. We have brought back in contractors and casual staff to help support the back office pressures with increased inquiries (those dealt with at point of contact on the phone) and increased email traffic, also being able to support officers whilst working at home.

At year end we reported the progress on community engagement, with social media and the website becoming a sought out guide for many residents and businesses. This resource has been invaluable to many residents and businesses and our messages are getting out to an ever growing number of people (last week we celebrated 1,000 people liking the PPP Facebook page). We have provided updates on the service as well as any issues we may be experiencing such as phones or printing taxi licence plates. Members' bulletins have continued to provide information across the PPP area and we have had positive feedback on these.

During this period we have continued support and train our Regulatory Services Apprentices. There has been a move to online training by many providers and there have been regular sessions concerning Covid held with Public Health England and South East, Associate of Chief Trading Standards Officers and the Chartered Institute of Environmental Health. We have also seen two of our officers qualify as Environmental Health Officers during this period. One of these was a sponsored officer from before the PPP was set up and shows our commitment to development as well as the commitments to the two officers involved. There are two officers being sponsored on the Environmental Health MSc course who again have been sponsored by the PPP and have adapted well to changes in course delivery.

The service has improved its delivery on important matters such as in the private rented sector housing market, where much more work is being done to regulate houses in multiple occupation, protecting vulnerable people from mass marketing scams and recovering their money as well as working with the taxi trade to improve awareness about safeguarding.

We have continued to see the growth and development of the Case Management Unit in supporting PPP cases and those of our partner agencies. Notable recent cases have again raised the profile of the service and helps sets the standards for our residents and businesses

Sean Murphy
Public Protection Manager

2. Key Strategic Progress

Finance	<ul style="list-style-type: none"> ▪ The substantive report set out the issues for 2021/22 discussions at JPPC of the potential impact of Covid ▪ Financial support from each of the Councils has helped with supporting staff and back filling in some areas to allow existing staff to focus on delivering Covid needs. ▪ We have seen some of the benefits of reduced travel footprints and in some other areas.
HR	<ul style="list-style-type: none"> ▪ We have seen, as with many services the impact of staff delivering the service from home. We are looking at the issues of stress within the service and have recognised the need to some staff to return to the office. ▪ The staff only has two substantive vacancies which is the lowest vacancy rate since formation. ▪ We have brought in a number of agency staff to support the work of the PPP ▪ It should be noted that there has been a demand from all authorities for qualified Environmental Health Officers to assist with tracing work and the more risk assessment Covid-secure approach to managing the pandemic.
ICT	<ul style="list-style-type: none"> ▪ During this period all West Berkshire laptops were moved across to Windows 10 and this has allowed some opportunities in delivering more access to officers to the information within the other two authorities. This work has progressed into Q3. ▪ There were initial issues around the choice of online meeting/conferencing capabilities with 2 using Teams and one Zoom. We have been able to obtain licences for more officers to have teams and improved our connectivity across the PPP. ▪ Progress has been made on the single system project with the Tascomi project starting and configuration and migration work starting.
Property	<ul style="list-style-type: none"> ▪ During this period officers have continued to use offices in a Covid secure way. Legal papers and notices have had to be printed and evidence appropriately stored. ▪ We have managed a database of staff attending offices to limit the numbers but recognising the business need for some presence.
Case Management and Governance	<ul style="list-style-type: none"> ▪ The work of this team and its development is outlined in a separate report. ▪ Some RIPA training for staff has been updated but Authorising officer RIPA training has been re-arranged in January. ▪ We been deli
Performance and Service Development	<ul style="list-style-type: none"> ▪ We have focused on delivering the work around Covid. The incoming complaints, queries and ▪ We have used proactive messages to provide information to the public and manage expectations, we have improved the 1st Response times across the

	service, however we have not managed targets set around inspection work. This is recognised by agencies such as the Food Standards Agency.
Business Development	<ul style="list-style-type: none"> ▪ We have worked to develop our contact and profile with local businesses ▪ There continues to be demands with the Primary Authority work (in particular with
Risk (Emergency Planning and Business Continuity)	<ul style="list-style-type: none"> ▪ The service was able to use the business continuity plan to manage the risks around Covid. ▪ We identified priority work for the service for the lockdown period and then within the recovery phase (Q2). ▪ We have piloted a Lone Working app for some staff and are now rolling this out across the service.

3. Communications

Communication has been key in our ability to deliver the PPP service during Q1 and Q2. The internal communications have improved across all 3 areas as groups of officers across a range of areas have come together to achieve a common goal.

Officers have welcomed the updates from each authority with a mix of weekly emails and “let’s chat” zoom calls. Within the PPP the managers have tried to keep staff abreast of the fast moving issues, however this has not be as consistent as we would have liked.

Attached are the Q1 and Q2 communications reports, they show the interactions in detail with the service. In particular we have noted times when there is increased social media traffic and also the posts which generate the most interest.

Whilst providing Covid support and advice we have tried to ensure a wider picture of activities across the PPP such as the meet the animal warden’s videos and scam and consumer safety information.

The key communication channels continue to be

Website: www.publicprotectionpartnership.org.uk

Twitter: https://twitter.com/PublicPP_UK

Facebook: <https://www.facebook.com/pg/publicprotectionpartnershipuk/>

4 Maintaining levels of customer and business satisfaction

- The customer survey results will be provided on an annual basis. We continue to receive praise from those we have been able to help or resolve issues for.
- We asked for feedback on the webinars that took place and these were well received and there have been positive messages from those staff within the authorities working with the PPP perhaps for the first time.

