



HILLINGDON
LONDON



Cabinet

Date: THURSDAY, 15 OCTOBER
2009

Time: 7.00 PM

Venue: COMMITTEE ROOM 6 -
CIVIC CENTRE, HIGH
STREET, UXBRIDGE UB8
1UW

**Meeting
Details:** Members of the Public and
Press are welcome to attend
this meeting

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Councillors in the Cabinet:

Ray Puddifoot (Chairman)
Leader of the Council

David Simmonds (Vice-Chairman)
Deputy Leader / Education & Children's Services

Jonathan Bianco
Finance & Business Services

Keith Burrows
Planning & Transportation

Philip Corthorne
Social Services, Health & Housing

Henry Higgins
Culture, Sport & Leisure

Sandra Jenkins
Environment

Douglas Mills
Improvement, Partnerships & Community Safety

Scott Seaman-Digby
Co-ordination & Central Services

Published:
Wednesday, 7 October 2009

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Agenda

- 1 Apologies for Absence
- 2 Declarations of Interest in matters coming before this meeting
- 3 To confirm the minutes of the previous meeting held on 24 September 2009 1 - 16
- 4 To confirm that the items of business marked Part I will be considered in public and that the items of business marked Part 2 in private

Cabinet Reports - Part 1 - Public

- 5 Interim Report of the Corporate Services and Partnerships Policy Overview Committee on the Impact of a Pandemic in Hillingdon and the effects on Council Services (Cllrs Puddifoot, Mills and Seaman-Digby) 17 - 22
- 6 Review of Conservation Areas in Northwood (Cllr Burrows) 23 - 38
- 7 Regulation of Investigatory Powers Policy Update (Cllr Seaman-Digby) 39 - 82
- 8 Planning Policy Statement 15 Consultation Response: Planning for the Historic Environment (Cllr Burrows) 83 - 88
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Cabinet Reports - Part 2 - private and strictly not for publication

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17	Appointment of Banking Services supplier to the London Borough of Hillingdon (Cllrs Bianco & Seaman-Digby)	201 - 212

The reports listed above in Part 2 are not made public because they contain exempt information under Part 1 of Schedule 12A to the Local Government (Access to Information) Act 1985 (as amended) and that the public interest in withholding the information outweighs the public interest in disclosing it.

- 18** Other items which the Chairman decides are relevant or urgent

Minutes

Cabinet

Thursday, 24 September 2009

Meeting held at Committee Room 6 - Civic Centre,
High Street, Uxbridge UB8 1UW



HILLINGDON
LONDON

Published on: 25th September 2009

Decisions come into effect on: 2 October 2009

Cabinet Members Present:

Ray Puddifoot (Chairman)
David Simmonds (Vice-Chairman)
Jonathan Bianco
Keith Burrows
Philip Corthorne
Henry Higgins
Sandra Jenkins
Douglas Mills

Members also Present:

George Cooper
David Routledge
David Yarrow
Mary O'Connor
Judith Cooper
Mo Khursheed
Josephine Barrett
Eddie Lavery
John Riley
Brian Crowe

65. APOLOGIES FOR ABSENCE

Councillor Scott Seaman-Digby.

66. DECLARATIONS OF INTEREST IN MATTERS COMING BEFORE THIS MEETING

On Item 5, statutory proposals to amalgamate Harefield Infants and Junior Schools, Councillor Henry Higgins declared a personal and non prejudicial interest as a School Governor of the two schools.

67. TO CONFIRM THE MINUTES OF THE PREVIOUS MEETING HELD ON 16 JULY 2009

The minutes of the meeting held on the 16th July 2009 were agreed as a correct record.

68. TO CONFIRM THAT THE ITEMS OF BUSINESS MARKED PART I WILL BE CONSIDERED IN PUBLIC AND THAT THE ITEMS OF BUSINESS MARKED PART 2 IN PRIVATE

Confirmed subject to Item 19 being deferred to the next meeting.

69. STATUTORY PROPOSALS TO AMALGAMATE HAREFIELD INFANT AND JUNIOR SCHOOLS

RESOLVED:

That Cabinet agree:

- 1. To reject Statutory Proposals to amalgamate Harefield Infant and Junior Schools at this time. (The proposals would involve closing Harefield Infant School, and lowering the age-range and enlarging the premises of Harefield Junior School, with effect from April 1st 2010).**
- 2. That amalgamation be reconsidered at a later date should more suitable circumstances arise.**

Reasons for decision

The proposals under consideration to amalgamate the schools followed on from a decision taken by Cabinet in March 2009 that the council adopts a policy of amalgamating infant and junior schools where appropriate opportunities arise, but on a case by case basis.

Statutory consultation with key stakeholders was conducted from July 1st 2009 to August 11th 2009 and attracted several points of objection. Whilst Cabinet felt that all points of objection could be addressed, it was also appropriate to be sensitive to the views of local stakeholders. Cabinet therefore on balance decided against amalgamation, but that should circumstances change, the proposals could be brought forward again at a later date.

If the Cabinet did not make a decision within 2 months of the consultation period then the proposals would have need to be referred to the Office of the Schools Adjudicator for a decision.

Alternative options considered and rejected

Cabinet could have approved the proposals outright, modified the proposed implementation date or approved the proposals subject to meeting a specific condition (e.g. planning permission)

Officer to Action:

Terry Brennan, Education & Children's Services

70. THE FUTURE OF HILLINGDON HOMES

RESOLVED:

That Cabinet agrees:

- 1. To instruct officers to carry out a tenant and leaseholder test of opinion on dissolving Hillingdon Homes and bringing the council housing services back in-house.**
- 2. To instruct officers to report back to Cabinet for a final decision on the future of Hillingdon Homes as soon as possible once the test of opinion has been completed.**

Reasons for decision

The Council's Arms Length Management Company (ALMO), Hillingdon Homes, was set up in April 2003 following a positive outcome to a tenant and leaseholder test of opinion. This enabled the council and residents to receive around £60m towards the cost of achieving the decent homes standard. Hillingdon Homes has been successful in the delivery of that goal, two years ahead of the Government target. In addition, services have continuously improved and tenant and leaseholder satisfaction have increased. However, now these targets have been achieved, Cabinet agreed that the future of the ALMO needs to be reviewed along with how best to continue to improve the services provided to tenants and leaseholders.

Cabinet considered it to be in the council's and customers' best interests (subject to the required consultation process with tenants and leaseholders) to take the service back into the council. Cabinet felt it would enable savings to be made by eliminating the cost of governance of the ALMO and further improvements to services by closer alignment to the delivery of services and improvement programmes within the council.

Alternative options considered and rejected

To continue with the provision of council housing services through Hillingdon Homes without reviewing it.

Officer to Action:

Neil Stubbings, Adult Social Care, Health & Housing

71. LOCAL IMPLEMENTATION PLAN 2010/11 - FUNDING SUBMISSION TO TRANSPORT FOR LONDON

RESOLVED:

That Cabinet:

- 1. Approves the Local Implementation Plan funding submission for 2010-2011 to Transport for London as attached in the Appendix to the report.**
- 2. Authorises the Director of Planning and Community Services in conjunction with the Cabinet Member for Planning and Transportation to approve the final details of Local Implementation Plan schemes.**

Reasons for decision

The Local Implementation Plan (LIP) funding submission is an essential process for procuring external funding for transportation projects and initiatives to benefit the Borough. Cabinet approval was given to submit the LIP funding bid in compliance with Transport for London's (TfL) requirements. This year, TfL required the submission to be made by the 21 September 2009, however it had agreed a discretionary time extension for Hillingdon until the Cabinet had made its decision.

Alternative options considered and rejected

Cabinet could have decided not to submit a funding submission to TfL and areas for improvements to road safety, the highway network, accessibility and public transport would not have been achieved, with a significant impact on the residents and businesses in the Borough. Cabinet could have revised the bids within TfL's total allocations for the Corridors, Neighbourhood and Smarter Travel allocations respectively.

Officers to Action:

Bob Castelijjn / Jales Tippell, Planning & Community Services

72. FORMER NATIONAL AIR TRAFFIC SERVICES (NATS) SITE, PORTERS WAY, WEST DRAYTON - SUPPLEMENTARY PLANNING DOCUMENT

RESOLVED:

That the Cabinet:

- 1. Notes the comments received during the consultation period.**
- 2. Approves the amendments made to the draft Supplementary Planning Document for the former National Air Traffic Services site, Porters Way, West Drayton.**
- 3. Adopts the Supplementary Planning Document (SPD) for the purposes of development management, along with the accompanying documents, the Sustainability Appraisal and the Summary of responses to the consultation on the draft SPD.**
- 4. Grants delegated authority to the Director of Planning and Community Services to approve any minor amendments or corrections of a factual**

nature, to the Supplementary Planning Document before it is formally published.

Reasons for decision

The purpose of the Supplementary Planning Document (SPD) was to provide planning guidance for the future use and development of the former National Air Traffic Services (NATS) site, at Porters Way, West Drayton, along with the adjoining site owned by Council. The former NATS site had been acquired by Inland Homes, who intend to redevelop it. The Porters Way Supplementary Planning Document (SPD) 2005, which covered the site, is considered to be out of date, given the number of legislative and policy changes since 2005, and needs to be updated. Cabinet approval was therefore given for the adoption of the Supplementary Planning Document (SPD) for the site that has been revised following public consultation on the draft document.

Alternative options considered and rejected

Cabinet could have decided not to adopt the SPD. This would have restricted the Council's ability to influence redevelopment of the site and may have affected the ability to achieve wider planning, community and sustainability goals.

Officers to action:

Stephen Timms / Jales Tippell, Planning & Community Services

73. 'ACCESSIBLE HILLINGDON' SUPPLEMENTARY PLANNING DOCUMENT

RESOLVED:

That Cabinet:

- 1. Approves for consultation purposes the proposed revisions to the Accessible Hillingdon Supplementary Planning Document, and the associated Sustainability Appraisal, as contained in Appendices 1 and 2 of this report.**
- 2. Instructs officers to undertake a six week consultation period with stakeholders in accordance with the Council's Statement of Community Involvement and to bring a report on the consultation response to a future Cabinet meeting.**

Reasons for decision

The original Hillingdon Design and Accessibility Statement (HDAS) document 'Accessible Hillingdon', was compiled between July 2004 and 2005. Since its adoption in July 2006, there had been considerable developments in good practice regarding accessibility issues. A revised document was written and reported to Cabinet in September 2008, however with the appointment of a new Access Officer,

the document had been revised, to include more illustrations and a simplified text to make it easier to use.

Cabinet approved the document and also the accompanying Sustainability Appraisal, which provided an indication of the current accessibility of the Borough's buildings and a rigorous examination of the legislative, policy and data collection context for the document.

Alternative options considered and rejected

None

Officers to action:

Charmian Baker/Ali Kashmiri, Planning & Community Services

74. FUNDING CONTRIBUTION FOR PLANNING APPLICATIONS ASSOCIATED WITH HEATHROW AIRPORT

RESOLVED:

That Cabinet:

- 1. Accepts the offer of a funding contribution from BAA in accordance with the provisions of Section 93 of the Local Government Act 2003 and Section 139 of the Local Government Act 1972.**
- 2. Agrees that the offer be accepted on the basis that it is without prejudice to the Council's continued opposition to the third runway and contention that the Government support for it is unlawful.**

Reasons for decision

Cabinet was aware that historically, airport planning proposals often impose large costs on the Council as they commonly involve developments that are major, complex, and require specialist knowledge. Often, work associated with proposals takes place over a number of years and requires multi agency working.

The Government's decision on the third runway in January this year still stood until quashed by the Courts and Officers would have to undertake certain statutory obligations that would be an inevitable consequence of this decision. This would include the having a third runway option within the core strategy and fulfilling statutory responsibilities and representing the interests of residents in relation to any development consent order procedure initiated by BAA for the third runway under the Planning Act 2008.

Cabinet therefore agreed that BAA's funding contribution be extended for a further year. Cabinet made it clear that any work associated with the legal challenge would be excluded from any funding contribution. **Most importantly, Cabinet agreed that any funding contribution accepted, would be without prejudice to the**

Council's opposition to the third runway and contention that the Government support for it is unlawful.

Alternative options considered and rejected

The Cabinet could have refused the gift from BAA. This would not have been in the best interests of the local communities or the Council. Cabinet could have requested changes to the proposed gift from BAA however it would have been unlikely to increase any offer. However, Cabinet noted that there was an opportunity to seek additional funding should it be required.

Officer to action:

Aileen Carlisle, Planning and Community Services

75. CONSERVATION MANAGEMENT PLAN FOR EASTCOTE HOUSE GARDENS

RESOLVED:

That Cabinet authorises officers to tender for a Conservation Management Plan, to form the basis of a bid for Heritage Lottery Funding for the refurbishment, conversion and interpretation of the listed buildings and park at Eastcote House Gardens for community use.

Reasons for decision

Cabinet noted that the listed buildings at Eastcote House Gardens comprised the former Coach House, Dovecot and Walled Garden. They were all included on the Statutory List of Buildings of Special Architectural or Historic Interest, and within the Eastcote Village Conservation Area. The buildings had been in Council ownership for many years and were in need of significant repair work. The tenants of the Coach House, the Eastcote Billiards Club, were no longer able to fulfil their obligations relating to the repairing lease, and its intermittent use was encouraging vandalism. The Coach House had been included on the Heritage at Risk Register, published by English Heritage.

Cabinet considered that the situation was now critical with regard to the repair and re-use of the buildings, that the site represented a much under-used community facility, and that an application for external funding to the Heritage Lottery Fund, supported by a Conservation Management Plan, was the only realistic solution. The Council was supported in this view by Ward Councillors, the local MP, English Heritage and the Friends of Eastcote House Gardens.

Cabinet authorisation was therefore given to proceed with proposals to secure the long term future of the site and its buildings for educational and community use.

Alternative options considered and rejected

Cabinet could have decided not to agree the recommendation, in which case the buildings would have fallen into such disrepair that they may have become unusable and at risk of collapse, or loss, through vandalism.

Officer to action:

Charmian Baker/Sarah Harper, Planning and Community Services

76. GOVERNMENT'S PLANNING ACT 2008 - CONSULTATION ON EXAMINATION PROCEDURES FOR NATIONALLY SIGNIFICANT INFRASTRUCTURE PROJECTS

RESOLVED:

That Cabinet:

- 1. Notes the contents of this report regarding the Government's Planning Act 2008 Consultation on Examination Procedures for Nationally Significant Infrastructure Projects.**
- 2. Notes the potential financial burden that these procedures place on the local planning authority in relation to R3.**
- 3. Endorses the response to the Government on its Planning Act 2008 Consultation on the Examination Procedures for Nationally Significant Infrastructure Projects as set out in Appendix 1, for submission to the Government.**

Reasons for decision

Cabinet noted that this was the third in a series of consultations on the operation of the newly formed Infrastructure Planning Commission under the Planning Act 2008.

Under the provisions of the new Act, promoters of certain large scale schemes would be able to submit a development consent order to the Infrastructure Planning Commission, who would determine it in most cases, rather than local planning authority as at present. Cabinet were aware that the Third Runway at Heathrow could be the first of the proposals within Hillingdon to be considered under this new regime.

Cabinet approved the consultation response because the new Act had significant implications for the level of influence that local councils and communities would have on future developments within their areas. Cabinet also wished to draw to the Government's attention its concerns that the examination process does not place an unreasonable financial burden on the local planning authority.

Alternative options considered and rejected

Cabinet could have agreed the response to the Government in part or made no response.

Officer to action:

Aileen Carlisle, Planning and Community Services

77. QUARTERLY MONITORING REPORT FOR 2009/10 COUNCIL PLAN, LOCAL AREA AGREEMENT, PERFORMANCE AND ACHIEVEMENTS (Q1)

RESOLVED:

That Cabinet:

- 1. Notes the progress made to date on the Council Plan;**
- 2. Notes the progress made on the LAA 2008 and the performance reward grant section of the LAA 2007;**
- 3. Notes the progress made in performance within the local performance framework;**
- 4. Notes the progress of the Residents Survey;**
- 5. Notes achievements across the council.**

Reasons for decisions

Cabinet received a report setting out the progress made by officers in implementing the Council Plan across the Council. It also provided a corporate overview of progress against the Local Area Agreement (LAA), the Council's performance, Residents Survey and Achievements across the council.

Alternative options considered and rejected

Cabinet could have chosen to instruct officers to take further action or not.

Officers to action:

Susie Kemp/Ian Edwards, Deputy Chief Executive's Office

78. QUARTERLY MONITORING REPORT ON THE SUSTAINABLE COMMUNITY STRATEGY 2008-2018 WORK PROGRAMME (Q1)

RESOLVED:

That Cabinet notes the progress made to date on the tasks identified to deliver the Sustainable Community Strategy.

Reason for decision

Cabinet received a report setting out the progress made by officers in implementing the Sustainable Community Strategy across the Local Strategic Partnership.

Alternative options considered and rejected

Cabinet could have chosen to instruct officers to take further action or not.

Officer to action:

Ian Edwards, Deputy Chief Executive's Office

79. QUARTERLY REPORT ON MONITORING OF PLANNING OBLIGATIONS

RESOLVED:

That the Cabinet notes the updated financial information attached to the report.

Reasons for decision

Circular 05/05 and the accompanying best practice guidance requires local planning authorities to consider how they can inform Members and the public of progress in the allocation, provision and implementation of obligations whether they are provided by the developer in kind or through a financial contribution. Cabinet noted the report which detailed the financial planning obligations held by the Council and what progress had, and was, being made.

Alternative options considered and rejected

To not report to Cabinet. However, Cabinet believed it was an example of good practice to monitor income and expenditure against specific planning agreements.

Officer to action:

Nicola Wyatt, Planning and Community Services

80. COUNCIL BUDGET - MONTH 4 2009/10 REVENUE AND CAPITAL MONITORING

RESOLVED:

That Cabinet:

- 1. Note the forecast budget position for revenue and capital as at Month 4.**
- 2. Agree to earmark £694k from balances brought forward for potential business efficiency investment as a result of the £12m target level of balances having been exceeded in 2008/09 at year-end.**
- 3. Vire the capital budget of £250k for CCTV from Environment & Consumer Protection to Planning & Community Services to align the management and budgetary responsibilities for this programme.**
- 4. Note the treasury management update in Appendix B.**

5. Note the National Value for Money Indicator (NI179) 2008/09 actual submission and the progress towards the cumulative 3% p.a. efficiency target by 2010/11 as set out in Section C of the report.
6. Agrees that the Council make an additional grant of £20,000 to Hillingdon Homestart for the 2009/10 financial year. The cost will be met from the strike fund savings brought forward in earmarked balances from 2008/9.

Reasons for decisions

Cabinet received a report setting out the council's overall 2009/10 revenue & capital position, as forecasted at the end of Month 4 (July) and made decisions on the allocation or movement of various monies.

Alternative options considered and rejected

None.

Officer to action:

Paul Whaymand, Finance and Resources

Urgency Provisions

This report had been circulated less than 5 working days before the Cabinet meeting and was agreed by the Chairman to be considered as urgent.

81. ACCEPTANCE OF TENDER FOR TERM CONTRACT 33 - ERECTION AND RENEWAL OF STREET FURNITURE

RESOLVED:

That Cabinet:

1. Agree that the Term Contract for the provision of Term Contract Schedule 33 (Erection and Renewal of Street Furniture) be awarded to Cyril Smith (Fencing) Limited.
2. Agree that the Term Contractor is to provide the service for an initial period of three years, commencing on 14 October 2009, with the possibility of extending the Contract on an annual basis for a further 2 years, depending on Contractor performance.
3. Instruct Officers to ensure that all expenditure against this term contract is approved by way of a formal Cabinet Member decision jointly made by the Leader of the Council and Cabinet Member for Finance and Business Services.

Reasons for decision

Cabinet were aware that the Council was statutorily required to maintain highways maintainable at public expense and to take such care as is reasonably required to secure the safety of the highway for traffic. Cabinet therefore approved to have a Term Contractor available to carry out the erection and renewal of street furniture as and when required by the Council.

Cabinet approved the recommendation put forward by officers because the successful tenderer was able to satisfy the Officers that they had the capability and capacity to work in partnership with the Council to achieve best value in the provision of the erection and renewal of street furniture. Cabinet also requested any expenditure be made by way of a formal Cabinet Member decision.

Alternative options considered and rejected

Cabinet could have agreed not to appoint a tenderer which would have left the Council without a contractor for the provision of the erection and renewal of signs and street furniture.

Officer to action:

Jonathan Westell and Stuart Foulstone, Environment and Consumer Protection

Exempt Information

This report was included in Part II as it contained information relating to the financial or business affairs of any particular person (including the Authority holding that information) and the public interest in withholding the information outweighed the public interest in disclosing it (exempt information under paragraph 3 of Part 1 of Schedule 12A to the Local Government (Access to Information) Act 1985 as amended.

82. LONGMEAD PRIMARY SCHOOL - APPROVAL TO APPOINT THE MAIN CONTRACTOR FOR AN EXTENSION TO THE EXISTING PRIMARY SCHOOL

RESOLVED:

That Cabinet:

- 1. Approve the Major Construction Project Team's recommendation, in agreement with the LEA, to award the construction contract to Priory Gate, who are the proposed contractor offering best value.**
- 2. Note and agree that the analysis contained within this report recommends the approval and acceptance of the tender from Priory Gate Construction for a contract value not exceeding £1.547m and additional approval for provisional sums for School Furniture, IT equipment and Project Contingency giving a total of £2.285m as detailed in Table 4 within this report.**

Reason for decision

Cabinet agreed to award a construction contract to a suitably qualified and experienced contractor to construct a 2-storey extension building and extension to the existing school and a library to be used for the expansion of Longmead Primary School. In doing so, Cabinet were aware that the Major Construction Projects Team, in conjunction with the Local Education Authority (LEA), had assessed the tenders and agreed that the tender submitted by Priory Gate Construction provided best value to the Council.