- We have so really positive and helpful comments which help with staff morale and their own satisfaction in doing a good job.

"It was fast, efficient and I was pleased that my request was dealt with professionally as well as promptly"

"Prompt response to initial query. Excellent customer service. The Duty Officer was very helpful and pleasant to talk to"

"I reported an abandoned car and a few later... Hey presto it's gone!"

"Really prompt and my concern was taken seriously. I felt listened to."

"Helpful and informative information regarding initial enquiry regarding possible ground contamination. Further excellent response by officer dealing with almost daily fires on neighbouring land which had been ongoing we believe for a number of years prior to our contacting PPP. His intervention has stopped these fires and we feel reassured that should there be a problem again it will be dealt with again. All communication has been supportive, informative and courteous during a period of considerable stressful events."

"Just keep doing, in the same method and timescale, as you're doing now. A first class council service."

"Our complaint was dealt with very well on the telephone we presume our neighbours have been contacted regarding this by your department as things have vastly improved we hope it continues many thanks"

- We have had some good feedback from our Support with Confidence scheme where additional work has included advice on emergency cover, PPE supplies, Coronavirus testing. Compliments specific to this work included

" X got all we need for 2 or 3 weeks. Thank You. You are doing a brilliant job."

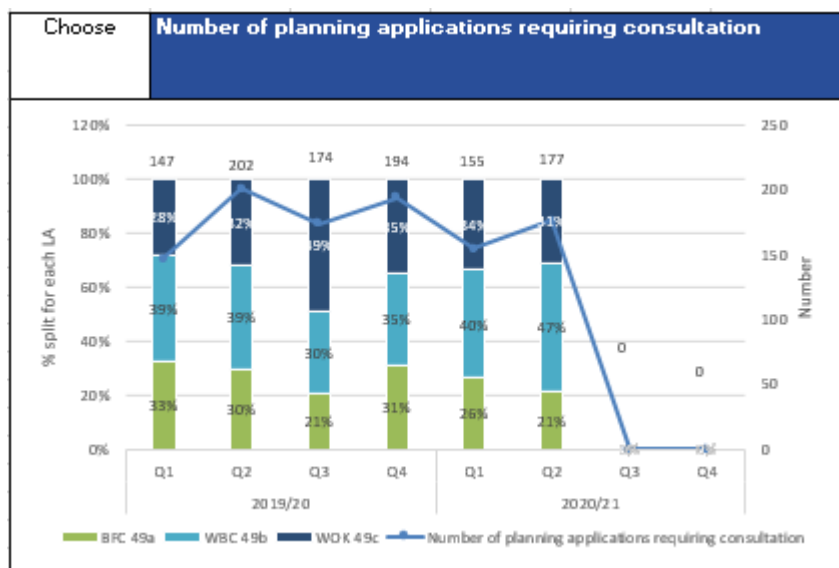
"Thank you X for your support, as always. We are so privileged to have you around."

- Other public health work which continued or was adapted was the Schools Attitudinal Survey 2020 (Alcohol and Smoking) and The Community Alcohol Partnership (CAP). We received thank you emails from all three UA PH teams on these results and the trends data report that followed it. Thames Valley Police emailed us to say "Thank you for your work on this." regarding the CAP work.

4. Service Performance across the Partnership

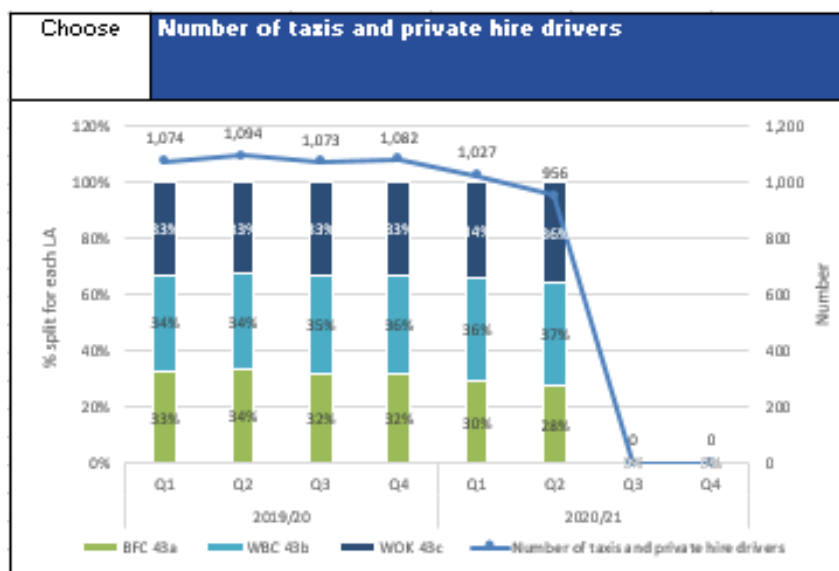
4.1 Measures of Volume and Key Demographics

Many inspections ceased as did a number of projects which were set up to meet our core priority work. Whilst we moved the public health work with schools on line during lockdown we did not have the access to the schools to deliver this work. The graphs shown below illustrate the impact the pandemic has had on the work of the service and the future trajectory if the situation does not improve significantly.