Alternative options considered and rejected

Cabinet could have decided not to proceed with the construction phase of the project and external funding for this project would have been lost. The school would also not have been able to provide the need for additional primary school places in the West Drayton area and the standard of accommodation that the school's staff and pupils require would have suffered.

Officers to action:

Bill King & Graham Davies, Deputy Chief Executive's Office

Exempt Information

This report was included in Part II as it contained information relating to the financial or business affairs of any particular person (including the Authority holding that information) and the public interest in withholding the information outweighed the public interest in disclosing it (exempt information under paragraph 3 of Part 1 of Schedule 12A to the Local Government (Access to Information) Act 1985 as amended).

83. APPLICATION TO STOP UP ADOPTED HIGHWAY LAND

This item was deferred to the next Cabinet meeting on 15th October.

84. LAND ADJOINING NEW YEARS GREEN LANE CIVIC AMENITY SITE, HAREFIELD

Before Cabinet commenced discussion on this item, Cllr Jonathan Bianco, on behalf of the Cabinet, asked for the thanks and best wishes of the Council to be placed on public record for Pat Holmes, Estates and Valuation Manager and Martin White, Corporate Property Manager, who were shortly to retire after their dedicated service to the Council over many years.

RESOLVED:

That Cabinet agree the following recommendations:

1. That the Council makes an application to the Secretary of State for Communities and Local Government under the provisions of the Green Belt (London and Home Counties) Act 1938 to appropriate the land, shown edged black on the plan UXB 1070 and dated 08.05.2009, by way of a change of use from agriculture to civic amenity use.
2. That the Director of Planning and Community Services be given delegated authority to -
 - (a) make an application to the Secretary of State in consultation with the Cabinet Member for Finance and Resources; and
 - (b) release into the public domain the extracts of this report which are in the Director's view necessary to prepare and make the application to the Secretary of State.
3. That Cabinet notes that before making an application to the Secretary of State an advertisement by way of public notice is to be placed in a local paper for a period of two consecutive weeks seeking comments or objections.

Reasons for recommendations

In order to carry out the proposed extensions to the Civic Amenity site Cabinet agreed to make an application under the relevant Act to obtain the Secretary of State's consent to change the use from farmland to civic amenity use. Cabinet was aware that as part of this process, prior to making the application, was the need to advertise the intention in a local paper circulating in the area for a period of two weeks to seek any comments on the proposal.

Alternative options considered and rejected

None, however Cabinet was informed that if the land required for the extension proposal did not receive the Secretary of State's consent to a change of use then any investment in the new facilities could not proceed.

Officers to action:

Pat Holmes / Gerry Edwards, Finance & Resources

Exempt Information

This report was included in Part 2 as it contained information relating to the financial or business affairs of any particular person (including the Authority holding that information) – and information in respect of which a claim to legal professional privilege could be maintained in legal proceedings - and the public interest in withholding the information outweighed the public interest in disclosing it (exempt information under paragraphs 3 and 5 of Part 1 of Schedule 12A to the Local Government (Access to Information) Act 1985 as amended).

Urgency Provisions

This report had been circulated less than 5 working days before the Cabinet meeting and was agreed by the Chairman to be considered as urgent.

85. PROVISION OF A TEMPORARY ICE RINK AND CHRISTMAS MARKET 2009

RESOLVED:

That Cabinet:

- 1. Notes the contents of the report and agrees to the provision of the 2009 Uxbridge Ice Rink subject to costings and assumptions being in line with this report;**
- 2. Instructs Officers to undertake a procurement exercise to secure the most economically advantageous price for the provision of the Ice Rink and place a deposit to book the supplier;**
- 3. Authorise Officers to prepare and submit a planning application for the 2009 Uxbridge Ice Rink and Christmas Market;**
- 4. Agree to levy the prices as indicated in the body of the report which are in line with those charged in 2008; and additionally to include within the pricing structure, free use by designated Carers;**
- 5. Agree to withdraw the exempt nature of relevant parts of the report solely for Officers of the Council to use to provide public information about this initiative and for other related purposes.**

Reasons for decision

Cabinet gave consent to officers to procure and progress an outdoor temporary ice rink and Christmas Market for the 2009 Christmas season at the Civic Centre, Uxbridge.

Cabinet were reminded that last year the initiative attracted over 13,000 visitors, school parties and other voluntary groups. In agreeing the pricing structure, Cabinet sought to recognise the valuable role played by Carers and as such moved that free use be granted in this respect.

At the meeting, the Cabinet also resolved to withdraw the exemption status of this report purely for Council Officers to undertake publicity and related activities.

Alternative option considered and rejected

Cabinet could have decided not to provide the Ice Rink as part of its annual calendar of events and it rejected this because there was a compelling argument to meet public expectations of providing the event again in 2009.

Officers to action:

Jean Palmer / Mohamed Bhimani, Planning & Community Services

Exempt Information

This report was included in Part II as it contained information relating to the financial or business affairs of any particular person (including the Authority holding that information) and the public interest in withholding the information outweighed the public interest in disclosing it (exempt information under paragraph 3 of Part 1 of Schedule 12A to the Local Government (Access to Information) Act 1985 as amended.

Urgency Provisions

This report had been circulated less than 5 working days before the Cabinet meeting and was agreed by the Chairman to be considered as urgent.

86. OTHER ITEMS WHICH THE CHAIRMAN DECIDES ARE RELEVANT OR URGENT

No further items were considered and the meeting closed at 7.50pm.

THE ABOVE DECISIONS MADE BY THE CABINET DO NOT COME INTO EFFECT UNTIL 5PM, FRIDAY 2ND OCTOBER, UNLESS CALLED-IN BY THE EXECUTIVE SCRUTINY COMMITTEE. MEMBERS AND OFFICERS WILL AUTOMATICALLY BE NOTIFIED OF ANY CALL-IN.

INTERIM REPORT OF THE CORPORATE SERVICES & PARTNERSHIPS POLICY OVERVIEW COMMITTEE ON THE IMPACT OF A PANDEMIC IN HILLINGDON AND THE EFFECTS ON COUNCIL SERVICES

Cabinet Members	Councillor Ray Puddifoot Councillor Douglas Mills Councillor Scott Seaman-Digby
Cabinet Portfolios	Leader of the Council Cabinet Member for Improvement, Partnerships & Community Safety Cabinet Member for Co-ordination & Central Services
Officer Contact	Khalid Ahmed, Democratic Services, Deputy Chief Executive's Office
Papers with report	None

HEADLINE INFORMATION

Purpose of report	Given the expected re-emergence of Swine Flu, the Corporate Services & Partnerships Policy Overview Committee has speedily brought forward an interim report with initial recommendations to improve the Council's proactive response to a pandemic.
Contribution to our plans and strategies	Corporate Business Continuity and delivery by staff of the Council Plan and Draft Civil Protection Policy.
Financial Cost	There are no direct financial implications arising from the recommendations set out in this report.
Relevant Policy Overview Committee	Corporate Services & Partnerships Policy Overview Committee.
Ward(s) affected	All.

RECOMMENDATIONS

1. That Cabinet ask officers to consider, if feasible, the following initial recommendations of the Corporate Services & Partnerships Policy Overview Committee which relate to their review into the effects of a pandemic in Hillingdon and the effects on Council services:
 - a) That a skills and knowledge audit be undertaken of the Council's workforce to build up a computerised database. This information to include details about staff who have been vaccinated against the swine flu virus, those who have had swine flu, those with children and childcare responsibilities, those staff who were front line staff and those that come into contact with the public.
 - b) That enhancements be considered to the Council's Constitution to provide further contingency arrangements for the decision making processes of the Council, in consultation with the Leader of the Council.
 - c) In order to mitigate the impact of a major pandemic, officers ensure that business and continuity plans are in place at all educational and care establishments operating within the borough. This includes but is not limited to playgroups, nurseries, schools, further education and higher education establishments as well as social care homes.
2. That progress on implementing the above is reported back to Cabinet as and when the Policy Overview Committee submits its final report.

INFORMATION

Reasons for recommendation

The POC's review has been undertaken to ensure that the Council has business and continuity plans in place to ensure that there is minimum disruption to the Council's services in the event of a major pandemic. The interim report contains recommendations which need to be urgently implemented to enable the Council to be prepared for a possible increase in the number of staff affected by the swine flu pandemic

Alternative options considered / risk management

The alternative option would be for the Council not to put in place any continuity and business plans for the potential increase in the numbers affected by the swine flu pandemic.

Comments of Policy Overview Committee(s)

The report has been commissioned by the Corporate Services & Partnerships Policy Overview Committee which has been undertaking a review into the effects of a pandemic on Council services.

Supporting Information

1. Background

- 1.1 The Corporate Services & Partnerships Policy Overview Committee commenced a review into the effects of a pandemic on Council services at their meeting on 7 July 2009. The aim of the review is to look at how the Council has prepared for a pandemic in terms of the effects on Council services, including schools and further education establishments.
- 1.2 The Government has judged that one of the highest current risks to the UK is the possible emergence of a human influenza pandemic – that is the rapid worldwide spread of influenza caused by a novel virus to which people would have no immunity, resulting in serious harm to human health, and wider social and economic damage and disruption.
- 1.3 As Members will be aware large areas of the world has been affected by a swine flu pandemic, which originated in Mexico. The first wave of the pandemic has not resulted in huge numbers of people in this country being affected but projections from the Department of Health and the Cabinet Office indicate that a second wave of the flu pandemic may result in a greater number of people being affected.
- 1.4. Department of Health planning assumptions which provided details of the potential effects of the infection indicate that the stand out figures were that the projected case fatality rate was up to 0.1% of clinical cases.¹ The projection as reported by a representative of Hillingdon Primary Care Trust at a meeting of the POC on 8 September was that 700 plus people in the Borough would end up in hospital.

2. Evidence

- 2.1 At the POC's first two witness sessions, the focus has been on the business and continuity plans that the Council already have in place in the event of a major pandemic. Evidence was heard from the Council's Civil Protection Manager, the Head of HR, the Head of Democratic Services and the Head of Resources, Policy and Performance from Education & Children's Services.
- 2.2 Members were made aware that the Council had been planning for a pandemic for a number of years, both at a local and a pan-London level. Discussion took place around the disruption to Council services which a major pandemic would cause in terms of staff absence due to sickness, staff having child care responsibilities, staff who were carers, and the impact this would have on the Council's delivery of services, particularly to the most vulnerable in society.

3. Recommendations

- 3.1 Members at their first two witness sessions have agreed three initial recommendations for the review and comments on their feasibility for implementation are included as follows:
- 3.2 **Recommendation 1: *That a skills and knowledge audit be undertaken of the Council's workforce to build up a computerised database. This information to include details about staff who have been vaccinated against the swine flu virus, those who have had swine flu, those with children and childcare responsibilities,***

¹ Cabinet Office Department of Health – Swine Flu UK Planning Assumptions – 3 September 2009

those staff who were front line staff and those that come into contact with the public.

- 3.3 The Head of Human Resources has discussed with the officer Strategic Pandemic Influenza Group the best way of assembling the information required to undertake a skills audit. Members may wish to note that work is already taking place across the Council to identify key skill areas. Individual departments also hold such information.

Human Resources already collects data on swine flu cases swiftly and it is also feasible that data on those vaccinated can be collated when the vaccination programme starts in earnest.

In terms of a central database, the current HR/Payroll system (Resourcelink) as it has been configured for Hillingdon does not have a means for recording employee skills, vaccinations, childcare responsibilities and those staff who are front line at the present time.

The Head of Human Resources has therefore concluded that the most appropriate means of gathering the information required, without additional resource implications, would be by way of using existing data bases across the Council.

Members may also like to note that in addition to this, the Civil Protection Service have now provided a list of skills relevant to the need to maintain priority services. Work is now proceeding to identify information sources that would enable the Council to draw up a list of actual employees possessing the skills required.

- 3.4 ***Recommendation 2: That enhancements be considered to the Council's Constitution to provide further contingency arrangements for the decision making processes of the Council, in consultation with the Leader of the Council.***

- 3.5 This recommendation arose as a result of discussion around the pandemic affecting the Council's decision making framework. For example if the swine flu pandemic affected Councillors, the attendance at meetings could create a problem. The Constitution at present states that the quorum for meetings be as follows:

- Council meetings, the quorum of a meeting will be $\frac{1}{4}$ of the whole number of Members
- Committee meetings, the quorum of a meeting will be $\frac{1}{3}$ of the whole number of Members of the body concerned or 3 Members of the Committee whichever is the greater
- Audit Committee the quorum shall be 4 Members of the Committee
- The Cabinet, the quorum is $\frac{1}{4}$ of the total number of Members of the Cabinet, or 4, whichever is the larger
- For Policy Overview Committees and Scrutiny Committees the quorum shall be half of the whole number of the Committee

- 3.6 In addition in relation to the Cabinet, as circumstances require and to cover planned and unplanned absences, the Leader may assign Cabinet portfolio responsibilities from one Cabinet Member to another. Under the Scheme of Delegation for Cabinet Members, the Deputy Leader deputises for the Leader in his absence.

- 3.7 The above provisions are adequate for most eventualities, but in extreme emergencies, such as, if there is a major pandemic, further emergency measures are needed to be put in place to ensure the primary business of the Council can be conducted. Officers should be asked to investigate this, in consultation with the Leader of the Council, and provision should be made in the Constitution.
- 3.8 Members may like to note that in Democratic Services a comprehensive Business Continuity Plan has already been put in place in the event of a major incident affecting the Civic Centre. The plan provides for the fast cascade of information and actions to Councillors and staff, contains full contact details for everyone and lists in detail the human and physical resource requirements for the service, if it needs to either be temporarily relocated or set up again from scratch. Such a plan will enable the service to continue to provide support to the decision-making, committee and support functions critical to the Council. Managers in Democratic Services also hold the plan at their home or other address away from the Civic Centre for obvious reasons.
- 3.9 ***Recommendation 3: To mitigate the impact of a major pandemic, officers ensure that business and continuity plans are in place at the Borough's educational and care establishments. This includes but is not limited to playgroups, nurseries, schools, further education and higher education establishments as well as social care homes.***
- 3.10 Particular concern has been expressed with regard to the possible second wave of swine flu which may result in an increased number of cases of people affected. Special mention was made of the impact this would have on educational and care establishments, in terms of children and those people being cared for, but also in terms of the repercussions this would have on teaching staff, social care staff, working parents of those children who are affected and so on.
- 3.11 Members at their meeting on 8 September were informed that Education and Children's Services Department provided guidance and leadership to the Borough's schools and children's homes. Information was provided on the Department's website which included information on business continuity. Work was taking place with the Communications Team and the Civil Protection Team on devising a template for schools to produce their business and continuity plans. However the Corporate Services & Partnerships feel that this should be given the highest priority to ensure that the effects of a pandemic can be mitigated.
- 3.12 Areas which should be included in business and continuity plans are:
- Agreed roles and responsibilities
 - A list of minimum staffing requirements to ensure the provision of the establishment's services
 - Essential work which would be required to continue
 - Which work was of a lesser priority which could be reduced during a pandemic or even not be carried out
 - Is there agreement on communication processes
- 3.13 Additionally in relation to individuals, have these organisations undertaken a skills and knowledge audit to ensure essential services are covered if staff are off sick This to include:
- Cover arrangements
 - A list of staff contact details

- Those staff with childcare or care responsibilities
- Working arrangements if there were transport disruptions
- Flexible working policies i.e. home working, remote working

3.14 Officers are currently revisiting the Council's Civil Protection Policy and it is recommended that the above recommendations are reflected in this.

4. Conclusion

4.1 The POC's review into the effects of a pandemic will produce a final report by the end of the calendar year but because of the likelihood of a second wave of the swine flu pandemic and the importance of putting into place plans to mitigate its impact, the POC has asked that Cabinet consider three interim recommendations which are important for the continuation of Council services.

Financial Implications

There are no direct financial implications arising from the recommendations set out in this report.

EFFECT ON RESIDENTS, SERVICE USERS & COMMUNITIES

What will be the effect of the recommendation?

The implementation of the recommendations will ensure that the Council is prepared should the swine flu pandemic seriously impact on the Council's workforce. Putting in place business and continuity plans will limit the effects the pandemic would have on the delivery of Council services and its impact on service users, particularly the most vulnerable.

Consultation Carried Out or Required

Consultation has taken the form of the Corporate Services & Partnerships Policy Overview Committee hearing evidence from officers of the Council on the existing preparations which Council departments have in place if there is an upsurge in the cases of swine flu.

CORPORATE IMPLICATIONS

Corporate Finance

Corporate Finance is satisfied that there are no direct financial implications to the Authority, arising from the recommendations set out in this report.

Legal

There are no specific legal implications arising from this report.

BACKGROUND PAPERS

- Corporate Services & Partnerships Policy Overview Committee agenda – 23 July and 8 September 2009

REVIEW OF CONSERVATION AREAS IN NORTHWOOD

Cabinet Member	Councillor Keith Burrows
Cabinet Portfolio	Planning and Transportation
Officer Contact	Sarah Harper/ Nairita Chakraborty, Planning and Community Services
Papers with report	<ul style="list-style-type: none"> • Appendix 1 - Northwood- Frithwood Conservation Area: Proposed extension • Appendix 2 - Green Lane, Northwood: Proposed Conservation Area • Appendix 3 - Northwood-Frithwood Conservation Area: Information Leaflet (Large Print version to be available) • Appendix 4 – Northwood Town Centre, Green Lane Conservation Area: Information Leaflet (Large Print version to be available)

HEADLINE INFORMATION

Purpose of report	<ol style="list-style-type: none"> 1. To inform the Cabinet of the outcome of the recent consultations on the proposed extensions to the Northwood Frithwood Conservation Area, and the designation of a new Conservation Area within Northwood town centre. 2. To seek approval for extending the Northwood Frithwood Conservation Area and the formal designation of the Northwood Town Centre, Green Lane Conservation Area.
Contribution to our plans and strategies	Hillingdon's Emerging Local Development Framework Hillingdon Design & Access Statements Hillingdon Unitary Development Plan (Saved Polices 2007) Sustainable Community Strategy
Financial Cost	The production of the information leaflets and notification of residents and associated publicity will be approximately £1,700, which will be met from the budget for Planning and Community Services in 2009/10.
Relevant Policy Overview Committee	Residents' and Environmental Services Policy Overview Committee
Ward(s) affected	Northwood

RECOMMENDATIONS

That Cabinet:-

1. Approves the extension of the Northwood-Frithwood Conservation Area as shown on the map in Appendix 1.
2. Approves the formal designation of Northwood Town Centre, Green Lane Conservation Area, as shown on the map in Appendix 2.
3. Instructs officers to undertake the appropriate notification of residents and associated publicity within the extended and designated areas, as in recommendations 1 and 2 above.
4. Agrees the leaflets included in Appendix 3 and Appendix 4 for distribution to the residents, shopkeepers and other interested parties within the extended and designated areas, as in recommendations 1 and 2 above.

INFORMATION

Reasons for recommendation

During the period between July and August 2009, a public consultation exercise was carried out in the two proposed areas, the results of which have determined the above recommendations.

Alternative options considered

- Not to designate the Conservation Area: this would leave areas worthy of designation unprotected and Members and residents questions and concerns unaddressed.
- Not agree the proposed extension of the area, or the partial designation: this would leave areas identified as being of heritage significance unrecognised and unprotected.

Supporting Information

1. As part of the Council's ongoing programme of review of Conservation Areas in the Borough, a survey of the Northwood-Frithwood Conservation Area and the area around Northwood Town Centre, Green Lane, was undertaken during February-March 2009.
2. On 25th June 2009 Cabinet approved in principle the extension of the Northwood-Frithwood Conservation Area and the designation of Northwood Town Centre, Green Lane as a new Conservation Area. Public consultation within the two areas, as appropriate, was also approved.
3. Consultation with local residents, amenity groups and other interested parties was undertaken for the proposed areas during July and August of this year and this report sets out the responses to this exercise. The respective Ward Councillors were also

advised of the consultation. Cabinet approval is being sought for the extension of the Northwood-Frithwood Conservation Area and the designation of Northwood Town Centre, Green Lane as a new Conservation Area.

4. The consultation was carried out by way of a letter and information sheet. The latter included a map illustrating the boundaries of the proposed areas and an explanation of the implications of the designation. These were sent to every property within the proposed extension to the Northwood-Frithwood Conservation Area and also those within the proposed Northwood Town Centre, Green Lane Conservation Area. These documents were sent through the post and addressed to the individual properties to ensure that there would be minimal errors in delivery.

5. The results of the consultation are detailed below. The consultation response rate has been graded as low (0-5%), moderate (6-15%) or high (16% and over).

Northwood-Frithwood Conservation Area

Summary of Responses

6. There was positive support for the extension of the Conservation Area. In total 82 consultation letters were sent out and there was a relatively high response rate of approximately 27%. Of these, most supported the designation. The results are detailed in the table below:

Northwood-Frithwood	YES	YES with Comments	Total Yes	NO	NO with comments	Total NO	Other Comments	Total Response
Total letters sent: 82	11	6	17	1	4	5		22
			20.73%			6.09%		26.8%

7. A summary of the main comments and queries arising from the consultation are listed below:

- a) The majority of the respondents were very supportive of the proposal and commented that the area had a unique character that was worthy of preservation.
- b) Some residents commented that designation would prevent the loss of large houses and their subsequent development into flats.
- c) Whilst agreeing with the proposal, one resident commented that since modern properties like Viceroy Court had been included, Sentis Court, being older, should also be included within the area.
- d) Three residents disagreed with the inclusion of Cullera Close, and commented that the area was more modern compared to the rest of the Conservation Area, and as such, had no historic value.
- e) One of the residents objected strongly to the inclusion of Carew Road, commenting that the proposal would lead to reduced property prices and increased planning controls over alterations and extensions.
- f) Concerns were raised regarding “over grown” and “unmanaged” trees along Carew Road, which were considered to be affecting the foundations of properties, roads and underground services.

8. St Helen's School objected to the proposed inclusion of its school buildings and grounds within the Conservation Area. The School expressed concerns that the designation would impede its future development and that of its grounds. The School advised that in its view, the buildings form part of a larger institutional campus that does not relate to the residential character of the Conservation Area. The School disagreed that its grounds were the only open space within the Conservation Area, and indicated that the tennis courts and recreational grounds adjacent to Frithwood Primary School should also be considered. They also commented that the School's playing fields are largely screened by high hedges, and apart from the street frontage, they make little contribution to the Conservation Area. The School also indicated that, although not a planning matter, views into the playing fields should be restricted as this could lead to potential Child Protection issues.

Consideration of responses

9. Having considered the response from St Helen's School, and following meetings with the School's representatives, it is felt that the proposed extension should include Claremont, Little St Helen's School, The Gables on Green Lane, and Nos 4 and 6 Carew Road, as originally proposed. These are all fine examples of late Victorian and Arts and Crafts style buildings. Whilst now in use for educational purposes, these buildings, together with their historic plot layouts, are original to the early development of the area and are integral to its special interest. These have, therefore, been included within the proposed extension.

10. The comments made by the School regarding the inclusion of the playing fields and their contribution to the Conservation Area have been considered. The boundary has been revised to include only the street frontage to the playing fields and the original garden areas of the larger individual properties within the School campus.

11. The inclusion of some of the school buildings and grounds within the Conservation Area would not prohibit future developments or alterations. The Council, however, would require any proposals to contribute to the character and appearance of the area. Whilst there would be a presumption in favour of retaining buildings that made a positive contribution to the area, applications for replacement buildings and new development should take the area's special architectural and historic interest into account. Comments made by the School regarding a lack of detailed assessment of the site will be covered in more detail in a Conservation Area Appraisal.

12. Following the School's response regarding consideration of other open spaces within and adjacent to the Conservation Area, the boundary has been revised to include the tennis courts to the rear of Carew Road and Frithwood Avenue. Having studied the historic OS map regression in greater detail, it is felt that the grounds were developed during the early 20th century and formed part of the historic landscape and layout of the area.

13. Along Carew Road, nos 5 to 15 are the only remaining Arts and Crafts properties and are contemporary with those within the existing Conservation Area. These individual buildings merit protection, and should, therefore, be included within the extension. Although modern, Viceroy Court is a well designed development that reflects the architectural quality of the individual properties in the wider Conservation Area, and

contributes positively to its character. The replacement properties on Carew Road (Nos 1 and 3), provide continuity to the street scene and boundary of the Conservation Area and have, therefore, been included within the extension. Sentis Court, on the other hand, has little architectural value and forms a natural stop to the boundary of the proposed extension.

14. Whilst Cullera Close is a modern estate developed in the 1980s, it is considered that the unusual architectural style of the houses contribute positively to the overall quality of the area. It, therefore, warrants inclusion within the extended Conservation Area.

15. During consultation with other service groups, Highways and Green Spaces commented on the part inclusion of some of the Council owned recreation grounds at the rear of Carew Road. They also queried the exclusion of the open space opposite the embankments on Eastbury Road. The boundary has been revised to exclude the section of Council owned grounds to the rear of Carew Road. The open space at the entrance of Eastbury Road does not relate to the historic layout and suburban development of the area. It has, therefore, not been included within the Conservation Area.

Conclusion

16. Given the high level of support from the residents and the Residents Association, it is recommended that this extension is endorsed by the Cabinet. Considering the above, the proposed boundary has been revised as shown on the map contained in Appendix 1.

Northwood Town Centre, Green Lane

Summary of Responses

17. In December 2004 the Green Lane area of Northwood was recommended for designation as a Conservation Area. Following a poor response to the public consultation in 2005, Cabinet declined to endorse the area's designation. During the recent consultation, however, there was substantial support for the designation and most of those residents that responded welcomed the proposal. A total of 295 letters were sent to residents and shopkeepers. The level of response was relatively moderate at approximately 15% and the majority of these were in support of the designation. The results are detailed in the table below:

Northwood Town Centre, Green Lane	YES	YES with Comments	Total YES	NO	NO with comments	Total NO	Other	Total Response
Total letters sent: 295	21	13	34	5	7	12		46
			11.52%			4.06%		15.59%

18. A summary of the main comments and queries arising from the consultation are listed below:

- a. There was significant support for protecting the character of the area and in particular, certain buildings on High Street (Green Lane).
- b. One resident requested the inclusion of Dene Road within the Conservation Area as it included a number of listed buildings.

- c. Whilst agreeing with the proposal, one resident raised concerns over parking, street cleaning and litter problems on Maxwell Road, which he considered adversely affected the character of the area.
- d. Another resident suggested that the Green Lane car park, just outside the proposed Conservation Area, had a well landscaped street frontage and should also be included within the area.
- e. Some shop owners thought that the designation would adversely affect property prices and one of them commented that the designation would lead to “prohibitive planning permission”.
- f. Another business strongly disagreed with the proposal, and felt that the buildings did not have enough architectural or historic merit to warrant designation of a Conservation Area.
- g. One of the respondents thought that designation would lead to the limitation of internal and external illumination for advertisements.

19. Waitrose, located adjacent to Northwood Station, objected to the proposal. They commented that the building is modern, constructed in 1987, and ‘makes only a limited contribution to the quality and interest of the proposed conservation area as a whole’. They added that the associated car park does not make any contribution to the Conservation Area, and should be excluded. They also expressed concerns over the commercial viability of the store if designation resulted in added planning restrictions.

20. Northwood College agreed with the proposed designation and requested that the entire campus be included within the area. They commented that although the original building was purpose built in 1893, the campus included many other individual properties, some of which were houses converted to provide for the expanding institution, or much later purpose built structures. The school also explained that there were long term plans for its future development and inclusion of the entire site would recognise the importance of the campus as a whole. It would also provide consistency in conservation and design terms, when considering alteration or redevelopment proposals within the campus.

Consideration of responses

21. Some shop owners were concerned about restrictions on advertisements and shop front alterations. Whilst designation itself would not prohibit development, the Council would require the nature of advertising material, and the design and quality of shop fronts to harmonise with the architectural composition of individual buildings and contribute positively to the character and appearance of the Conservation Area. The Hillingdon Design and Accessibility Statement on Shop Fronts, adopted July 2006, provides detailed guidance to shop owners, traders and businesses on alterations to shop fronts and advice on choice of materials, illumination and advertisements. Paragraph 7.3 of this document states that ‘In Conservation Areas, the Council will want to make sure that materials, as well as style and detailed design (of shop fronts), are carefully chosen to retain the special character of the area’.

22. The proposed area includes only the Telephone Exchange on Dene Road, as this relates to the character of the proposed Conservation Area. On Green Lane, the existing car park, although well landscaped, does not link with the streetscape of the town centre. It has a strong identity of its own and lies beyond the proposed area. The boundary of this part of the proposed Conservation Area should, therefore, remain unchanged.

23. Subsequent to the response by Waitrose, the boundary in this part of the Conservation Area has been reconsidered. Whilst the building itself is modern and makes a limited contribution to the quality of architecture, it is felt that it fits well in the street scene and reflects the design and scale of the adjacent station building. Located on a prominent corner, the building follows the slope and curve of the street. Whilst the elevation fronting Green Lane is two storeys, the scale of the building is reduced considerably by the sweeping tiled roof. The building defines the boundary of the Conservation Area and is an important element in the street scene. It should, therefore, remain within the proposed boundary of the Conservation Area.

24. Waitrose car park is an integral part of the street scene of Murray Road. Any development, including public realm improvements, would have a considerable impact on the character and appearance of the area. It is, therefore felt that the boundary should include a section of the parking area fronting the street. The proposed boundary to this part of the Conservation Area has, therefore, been revised.

25. Following the response received from Northwood College, it is felt that the individual School buildings and associated grounds contribute positively to the architectural quality and character of the area. The boundary has, therefore, been revised to include the entire college campus.

Conclusion

26. Although there were a few respondents who opposed the proposal, the majority were in support of the designation. It is, therefore, recommended that this designation is endorsed by the Cabinet. The amended boundary is shown on the map contained in Appendix 2.

SUMMARY AND RECOMMENDATIONS

27. Advice from PPG15 (Planning Policy Guidance Note 15, 1994) states that “The greater public support that can be enlisted, the more likely it is that policies for the area will be implemented voluntarily and without the need for additional statutory controls.” The purpose of consulting the residents is to determine if there is sufficient support for the designation, and this has been demonstrated in this case.

28. Overall, the public consultation was successful and the Council received a number of positive responses. Whilst most supported the designation, a few residents and businesses expressed their concerns over added planning restrictions. Some residents also complained about parking problems, refuse collection, waste disposal and street scene improvements. These are not planning matters and have been forwarded to the relevant Departments within the Council. Following the consultation, it is recommended that:-

- a. The Northwood-Frithwood Conservation Area is extended as shown on the Map in Appendix 1.
- b. Northwood Town Centre, Green Lane is designated as a Conservation Area, as shown on the Map in Appendix 2.

Financial Implications

29. The advertisement cost in the local paper will be approx £700 and in the London Gazette will be £180. The cost of informing the residents of the decision will be approx £500 and cost of the production of the leaflets for occupiers within the areas concerned will be approx £300. The total cost will be £1,700 and it will be met from the 2009/10 budget for the group.

EFFECT ON RESIDENTS, SERVICE USERS & COMMUNITIES

What will be the effect of the recommendation?

30. The aims of the recommendations are to extend the Northwood-Frithwood Conservation Area and to designate a new Conservation Area within Northwood Town Centre, Green Lane. The residents and stakeholders within the area will be informed of the outcome of the consultation, and if agreed, the date of designation. They will also be advised of the increased planning controls resulting from designation, which include greater control over development, demolition and works to trees. A high quality of design, materials and workmanship will also be required for replacement structures and associated works. These are summarized in the information leaflets attached as Appendices 3 and 4.

Consultation carried out or required

31. The report includes the details of consultation.

CORPORATE IMPLICATIONS

Corporate Finance

32. A Corporate Finance Officer has reviewed the report and the financial implications within it, and is satisfied that the financial implications properly reflect the direct resource implications on the planning service and any wider implications for the Council's resources as a whole.

Legal

33. The designation of Conservation Areas is governed by the Planning (Listed Building and Conservation Areas) Act 1990. Section 69 of the Act gives the Local Authority power to 'designate areas of special, architectural or historic interest the character of which it is desirable to preserve or enhance, as conservation areas'. The Act does not prescribe a statutory requirement to consult prior to designation of a Conservation Area. Section 70 of the Act, however, sets out notification requirements once the Conservation Area has been designated. Under section 70 (5) of the act, the Local Authority must give notice of any designation of any part of their area as a Conservation Area (and of any variation or cancellation of such designation) to the Secretary of State and to the Historic Buildings and Monuments Commission for England. Section 70(8) prescribes that any designation, variation or cancellation must be published in the London Gazette and at least one newspaper circulating in the area of the Local Authority.

34. The designation of an area as a Conservation Area has several formal consequences:
- a. The demolition of most buildings requires the consent of the Local Authority (Section 74 of the Act).
 - b. Prior notification must be given to the Local Authority before works can be undertaken to most trees within the Conservation Area (section 211 of the town and country planning act 1990).
 - c. The Local Authority has a duty under Section 71 of the Act to formulate and publish proposals for the preservation and enhancement of the area.
 - d. The local authority has a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area in the exercise of their powers under the Planning Acts and Part 1 of the Historic Buildings and Ancient Monuments Act 1953 (Section 72).
 - e. Planning applications for development which would in the opinion of the Local Authority, affect the character or appearance of the Conservation Area must be given publicity under Section 67 of the Act and representations received must be taken into account in determining the application (Section 67 (7)).
 - f. Permitted Development Rights under the Town and Country Planning (General Permitted Development) Order 1995, as amended, are more restricted than in other areas.
 - g. The right to display certain types of illuminated advertisement without express consent under the Town and Country Planning (Control of Advertisements) Regulations 2007 is excluded.
35. The leading case on consultation is the High Court decision in R v Brent London Borough Council ex Parte Gunning (1985) 84 LGR 188. In **Gunning**, Hodgson J drew attention to four elements that should exist in the proper performance of a statutory duty to consult. The Council must be satisfied that:
- a. consultation took place at a time when proposals were still at a formative stage;
 - b. sufficient time was allowed for consideration and response; and,
 - c. that responses from the public were conscientiously taken into account in finalising the statutory proposal.

Relevant Service Groups

36. Relevant service groups have been consulted as part of the consultation process, and any comments have been taken into consideration. Comments from Highways and Green Spaces have been discussed in paragraph 15 of this report.

BACKGROUND PAPERS

- Cabinet report dated 25th June 2009
- Planning (Listed Buildings and Conservation Areas) Act 1990
- Planning Policy Guidance 15: Planning and the Historic Environment 1994
- London Borough of Hillingdon Unitary Development Plan Saved Policies, 27th September 2007

Appendix 1 - Northwood- Frithwood Conservation Area: Proposed extension



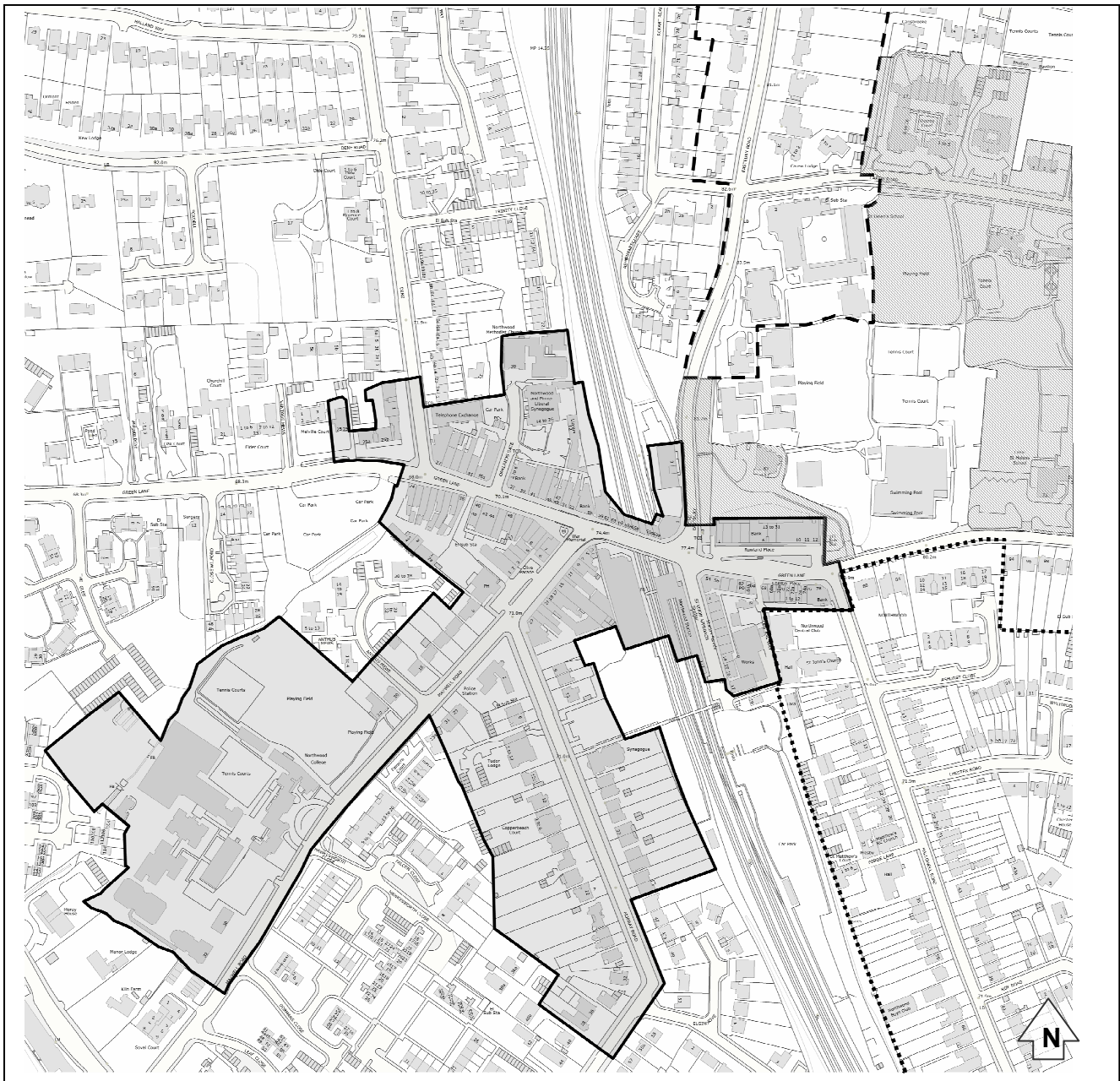
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- Existing Conservation Area boundary
- Proposed additions
- Borough Boundary

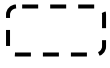
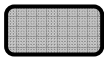




Proposed Extension: Northwood Frithwood Conservation Area

Appendix 2 - Northwood Town Centre, Green Lane: Proposed Conservation Area



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- | | | | | | |
|---|---|---|---|---|--|
|  | Existing Northwood Frithwood Conservation Area boundary |  | Proposed Northwood Town Centre, Green Lane Conservation Area |  | Old Northwood Area of Special Local Character |
|  | Proposed extension to Northwood-Frithwood Conservation Area boundary | | | | |



HILLINGDON
LONDON

Northwood Town Centre, Green Lane Proposed Conservation Area

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Demolitions

Conservation Area Consent is required for demolition work of a substantial nature, including demolition covered by unimplemented planning permissions. In general, consent will not be granted for the demolition of buildings, which make a positive contribution to the character or appearance of a Conservation Area.

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Chinese

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Urdu

میں نے اپنی زبان میں معلوم کرنا چاہتا ہوں کہ ہیلنگڈن کونسل کے سروسز کے بارے میں کیا ہے۔ اگر آپ ہیلنگڈن کونسل کی خدمات کے بارے میں مزید جاننا چاہتے ہیں تو براہ کرم 01895 250111 پر کال کریں۔

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Northwood- Frithwood Conservation Area



HILLINGDON
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What effect will designation have?

The Council's planning policies seek to preserve and enhance the architectural character and appearance of Conservation Areas, and to resist inappropriate development through the exercise of planning controls under the provision of the Town and Country Planning (General Permitted Development) Order 1995 (as amended). In these areas, normal 'permitted development' rights (permission granted automatically for certain works to single family dwelling houses) have been restricted, enabling more control over the size, design and location of extensions and alterations. The works over which there are greater controls are as follows:

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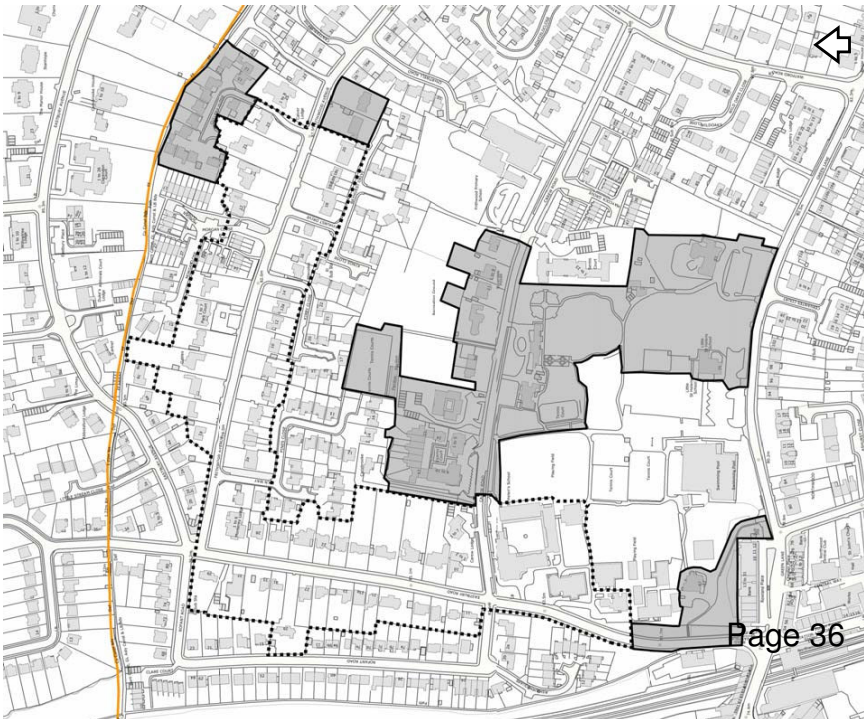
NORTHWOOD FRITHWOOD CONSERVATION AREA

The Northwood-Frithwood Conservation Area was designated in 1989 and is primarily characterised by large individually designed detached houses in the Arts and Crafts style. The estate was originally developed by Frank Carew following the arrival of the Metropolitan Railway in 1887. Developed during the late 19th Century, the houses have retained many of their original features and fabric. The later houses were designed by Architects CHB Quenell, Swanell and Sly and John Markham, a pupil of Lutyens. The roads are lined with mature trees and the landscaped gardens of the properties provide a green and leafy appearance to the streetscape of the area.

At the time of designation, the boundary of the Conservation Area was tightly drawn around those buildings with high visual quality and where there was continuity to the character of the street. In doing so, some houses on Carew Road and Green Lane were omitted despite their design and architectural quality. The boundary has, however, been revised in November 2009 to include those buildings and adjacent open spaces that are important to the character of the area and contribute positively to its setting. This also recognises the early stages of the development of the area.

Carew Road runs perpendicular to Eastbury Road and the houses are contemporary in period, scale and architecture with the properties within the existing Conservation Area. Although a few houses along Carew Road have been replaced with modern developments, the original individual buildings merit protection. The grounds of St Helen's School provide a green backdrop to the residential area and to the street scene of the area and the buildings include some of the earliest houses within the area.

North of Frithwood Avenue, Cullera Close is a recent development built in 1980s. It is a distinctive group of well designed properties, separated from the road by white painted brick walls with a slightly "hacienda-like" appearance. Their unusual style and interesting design warrant their inclusion within the extended area.