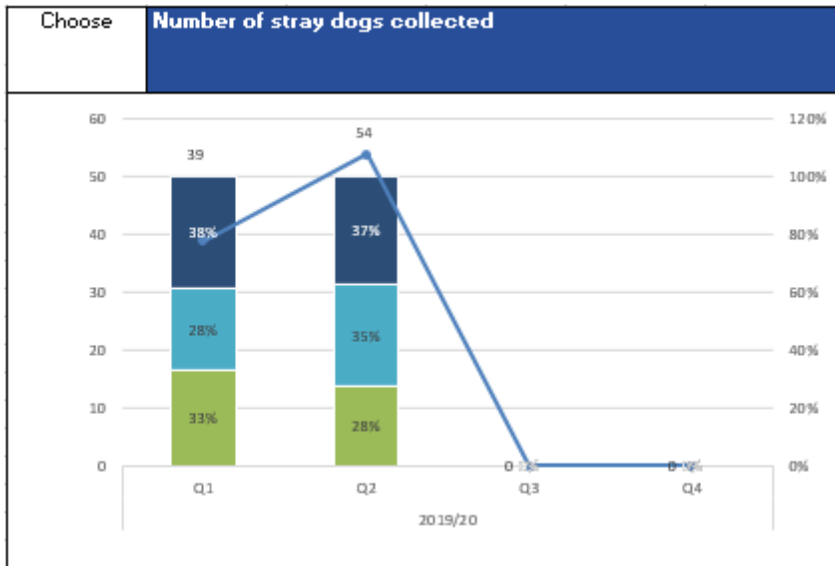
Planning Applications

This work continued throughout the lockdown period with very little change on previous volumes of work. We also had officers remotely attending both Bracknell Planning Committee and West Berkshire Western Area Planning Committee meetings during Q1 and 2.



Taxi and Private hire driver licences

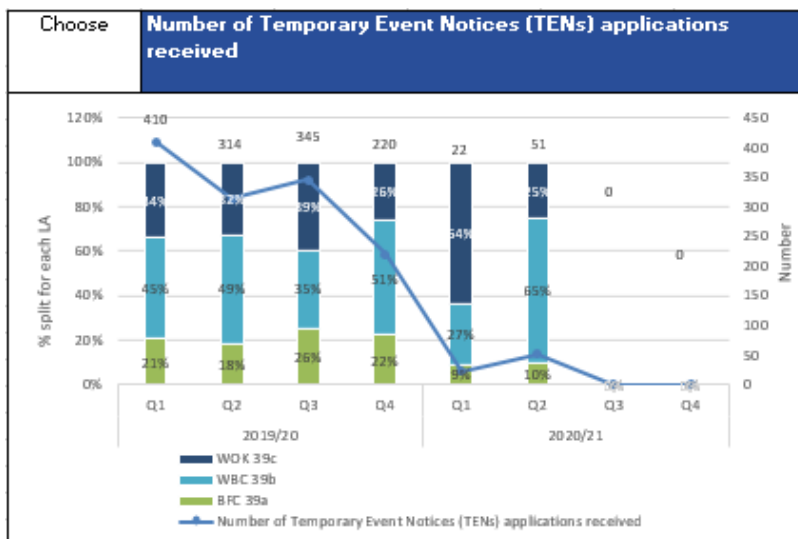
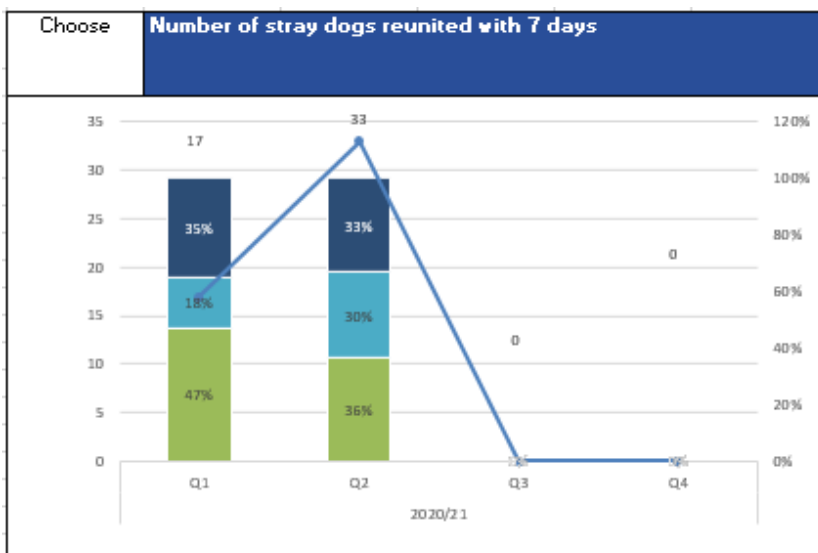
Although many have retained their badges in case the situation improves we have seen a decline in driver numbers. These are mainly those up for renewal who have chosen to not renew rather than drivers voluntarily surrendering their licences.



Animal Wardens

In Q1 we welcomed an additional Animal Warden to the service. The plan for the 2 officers was to provide day time stray dog collection across the PPP, this is now in place. The role was expanded and they are now dealing with barking dog complaints. They also be out at events and in the community giving advice and information (which due to Covid has not been possible). They have been visible on our social media platforms and have worked with local vets as well as supporting our out of hours contractors.