Northwood-Frithwood Conservation Area- 1989

Northwood-Frithwood Conservation Area- Extended November 2009 (Date of designation- ...November 2009)

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Page 37

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- design and nature of advertising material should contribute positively to the character and appearance of the area.

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Urdu

اگر آپ کو اپنے زبان میں معلومات حاصل کرنا چاہتے ہیں تو براہ کرم انگریزی والے والے کے سے، اپنی زبان میں تلفون کریں۔ اگر آپ ہنگامہ نوس کی خدمات کے لئے نزد سے گزارش کیجئے کہ وہ آپ کی طرف سے

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Northwood Town Centre, Green Lane Conservation Area



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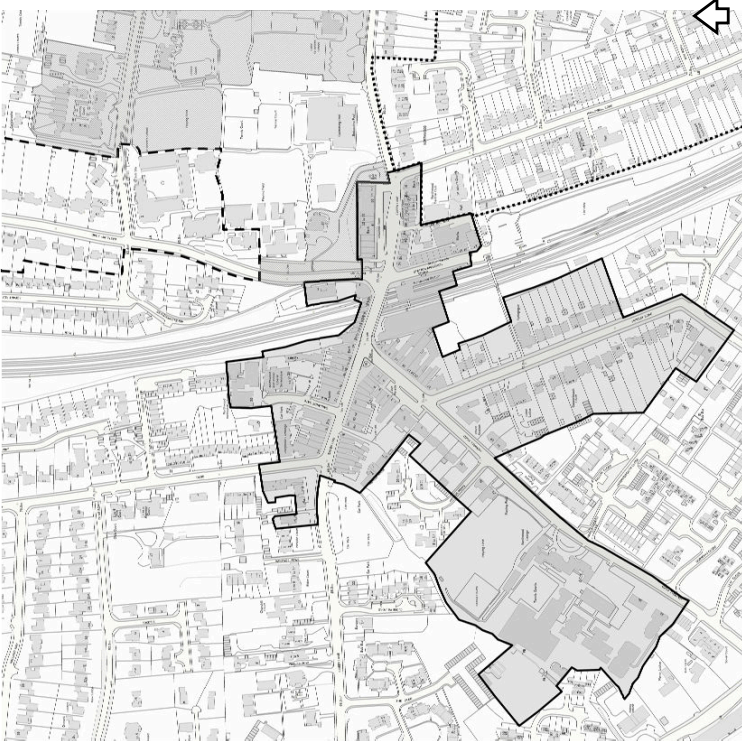
NORTHWOOD TOWN CENTRE, GREEN LANE CONSERVATION AREA

The Northwood Town Centre, Green Lane Conservation Area comprises the commercial core of the Northwood area and is located around the junction of Green Lane and Maxwell Road, along with the residential areas to the south. Green Lane was a quiet country road until the opening of Northwood Station in 1887. The arrival of the railway was the catalyst for growth and the whole of Green Lane had been sold for development by 1891. With the opening of the station, and the development of the suburbs, the area developed into a vibrant community with a variety of shops, two churches and a school.

Today, Green Lane is an important commercial centre and transport interchange. Most of the buildings within the Conservation Area are of a high quality design and include a variety of different architectural styles, such as Arts and Crafts, Neo Classical and 1930s Art Deco, all with very good decorative features.

There are a number of traditional shop fronts remaining within the area, some particularly fine bank buildings and a striking 3 storey former post office with stone detailing and glazed bricks to the street frontage. The police station on Murray Road is a rare and complete example of an Arts and Crafts building of this type, and is grade II listed. The main building of Northwood College located on Maxwell Road is a particularly attractive purpose built building by W. Gilbee Scott. Within the area there are also some unusual houses of eccentric design. These include features such as turrets, cranked gables and decorative plaster work.

The street scene within the town centre is generally of a very high standard, made more interesting by the topography of the area. Whilst there are some modern developments, the area nevertheless has a very strong character and an unusually high proportion of good quality commercial and public buildings.



Northwood town centre, Green Lane Conservation Area (Date of designation- ...November 2009)

Northwood-Frithwood Conservation Area

Proposed extension to Northwood-Frithwood Conservation Area- November 2009

Old Northwood Area of Special Local Character

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REGULATION OF INVESTIGATORY POWERS POLICY UPDATE

Cabinet Member	Councillor Scott Seaman-Digby
Cabinet Portfolio	Cabinet Member for Co-ordination and Central Services
Officer Contact	Beejal Soni, Deputy Chief Executive's Office
Papers with report	Appendix 1 – Regulation of Investigatory Powers Act Policy and Procedure Appendix 2 – Acquisition of Communication Data Policy

HEADLINE INFORMATION

Purpose of report	This report provides Members with and update to the Council's procedures with regard to the Regulation of Investigatory Powers Act 2000 (RIPA). This report also seeks approval for a revised policy and procedures on the exercise of the Council's powers under RIPA. This report further seeks approval for a policy with regard to the Acquisition Communications Data under RIPA.
Contribution to our plans and strategies	Does this report contribute to delivering any plan or strategy of the council, if so state which here.
Financial Cost	The revised policies set out in this report do not have any financial implications for the Council.
Relevant Policy Overview Committee	Corporate Services and Partnerships
Ward(s) affected	All

RECOMMENDATIONS

That Cabinet:

1. Approve the revised Regulation of Investigatory Powers Act 2000(RIPA) Policy and Procedures;
2. Approve the new Acquisition of Communication Data Policy;
3. Request that the Leader of the Council be notified within 24 hours of any application for surveillance being granted;
4. Agree that relevant details (excluding any sensitive information) of all surveillance applications approved annually under The Regulation of Investigatory Powers Act 2000 be published on the Council Website from May 2010 and;
5. Agree that the Council's RIPA policy be reviewed on or before December 2010.

INFORMATION

Reasons for recommendation

In June 2008, the London Borough of Hillingdon was inspected by the Office of Surveillance Commissioner (OSC) to review the Council's management of covert activities. This coincided with significant public debate in the last year on the way local authorities have applied RIPA. The inspection resulted in numerous recommendations to improve the Council's use and procedures with regard to RIPA. The inspection also coincided with increased public concern about the use, by Local Authorities, of RIPA. Consequently, it was decided to review and amend the existing RIPA Corporate Policy and Procedure in order to consolidate the OSC recommendations and address public concerns about local authority use of RIPA. The result is a revised RIPA policy founded on accountability and regular evaluation of surveillance powers. Cabinet is therefore requested to consider and approve the amended policy attached at Appendix A.

Part 1 Chapter II of the Regulation of Investigatory Powers Act 2000 governs what and how external communications data can be used by local councils in the course of investigation work. As part of the review and amendment of the existing Corporate Policy and Procedure with regard to RIPA, it was agreed to provide a framework for officers seeking to make use of the powers with regard to external communications. Cabinet is requested to consider and approve the Acquisition of Communication Data Policy attached at Appendix B.

Alternative options considered / risk management

Not to adopt the recommended policies - Failure to approve the revised Regulation of Investigatory Powers Act 2000 Policy and Procedure may lead to the Council not fully complying with the legislation and accompanying Codes of Practice. This in turn may render evidence obtained inadmissible in court. Failure to take action on the Office of Surveillance Commissioner's recommendations may lead to public criticism of the London Borough of Hillingdon.

A failure to adopt a Policy to acquire communications data in accordance with the Regulation of Investigatory Powers Act 2000 may expose the Council to legal challenge under the Human Rights Act, when seeking to use evidence obtained using these powers. The Council can also be fined by the Interception of Communication Commissioner for failing to comply with the Home Office Code of Practice on the Acquisition of Communications Data.

Comments of Policy Overview Committee(s)

None

Supporting Information

1. RIPA is divided into 5 parts:
 - a. Part I - Interception of communications / Accessing Communications Data;
 - b. Part II- Intrusive and Directed Surveillance / Conduct of a Human Information Source (CHIS)
 - c. Part iii - Investigation of electronic data protected by encryption
 - d. Part iv - Oversight mechanism / complaints procedure and Codes of Practice
 - e. Part v - Miscellaneous

2. The RIPA Codes of Practice clarify and introduce regulations to update the use of covert surveillance and the interception of communications law enforcement agencies. It aimed to ensure that these investigation powers were used in accordance with the Human Rights Act and take into account technological advances.
3. In the main, local authority powers are exercised under Part 1 (which came into effect on 5 January 2004) and Part II (which came into effect on 25 September 2000).
4. The Council's current RIPA Policy and Procedure was adopted by Cabinet, on 4 September 2003. In April 2006, the Council was inspected by the Office of Surveillance Commissioners and changes to the existing policy were recommended.
5. On 23rd June 2008, the Council was once again inspected by the Office of Surveillance Commissioners. Having noted the progress made with regard to amending the existing policy and procedures; the following recommendations were made:
 - a. The existing RIPA Policy and Procedures document be reviewed as previously recommended;
 - b. That a single electronic central record be created and maintained to monitor RIPA Applications and their progress;
 - c. That guidance and policy relating to proportionality and collateral intrusion be specifically addressed;
 - d. That the process of reviewing and cancelling RIPA applications be reconsidered in order to ensure that Authorising Officers retained control of the process;
 - e. That arrangements be documented for dealing with the product of covert surveillance;
 - f. That the latest Home Office forms be adopted by the London Borough of Hillingdon.
6. In December 2008, the Office of Surveillance Commissioners released a document detailing recommendations for policy and procedures for any public authority seeking to utilise RIPA powers.
7. The recent Home Office consultation on RIPA Codes of Practice also provided a further indication of likely changes to the existing Codes of Practice.
8. In response to this consultation, a decision was taken to designate the Chief Executive Officer and Deputy Chief Executive Officer as Counter-signing officers on all RIPA surveillance applications in order to ensure that the Council used its RIPA powers in proportionate manner.
9. The revised policy brings into effect the recommendations made by the Office of Surveillance Commissioners in 2006 and 2008 and clarifies the application process.
10. The revised policy details the following changes:
 - a. A central record comprising an electronic and paper record has been set up and will be maintained by Legal Services;
 - b. The policy provides better guidance on key concepts such as "necessity", "proportionality", "collateral intrusion" and the distinction between public and private places.

- c. Explains the legal framework relating to the operation of RIPA including the consequences of not acting in accordance with the Policy;
- d. Discusses in detail the RIPA process including review processes to regularly assess surveillance;
- e. Discusses the retention, storage and destruction of surveillance material;
- f. Creates a central log of all surveillance equipment held by Council
- g. Ensures accountability by ensuring that the Chief Executive or Deputy Chief Executive approve ALL RIPA applications in advance of the surveillance taking place. The Chief Executive or Deputy Chief Executive will also countersign reviews / renewals / cancellations of RIPA authorisations.

Acquisition of Communications Data

- 11. The provisions of Part I, Chapter II of the Regulation of Investigatory Powers Act 2000 and the Regulation of Investigatory Powers (Communications Data) Order 2003 (SI2003/3172) came into force on 5 January 2004.
- 12. Communications data encompasses communications using the postal service, fixed line phones, mobile phones, internet and emails. The Act entitles Local authorities to request certain data from communication providers as part of an investigation which purpose is for the “prevention and detection of crime or prevention of disorder”.
- 13. The nature of the data that can be obtained by a Local Authority is restricted and notably does not include the content of a communication. However the Local Authority may request information such as details of the registered owner of a specific telephone number or a date when billing information and addresses were amended. This data could be useful in certain investigations, such as benefit fraud. For example, establishing the name and address of a subscriber to a mail redirection service will help confirm a change of address or status.
- 14. As from 1 April 2005, Local Authorities that want to make use of these powers can only do so if they have established one or more officers to act as their Single Point of Contact (SPoC). The role of the SPoC is “to enable and maintain effective co-operation between a public authority and communications service providers in the lawful acquisition and disclosure of communications data”.
- 15. The SPoCs are also expected to promote good practice and provide informed advice to both the Applicant and the Authorising Officer to ensure only practical and lawful data requests are made.
- 16. The SPoC has to be registered with the Home Office and attend and pass an accredited SPoC course. A list of SPOCs within the London Borough of Hillingdon is attached as part of the policy document.
- 17. In order to ensure that the use of these powers comply with the recommended Home Office Code of Practice and is not subject to legal challenge, a policy and procedure must apply to the use of these powers.
- 18. The attached Communications policy and procedures has been developed for this purpose, and is subject to the Cabinet’s approval. The policy explains:

- a. What types of surveillance come within the ambit of the Communications Data Policy;
 - b. When it will be appropriate for the Council to make use of such powers;
 - c. The role of the named officers acting as a SPOC during the process;
 - d. The procedure to be followed to apply for, renew or cancel requests for Communications Data;
 - e. The records which should be kept relating to Communications Data applications.
19. The policy is based on the provisions of RIPA, the relevant Home Office Code of Practice and guidance provided by the Information Commissioner. It will provide greater clarity to officers whilst ensuring the Council has in place a proper control mechanism for the use of these powers.

Financial Implications

17. The attached policies do not have any financial implications for the Council.

EFFECT ON RESIDENTS, SERVICE USERS & COMMUNITIES

What will be the effect of the recommendation?

The policies will contribute to creating a safer Borough by ensuring that officers can successfully undertake enforcement action. The Policies will also reassure residents of the Residents of the London Borough of Hillingdon that the Council takes very seriously the implications of making use of powers under RIPA and will only make use of such powers where no alternative option is available.

Consultation Carried Out or Required

None

CORPORATE IMPLICATIONS

Corporate Finance

A Corporate Finance officer has reviewed the report and is satisfied that the policies do not have any financial implications for the Authority.

Legal

The purpose of the Regulation of Investigatory Powers Act, 2000 ("RIPA") is to consolidate the law on the use of investigatory powers, to monitor investigative procedures more effectively and to ensure that these powers are used in accordance with human rights.

Human Rights legislation requires the Council to respect the private and family life of citizens, their home and their correspondence. However, this is a qualified right and interference is permissible if it is:

- in accordance with the law
- necessary, and
- proportionate.

The Act provides a statutory framework within which Council staff can, in carrying out their proper duties, interfere with the qualified right to privacy enjoyed by citizens. However, unless correct procedures are followed, evidence may later be disallowed in Court, a complaint could be made to the Ombudsman and the Council might be ordered to pay compensation. In any event, such matters would not promote the Council's reputation and would be likely to attract adverse press and media interest.

The adoption of both policies will ensure compliance with the legislation and Codes of Practice relating to RIPA. It will also provide tangible evidence of the Council's desire to achieve best practice standards by compliance with the recommendations of the statutory oversight bodies.

The Cabinet collectively is responsible for decisions which have a significant impact on two or more wards where the outcome will have a significant impact on the wellbeing of the community or the quality of service provided to a significant number of people living or working in an area.

Corporate Property

Not applicable

Relevant Service Groups

Not applicable

BACKGROUND PAPERS

The Regulation of Investigatory Powers Act 2000

The Regulation of Investigatory Powers (Communications Data) Order 2003 (SI2003/3172)



HILLINGDON

LONDON

REGULATION OF INVESTIGATORY POWERS ACT 2000 POLICY

TABLE OF CONTENTS

To be inserted when policy approved by Cabinet

PART A: INTRODUCTION

A1. Introduction

The Regulation of Investigatory Powers Act 2000 (RIPA) is wide ranging in its application and impacts on all officers with an enforcement or investigatory capacity, including internal investigations.

The London Borough of Hillingdon is committed to implementing RIPA in a manner that is consistent with the spirit and letter of RIPA and the HRA. The London Borough of Hillingdon is committed to conducting all relevant actions in a manner which strikes a balance between the rights of the individual and the legitimate interests of the public.

This policy aims to provide a framework to control and supervise covert activities such as surveillance and the use of CHIS in criminal investigations. It aims to balance the need to protect the privacy of individuals against the enforcement functions exercised by the London Borough of Hillingdon. This policy will therefore be reviewed at regular intervals by the Legal Services section.

The authoritative position on RIPA is, of course, the Act itself and any Officer who is unsure about any aspect of this Document should contact, at the earliest opportunity, the London Borough of Hillingdon's RIPA officer for advice and assistance. Where necessary, appropriate training and development will be facilitated by the RIPA Officer.

A copy of this Document and related Forms has been placed on the Council's Intranet. This will be regularly updated.

A2. The Scope of this Policy

RIPA would therefore apply to any employee / contractor / agent of the London Borough of Hillingdon seeking to conduct covert surveillance on condition that the surveillance is undertaken only for the purposes of the prevention and detection of crime or the prevention of disorder.

When carrying out covert surveillance on members of the public as part of its enforcement responsibilities, the London Borough of Hillingdon is acting as a public authority. This means that RIPA and this policy apply to the covert surveillance being undertaken.

In cases where an employee of the London Borough of Hillingdon is under internal investigation, the Council's role is that of an employer and not a public authority. RIPA does not apply in these cases unless the employee is under investigation for a criminal offence. In such a scenario, the Council must comply with RIPA if the surveillance evidence is to be admissible in criminal proceedings.

A3. Effective Date

The existing Corporate Policy and Procedures for the Regulation of Investigatory Powers Act 2000 came into effect on 31 December 2003.

This policy will replace the existing policy. This policy will come into effect on 21 October 2009. After this date, only the procedures contained in this document will be permissible.

It will be the responsibility of Directors and Deputy Directors to ensure their relevant members of staff are also suitably trained as "Applicants" so as to avoid common mistakes appearing on Forms for RIPA authorisations.

Authorised Officers must also ensure that staff who report to them follow this Corporate Policy & Procedures Document and do not undertake or carry out any form of surveillance without first obtaining the relevant authorisations in compliance with this Document.

A4. Legal Framework

The Human Rights Act 1998 brought into law many of the provisions of the 1950 European Convention on Human Rights and Fundamental Freedoms (ECHR). Article 8 requires the Council to have respect for people's private and family lives, their homes, and their correspondence. These rights can be referred to as "Article 8 rights".

The Human Rights Act 1998 makes it unlawful for any local authority to act in a way which is incompatible with the ECHR. However these are not absolute rights and are qualified by the ability of the Council to interfere with a person's Article 8 rights if:-

Such interference is in accordance with the law
Is necessary
And is proportionate

Any covert surveillance activity carried out by a local authority must meet the above 3 requirements in order to ensure that surveillance does not breach Article 8 rights.

Necessity - covert surveillance shall only be undertaken where it is designed to achieve a legitimate objective. The only reasons for which directed surveillance may be necessary to be carried out by the Council under this legislation are: -
Preventing or detecting crime
Prevention of disorder

Proportionality - the use and extent of covert surveillance shall not be excessive i.e. it shall be in proportion to the significance of the matter being investigated.

When we talk of interference being "in accordance with the law", this means that any such interference is undertaken in accordance with national legislation. Within England, Wales and Northern Ireland, **the legislation governing covert surveillance is Regulation of Investigatory Powers Act 2000(RIPA)**

Statutory Codes of Practice supplement RIPA. These deal respectively with covert surveillance, CHIS, interception of communications, communications data and electronic information.

The Council's policy recognises the important role these Codes of Practice play in the practical implementation of RIPA. The Council will conduct all of its activities relating to RIPA whilst having due regard to and whilst following the recommended practice of the Codes of Practice. It is essential, therefore, that all relevant officers involved in RIPA are familiar with the content of these Codes of Practice.

The Codes of Practice deal with the use of Covert Surveillance and the use of persons such as informants and Undercover Officers (CHIS) who gather information in a covert capacity. There are two separate codes of practice, relevant to this policy covering Covert Surveillance and CHIS.

RIPA also applies to the Accessing of Communications Data under Part 1, Chapter 2 of the legislation. The Council has produced separate guidance dealing with the accessing of communications data under the SPOC (Single Point of Contact) provisions.

The Council has numerous statutory duties and powers to investigate the activities of private individuals and organisations within its jurisdiction for the benefit and protection of the greater public. Some of these investigations may require surveillance or the use of directed surveillance or a Covert Human Information Source (CHIS). Officers seeking to use powers under RIPA will clarify whether they are undertaking directed surveillance or making use of a Covert Human Information Source (CHIS).

Surveillance investigations may include benefit fraud; environmental health; housing; planning and criminal investigations by audit such as fraud offences.

However a considerable amount of observations are carried out in an overt capacity by Council employees carrying out their normal functions such as parking enforcement, general patrolling etc. These activities are general and routine and do not involve the systematic surveillance of an individual. RIPA is not designed to prevent these activities or regulate them.

A5. Consequences of Non-Compliance

The use of covert surveillance will most likely result in officers obtaining private information about individuals, or groups of individuals. Private information is defined in section 26(10) of RIPA as including any information relating to a person's private or family life. The concept of private information should be broadly interpreted to include an individual's private or personal relationship with others. Family life should be treated as extending beyond the formal relationships created by marriage.

If Investigators undertake covert activity to which RIPA applies without properly obtained authorisation, the information obtained may be regarded as a breach of Article 8 rights and therefore excluded under Section 78 of the Police and Criminal Evidence Act 1984. Should the evidence be disallowed by a court, the prosecution case may be lost with a financial cost to the Council.

The person who was the subject of the surveillance may in turn complain to the Ombudsman who may order the London Borough of Hillingdon to pay compensation. The activity may also be challenged through the civil courts under the Human Rights Act 2000 for breach of privacy.

PART B: Surveillance

B1. Covert Surveillance

Surveillance can involve monitoring, observing or listening to people. This includes their movements, conversations, activities or other communications or recording anything with a surveillance device.

Overt surveillance takes place where the surveillance is not hidden, such as alerting the public to the use of CCTV in a public place. Overt surveillance does not require authorisation.

Surveillance will be overt if the subject has been told it will happen (e.g. where a noisemaker is warned (preferably in writing) that noise will be recorded if the noise continues, or where an entertainment licence is issued subject to conditions, and the licensee is told that officers may visit without noise or identifying themselves to the owner/proprietor to check that the conditions are being met.