We saw an increase in strays in the period after lockdown, however this is in line with the monthly average of 52 in 2019/20



Temporary Events Notices

This area saw the greatest shift when lockdown commenced. Very few applications were received. Although events were permitted in some of the summer months the uncertainty around investing in even small scale events was apparent. Significant work went into ensuring all applications during this period were Covid secure and relevant risk assessments completed

4.2 Response times

The new structure set up provided a Response Team who were able to be the frontline of the service. This team was larger than under the previous structure and was able to deliver a greater response rate than previously. The area of abandoned vehicles was low and this has been looked at and due to stopping this activity (unless imminent risk was present) repeat complaints were being left. Commercial noise delays arose in Q2 due to resource issues. This is being addressed an improvements being made.

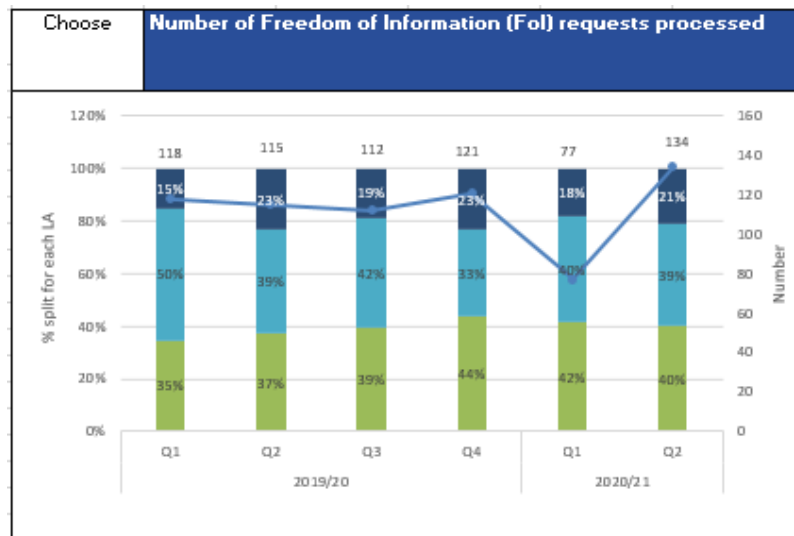
KPI	Target	Q1	Q2	YTD
% of licensing applications processed within statutory timescales or 5 days	85%	82.7%	79.2%	80.8%
Bracknell	85%	82.7%	79.3%	80.9%
West Berks	85%	83.9%	76.9%	80.1%
Wokingham	85%	80.9%	81.8%	81.5%
% of reported food safety incidents appropriately responded to in 10 working days	90%	99.4%	98.4%	98.8%
% of reported Covid incidents appropriately responded to in 10 working days	90%	98.4%	98.8%	98.6%
% of reported envirocrime incidents appropriately responded to in 10 working days	90%	84.4%	85.7%	85.3%
% of reported air quality concerns appropriately responded to in 10 working days	90%	99.4%	95.6%	98.2%
% of reported commercial noise incidents appropriately responded to in 10 working days	90%	99.3%	77.0%	88.5%
% of reported door step crime incidents appropriately responded to in 1 working day	95%	100.0%	data not available	100%
% of reported product safety concerns appropriately responded to in 10 working days	90%	100.0%	data not available	100%
% of reported private sector housing concerns appropriately responded to in 10 working days	90%	95.9%	91.9%	93.5%
% of reported health and safety at work concerns appropriately responded to in 10 working days	90%	94.4%	100.0%	98.1%
% of reported other incidents/concerns appropriately responded to in 10 working days	90%	98.9%	94.9%	96.8%
% of reported noise cases (non Commercial) appropriately responded to in 10 days	90%	98.6%	95.3%	97.0%
% of general Trading Standards requests responded to within 10 days	90%	99.9%	99.0%	99.4%
% of licensing complaints/requests for advice dealt with appropriately within 10 working days	90%	87.5%	98.0%	92.8%

Table 1: Showing key performance data on response times

5. Service Complaints and Information Requests

There was a drop off in numbers of Freedom of Information requests in the first quarter although 77 were still received and took 59hrs to respond. In Q2 the volume increased to the highest level since we started monitoring. These were mainly Covid related and linked to complaints and compliance. Although we were unable to direct to published data the reports we have meant that many were responded to swiftly taking 64 hours (an average of 30mins per inquiry)

We had an increase in requests from Councillors and MP's there were a number concerned with bonfires and individual issues but some were related to a few specific cases which were either exacerbated by the lockdown or concerns things would stop due to the focus on Covid. We tried to address some of the issues within the member's bulletin and by our detailed reports to JPPC during this time.



Type	Complaints about service (Stage 1)	MP and Cllr inquiries	FOI requests	Time spent on FOI requests
Bracknell – Q1	5	7	32	22hrs
West Berks – Q1	4	10	31	24hrs
Wokingham – Q1	2	19	14	12hrs 25mins
PPP Total	11	36	77	59hrs
Type	Complaints about service (Stage 1)	MP and Cllr inquiries	FOI requests	Time spent on FOI requests
Bracknell – Q2	3	5	54	17hours 20mins
West Berks – Q2	5	15	52	33hours
Wokingham – Q2	0	15	28	13hrs 25mins
PPP Total – Q2	8	35	134	64hrs

Appendix B – Case Management Unit Update

Background

- 1.1. Case management is a critical element of the investigation and litigation process. Robust systems to ensure probity in the investigation process are not only desirable but are required by the legal framework governing investigations. It is a broad term that encompasses a wide range of functions from the start to the end of the investigation and prosecution process including: file reviews, advice for investigating officers, review of applications for warrants, surveillance and expert witnesses and keeping under review legislative changes to ensure case and investigative process is fully compliant. It also encompasses very specialist areas of the investigative process including the obligations relating to 'disclosure'.
- 1.2. The Unit now undertakes case management and prosecution work on behalf of the following:
 - (a) Public Protection Partnership
 - (b) Oxfordshire County Council Trading Standards and Fire & Rescue Service
 - (c) Royal Berkshire Fire & Rescue Service (RBFRS).
- 1.3 The Authorities share a common purpose in that they are services with enforcement roles that have community protection at the heart of delivery, whether that be fire safety, food safety or rogue trading. For trading standards cross border-working is desirable as it is not unusual for offending to transcend borders and we share a significant border with Oxfordshire. For RBFRS the enforcement work around business premises and houses of multiple occupation or licensing matters share many aspects with the environmental health service.

Rationale

- 2.1 The Case Management Unit was formed in 2018 when it was recognised that there are significant potential gains to be made by sharing knowledge, resources and systems in delivering case management services in partnership in order to provide advantages and economies of scale and deliver robust and flexible services.
- 2.2 The unit currently consists of four lawyers, one of whom manages the team, two accredited financial investigators, an administration assistant and also currently has the support of a temporary Paralegal role. One of the Lawyers is a Barrister and is therefore able to deal with both Magistrates Court matters and Crown Court hearings.
- 2.3 It is very desirable to have legal expertise available for investigators and the efficiency that is gained by getting direct access often leads to improved case turnaround time and minimises the need for management involvement, enabling them to concentrate on service development and resources oversight.

Work of the Unit

3.1 The work of the unit since its formation in 2018 is summarised in the table below:

Number of PPP cases completed	55 (25 instructed to West Berks Legal)
Number of ongoing PPP cases	37 (12 instructed to West Berks Legal)
Total number of PPP Road Traffic Cases	171
Total amount of compensation awarded	£111,138
Total amount of fines issued through the Courts	£266,264
Total amount of custodial sentences	10.25 years
Total amount of suspended sentences	51 months
Total number of hours of unpaid work ordered	1020 hours
Total number of formal cautions issued	8
Total number of cases for OCC Trading Standards	18 Ongoing 16 Completed
Total number of cases for OCC Fire & Rescue Service	8 Ongoing 2 Completed
Total number of cases for Royal Berkshire Fire & Rescue Service	3 Ongoing 7 Completed

Workload

- 4.1 CMU remains very busy with a high level of competing demands. The team continue to prioritise the case load to ensure that deadlines are met and cases are progressed in a timely manner.
- 4.2 Covid19 has added additional pressures with a continually changing legislative position and a need for additional enforcement action. Between March and July 2020 only a limited number of cases were progressing through the Court system due to the national lockdown. These cases were then allocated new hearing dates from October through to December 2020 leaving a backlog of cases that the team continue to work through.
- 4.3 Jury trials in the Crown Court have seen significant delays due to the logistics of having a number of parties involved in a socially distanced way. The Courts have also prioritised urgent CPS cases which has further added to the delays in cases being listed.

Looking to the Future

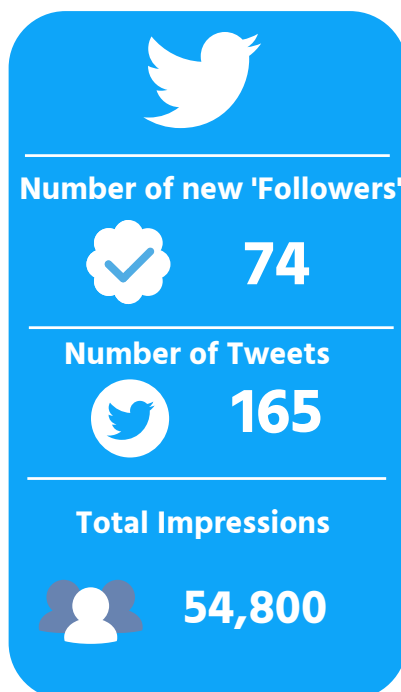
- 5.1 The work of the team continues to increase in order to accommodate the changing enforcement positions taken by the different Authorities.
- 5.2 Fire safety work is becoming a specialism of the team. This is an area in which there is an increase in work following high profile incidents such as the Grenfell

Tower incident which has meant that inspection and enforcement work has been put onto a much stronger footing.

- 5.3 It is anticipated that Covid19 will continue to bring additional work into the team as the national picture changes bringing with it further legislative change.

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PPP Social Media Summary Q1



Total combined reach Q1 2020 - 282,993

Month	Visitors	Page Views	Articles Published
Apr	10,442	18,864	21
May	6,970	13,679	13
June	7,638	16,344	21

Social Platforms Traffic

Number of views to website from social media posts.

	Facebook	Twitter
Apr	3,709	140
May	1,069	64
June	775	77

	New Likes	Reach	No. Posts
Apr	96	103,470	53
May	43	65,409	49
June	21	51,461	63

Top Performing Facebook Posts in Q1

92,500 Reach

Public Protection Partnership
Published by Lisa Barnes [?] · ★ Favourites · 7 April · 🌐

Any evidence that indicates the advice below is not being followed and the risk to health and or the use or enjoyment of another's property is being affected we will have no option but to serve a formal notice on the person responsible. This may result in legal action.

⚠️ Bonfires and Environmental Health ⚠️

At the moment, please do not be tempted to have a bonfire, particularly during the long Easter weekend. ... [See more](#)



13,400 Reach

Public Protection Partnership
Published by Lisa Barnes [?] · ★ Favourites · 11 May · 🌐

Meet Monty...