Covert surveillance is where the person or people under observation are not aware that surveillance is taking place. ***Covert surveillance can only be justified where other investigation methods would not obtain the necessary evidence***

Directed surveillance is covert in nature but is not intrusive, this means that it does not involve entry or surveillance inside a private residence or vehicle. Directed Surveillance is undertaken:

- A. for the purposes of a specific investigation or a specific operation,
- B. in such a manner as is likely to result in the obtaining of private information about a **person** (not a business) – whether or not they are the target of the investigation/operation, and
- C. is not carried out in immediate response to events or circumstances, which make prior authorisation not reasonably practical.

Recording of or listening to telephone conversations or interception of post may be authorized as directed surveillance where one party (either the sender or recipient) to the communication consents to the interception. Such surveillance may be authorised in accordance with Section 48(4) of the RIPA which provides that in such cases, the interception is treated as directed surveillance.

Directed Surveillance undertaken by or on behalf of the London Borough of Hillingdon must be authorized according to the processes laid out in this document.

The Council can use Directed Surveillance IF, AND ONLY IF, RIPA procedures, detailed in this policy document are followed.

Intrusive surveillance is covert surveillance which is carried out with or without a recording device in relation to anything taking place on any residential premises or in a private vehicle and involves the presence of an individual or device.

Where surveillance is carried out in relation to anything taking place on any residential premises or in any private vehicle by means of a device, without that device being present on the premises, or in the vehicle, it is not intrusive unless the device consistently provides information

of the same quality and detail as might be expected to be obtained from a device actually present on the premises or in the vehicle. Thus, an observation post outside premises, which provides a limited view and no sound of what is happening inside the premises, would not be considered as intrusive surveillance.

The London Borough of Hillingdon will not authorize intrusive surveillance.

B2. Covert Human Intelligence Source (CHIS)

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

Under section 26(8) of the RIPA a person is CHIS if:

- A. He establishes or maintains a personal or other relationship with a person for the covert purpose of facilitating the doing of anything falling within paragraph (B) or (C);
- B. He covertly uses such a relationship to obtain information or to provide access to any information to another person; or
- C. He covertly discloses information obtained by the use of such a relationship or as a consequence of the existence of such a relationship.

By virtue of section 26(9)(b) of RIPA, a purpose is covert, in relation to the establishment or maintenance of a personal or other relationship, if and only if, **the relationship is conducted in a manner that is calculated to ensure that one of the parties to the relationship is unaware of the purpose.**

By virtue of section 26(9) (c) of RIPA, a relationship is used covertly, and information obtained as above is disclosed covertly, if and only if it **is used or, as the case may be, disclosed in a manner that is calculated to ensure that one of the parties to the relationship is unaware of the use or disclosure in question.**

Juvenile CHIS - Special safeguards apply to the use or conduct of juvenile sources (i.e. under 18 year olds). On no occasion can a child under 16 years of age be authorised to give information against his or her parents. **Only the Chief Executive and the Borough Solicitor acting jointly are duly authorised by the Council to use Juvenile Sources**, as there are other onerous requirements for such matters. (Refer to CHIS Code of Practice, paragraph 3.14)

Vulnerable Individuals - A Vulnerable Individual is a person who is or may be in need of community care services by reason of mental or other disability, age or illness and who is or may be unable to take care of himself or herself, or unable to protect himself or herself against significant harm or exploitation.

A Vulnerable Individual will only be authorised to act as a source in the most exceptional of circumstances. **Only the Chief Executive and the Borough Solicitor acting jointly are duly authorised by the Council to use Vulnerable Individuals**, as there are other onerous requirements for such matters.

B2.1 Conduct and Use of a CHIS

The use of a CHIS involves inducing, asking or assisting a person to engage in the conduct of a source or to obtain information by means of the conduct of such a source.

Conduct of a CHIS includes establishing or maintaining a personal or other relationship with a person for the covert purpose of (or is incidental to) obtaining and passing on information.

Use of a CHIS details the actions inducing, asking or assisting a person to act as a CHIS and the decision to use a CHIS in the first place.

When completing applications for the use of a CHIS you are stating who the CHIS is, what they can do and for which purpose.

The Council can use a CHIS IF, AND ONLY IF, RIPA procedures, detailed in this policy document are followed.

B2.2 Management of CHIS

Any surveillance operation involving a CHIS must include:

- A. a person who has the day to day responsibility for dealing with the CHIS and for the CHIS' security and welfare (**Handler**)
- B. at all times there will be another person who will have general oversight of the use made of the CHIS (**Controller**)
- C. at all times there will be a person who will have responsibility for maintaining a record of the use made of the CHIS

The Handler will have day to day responsibility for:

- A. dealing with the CHIS on behalf of the authority concerned;
- B. directing the day to day activities of the CHIS;
- C. recording the information supplied by the CHIS; and
Monitoring the CHIS' security and welfare;

The Controller will be responsible for the general oversight of the use of the CHIS. The Controller will usually be one management tier above the Handler in order to ensure that strategic control of the operation is retained.

B2.3 Tasking

Tasking is the assignment given to the CHIS by the Handler or Controller by, asking him to obtain information, to provide access to information or to otherwise act, incidentally, for the benefit of the relevant public authority.

Authorisation for the use or conduct of a CHIS is required prior to any tasking where such tasking requires the source to establish or maintain a personal or other relationship for a covert purpose.

A CHIS may wear or carry a surveillance device for the purpose of recording information. The CHIS may not leave devices on the premises after they have departed, as this would constitute intrusive surveillance.

In some instances, the tasking given to a person will not require the CHIS to establish a personal or other relationship for a covert purpose. For example a CHIS may be tasked with finding out purely factual information about the layout of commercial premises. Alternatively, a Council Officer may be involved in the test purchase of items which have been labelled misleadingly or are unfit for consumption. In such cases, it is for the Council to determine where, and in what circumstances, such activity may require authorisation.

Should a CHIS authority be required all of the staff involved in the process should make themselves fully aware of all of the aspects relating to tasking contained within the CHIS codes of Practice

Carrying out test purchases will not (as highlighted above) require the purchaser to establish a relationship with the supplier with the covert purpose of obtaining information and, therefore, the purchaser will not normally be a CHIS. For example, authorisation would not normally be required for test purchases carried out in the ordinary course of business (e.g. walking into a shop and purchasing a product over the counter).

By contrast, developing a relationship with a person in the shop, to obtain information about the seller's suppliers of an illegal product (e.g. illegally imported products) will require authorisation as a CHIS. Similarly, using mobile hidden recording devices or CCTV cameras to record what is going on in the shop will require authorisation as directed surveillance.

Persons who complain about anti-social behaviour, and are asked to keep a diary, will not normally be a CHIS, as they are not required to establish or maintain a relationship for a covert purpose. Recording the level of noise (e.g. the decibel level) will not normally capture private information and, therefore, does not require authorisation.

Recording sound (with a DAT recorder) on private premises should constitute directed surveillance (see paragraph 12 below), unless it is done overtly. For example, it will only be possible to record without authorisation if the noisemaker is warned in advance.

However, it should be noted that recording sound (with a DAT recorder) on private premises would constitute intrusive surveillance if the DAT recorder could pick up sound from the target premises of the same quality as if it had been placed in the target premises.

Placing a stationary or mobile video camera outside a building to record anti-social behaviour on residential estates will require prior authorisation.

B2.4 Management Responsibility

All Officers of the London Borough of Hillingdon involved in a CHIS operation must ensure that arrangements are in place for the proper oversight and management of sources including appointing a Handler and Controller for each source prior to a CHIS authorisation.

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

B2.5 Security and Welfare

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

B3. Compulsory Considerations for Directed Surveillance and CHIS

B3.1 Necessity and Proportionality

Obtaining an RIPA will only ensure that there is a justifiable interference with an individual's Article 8 rights if it is necessary and proportionate for these activities to take place. It must be necessary for the **prevention and detection of crime or of preventing disorder**. It must also be shown the reasons why the requested activity is necessary in the circumstances of that particular case. The key question to be asked is: Is there any alternative to surveillance which will satisfy the objective? If the response is a positive one, then the use of RIPA cannot be justified unless pressing circumstances exist which prevent the use of the alternative option.

Then, if the activities are **necessary**, the person granting the authorisation must believe that 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 subject and others who might be affected by it against the need for the activity in operational terms.

The activity will not be proportionate if it is excessive in the circumstances of the case or if the information which is sought could reasonably be obtained by other less intrusive means. All such activity should be carefully managed to meet the objective in question and must not be arbitrary or unfair. The interference with the person's right to privacy should be no greater than that which is required to meet the aim and objectives.

B3.2 Collateral Intrusion

Collateral Intrusion is intrusion into the privacy of persons other than those who are directly the subjects of the investigation or operation as neighbours or other members of the subject's family. Efforts to reduce the collateral intrusion should be undertaken.

Prior to and during any authorised RIPA activity, a risk assessment should take place to identify any collateral intrusion and take continuing precautions to minimise the intrusion where possible. The collateral intrusion, the reason why it is unavoidable and precautions to minimise it will have to be detailed on any relevant application forms.

Before authorising surveillance the Authorising Officer should take into account the risk of collateral intrusion detailed on the relevant application forms.

The possibility of Collateral Intrusion does not mean that the authorisation should not be granted, but officers should weigh up the importance of the activity to be carried out in operational terms on the one hand and the risk of collateral intrusion on the other hand.

B3.3 Unexpected Interference with Third Parties

When officers are carrying out covert directed surveillance or using a CHIS, officers should inform the Authorising Officer if the investigation unexpectedly interferes with the privacy of individuals who are not the original subjects of the investigation or covered by the authorisation in some other way. In some cases the original authorisation may not be sufficient and consideration should be given to whether a separate authorisation is required.

B3.4 Confidential Information

Confidential information consists of matters subject to Legal Privilege, confidential personal information or confidential journalistic material and applications where there is a likelihood of acquiring such information **can only be authorised by the Borough Solicitor or the Legal Services Office Managing Partner AND the Countersigning Officer.**

Confidential personal information is information held in confidence relating to the physical or mental health or spiritual counselling concerning an individual (whether living or dead) who can be identified from it. Such information, which can include both oral and written communications, is held in confidence if it is held subject to an express or implied undertaking to hold it in confidence or it is subject to a restriction on disclosure or an obligation of confidentiality contained in existing legislation. Examples might include consultations between a health professional and a patient, or information from a patient's medical records. Journalistic material is also mentioned in the codes however it is highly unlikely that this will be obtained. The definition should it be required can be obtained from the Codes of Practice at section 3.10.

The following general principles apply to confidential material acquired under authorisations:

Those handling material from such operations should be alert to anything which may fall within the definition of confidential material. Confidential material should not be retained or copied unless it is necessary for a specified purpose;

Confidential material should be disseminated only where an appropriate officer (having sought advice from the Borough Solicitor) is satisfied that it is necessary for a specific purpose;

The retention or dissemination of such information should be accompanied by a clear warning of its confidential nature. It should be safeguarded by taking reasonable steps to ensure that there is no possibility of it becoming available, or its content being known, to any person whose possession of it might prejudice any criminal or civil proceedings related to the information;

Confidential material should be destroyed as soon as it is no longer necessary to retain it for a specified purpose.

B3.5 Working With/Through Other Agencies

When some other agency has been instructed on behalf of the Council to undertake any action under RIPA, this Document and the Forms in it must be used (as per normal procedure) and the agency advised or kept informed, as necessary, of the various requirements. They must be made aware explicitly what they are authorised to do.

When some other agency (e.g. Metropolitan Police Services):

- (a) wish to use the Council's resources (e.g. CCTV surveillance systems), that agency must use its own RIPA procedures and, before any Officer agrees to allow the Council's resources to be used for the other agency's purposes, s/he must obtain a copy of that agency's RIPA form for the record (a copy of which must be passed to the RIPA Officer for the Central Register) and/or relevant extracts from the same which are sufficient for the purposes of protecting the Council and the use of its resources;
- (b) wish to use the Council's premises for their own RIPA action, the Officer should, normally, co-operate with the same, unless there are security or other good operational or managerial reasons as to why the Council's premises should not be used for the agency's activities. Suitable insurance or other appropriate indemnities may be sought, if necessary, from the other agency for the Council's co-operation in the agent's RIPA operation. In such cases, however, the Council's own RIPA forms should not be used as the Council is only 'assisting' not being 'involved' in the RIPA activity of the external agency.

In terms of option (a) above, if the Police or other Agency wish to use Council resources for general surveillance, as opposed to specific RIPA operations, an appropriate letter requesting the proposed use, extent of remit, duration, who will be undertaking the general surveillance and the purpose of it must be obtained from the Police or other Agency before any Council resources are made available for the proposed use.

If in doubt, please contact the RIPA Officer at the earliest opportunity.

Part C: Obtaining RIPA Authorisations

C1. Authorisation Procedures

Directed surveillance and the use of a CHIS can only be lawfully carried out if properly authorised, and in strict accordance with the terms of the authorisation. **Appendix 1** provides a flow chart of process from application consideration to recording of information. Note that the procedure detailed applies to Directed Surveillance and CHIS operations.

C2. Authorised Officers

Forms can only be signed by Authorised Officers who hold a Certificate from the Borough Solicitor or his representative. Authorised posts are listed in **Appendix 2**. This Appendix will be kept up to date by the Borough Solicitor or Legal Services Office Managing Partner and added to as needs require. The Borough Solicitor has been duly authorised to add, delete or substitute posts listed in Appendix 2.

Authorisations under RIPA are separate from delegated authority to act under the Council's Scheme of Delegation and internal departmental Schemes of Management. RIPA authorisations are for specific investigations only, and must be renewed or cancelled once the specific surveillance is complete or about to expire.

No covert surveillance using RIPA should be undertaken at any time unless it has been **authorized in writing on the appropriate form by a designated Authorised Officer AND the**

Countersigning Officer. The authorisation of the Countersigning Officer is not required for an urgent oral authorisation.

Only the Borough Solicitor or Legal Services Office Managing Partner AND the Countersigning Officer may authorize covert surveillance involving a Juvenile CHIS and/or Vulnerable Individuals.

The authorisations do not lapse with time. An application to cancel the authorisation must be submitted by the Applicant Officer. Applicant officers must ensure that reviews, cancellations or renewals of authorisations must be submitted to the Authorising Officer on or before the date specified by the Authorising Officer.

The Countersigning Officer may unilaterally cancel a covert surveillance authorisation in the event that an application for review, cancellation or renewal is not submitted to the Authorizing Officer on or before a specified date.

In such circumstances, the Applicant officer will be instructed to **cease all surveillance immediately**. Failure to comply with this instruction may lead to action against the Applicant Officer. Nothing in the preceding paragraph shall prevent an Applicant Officer from re-applying for authorisation for covert surveillance where an authorisation was unilaterally cancelled by the Countersigning Officer. In such a situation, the procedure outlined in Appendix 1 must be adhered to.

C3. Grounds for Authorisation

Directed Surveillance or the Conduct and Use of the CHIS can only be authorised by the authorizing officers for preventing or detecting crime or the prevention of disorder.

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

C4. ASSESSING THE APPLICATION

An Authorising Officer should consider all information provided on the Application form and if necessary ask for further information from the Investigating Officer. When completing the form, the Authorising Officer should write down exactly what they are authorising. All authorities must be signed, showing the date and time the authority was granted.

Before an Authorising Officer signs a Form, **s/he must:-**

- (a) Be mindful of this Corporate Policy & Procedures Document, the training provided by the Borough Solicitor and any other guidance issued, from time to time, by the Borough Solicitor on such matters;
- (b) Satisfy him/herself that the RIPA authorisation is:-
 - (i) **In accordance with the law;**
 - (ii) **Necessary** in the circumstances of the particular case on one of the grounds mentioned in paragraph 9 above; **and**
 - (iii) **Proportionate** to what it seeks to achieve.

- (c) In assessing whether or not the proposed surveillance is proportionate, consider other appropriate means of gathering the information. **The least intrusive method will be considered proportionate by the courts.**
- (d) Take into account the risk of intrusion into the privacy of persons other than the specified subject of the surveillance (**Collateral Intrusion**). Measures must be taken wherever practicable to avoid or minimise (so far as is possible) collateral intrusion and the matter may be an aspect of determining proportionality;
- (E) set a date for review of the authorisation at least once every calendar month (or at shorter intervals, depending on the circumstances of the particular case).
- (f) Ensure that any RIPA Departmental Register and the Central Register are duly completed, and that a copy of the RIPA Forms (and any review/cancellation of the same) is forwarded to the Borough Solicitor's Central Register, **within 1 week of the relevant authorisation, review, renewal, cancellation or rejection.**

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

- (a) be satisfied that the **conduct** and/or **use** of the CHIS is proportionate to what is sought to be achieved;
- (b) be satisfied that **appropriate arrangements** are in place for the management and oversight of the CHIS and this must address health and safety issues through a risk assessment;
- (c) consider the likely degree of intrusion of all those potentially affected;
- (d) consider any adverse impact on community confidence that may result from the use or conduct or the information obtained; and
- (e) ensure records contain particulars and are not available except on a need to know basis

C5. Urgent Authorisations

Urgent authorisations should not normally be necessary, but a verbal authorisation can be given if the time which would elapse before written authorisation can be granted would be likely to endanger life or jeopardise the investigation.

In such cases, a statement that the Authorising Officer has expressly authorised the action should be recorded in writing by the applicant as soon as is reasonably practicable. **The express authorisation of the Counter-Signing Authorising Officer will not be required for urgent oral authorisations.**

An authorisation is not to be regarded as urgent where the need for an authorisation has been neglected or the urgency is of the Authorising Officer's own making. It will not be a case of urgency where the officer has simply forgotten about the requirement for authorisation.

An urgent oral authorisation may be granted by Authorising Officers detailed in **APPENDIX 2**.

Urgent authorisations must be followed by a formal written application form at the earliest possible opportunity and the relevant section completed by the Authorising Officer justifying the oral authorisation. **This completed form must be submitted to the Authorising Officer and Counter-Signing Authorising Officer for authorisation.**

C6. Duration of Applications

Directed Surveillance	3 Months
Urgent Oral Authority	72 Hours
Renewal	3 Months
Covert Human Intelligence Source	12 Months
Juvenile Sources	1 Month
Urgent Oral Authority	72 Hours
Renewal	12 months

All Authorisations must be cancelled by completing a cancellation form. They must not be left to simply expire. (see cancellations page 12)

Part D: APPLICATION FORMS

The Borough Solicitor and/or the RIPA Officer shall regularly advise officers of the forms to be completed. These forms will also be placed on the Council Intranet for officers to complete.

D1. Applying for Authorisation

All the relevant sections on an application form must be completed with sufficient information for the Authorising Officer to consider Necessity, Proportionality and the Collateral Intrusion issues. Risk assessments for CHIS operations should take place prior to the completion of the application form and **must** be attached to the completed form.

An application for an authorisation must include an assessment of the risk of any collateral intrusion or interference (see collateral intrusion on page 19). The Authorising Officer will take this into account, particularly when considering the proportionality of the directed surveillance or the use of a CHIS.

All applications will be submitted to the Authorising Officer. Following completion of the application, the Authorising Officer shall submit the form to the Counter-Signing Authorising Officer to perform a quality check of the application.

The application will only be regarded as authorised when it is signed by BOTH the Authorising Officer and Counter-Signing Authorising Officer.

If it is intended to undertake both directed surveillance and the use of a CHIS on the same surveillance subject, it must be noted that the application for the use of a CHIS can include instructions for directed surveillance. In such a situation, it will be necessary to complete a CHIS form only. Officers must ensure that the request for Directed Surveillance required is included in the CHIS Application Form.

Applications will be issued with a unique reference number by the RIPA Officer, taken from the next available number in the Central Record of Authorisations.

D2. Reviews

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

In each case the Authorising Officer should determine how often a review should take place. This should be as frequently as is considered necessary and practicable and they will record when they are to take place on the application form. This decision will be based on the circumstances of each application. However reviews will be conducted on a monthly or less basis to ensure that the activity is managed. It will be important for the Authorising Officer to be aware of when reviews are required following an authorisation to ensure that the applicants submit the review form on time.

Applicants should submit a review form by the review date set by the Authorising Officer. They should also use a review form for changes in circumstances to the original application so that the need to continue the activity can be reassessed. However if the circumstances or the objectives have changed considerably a new application form may be more appropriate. You do not have to wait until the review date if it is being submitted for a change in circumstances.

Managers or Team Leaders of applicants should also make themselves aware of when the reviews are required to ensure that the relevant forms are completed on time. **Failure to submit a review form punctually may result in the unilateral cancellation of the authorisation by the Countersigning Officer.**

D3. Renewal

If at any time before an authorisation would cease to have effect, the Authorising Officer considers it necessary for the authorisation to continue for the purpose for which it was given, he may renew it in writing for a further period of three months. Renewals may also be granted orally in urgent cases and last for a period of seventy-two hours.

An application for renewal should not be made until shortly before the authorisation period is drawing to an end. A renewal takes effect on the day on which the authorisation would have ceased.

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

D4. Cancellation

The Authorising Officer who granted or last renewed the authorisation must cancel it if he is satisfied that the directed surveillance no longer meets the criteria upon which it was authorised.

Where the Authorising Officer is no longer available, this duty will fall on the person who has taken over the role of Authorising Officer or the person who is acting as Authorising Officer.

As soon as the decision is taken that directed surveillance should be discontinued, the applicant or other investigating officer involved in the investigation should inform the Authorising Officer. The Authorising Officer will formally instruct the investigating officer to cease the surveillance, noting the time and date of their decision on the cancellation form. The date and time when such an instruction was given should also be recorded in the central record of authorisations (see paragraphs 2.14 - 2.15 in the Codes of Practice).

PART E: Documentation and Central Record

E1. Central Record

Authorising Officers or Managers of relevant enforcement departments may keep whatever records they see fit to administer and manage the RIPA application process. The Originals of any application form will be held by the RIPA Officer as part of a centrally retrievable record.