This lovely chap was left tied up outside the gates of [Binfield Dog Rescue](#) on the evening of 24th April. Brian, the owner of Binfield Dog Rescue, had received a phone call asking him to collect a 'stray', he rightly told the caller they don't collect strays and to contact the Animal Warden. A short time later this dog, who they named Monty was found tied by a straggly piece of lead to their gate.

Monty was in a bad way, his eyes needed attention, and he has scars... [See more](#)



11,700 Reach

Public Protection Partnership
Published by Lisa Barnes [?] · ★ Favourites · 15 June · 🌐

Are you buying your ice cream from unlicensed traders?

The PPP Licensing Teams are receiving a number of complaints with regards to ice cream vans operating in West Berkshire, Wokingham and Bracknell without a street trading consent. This is particularly worrying as we cannot be sure they are operating with the relevant food hygiene standards in place.

We have been made aware of three vans who are operating in this way. They are 'announcing' last minute their locations on Fa... [See more](#)





	New Followers	Impressions	No. Tweets
Apr	19	25,000	59
May	6	16,200	47
June	49	13,600	59

Top Performing Twitter Posts in Q1

Reach 3603



Public Protection Partnership

@PublicPP_UK

Earlier this week saw the implementation of Lucy's Law.

The law is named after Lucy, a Cavalier King Charles Spaniel who died in 2016 after being subjected to terrible conditions on a Welsh puppy farm. [#LucysLaw](#)

Reach 2366



Public Protection Partnership

@PublicPP_UK

See article re bonfires during Coronavirus pandemic.

⚠ Bonfires and Environmental Health ⚠

At the moment, please do not be tempted to have a bonfire.

Reach 2056



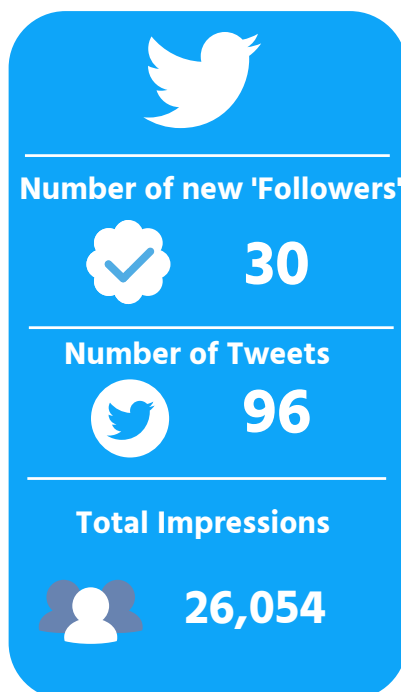
Public Protection Partnership

@PublicPP_UK

Menthol Cigarettes Ban from UK shops. New smoking laws will see certain types of cigarettes banned in the UK from this month. From 20 May menthol cigarettes, rolling tobacco and skinny cigarettes will be banned from UK shops.

See link for details:

PPP Social Media Summary Q2



Total combined reach Q2 2020 - 189,582

Month	Visitors	Page Views	Articles Published
July	6,218	13,942	9
Aug	5,890	13,400	10
Sept	4,891	2,074	10

Social Platforms Traffic

Number of views to website from social media posts.

	Facebook	Twitter
July	339	42
Aug	532	112
Sept	64	86

	New Likes	Reach	No. Posts
July	9	19,789	43
Aug	32	30,546	37
Sept	144	75,521	52

Top Performing Facebook Posts in Q2


5,600 Reach

Public Protection Partnership
Published by Lisa Barnes [?] · ★ Favourites · 18 September · 🌐

Three important updates to the COVID regulations have been made today which will affect those working in or visiting certain industries:

- 1 Test & Trace.** It's now a legal obligation that certain businesses/premises collect test & trace contact details from their customers
- 2 QR Unique Venue Code.** Venues/premises must generate a unique QR code from Government website and display prominently in their premises (from 24th September)...

[Continue reading](#)



Test & Trace
It's now a legal obligation that certain businesses/premises collect test & trace contact details from their customers.

QR Unique Venue Code
Venues/premises must generate a unique QR code from Gov website and display prominently in their premises (from 24th September)

Social Distancing Management
It is now a legal responsibility that some businesses must now take reasonable measures to ensure social distancing guidelines, on their premises, are strictly adhered to.

Public Protection Partnership | Bracknell Forest West Berkshire Wokingham | A shared service provided by Bracknell Forest Council, West Berkshire Council and Wokingham Borough Council | Bracknell Forest Council | West Berkshire Council | WOKINGHAM BOROUGH COUNCIL

3,200 Reach

Public Protection Partnership
Published by Lisa Barnes [?] · ★ Favourites · 10 August · 🌐

⚠️⚠️ Fraud Alert in Bradfield Southend and Pangbourne this month. ⚠️⚠️

Please share this post and talk to others you know who may be vulnerable.
✅ In making more people aware we can stop these criminals targeting vulnerable people in our communities.

Both cases reported this month were courier fraud. Courier fraud is where a person receives a call from someone pretending to be from their bank and tells them there is a problem with their bank cards or bank account and they ne... [See more](#)



Public Protection Partnership | Bracknell Forest West Berkshire Wokingham | A shared service provided by Bracknell Forest Council, West Berkshire Council and Wokingham Borough Council | Bracknell Forest Council | West Berkshire Council | WOKINGHAM BOROUGH COUNCIL

3,100 Reach

Public Protection Partnership
Published by Lisa Barnes [?] · ★ Favourites · 28 September · 🌐

Tesco fined £160,000 for out of date food.

Tesco was convicted at Reading Magistrates' Court on Friday, 25 September 2020, after pleading guilty to having 46 food items on shelves at their store in Warfield, Bracknell, past their used by dates and deemed unsafe. Tesco was ordered to pay £160,000 in fines, a victim's surcharge of £170 and costs of £7,756.50.

Tesco was prosecuted following an investigation by officers from the Public Protection Partnership, supported by the J... [See more](#)



Public Protection Partnership | Bracknell Forest West Berkshire Wokingham | A shared service provided by Bracknell Forest Council, West Berkshire Council and Wokingham Borough Council | Bracknell Forest Council | West Berkshire Council | WOKINGHAM BOROUGH COUNCIL



	New Followers	Impressions	No. Tweets
July	19	9,429	39
Aug	6	9,708	29
Sept	5	6,917	28

Top Performing Twitter Posts in Q2

Reach 2,385



Public Protection Partnership

@PublicPP_UK

⚠️ ⚠️ Loft Insulation Scam ⚠️ ⚠️

We've aware residents in **#Bracknell**, **#Sandhurst** & **#Crowthorne**, particularly those that are retired, are being targeted for a loft work scam.

See link for full details:

[https://publicprotectionpartnership.org.uk/news-articles/loft-insulation-scam/ ...](https://publicprotectionpartnership.org.uk/news-articles/loft-insulation-scam/)

Reach 1,438



Public Protection Partnership

@PublicPP_UK

⚠️ ⚠️ Unlicensed Puppy Breeders ⚠️ ⚠️

For those considering purchasing a puppy.

- ➡️ Do your research.
- ➡️ Make clear and informed decisions about any new addition to your family.
- ➡️ Do not purchase puppies from unlicensed breeders.

Full details below:

Reach 1,357



Public Protection Partnership

@PublicPP_UK

⚠️ Courier Fraud Alert . Two cases this month in **#BradfieldSouthend** & **#Pangbourne**

If you've more information on these attempts or have had similar contact please call **@ThamesVP** on 101 to report.

@WestBerkshire

See link for full details.



PPP Social Media Update 1st Nov -30th November



Number of new 'Likes'

82

Number of Posts

65

Total Reach

106,252



Number of new 'Followers'

5

Number of Tweets

67

Total Impressions

10,000



Number of Visitors'

5,830

Number of Articles

15

Number of Page Views

12,165

Total combined reach for November to date is 128,417

Month	Visitors	Page Views	Articles Published
Nov	2,786	6,698	0
Dec	2,124	4,892	2
Jan	3,974	9,531	0
Feb	3,852	9,162	0
Mar	4,698	9,672	14
Apr	10,442	18,864	21
May	6,970	13,679	13
June	7,638	16,344	21
July	6,218	13,942	9
Aug	5,416	12,568	10
Sept	5,925	12,337	13
Oct	9,669	16,410	15
Nov	5,830	12,165	15

Social Platforms Traffic

Number of views to website from social media posts.

	Facebook	Twitter
Aug	364	66
Sept	571	402
Oct	1,478	502
Nov	596	302

During November the website had had 5,830 visits with 12,165 page views.

In November 15 articles have been published to the website as follows (with links):

- 27 November 2020 - [Abandoned Vehicles](#)
- 26 November 2020 - [Full list of local restriction tiers by area announced](#)
- 26 November 2020 - [Coronavirus \(COVID-19\): taxis and PHVs Guidance](#)
- 24 November 2020 - [Doorstep Scam in Wokingham](#)
- 24 November 2020 - [Underage Firework and Alcohol Sales in Thatcham](#)
- 18 November 2020 - [Taxi & Private Hire Drivers: Can you help identify victims of abuse?](#)
- 17 November 2020 - [Pass the Parcel? Know your rights with online deliveries](#)
- 12 November 2020 - [AVIAN INFLUENZA PREVENTION ZONE IMPLEMENTED ACROSS ENGLAND AND WALES](#)
- 10 November 2020 - [Pet/Animal Owners and Workers within the Animal Sector Covid Restrictions Guidelines](#)
- 10 November 2020 - [Dog Groomers Guidance Under New Restrictions](#)
- 09 November 2020 - [Over £7 million lost this year in PayPal fraud](#)
- 06 November 2020 - [Underage Alcohol Sales In Hungerford](#)
- 05 November 2020 - [Scam Alert - Cold Calls Offering Free Immune Boosting Tablets](#)
- 02 November 2020 - [Fly-tipping costs offenders £1,890](#)
- 02 November 2020 - [Co-op Foodstores Ltd fined £40,000 for out of date food](#)

The most visited pages, excluding home page, on the website during October were:

- 1514 Page visits - [New Look Halloween for 2020](#)
- 748 Page visits - [Halloween 'COVID Safe' Pumpkin Trail](#)
- 484 Page Visits - [Remembrance Sunday Guidance for Events for Parish and Local Councils](#)

	New Likes	Reach	No. Posts
Oct	15	7,645	17
Nov	44	9,890	35
Dec	52	12,346	30
Jan	70	19,202	36
Feb	96	107,684	29
Mar	153	38,930	38
Apr	96	103,470	53
May	43	65,409	49
June	21	51,461	63
July	9	19,789	43
Aug	32	30,546	37
Sept	144	75,521	52
Oct	83	116,261	52
Nov	82	106,252	65

The high reach continued this month, mainly around the posts of the new Tiers and confirmation that Bracknell, West Berkshire and Wokingham would be placed in Tier 2 at the end of the November lockdown. That particular post had 72 shares and over 3000 engagements (likes or comments) with more than 7,880 in reach (views on newsfeed).