A centrally retrievable record of all authorisations will be held by the RIPA Officer and regularly updated whenever an authorisation is granted, reviewed, renewed or cancelled. The record will be made available to the relevant Commissioner or an Inspector from the Office of Surveillance Commissioners, upon request. These records should be retained for at least **six years** from the ending of the authorisation or for the period stipulated by the Council's document retention policy, whichever is greater. Key information from this record shall be captured on a spreadsheet containing the following information:

- A. The type of authorisation;
- B. The date the authorisation was given;
- C. Name and rank/grade of the authorising officer;
- D. The unique reference number (URN) of the investigation or operation;
- E. The title of the investigation or operation, including a brief description and names of subjects, if known;
- F. Whether the urgency provisions were used, and if so why.
- G. A record of the result of each review of the authorisation;
- H. If the authorisation is renewed, when it was renewed and who authorised the renewal, including the name and rank/grade of the authorising officer;
- I. Whether the investigation or operation is likely to result in obtaining confidential information as defined in this code of practice;
- J. The date the authorisation was cancelled.
- K. Authorisations by an Authorising Officer in urgent cases where they are directly involved in the investigation or operation (see Authorising Officer Responsibility page 17.) If this has taken place it must be brought to the attention of a Commissioner or Inspector during their next RIPA inspection.

As part of the Central Record the RIPA Officer will also retain:

- A. The original of each application, review, renewal and cancellation together with any supplementary documentation of the approval given by the Authorising Officer
- B. A record of the period over which the surveillance has taken place;
- C. The frequency of reviews prescribed by the Authorising Officer;

- D. A copy of any renewal of an authorisation, together with the supporting documentation submitted when the renewal was requested;
- E. The date and time when any instruction was given by the Authorising Officer.

For CHIS applications the Codes state;

In addition, records or copies of the following, as appropriate, should be kept by the relevant authority:

- A. The original authorisation form together with any supplementary documentation and notification of the approval given by the Authorising Officer;
- B. The original renewal of an authorisation, together with the supporting documentation submitted when the renewal was requested;
- C. The reason why the person renewing an authorisation considered it necessary to do so;
- D. Any authorisation which was granted or renewed orally (in an urgent case) and the reason why the case was considered urgent;
- E. Any risk assessment made in relation to the source;
- F. The circumstances in which tasks were given to the source;
- G. The value of the source to the investigating authority;
- H. A record of the results of any reviews of the authorisation;
- I. The reasons, if any, for not renewing an authorisation;
- J. The reasons for cancelling an authorisation.
- K. The date and time when any instruction was given by the Authorising Officer to cease using a source.

E2. Storage and Retention of Surveillance Material

All material obtained and associated with an application will be subject of the provisions of the Criminal Procedures Investigations Act 1996 (CPIA) Codes of Practice which state that relevant material in an investigation has to be recorded and retained and later disclosed to the prosecuting solicitor in certain circumstances.

It is also likely that the material obtained as a result of a RIPA application will be classed as personal data for the purposes of the Data Protection Act. All officers involved within this process should make themselves aware of the provisions within this legislation and how it impacts on the whole RIPA process. Material obtained together with relevant associated paperwork should be held securely. Extra care needs to be taken if the application and material relates to a CHIS.

If legal proceedings have been instituted, material must remain in secure storage for six (6) years after the accused is acquitted or convicted. Where a decision is taken not to institute prosecution action, material must be destroyed 6 months after such a decision is taken.

Each relevant service within the Council may have its own provisions under their Data Retention Policy which will also need to be consulted to ensure that the data is stored in a secure manner until such time as it is destroyed.

E3. Training

There will be an ongoing training programme for Council Officers who will need to be aware of the impact and operating procedures with regards to RIPA. The RIPA Officer will be required to retain a list of all those officers who have received training and when the training was delivered.

It will be the responsibility of Directors and Deputy Directors to ensure their relevant members of staff are also suitably trained as ‘Applicants’ so as to avoid common mistakes appearing on Forms for RIPA authorisations.

Authorising Officers must have received formal RIPA training before being allowed to consider applications for surveillance and CHIS.

E4. Surveillance Equipment – Control/Inventory

It is the responsibility of the Service Head to ensure the issue and use of any equipment held by the service for the purpose of conducting covert directed surveillance (e.g. radios, cameras, etc) is correctly recorded and usage is subject to audit. The RIPA Officer shall retain a central inventory of all equipment held or arrangements made by the London Borough of Hillingdon with third parties for the purpose of conducting covert surveillance.

E5. Complaints Procedures

The Council’s Complaints Procedure may be used for any complaint, regarding breach of this Policy and Guidance.

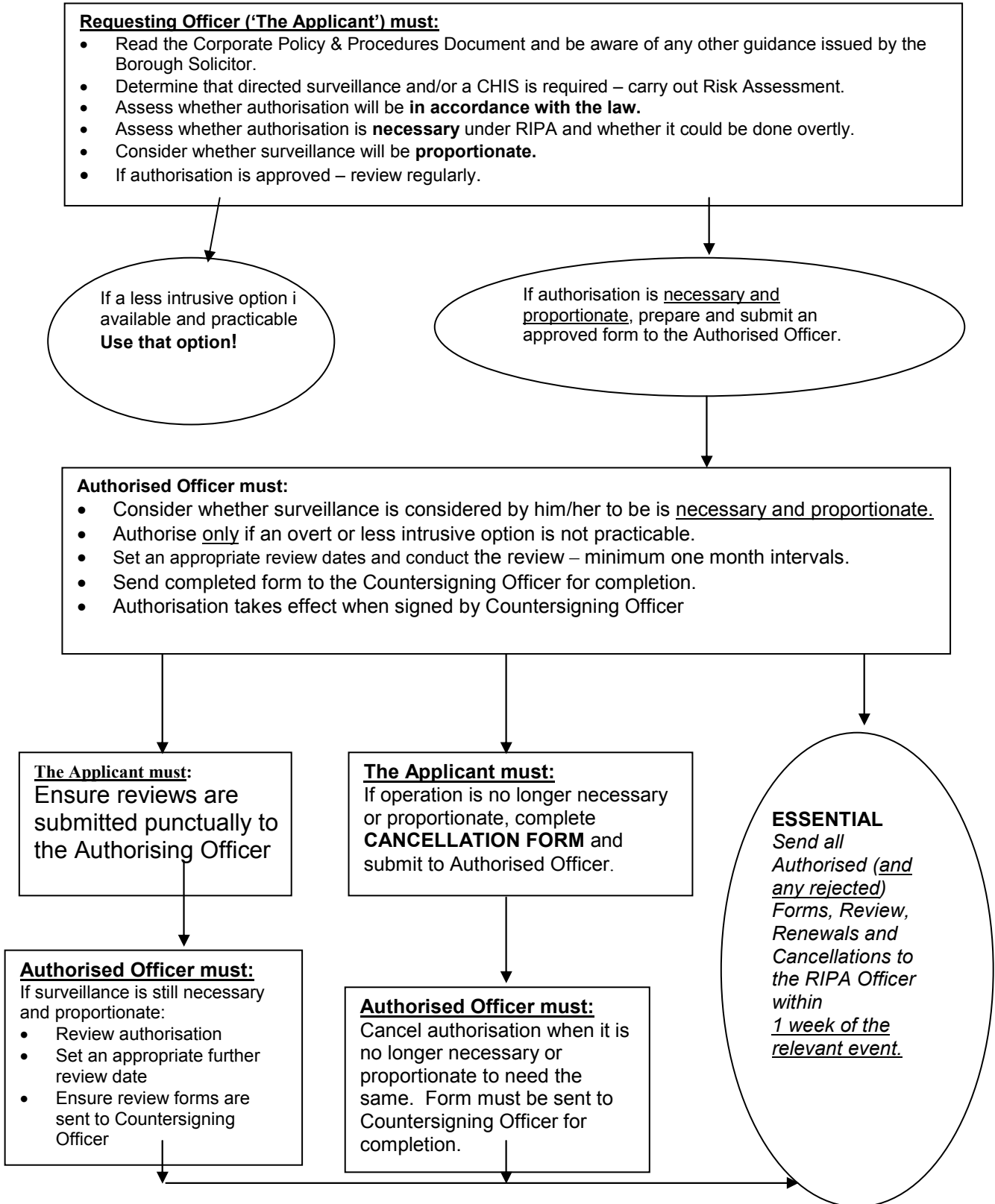
E6. Further Information

This Policy, relevant forms and London Borough of Hillingdon guidance notes for completion for applications, renewals, cancellations and reviews of Directed Surveillance and use of Covert Human Intelligence Sources shall be placed on the London Borough of Hillingdon intranet for reference purposes. In addition, the RIPA Officer may be contacted when and as necessary.

The Statutory Codes of Practice that supplement RIPA are available on the following web link:
<http://security.homeoffice.gov.uk/ripa/publication-search/ripa-cop/>

Although the Codes of Practice do not have the same force as RIPA, they augment and expand on its implementation. Annex 5 provides a summary of the key areas of which officers should be aware

APPENDIX 1
RIPA FLOW CHART



NB: If in doubt, ask the RIPA Officer **BEFORE** any directed surveillance and/or CHIS is authorised, renewed, cancelled or rejected.

Appendix 2

List of Authorising Officers and authorising levels

Name	Area	Contact Number	Level of Surveillance Authority			
			Juvenile or Vulnerable CHIS and/or Confidential Material from CHIS or Directed Surveillance	CHIS	Directed Surveillance	Oral
Kathryn Sparks	Environment and Consumer Protection	Ext 7501	No	Yes	Yes	Yes
Christopher Norris	Adult Social Care Health and Housing	Ext 0889	No	Yes	Yes	Yes
Rajesh Alagh	Borough Solicitor	Ext 0617	Yes	Yes	Yes	Yes
Glen Egan	Legal Services Practice Manager	Ext 7602	Yes	Yes	Yes	Yes
Countersigning Officers						
Hugh Dunnachie	Chief Executive	Ext 0569	Yes	Yes	Yes	No
Fran Beasley	Deputy Chief Executive	Ext 8344	Yes	Yes	Yes	No
RIPA Officer						
Beejal Soni	Licensing Lawyer	Ext 6425	No	No	No	No



HILLINGDON

LONDON

ACQUISITION OF COMMUNICATIONS DATA POLICY

CONTENTS PAGE

To be completed when content is approved by Cabinet

A. INTRODUCTION AND KEY MESSAGES

1. This Corporate Policy and Procedures document is based upon the requirements of the Regulation of Investigatory Powers Act 2000 ("RIPA") and the Home Office Guidance on the Acquisition and Disclosure of Communications Data Code of Practice October 2007. The Council takes responsibility for ensuring the Procedures are continuously improved.
2. The authoritative position on communications data is, of course, the Act itself and any officer who is unsure about any aspect of this document should contact, at the earliest opportunity, the Council's Borough Solicitor for advice and assistance.
3. Appropriate training and development will be organised by the Legal Services Department for relevant authorised officers and other Senior Managers.

B. COUNCIL POLICY STATEMENT

1. The Council takes seriously its statutory responsibilities and will, at all times, act in accordance with the law and take necessary and proportionate action in these types of matters. In that regard, the Borough Solicitor is duly authorised by the Council to keep this document up to date and to amend, delete, add or substitute relevant provisions as necessary. For administration and operational effectiveness, the Borough Solicitor is also authorised to add or substitute all officers authorised for the purpose of this policy.
2. It is essential that all activities of this nature, whether they will lead to prosecution or not, are carried out in accordance with this Code of Practice and Policy. Investigations which are not authorised could leave the Council open to legal challenge by individuals who consider that there has been an intrusion of their privacy.
3. The purpose of this document is to reinforce the requirements of the Act and the Code of Practice, to ensure compliance with the Act, to protect the rights of individuals and to minimise the risk of legal challenge as a result of officer actions.

C. EFFECTIVE DATE OF OPERATION

1. This Policy is operational forthwith, replacing any previous policy and procedures with regard to the acquisition of communications data. It will apply to all Council staff and Contractors employed by the Council. All relevant Council Contracts will include a term that this Policy and the Council's associated procedures are to be observed by any contractor operating on behalf of the Council.
2. A copy of this policy document together with the Home Office Codes of Practice and the Investigatory Powers Tribunal leaflets will be made available for public inspection at the Council offices (Legal Services Section) as well as on the Council's internet site.

D. GENERAL INFORMATION ON COMMUNICATIONS DATA

1. Communications Data transactions involve:
 - the postal service
 - e-mails (incoming and outgoing)
 - internet (browsing or site hosting)
 - fixed line telephone calls

- mobile telephone calls
2. The legislation empowers public bodies to require Communication Service Providers (CSPs) like British Telecom, to provide the public body with communication data if the appropriate process is followed.
 3. The CSP can levy a charge for the costs they incur in providing the information in accordance with the published scale of charges. The cost of acquiring the data should therefore be weighed against the benefit it will provide.
 4. Local Councils are classified as Part 3 Public Authorities which means that there are limits on what data we are permitted to acquire as summarised in the table below.

	RIPA TERM	MEANING	EXAMPLE
Allowed	Subscriber Data [Section 21(4)(c)]	Information about the person who subscribes to/uses the communication service	Name and address of the user of a phone number
Allowed	Service use Data [Section 21(4)(b)]	Information about the use made of the communication service	Telephone numbers called and duration of calls
Not allowed	Traffic Data [Section 21(4)(a)]	Information about how the communication was transmitted	Location of a mobile phone when communication was sent
Not allowed	Interception Data [RIPA Part 1 – Chapter 1]	The content of the communication	The content of the phone conversation

5. The policy provides a more detailed breakdown of the process of acquiring various types of communication data from a communication service provider.
6. This policy does not apply to internal communication systems that have no connection with the external sites (For example, internal e-mails and telephone calls).

E. WHAT THIS POLICY DOES AND DOES NOT DO

- Local Authorities are allowed to access service data and subscriber data but only for the prevention or detection of crime or the prevention of disorder.

- Local Authorities do require prior authorisation for obtaining communications data.
- Local Authorities do require safeguards for the conduct and use of the acquisition of communications data.

F. CATEGORIES OF COMMUNICATIONS DATA

There are three broad areas of communications data, only two of which can be accessed by this Council. Further, the powers awarded to local authorities do not permit access to the contents of the communication itself.

They are as follows:

1. Section 21(4)(b) Service Use Data

– this is information held by a telecom or postal service provider about the use made of a service by a person under investigation such as:

- Outgoing calls on a landline telephone or contract or pre-pay mobile telephone
- Timing and duration of service usage
- Itemised connection records
- Internet log-on history
- E-mails (sent)
- Information about the connection, disconnection and reconnection of services
- Information about the provision of conference calling, call messaging, call waiting and call barring
- Information about the provision and use of forwarding/redirection services (postal and telecom)
- Information about selection of preferential numbers or discount calls
- Records of postal items, for example records of registered/recorded/special delivery postal item, record of parcel consignment/delivery/connection

2. Section 21(4) (c) Subscriber Data

- This is information about Communication Service Users such as:

- Name of account holder/subscriber (also known as “reverse lookups”)
- Installation and billing addresses
- Method of payments/billing arrangements
- Collection/delivery arrangements for a PO box (i.e. whether it is collected or delivered – not where it is collected from or whom it is delivered to)
- Information about apparatus used by or made available to the account holder/subscriber including the manufacturer model etc.
- Other customer information example accounts notes, demographic information or sign up data (not passwords or personalised access information)

Local Authorities are not authorised to obtain access to “Traffic Data” i.e. Information that identifies any person, equipment, location to or from which communication is or maybe transmitted.

G. ORGANISATIONS FROM WHICH LOCAL AUTHORITIES MAY ACCESS COMMUNICATIONS DATA

All communications data is accessed from Communication Service Providers (CSP's).

These may include (but are not limited to):

- **Telecom providers:** Mobile telephone service providers, landline telephone service providers or international simple voice resellers
- **Internet providers :** ISP's, virtual ISP's and Portholes
- **Postal providers:** Royal Mail

H. THE PERSONNEL INVOLVED IN THE ACQUISITION OF COMMUNICATIONS DATA

1. Applicant:

The applicant is any officer of the Council involved in conducting an investigation and who makes an application to a designated person, in writing or electronically, for authorisation to access communications data.

Officers contemplating seeking authorisation should first discuss the proposed application with their line manager. Various options for obtaining the information required other than by using covert techniques, should be explored. It maybe valuable at this stage to discuss the content, scope and aims of the application with the SPOC before completing and submitting any formal application.

If a decision is made to continue then the applicant must complete the application form setting out, for consideration by the designated person, certain information including:

- the purpose for which the data is required;
- the nature of the enquiry;
- the details of the data required;
- the timescale in which the data is needed.

The applicants must also state in the application why the request for authorisation is necessary and proportionate, and outline any potential collateral intrusion arising from the request and what steps are being taken reasonably to minimise any such intrusion.

The application form must be given a unique identifying number by the RIPA Officer. The form should then be submitted to the SPOC.

2. The Single Point of Contact (SPOC).

All SPOC officers will have attended a Home Office approved course and passed an examination at the end of this course. Accredited officers are granted a unique SPOC Personal Identification Number (PIN) for their tenure with the Council as SPOC. Details of accredited SPOCS must be made available to CSPs for authentication purposes. SPOC details shall also be held by central records for reference purposes.

The SPOC will act as a conduit between the applicant, designated person and CSP in any application in order to ensure consistency in dealings with various CSPs.

Authorised SPOCs are referred to in Appendix 1.

The responsibilities and role of the SPOC are as follows:

- To assess whether access to communications data in a particular case is reasonably practical for the CSP;
- To advise Applicants and the Designated Person on the practicalities of accessing different types of communications data some different Communication Service Providers (CSP)
- To advise Applicants and the Designated Person on whether specific communication data falls under Section 21(4)(b) or Section 21(4)(c) of RIPA
- To assess any cost and resource implementations for both the Council and the CSP
- When applications are approved by the Designated Person, the SPOC shall forward the Notice to the CSP, file all original documents, forward original documents to central records for monitoring purposes and forward relevant documents and responses to the Applicant and Designated Person;
- To provide a safeguard for CSP's that authorisations and Notices are authentic
- To keep abreast on any developments relating to accessing communications data;
- To develop policies and strategies to make effective and lawful use of legislation in order to support operations
- To maintain and keep up-to-date a SPOC log sheet for applications

The SPOC will, in essence, assess the application and in particular whether the request has been made properly and whether the required communications data can reasonably be obtained together with any adverse cost or resource implications. To this end, the SPOC is required to document and maintain full records of any comments / discussions / queries related to each application.

3. The Designated Person (DP)

A Designated Person must hold the rank or grade of an Assistant Chief Officer, an Assistant Head of Service, a Service Manager or equivalent and must have current working knowledge of Human Rights principles. A DP has been so designated for the purposes of acquiring communications data by the order. A list of designated persons is referred to in Appendix 1.

The responsibilities of the designated persons are as follows:

- The DP must ensure that requests for communications data are both necessary and proportionate prior to granting an authorisation or giving a Notice i.e. it should not be more than is required in circumstances, should not be arbitrary and should balance the extent of the intrusion or the interference of the individuals private life against a benefit to be achieved by the operation and the public interest
- The DP should not be responsible for granting authorisations or giving Notices in relation to investigations or operations in which they are directly involved (unless it is necessary to act urgently)
- The DP has a duty to consider various issues as follows:

- I. Whether the case justifies the accessing of communications data under Section 22(2)(b) i.e. that it is for the prevention or detection of crime or preventing disorder;
- II. Whether obtaining access to the data by the conduct authorised by the authorisation, or required off the CSP in the case of a Notice, is proportionate to what is sought to be achieved;
- III. Whether the circumstances of the case still justifies such access in cases where there is likely to be collateral intrusion;
- IV. Whether any urgent timescale is justified.

If an application is authorised, the DP should forward the completed form to the SPOC for further action. If an application is rejected, the DP should forward a copy of the rejected application to the SPOC with written reasons for the rejection. The original form should be forwarded to central records for monitoring and recording purposes.

Advice to assist the designated person when writing written considerations

1. It is fundamentally important that the DP must be able to evidence the fact that they have read and considered each application and based their considerations upon the principles of necessity and proportionality. It is a matter for the individual DP to decide how to demonstrate this effectively, bearing in mind that he or she could be called upon to justify the considerations at a later date in Court or at a Tribunal Hearing. It may well be appropriate in some cases to merely record the fact that the DP has read and considered the application and that he or she believes that obtaining the data in question is necessary and that obtaining the data by the conduct is proportionate to what is sought to be achieved by obtaining the data or words to that effect. This would largely depend upon the quality of the application and whether the DP is fully satisfied that the applicant has made out a strong case in all respects.
2. In practice the standard of applications will vary according to the knowledge and experience of the Applicant and therefore the DP will often be required to make a more detailed judgement. Equally it maybe that the application is quite complex or that it requests a particular in truth of set of data in which case the DP may wish to address this specifically. The DP's comments should be specific to the application in question

* ***For these reasons it is recommended that the DP should tailor the comments to the individual application as this is the best means of demonstrating that it has been properly considered.***

4. The Senior Responsible Officer (SRO)

The SRO is responsible for:

- Ensuring the integrity and lawfulness of the policy and processes within the Council
- Ensuring there is compliance with Chapter 11 of Part 1 of the Code of Practice
- Overseeing the reporting of errors to the interception of Communications Commissioner's Office
- Ensuring the implementation of any corrective action required for improving processes and minimising the likelihood of errors.
- Engaging with the ICCO Inspectors when inspections are carried out
- Where necessary oversee the implementation of post inspection action plans

The SRO is referred to in Appendix 1

5. The RIPA Officer

The RIPA Officer holds the following responsibilities:

- To retain a central record of all applications, authorisations and Notices
- To retain a record of the dates on which authorisations and Notices are started and cancelled
- To retain all applications in the event that they may be a Complaints Tribunal
- To retain a record of any errors that may have occurred in the granting of authorisations, or issuing of Notices, and provide an explanation to the interception of Communications Commissioner

I. Procedural Guidance when making applications For communications data

Communications data may be obtained by the Council giving a Notice under Section 22(4); or by granting an authorisation under Section 22(3).

Applications by Notice or Authorisations are valid for one month from when approval is given by the Designated Person. It may be renewed at any time prior to the expiry of one month.

All applications should refer to a specific date or period. Where the date required is not specified, the relevant date taken will be the date that approval was granted for the application.

For the obtaining of communications data that will be generated in the future, disclosure may only be required of data obtained by the CSP within the month for which the application is valid. For historical communications data disclosure may only be required if in the possession of the CSP.

The designated person should give particular regard to the period of time that they are requesting data for and specify the shortest period in which the objective for which the data is sought can be achieved. To do otherwise would impact on the proportionality requirements and impose an unnecessary burden on CSP's.

The Act allows for 2 types of applications – application by notice or application for authorisation. Oral applications will be considered in limited situations.

1. Notice under Section 22(4)

A Notice is where a CSP collects and/or retrieves data in order to provide it to the Council. The form of Notice should be in writing. Oral notice is acceptable in urgent situations and is discussed in detail below. The Notice must include the following information:

- A description of the data required (and whether it is communications data under Section 22(4)(b) or Section 21(4)(c) of the Act);

- The purpose for which the data is required. **This will always be for the prevention or detection of crime or preventing disorder;**
- The name (or designation) and office, rank or position of the designated person;
- Record the date and time that approval was given by the DP;
- A manner in which data should be disclosed;
- A unique reference number;
- If relevant, any indication of urgency;
- A statement setting out that data is sought under the provisions of Part 1 Chapter 2 of the Act;
- Relevant SPOC details

The Notice must also be approved by the Designated Person before it can be served on the CSP. Once approval is given, the SPOC will serve the Notice to the CSP. When the data requested is provided, the SPOC will then feed it back to the Applicant and Designated Person.

2. **Authorisation under Section 22(3)**

An authorisation maybe used by the Council when the Applicant personally extracts/ collects or retrieves the communication data from the CSP.

This application may only be used when:

- the CSP cannot provide the communications data;
- It is believed that the investigation maybe prejudiced if the CSP is asked to provide the data;
- There is prior agreement in place between the Council and the CSP as to the appropriate mechanisms for the disclosure of communications data.

Each application must be in writing and must include the following information:

- a description of the conduct that is authorised
- a description of the communications data required (identify whether it is communications data under Section 21(4)(b) or Section 21(4)(c) of the Act)
- identify the purpose for which the data is required. **This will always be for the prevention or detection of crime or preventing disorder.**
- The name (or designation) and office, rank or position of the designated person
- A unique reference number (check that this document refers to unique reference number whenever referring to the application)
- Record the date and time that the application was approved

A Designated Person may only authorise persons working in the same Local Authority to engage in specific conduct to obtain communications data. This will normally be the authority's SPOC. The application must be cancelled by the Designated Person as soon as they are no longer considered to be either necessary or proportionate.

3. ORAL APPLICATIONS

An application for communications data may only be made and approved orally on an urgent basis, where:

- I. There is an immediate threat to life such that a person's life might be endangered if the normal application procedure is followed; and/or
- II. There is an exceptionally urgent operational requirement, within 48 hours, for the communications data; and/or
- III. A credible, immediate and time-sensitive threat to national security exists; and/or

Note that when following the oral application route, the Applicant is still required to consult with the DP and SPOC. Written Confirmation from the DP and SPOC must be obtained that the oral application meets one of the three grounds set out above. The SPOC and DP are required to keep detailed records of all conversations and discussions relating to such an application. Details of the unique registration number, date and time that approval was granted by the DP must be recorded. The SPOC shall be responsible for orally advising the CSP of these details,

In the case of an oral notice, written notice must be given to the CSP retrospectively within one working day of the oral notice being given by the SPOC. Failure to do so will constitute an error reportable to the Information Commissioner.

As soon as possible after the period of emergency:

- The Applicant must complete a retrospective application form which includes an explanation of why the urgent process was undertaken;
- The Designated Person or SPOC must collate all records related to the oral application and subsequent written retrospective application and provide same to central records.

4. Renewals and Cancellations

Authorisations and Notices are valid for one month from the date on which the authorisation is granted. It is therefore vital that the application once approved is served within this time. (Month here means a Calendar month example a month beginning on 7 June 2009 ends on 6 July 2009).

Renewal maybe appropriate where there is a continuing need to acquire data that will (or may) be generated in the future. Any valid Authorisation or Notice maybe renewed for a period of up to one month by the grant of a further Authorisation or the giving of a further Notice. The renewal takes effect on the expiry of the Authorisation or Notice it is renewing.

The Designated Person should:

- consider the reasons why it is necessary and proportionate to continue with the acquisition of the data being generated;
- record the date and, when appropriate to do so, the time when the Authorisation or Notice is renewed;

- consider carefully the length of any renewal and ensure that the renewal is valid for the shortest possible period.

If at any time after granting an application the Designated Person forms the view that the authorisation (including a renewed authorisation) is no longer necessary or that it is no longer proportionate to the objective sought, s/he must withdraw the authorisation. In such cases, where appropriate, the CSP should be advised of the withdrawal.

Provision of data requested by a CSP **does not** automatically cancel a Notice. It is primarily the duty of the Designated Person to ensure that any application is timeously cancelled. Where such cancellation is not timeously undertaken, the SPOC may undertake such cancellation on behalf of the Designated Person.

If at any time after giving Notice to a CSP and before it has been acted upon, the Designated Person forms the view that it is no longer necessary for the CSP to comply with the Notice, or where it is no longer proportionate to the objective sought, s/he must cancel the application.

Where a cancellation has been undertaken by the SPOC, the Designated Person must confirm the decision of the SPOC in a manner that creates a record of the application having been cancelled, along with reasons for such a cancellation.

Notification to a CSP of the cancellation of a Notice can be undertaken by the Designated Person directly or on that persons behalf, by the SPOC.

J. DATA PROTECTION PRINCIPLES

Disclosure of Communications Data by the CSP will be made to the Single Point of Contact (SPOC) who must:

- assess whether the data provided by the CSP fulfils the requirements of the Notice;
- assess whether the data acquired through an authorisation matches the authorisation

Any communications data acquired under the provisions of RIPA, together with all copies, extract and summaries shall be retained and/or destroyed in line with the Council's Records Retention and Destruction Policy. In addition the requirements of the Data Protection Act 1998 and its Data Protection principles should be adhered to.

The CSP can inform the data subject of the Application Notice if they receive a Subject Access Request under Section 7 of the Data Protection Act. However, the CSP can also use Section 29 Exemption (for the prevention and detection of crime) to withhold this information if disclosure could prejudice the investigation. This should be determined in relation or in liaison with the Council's SPOC.

K. Record Keeping

All documents and correspondence relating to Communications Data must be retained in written or electronic format. Such series of documents and correspondence should be physically attached or cross referenced where they are associated to each other.

Original copies of all documents and correspondence will be held by the central records. Copies will also be held by the Applicant, SPOC and/or Designated Person for their record purposes. There will therefore be at least three copies of each application to be held for record purposes.

The central record will also record the date when each application is granted, renewed or cancelled. These records must be available for annual inspection by the Information Commissioner.

The RIPA Officer must also keep a record of the following items:

- The number of applications submitted to a designated person for a decision to grant an Authorisation or give a Notice.
- The number of applications submitted to a designated person for a decision to grant an Authorisation or give a Notice which was rejected after due consideration
- The number of Authorisations or Notices to acquire Communications Data covering:
 - Section 21 (4)(b) – information about the use of Communications services (subscriber data)
 - Section 21(4)(c) – information and communications service users (service use data)
 - Any combination of the above
 - The number of urgent cases processed
- Number of times applications were granted orally.

This must be sent by the RIPA Officer to the Information Commissioner annually within a period as determined by him.

L. COMPLAINTS AND ERROR REPORTING

This policy aims to provide practical and realistic guidance. It is therefore only realistic to provide guidance on what should be done in the unlikely event of an error occurring. Legally, an error can only occur after a Notice has been served or data acquisition initiated from an Authorisation or Notice.

Examples of errors which could be made include:

- The purpose was not for the prevention or detection of crime
- Human error in what data requested and from whom
- CSP provides data not requested
- Notice granted which is not possible for the CSP to comply with
- Excess data requested include data inextricably linked to other information not required
- Same information has already been obtained from another source
- Traffic data requested

Errors may be divided into reportable errors (where communications data is acquired or disclosed wrongly is reported to the Information Commissioner) and recordable errors (where an error has occurred but is identified by the Council or CSP prior to the communications data being acquired or disclosed). Recordable errors are not reported to the Information Commissioner. However, details of such errors need to be retained for inspection by the Commissioner.

Examples of Recordable Errors include

- a notice given which is impossible for the CSP to comply with;
- a failure to review information already held resulting in an application to acquire communications data or renew an existing authority in order to obtain information already acquired;
- The failure to serve written notice within 1 day of an oral application being granted.

Examples of Reportable Errors include

- An application for traffic data;
- Human error such as providing CSP with incorrect dates;
- Disclosure of the wrong data by a CSP when complying with a notice;

If an error is identified the relevant SPOC should complete the relevant form as a record of the error which includes:

- Details of the error
- Explanation of how the error occurred
- Indication of whether any unintended collateral intrusion has taken place and
- Indications of what steps have been or will be taken to ensure that a similar error does not occur

The completed form should be saved to the central monitoring record and the Senior Responsible Officer informed.

M. COMPLAINTS

Complaints about improper acquisition and disclosure of communication data may be reported to the Interception of Communications Commissioner who may then report the case to the Investigatory Powers Tribunal or they may be reported directly by an affected individual to the Tribunal at Investigatory Powers Tribunal, PO Box 33220, London SW1H 9ZQ Tel No: 0207 035 3711.

Enquiries in the first instance may be made to the Senior Reporting Officer at: The Borough Solicitor, London Borough of Hillingdon, Legal Services 3E/04, Civic Centre, High Street, Uxbridge, Middlesex UB8 1UW

N. SOURCES OF INFORMATION

1. Regulation of Investigatory Powers Act 2000
2. Statutory Instrument Order 2003 No 3172 (Powers of Public Bodies)
3. Home Office Code of Practice on the Acquisition and Disclosure of Communications Data (Draft 10/3/05)
4. Home Office Code of Practice on Interception of Communications

5. Home Office (<http://security.homeoffice.gov.uk/ripa/>)
6. Department of constitutional affairs guidance on the Data Protection Act (<http://www.lcd.gov.uk/foi/datprot.htm>)
7. Information Commission's Office (<http://www.informationcommissioner.gov.uk>)

O. APPENDICES

A – List of Officers with Designated Roles at the Council

Appendix A

List of Authorising Officers and authorising levels

Name	Area	Contact Number	Level of Surveillance Authority			
			Subscriber Data	Service Use Data	Oral	
Senior Responsible Officer						
Rajesh Alagh	Borough Solicitor	Ext 0617	Yes	Yes	Yes	
Designated Person						
Kathryn Sparks	Environment and Consumer Protection	Ext 7501	Yes	Yes	Yes	
Glen Egan	Legal Services Practice Manager	Ext 7602	Yes	Yes	Yes	
Single Point of Contact (SPoC)						
Sue Pollitt	Environment and Consumer Protection	Ext 7425	Yes	Yes	Yes	Home Office Accredited
Christopher Norris	Adult Social Care Health and Housing	Ext 0889	Yes	Yes	Yes	Home Office Accredited
Bill Hickson	Environment and Consumer Protection	Ext 7402	Yes	Yes	Yes	Home Office Accredited
RIPA Officer						
Beejal Soni	Licensing Lawyer	Ext 6425	No	No	No	

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PLANNING POLICY STATEMENT 15 CONSULTATION: PLANNING FOR THE HISTORIC ENVIRONMENT

Cabinet Member	Councillor Keith Burrows
Cabinet Portfolio	Planning and Transportation
Officer Contact	Charmian Baker/Sarah Harper, Planning and Community Services
Papers with report	None

HEADLINE INFORMATION

Purpose of report	The purpose of this report is to set out the key issues and implications of the draft Planning Policy Statement, PPS 15: Planning for the Historic Environment, to enable a consultation response to be made to DCLG.
Contribution to our plans and strategies	Local Development Framework Sustainable Community Strategy Conservation Area Appraisals and Management Plans
Financial Cost	Nil
Relevant Policy Overview Committee	Residents' and Environmental Services
Ward(s) affected	All

RECOMMENDATIONS

That Cabinet:

1. Notes the contents of the draft Planning Policy Statement, PPS 15: Planning for the Historic Environment, and the implications which officers consider will arise from it and;
2. Endorses the consultation response as set out in paragraphs 17 – 23 of the report.

INFORMATION

Reasons for recommendation

The Department for Communities and Local Government has issued a consultation document, namely the draft Planning Policy Statement, PPS 15 – Planning for the Historic Environment, and has requested that all responses are returned to them by 30th October 2009.

Alternative options considered / risk management

The Cabinet may influence the Government's proposals by:

1. Agreeing that a response to the consultation document be provided in full or in part;
2. Making any amendments to the draft response that are considered appropriate.

Alternatively Cabinet may make no response to the Government's proposals.

Comments of Policy Overview Committee(s)

None at this stage

Supporting Information

Background

1. Planning Policy Guidance 15: Planning and the Historic Environment, and Planning Policy Guidance 16: Archaeology and Planning, were published in September 1994 and November 1990 respectively. Local Planning Authorities are required to take account of these policies in both strategic planning and development control decisions. Over the last twenty years, these policies have provided essential, comprehensive guidance on all matters relating to heritage and archaeology, informing planning and listed building consent decisions and providing a sound policy base for appeals relating to heritage matters.

2. The single new PPS 15: Planning for the Historic Environment is intended to replace PPG Notes 15 and 16, setting out the Government's policy on the historic environment and on archaeology in relation to the planning system. It has been drafted collaboratively by the Department for Communities and Local Government, the Department of Culture, Media and Sport and English Heritage. It has been drawn up to reflect the evolution of Government policy and general practice regarding the conservation of the historic environment over the last two decades. It has been designed to ensure consistency with the enacted and proposed Government reforms of the planning system.

3. It is stated that the new PPS will be central to the Government's aims for heritage reform, reflecting "a more modern, integrated approach . . . to embrace all of the historic environment". It is intended to be published in conjunction with the forthcoming Heritage Protection Act, which will treat all elements of the historic environment (Scheduled Ancient Monuments, Listed Buildings, Conservation Areas, Historic Gardens, and so on) as Historic Assets, to be considered under a single consent regime, by means of a common set of principles and in proportion to their significance. It is also emphasised that the Statement covers heritage assets that are not currently designated but which have a level of interest which should be conserved and, where appropriate, enhanced.

4. The core of the PPS relates to the provision of a "proportionate response to change", so that the focus is on what is significant rather than on protection for its own sake. The central plank

of this approach will be the Historic Environment Record, to be maintained by English Heritage, and at a local level, by Local Planning Authorities, which will provide a data basis of all heritage assets, with details about their significant components.

5. The draft PPS does not include those elements of the previous Planning Policy Guidance Notes which are considered to constitute guidance as opposed to policy, and it is therefore shorter and very different in appearance from the previous documents. The Guidance is to be published in a separate document by English Heritage entitled "PPS Planning for the Historic Environment: Historic Environment Planning Practice Guide". This document has been issued as a 'Living Draft' for consultation in parallel with the PPS, and English Heritage have invited comments.

Content

6. Policy HE1 refers to the Historic Environment Record, which will provide the evidence needed for assessing the 'extent, significance and condition', of known Heritage Assets (buildings, sites or areas). Local Authorities are required to consider both known assets and 'areas where there is a potential for such assets to be discovered', particularly sites of historic or archaeological interest.

7. The PPS refers in Policy HE2 to the need for the historic environment to inform the Regional Spatial Strategy. It is explained that this will tie in with the forthcoming Local Democracy, Economic Development and Construction Bill which has yet to be enacted and brought into force.

8. Policy HE3 emphasises the need for positive, pro-active, strategies for conservation and enhancement with the aim of creating 'a sense of place', particularly heritage assets at risk of loss or decay. New buildings in historic settings should enhance the appearance of an area.

9. Policy HE4 relates to the re-use and repair of buildings being sustainable, as it reduces consumption, and urges that climate change objectives should be sought which do not conflict with the conservation of heritage assets.

10. Policies HE5, HE6 and HE7 cover the use of Article 4 Directions, the application of monitoring indicators to assess the impact of planning policies on the historic environment and the usefulness of pre-application discussions.

11. Policy HE8 makes provision for the Local Planning Authority to require applicants to provide a statement of significance of the heritage assets affected and the contribution of their setting, and advises that an application should not be validated without adequate supporting heritage information.

12. Policy HE9 outlines the policy principles guiding the determination of heritage applications. Decisions should take into account an assessment of the significance of those assets, the use of appropriate expert advice, the views of the local community and the desirability of enhancing the significance and securing the long-term conservation of the asset. Care should be taken to deliver climate change mitigation solutions having the least harm to assets or their settings, whilst new developments are to be designed so as to respect their setting and reinforce distinctiveness. Decisions should also weigh up the significance of a heritage asset against the public benefits of the proposed development, allowing harm only if the heritage asset impedes all reasonable uses of the site or provides more important social, economic and environmental benefits, including mitigation of climate change. Every effort is to be made to determine

whether or not the development will actually be built. Disrepair caused by deliberate neglect is not to be taken into account in coming to this judgement.

13. Policy HE10 underlines that assets of the highest level importance (for example Grade I and II* listed buildings) should not be lost. There is also a requirement for LPA's to ensure that alternative ownership or uses for the asset have been explored, with appropriate marketing and reasonable endeavours to seek grant funding or sale to charitable or public authorities willing to take on the asset. There is a warning that not all aspects of a Conservation Area will be worthy of preservation, in which case development may enhance or reveal the significance of the area. It warns too that absence of the scheduling of an archaeological monument need not indicate a lesser significance.

14. Policy HE11 relates to the setting of a building, which will be judged again on its significance and need to enhance the process of place-making.

15. Policy HE12 examines enabling development and sets out parameters for its consideration, including whether it represents the minimum development necessary to secure the future conservation of the asset and whether it minimises harm to other public interests.

16. Policy HE13 sets out the principles guiding the recording of information relating to heritage assets. This should only be put into place once a decision is made as to whether an asset will be lost.

Implications for the Council

17. The Planning Policy Statement is a concise and, for the most part, a very general document, incorporating elements of current conservation policy, the essence of current practice and a context which reflects competing development pressures.

18. Some aspects of the PPS are particularly welcome: for example the recognition that the retention and repair of existing buildings, with sensitive adaptation for climate change mitigation, will be the most sustainable option for a site. There is also a policy promoting pre-application discussions, and another emphasising the need for good design to enhance the settings of historic assets and the creation of local distinctiveness and a 'sense of place'.

19. Some aspects of the PPS have laudable objectives but may be difficult to implement successfully. These would include the requirement for applicants to submit adequate supporting information about heritage assets, their significance and the likely impact of their proposals on this significance, before their application can be validated. Also there is an exhortation for Local Planning Authorities to monitor the impact of planning policies and decisions on the historic environment.

20. There is a concern however at the reliance to be placed on the assessment of 'significance and condition', to be set out for each historic asset in the Historic Environment Record (HER). As the HER is to be established as part of the forthcoming Heritage Protection Act, and guidelines for its creation and management have not as yet been drawn up, it is difficult to assess fully the implications for the Council as yet. However, the compiling of information on this scale, in a publicly accessible document, would be likely to require a dedicated officer. The PPS consultation document includes an estimate of £90K as being the amount Local Planning Authorities will need to pay per annum in relation to the creation and updating of the Historic Environment Record.

21. Although the PPS envisages a reduction in time spent by Conservation Officers on reactive casework, due to these policies, it is not considered that this would be a likely outcome. In weighing the significance of historic assets against the public benefits of housing supply, economic development and the need to mitigate climate change, as required in the PPS, there would be likely to be much argument in negotiations and at Public Inquiries as to the relative merits of incomparable matters. In taking away the presumption against the demolition of or harmful alteration to a listed building or conservation area, there is a concern that irreplaceable historic assets could be lost to redevelopment deemed to be of a 'wider social, economic and environmental benefit', so weakening the Council's ability to protect the heritage of this Borough.

22. Moreover there is an exhortation to Local Planning Authorities, when permitting the loss of significance of a heritage asset, to 'make every effort to satisfy themselves of the likelihood that the proposed new development will proceed, before approving the application. In fact, this is difficult to establish, when multiple applications may be submitted for the same site, and financial constraints prevent development taking place.

23. Finally, a Heritage Asset is described as being a 'Building, monument, site, or landscape of historic, archaeological, architectural or artistic interest whether designated or not', all Heritage Assets being components of the historic environment. Although this terminology will become clearer when the Heritage Protection Bill is finally enacted, it is not clear how heritage assets having no designation can be defined or protected.

Financial Implications

There are no immediate financial implications associated with this report.

The Planning Policy Statement as outlined above is planned to be published in conjunction with the new Heritage Protection Bill due to go to Parliament during the 2009/2010 Parliamentary session.

The new Heritage Bill is expected to require the Local Authority to create and maintain its own Historic Environment Records and publish its own Heritage at Risk Register plus the survey work of Hillingdon's conservation area. This more detailed policy guidance reinforces the role that the Historic Environment Record will play and it is clear that these requirements will have a resource impact. The report outlines that there is a likely need to have a dedicated officer resource for compilation of the database and that the PPS consultation document itself has estimated that Local Planning Authorities may need to pay £90k per annum in relation to the database's creation and maintenance.

There are also likely to be other impacts on activities in terms of the management of conservation areas including negotiation of management agreements for the most complex listed buildings. The full resource impact therefore at this moment is unclear but will be reported on again as part of a fuller report to Cabinet when the act becomes legislation.