Top 3 Facebook November Posts

Tier Announcement - Reach 7,880

Public Protection Partnership
Published by Lisa Barnes [?] · ★ Favourites · 26 November · 🌐

We can confirm that Bracknell Forest, West Berkshire and Wokingham will be placed in Tier 2 from Wednesday 2nd December.

See graphic for details of restrictions within Tier 2 - High Alert



The graphic details the following restrictions for Tier 2:

- MEETING FRIENDS AND FAMILY:** No mixing of households indoors, apart from support bubbles. Maximum of six members.
- EDUCATION:** Early years settings, schools, colleges and universities open. Children, other supported children for children, and children in bubbles permitted.
- OVERNIGHT STAYS:** Permitted with household or support bubble.
- TRAVELLING:** Reduce the number of passengers made and walk or cycle if possible. Avoid long trips and avoid on public transport. Avoid or share with those outside of your household or support bubble. Avoid or share with other people in your household or support bubble. Avoid or share with other people in your household or support bubble. Further restrictions apply.
- INDOOR LEISURE:** Open.
- WEDDINGS AND FUNERALS:** 25 guests for weddings, civil partnerships, wedding receptions and funerals, 25 for funerals.
- EXERCISE:** Classes and organised adult sport can take place outdoors. You cannot take place indoors if there is any interaction between people from different households. Organised activities for elite athletes, under 25s, other than indoor swimming pools are permitted. Further restrictions apply.
- RESIDENTIAL CARE:** COVID-secure arrangements such as substantial screens, visiting walls, and window walls. Visitation rights with only indoor or yard visiting will enable indoor visits including contact.
- LARGE EVENTS:** Sport, live performance and other non-entertainment events, capacity or 1000 people outdoors whichever is lower and 50% indoor capacity.

Find out what support you can get
For example, if you're out of work, need to get food, or want to take care of your mental health. gov.uk/coronavirus

If you have any coronavirus symptoms:
A high temperature - A new, continuous cough
A loss of, or change to, your sense of smell or taste
Get a test and stay at home

Co-op Out of Date Food Prosecution - Reach 3,739

Public Protection Partnership
Published by Lisa Barnes [?] · ★ Favourites · 2 November · 🌐

Co-op Foodstores Ltd fined £40,000 for out of date food in High Street, Crowthorne store.

Co-op Foodstores Ltd was convicted at High Wycombe Magistrates Court on 23rd October 2020, after pleading guilty to having 17 food items for sale at their store in High Street, Crowthorne, past their used by dates and therefore deemed unsafe. The Co-op was ordered to pay a £40,000 fine, a victim's surcharge of £110 and costs of £6079.50.

The case was brought following an investigati... [See more](#)



Public Protection Partnership
Published by Lisa Barnes [?] · ★ Favourites · 2 November · 🌐

Fly-tipping costs offenders £1,890

Daniel George McCaghrey (29) and Jemma Porter (28) both from Maidenhead were convicted at Reading Magistrates Court on 23rd October 2020 after pleading guilty to having illegally dumped a wardrobe off Malt Hill, Warfield, Bracknell. They were each ordered to pay £400 in fines, £100 compensation in clean-up costs, a victim's surcharge of £40 and costs of £405.

Mr McCaghrey and Ms Porter were prosecuted following an investigation by office... [See more](#)



Fly-tipping Prosecution - Reach 2,734



	New Followers	Impressions	No. Tweets
Oct	18	2,160	19
Nov	44	13,100	45
Dec	8	9,241	32
Jan	28	10,500	47
Feb	13	12,500	33
Mar	19	30,100	50
Apr	19	25,000	59
May	6	16,200	47
June	49	13,600	59
July	19	9,429	39
Aug	6	9,708	29
Sept	5	6,917	28
Oct	4	11,503	41
Nov	5	10,000	67



Top 3 Twitter posts for November

Moved Home - Dog Microchip Reminder - reach 1,098



Public Protection Partnership

@PublicPP_UK

Moved home recently? 🏠 Have you updated your dogs tag & microchip details? 🐕 Up to date details ensure your beloved pooch gets returned to you quickly, if you're separated & its a legal requirement to keep microchip details updated & a ID tag with your address on your dog. ✅ pic.twitter.com/q0Xm6iSVKi

PPP Officer Patrols - reach 694



Public Protection Partnership

@PublicPP_UK

Our officers were out on patrol last night in Newbury and things were thankfully very quite.

Thank you to the residents and businesses of #Newbury for adhering to current Government restrictions. 🙌🙌🙌 pic.twitter.com/ji2ljh3rfN

New Tier Announcement Reach 583



Public Protection Partnership

@PublicPP_UK

When national restrictions end on 2nd December we will return to a regional tiered approach for England.

- Tier 1 - Medium Alert
- Tier 2 - High Alert
- Tier 3 - Very High Alert

For more information:

<https://www.gov.uk/government/publications/covid-19-winter-plan> ...

pic.twitter.com/ltLZcb8Olf Page 105

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