EFFECT ON RESIDENTS, SERVICE USERS & COMMUNITIES

The DCLG consultation document on draft PPS 15 – Planning for the Historic Environment has implications for the heritage of the borough, which warrants the council's response being considered and endorsed by Cabinet. The submission of the council's response would be taken into account in revising PPS15 and would help ensure protection for the borough's heritage assets, which will enhance the quality of the environment within the borough.

Consultation Carried Out or Required

None

CORPORATE IMPLICATIONS

Corporate Finance

A corporate finance officer is satisfied that there are no immediate direct financial implications associated with this report.

However, the new Heritage Bill is expected to require the Local Authority to create and maintain its own database, as well as carry out survey work of Hillingdon's conservation area, which will have direct resource implications for the Council. At this stage, the report indicates that a dedicated officer is likely to be required for the compilation of the database and it is estimated that Local Planning Authorities will need to pay £90k per annum for its creation and maintenance. It is recognised that there are likely to be other impacts on activities as a result of the Legislation coming into force, but at this stage the full resource impact for the Council is unclear. The full resource impact will need to be reported to Cabinet once the act becomes Legislation.

Legal

The Secretary of State will have to take into account the Council's response to this consultation document, together with the responses of other consultees.

Corporate Property

The Head of Corporate Property has read the report and the consultation documents and supports the recommendations contained within this report.

BACKGROUND PAPERS

Consultation on Planning Policy Statement 15 – Planning for the Historic Environment – Department for Communities and Local Government

PPS Planning for the Historic Environment: Historic Environment Planning Practice Guide
English Heritage

COMMUNITY INFRASTRUCTURE LEVY: CONSULTATION RESPONSE

Cabinet Member	Councillor Keith Burrows
Cabinet Portfolio	Planning and Transportation
Officer Contact	Vanessa Scott, Planning & Community Services
Papers with report	Appendix 1 – draft consultation response

HEADLINE INFORMATION

Purpose of report	This purpose of this report is to set out the key issues associated with the government's proposals as set out in the Communities and Local Government document 'Community Infrastructure Levy - Detailed proposals and draft regulations for the introduction of the Community Infrastructure Levy, Consultation'. The report seeks endorsement of the response the consultation document as set out in Appendix 1.
Contribution to our plans and strategies	<ul style="list-style-type: none"> • Hillingdon Partners Sustainable Community Strategy • Council Plan • Unitary Development Plan (Saved Policies September 2007) • Emerging Local Development Framework
Financial Cost	There is no direct cost in responding to the consultation. Subject to the outcome of the consultation and the Governments' introduction of the Community Infrastructure Levy there will be management and monitoring costs associated with the introduction of the Levy.
Relevant Policy Overview Committee	Residents' and Environmental Services
Ward(s) affected	All

RECOMMENDATIONS

That Cabinet:

1. **Notes the contents of this report regarding the Government's detailed proposals and draft Regulations for the introduction of the Community Infrastructure Levy and;**
2. **Endorses the consultation response as set out in Appendix 1, with authorisation to the Director of Planning and Community Services to make any further detailed comments in relation to the specific consultation questions.**

INFORMATION

Reasons for recommendation

The Community Infrastructure Levy (CIL) will be a new charge which local authorities in England and Wales will be empowered, but not required, to charge on most types of new development in their area.

The introduction of the proposed CIL will comprehensively change the way that planning obligations, related to off site infrastructure, are quantified and collected. At this stage, there are a number of issues relating to both the implementation and ongoing operation of the CIL.

These concerns warrant the council providing a response in relation to the consultation document.

Alternative options considered / risk management

The Cabinet may influence the Government's proposals by:

1. Agreeing that a response to the consultation document be provided in full or in part;
2. Making any amendments to the draft response that are considered appropriate.

Alternatively Cabinet may make no response to the Government's proposals.

Comments of Policy Overview Committee(s)

None at this stage.

Supporting Information

Summary

On 30 July 2009, the Department for Communities and Local Government (CLG) published a consultation document detailing proposals for the introduction of the Community Infrastructure Levy (CIL), CIL regulations, and new policy and guidance documents.

The consultation document contains some 54 questions that the Government seeks responses to. The full version of the consultation document can be accessed via the following web site link.

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/communitylevyconsultation.pdf>

Draft regulations are published alongside the consultation document. The London Borough of Hillingdon will be submitting a response to this consultation focusing primarily on our concerns about the operation of CIL in London and proposed changes to the current arrangements for S106 planning obligations.

This report summarises the consultation document, focusing on those issues of greatest significance to the London Borough of Hillingdon. Appendix 1 to this report provides draft responses to each of the questions set out in the consultation document.

1.0 Background

- 1.1 CIL will be a new charge which local authorities in England and Wales will be empowered, but not required, to levy on most types of residential, commercial and industrial development in their areas. The proceeds of the levy will be spent on local and sub-regional infrastructure. The intention is that CIL will improve predictability and certainty for developers as to what they will be asked to contribute; will increase fairness by broadening the range of developments asked to contribute; will allow the cumulative impact of small developments to be better addressed and will enable important sub-regional infrastructure to be funded.
- 1.2 Chapter 5 of the consultation document sets out the Government's proposals as to how planning obligations could be reformed following the introduction of CIL. The Government is seeking views on whether a restriction on the use of planning obligations should extend to their use for pooled contributions and tariffs, given that CIL is the Government's preferred approach for the collection of such contributions.
- 1.3 Part 11 of the Planning Act 2008 provides the legislative basis for CIL and enables the Secretary of State to lay regulations before Parliament establishing CIL. It is these regulations which form the basis of the current consultation. The final CIL regulations will need to be approved by the House of Commons.
- 1.4 In London, both the Mayor and the boroughs will be able to charge CIL and there are concerns relating to the potential impact of the Mayoral CIL on this borough's ability to raise developer contributions either through CIL or S106. It is also important to ensure that this borough does not lose out financially as a result of having to collect and enforce the CIL. A key concern with the CLG's proposals relates to potential restrictions on the borough's ability to continue to use existing S106 tariff arrangements to fund local infrastructure.
- 1.5 The following paragraphs summarise the key issues in relation to the collection and administration of the CIL. They also address the key questions asked by the Government in the CLG consultation document.

2.0 Planning obligations

- 2.1 Planning obligations will remain available to local planning authorities after the CIL regulations come into force and developer contributions towards affordable housing

will continue to be made through planning obligations. However, the Government considers that, in the light of the introduction of CIL, it is not appropriate to continue to permit planning obligations to be used in the way they currently are, which goes beyond their original purpose for development-specific impact mitigation. They are therefore proposing to restrict through regulations the use of planning obligations to their original purpose of direct impact mitigation.

- 2.2 The Government proposes to make the policy tests in Circular 5/05: Planning Obligations compulsory and thinks that this approach should require little adjustment by practitioners and that there is no need for any significant transitional period. It is therefore proposed that this reform could potentially take effect as early as the commencement of CIL regulations on 6 April 2010 and would be applied universally whether a local authority uses CIL or not.
- 2.3 In addition, the Government considers that Section 106 of the Town and Country Planning Act 1990 is no longer a suitable basis for standard charges in light of the introduction of CIL. It proposes that existing tariff schemes should, over time, be migrated to CIL, and the ability to establish a new tariff should be prevented after a suitable transition period. The consultation also proposes to include an additional legal criterion to restrict the use of planning obligations to address planning impacts 'solely' caused by a CIL chargeable development.
- 2.4 The Government acknowledges that a longer transitional period is likely to be required for reform of planning obligations to prevent the use of tariffs, as local authorities who currently use them would require sufficient time to establish a CIL as a replacement. However, it wishes any transitional period to be as short as possible and has proposed at least two years from commencement of regulations (i.e. by April 2012 at the earliest), before planning obligations would be restricted to impacts 'solely' caused by a development. It has also suggested that there would be a need for special arrangements for the timing of a scaleback in London to take account of the existing commitments for planning obligations to raise revenue for Crossrail.

3.0 Definition of 'infrastructure'

- 3.1 CIL receipts can be used only to fund infrastructure. This is specified in the Planning Act which also provides a definition of what is meant by infrastructure and lists examples of infrastructure to which CIL could be applied. The Government favours a wide definition of infrastructure to give local communities flexibility to choose what infrastructure they need to deliver their development plan. However, it is important to remember that S106 is currently used to fund maintenance and operational costs as well as set up costs and it is essential that such costs can also be covered by CIL or that the ability to use S106 for these elements is retained.
- 3.2 The Act contains a power for the regulations to amend the definition of 'infrastructure' so that CIL can be kept up to date but for the time being the Government proposes not to use this power except in relation to affordable housing and the Mayor of London's spending powers. 'Affordable housing' was added to the definition of infrastructure to provide powers to create a fallback mechanism should CIL and planning obligations interact in such a way so as to cause a reduction in the amount of affordable housing delivered. However, the draft regulations do not specify that CIL may be applied to housing as the Government considers that planning obligations remain the best way of delivering affordable housing in the future.

3.3 Draft regulation 41(3) specifies that the sole infrastructure projects to which the Mayor may apply CIL will be transport projects, including Crossrail. This is intended to ensure that a balance can be struck between the objectives of the boroughs and those of the Mayor in respect of CIL spending.

4.0 Deciding the rate of CIL

4.1 The Act requires charging authorities to produce a draft charging schedule setting out the CIL charges in their area. The Government proposes that the schedule will not be legally part of the development plan but it will be tested in a similar way to development plan documents and should be treated as part of the Local Development Framework. Regulation 24 requires charging authorities to have regard to certain matters in setting CIL rates. These include the total cost of infrastructure requiring funding from CIL, the availability of other funding sources and the potential effects upon the economic viability of development. In addition, London boroughs when considering the potential effects of the imposition of CIL upon the economic viability of development, would be required to consider the level of any Mayoral CIL that has already been set in that area. CLG considers that this will help to ensure the right balance between the funding of strategic and local infrastructure in London.

4.1 Achieving the above will require considerable resources. It is noted that while this borough will be required to take account of the Mayoral CIL, there is no need for the Mayor to take account of the borough CIL or S106 arrangements. The Mayoral CIL will effectively take precedent and reduce this boroughs' ability to raise developer contributions.

5.0 Differential rates for CIL

5.1 The consultation document makes it clear that it is the Government's intention to allow charging authorities to set differential rates of CIL and the regulations will permit this. The purpose of this is to make CIL a more flexible instrument, able to support the development of an area, without unduly placing it at risk. Regulation 25 allows local authorities to set differential CIL rates in one of two ways - firstly for different geographical zones or sub-areas and secondly, by reference to the intended use of development (for example residential and commercial development). In either case the different rates will need to be justified by an assessment of economic viability and should be set in such a way as to comply with state aid rules. Guidance will specify that charging authorities in setting differential rates, should avoid placing excessive burdens on a small group of developers. Differential rates may not however be set in relation to infrastructure costs or over time.

5.2 The principle of the Mayor and this borough being able to charge differential rates of CIL for different geographical zones or sub-zones and for different types of development is acceptable, although could prove highly problematic in a complex out of London setting. Further views are contained in the draft response attached in Appendix 1.

6.0 Charging metrics

- 6.1 The consultation document states that charging authorities will be required by Regulation 23 to express their CIL charges in their charging schedules as pounds per square metre of gross internal floorspace.
- 6.2 The Government has selected this metric because it believes that this offers uniformity across all classes of CIL-liable development. The consultation document sets out why the Government has ruled out offering a choice of metrics and allowing different metrics for different types of development. Primarily this is because it believes that a uniform metric is a fairer and more economically efficient instrument. Further views are contained in the attached Appendix.

7.0 Charging schedule procedures

- 7.1 The consultation document sets out in some detail the procedure that charging authorities will need to go through in setting a CIL charge, including how CIL examinations are likely to work. Charging authorities will be required to consult on their proposed CIL rates before they finalise a draft charging schedule for examination. The regulations specify that a charging authority must consult with local authorities whose area is in or adjoins the charging authority's area (i.e. the Mayor will need to consult the boroughs and boroughs will need to consult neighbouring boroughs) and the boroughs must consult the Mayor on proposals for charging CIL or any proposed revision to the charging schedule.
- 7.2 The draft regulations do not specify precisely how charging authorities should consult but suggests that as a matter of good practice charging authorities should consider consulting on charging schedule proposals for at least six weeks.
- 7.3 When a charging authority thinks that a draft charging schedule is ready for examination, Regulation 28 requires the charging authority to publish the draft charging schedule and evidence, and call for representations, and to send a copy of the draft charging schedule to the bodies that were consulted during its preparation. The document details the arrangements for the CIL examination which the Government proposes should have a similar format to examinations into development plan documents. In preparing for the examination, the charging authority must allow at least four weeks in which any person may make representations about a draft charging schedule.
- 7.4 The Act provides the right for any person who makes a representation, if they request, to be heard in person by the independent examiner. This process does not currently exist and will be undertaken outside of the normal LDF, Examination in Public process. It will need to be organised and paid for by the Council.
- 7.5 Regulation 34 provides charging authorities with a choice of a stand-alone CIL charging schedule examination, or a joint CIL charging schedule and development plan examination. In addition, two or more charging schedules may be examined as part of the same examination if the charging authorities who prepared the draft charging schedules are agreeable. This means that two or more boroughs could have their charging schedules examined together or the Mayor and one or more borough could decide to work collaboratively and hold a joint examination into the London wide and borough CIL proposals.

7.6 The consultation document sets out the conclusions the examiner will need to reach in order to recommend a charging schedule for approval. These are primarily that the charging authority has had regard to all the matters required under the Act and CIL regulations and has used appropriate available evidence to inform the draft charging schedule.

8.0 Exceptional circumstances

8.1 The draft regulations do not include provisions for an exceptional circumstances procedure, where by a developer does not have to pay.

8.2 The draft regulations propose that charging authorities could have a discretionary power to offer specific schemes that are unviable due to the imposition of CIL some form of relief so that they may go ahead. The details of how this process would work in detail are still to be clarified.

9.0 Collection and enforcement arrangements

9.1 This Council will be required to collect the CIL charged by the Mayor of London even if the CIL process is not implemented at borough level. The Council will be required to transfer funds collected to the Mayor on a monthly basis. Once a chargeable development has been granted permission, the collecting authority is required to calculate the chargeable amount the Government proposes that the final CIL regulations will require and to register a conditional local land charge.

9.2 CIL collection authorities will also be responsible for the discretionary enforcement of outstanding CIL debts.

10.0 Conclusion

10.1 There are a number of fundamental concerns about the operation of CIL and proposed changes to the current arrangements for S106 planning obligations. The key areas of concern include:

- The administrative burden for the borough in preparing the CIL and the associated charging schedule; the revised/reduced S106 planning obligations policies, coupled with the associated public examination and adoption of these documents would be considerable. Potentially these documents would be more complex, resource and time intensive than the preparation of the emerging LDF.
- Councils must have an adopted core strategy before a CIL can be implemented. A charging schedule must also be consulted on before being independently examined. The move to CIL is a long one and yet the transitional period seems short.
- Phasing out section 106 tariffs contradicts the notion that the CIL will be optional. The proposals state that the ability to use other structures will be removed and therefore it would appear that the government's intention is clearly to force authorities to use CIL.
- There are doubts about the practicality of boroughs regularly reviewing CIL charges, which need independent examination. This work can take at least a year to undertake by specialist consultants and it is not an easy process.
- The implications for internal restructuring and resourcing of relevant Council departments to enable implementation of the CIL, including collection of funds,

enforcement and monitoring. The government has not proposed that any additional resources are to be provided to enable this work.

- The proposed approach may well result in the CIL operating as a 'tax' on development, and would not offer bespoke mitigation of unique local off site impacts associated with individual development proposals (as is currently afforded by planning obligations). Developers may try to resist payment of s106 contributions or to offset s106 contributions against the CIL payment. This could result in local communities feeling that the adverse impacts of developments are no longer being addressed through the planning process.
- The implications for borough level contributions given that the proposals give the Mayoral CIL precedence over the borough's CIL.
- As currently proposed, the CIL would have potentially significant adverse impacts on the viability of a large number of development proposals. The council would bear the burden of testing claims made by developers that a scheme is not viable with the imposition of a CIL. This is likely to have significant implications in terms of resources for the council, which has not been taken into account by the CLG.
- Councils may face major funding deficits because the CIL is unlikely to be able to balance scheme viability and infrastructure needs.
- If the financial viability of a development proposal is affected by the CIL, the Council would have to accept that either the development cannot take place or that there would be a lack of funding to support necessary infrastructure. In the current economic climate there are concerns that this will lead to difficult decisions having to be made as there is a need to encourage investment and regeneration.

10.2 At this stage, it is considered that the lack of sufficient in depth analysis of all of the aspects to the CIL and examination of options to resolve apparent issues, means that as proposed, the CIL is ill conceived and its introduction would be premature.

Financial Implications

There are no direct financial implications from the return of the questionnaire consulting on the Community Infrastructure Levy.

The report outlines CLG's consultation document proposals regarding the introduction of the CIL regulations. In terms of the administration it is proposed that the Local Authority becomes responsible for not only setting and administering its own charges for CIL but also for the collection and enforcement of the Mayor of London. At this stage the apparent expectation from the CLG is that any costs associated with this administration would have to be absorbed by the Authority, for both the Authorities and the Mayors CIL.

EFFECT ON RESIDENTS, SERVICE USERS & COMMUNITIES

Whilst the CIL may have a borough wide benefit, in terms of overall provision of infrastructure, the mitigation of unique site specific impacts arising from individual development may not be provided for.

The application of the CIL to development of 100sqm or more will affect small development proposals, which currently are not required to meet planning obligations. This is likely to have a direct impact on borough residents and the local business community.

The provision of an appropriate level of physical, social and green infrastructure is central to the delivery of the emerging LDF and the Sustainable Community Strategy (SCS). Officers are currently preparing a Strategic Infrastructure Plan (SIP), which will set out the infrastructure required to deliver the Core Strategy. This document will explain the CIL proposals and how they relate to the strategic objectives of the SCS.

Consultation Carried Out or Required

Internal consultation with the Council's legal, finance, leisure services, property, planning, education, highways, and green spaces, departments has been undertaken.

External consultation has been undertaken with the Hillingdon PCT and Police Crime Prevention Unit.

CORPORATE IMPLICATIONS

Corporate Finance

The possible administrative implications of the Community Infrastructure Levy on the planning service are set out in the financial implications above.

The Community Infrastructure Levy in London will form a key funding stream for Crossrail. As such the comments in the consultation response regarding any administrative burden on the Council arising from the introduction of the Community Infrastructure Levy, or any concerns about funding foregone for local infrastructure projects should be set against the enormous opportunities and potential for economic development and regeneration that are offered by Crossrail. Such comments should not be read as in any way calling into question the Council's unequivocal support for Crossrail and the funding package that underpins it.

Legal

Legal Services have considered the content of this report. The Secretary of State will be required to take into account the Council's responses as well as all the other respondents.

Corporate Property

The Head of Corporate Property Services advises that there are no direct property implications arising from this report.

Relevant Service Groups

BACKGROUND PAPERS

"Community Infrastructure Levy - Detailed proposals and draft regulations for the introduction of the Community Infrastructure Levy, Consultation" – Communities and Local Government

London Borough of Hillingdon's response to consultation by Communities and Local Government regarding community infrastructure levy.

General Comment

The Council has carefully considered the consultation document and draft regulations. There are a number of fundamental concerns about the operation of CIL and proposed changes to the current arrangements for S106 planning obligations. The key areas of concern include:

- The administrative burden for the borough in preparing the CIL and the associated charging schedule; the revised/reduced S106 planning obligations policies, coupled with the associated public examination and adoption of these documents would be considerable. Potentially these documents would be more complex, resource and time intensive than the preparation of the emerging LDF.
- Councils must have an adopted core strategy before a CIL can be implemented. A charging schedule must also be consulted on before being independently examined. The move to CIL is a long one and yet the transitional period seems short.
- Phasing out section 106 tariffs contradicts the notion that the CIL will be optional. The proposals state that the ability to use other structures will be removed and therefore it would appear that the government's intention is clearly to force authorities to use CIL.
- There are doubts about the practicality of boroughs regularly reviewing CIL charges, which need independent examination. This work can take at least a year to undertake by specialist consultants and it is not an easy process.
- The implications for internal restructuring and resourcing of relevant Council departments to enable implementation of the CIL, including collection of funds, enforcement and monitoring. The government has not proposed that any additional resources are to be provided to enable this work.
- The proposed approach may well result in the CIL operating as a 'tax' on development, and would not offer bespoke mitigation of unique local off site impacts associated with individual development proposals (as is currently afforded by planning obligations). Developers may try to resist payment of s106 contributions or to offset s106 contributions against the CIL payment. This could result in local communities feeling that the adverse impacts of developments are no longer being addressed through the planning process.
- The implications for borough level contributions given that the proposals give the Mayoral CIL precedence over the borough's CIL.
- As currently proposed, the CIL would have potentially significant adverse impacts on the viability of a large number of development proposals. The council would bear the burden of testing claims made by developers that a scheme is not viable with the imposition of a CIL. This is likely to have significant implications in terms of resources for the council, which has not been taken into account by the CLG.
- Councils may face major funding deficits because the CIL is unlikely to be able to balance scheme viability and infrastructure needs.
- If the financial viability of a development proposal is affected by the CIL, the Council would have to accept that either the development cannot take place or that there would be a lack of funding to support necessary infrastructure. In the

current economic climate there are concerns that this will lead to difficult decisions having to be made as there is a need to encourage investment and regeneration.

At this stage, it is considered that the lack of sufficient in depth analysis of all of the aspects to the CIL and examination of options to resolve apparent issues, means that as proposed, the CIL is ill conceived and its introduction would be premature.

Response to Questions

Question 1: Do you agree with the proposals that the draft CIL regulations do not define infrastructure further?

It is considered that the definition of infrastructure has broadened in recent years, beyond the physical provision of roads and utilities. It is not necessary to provide a more precise or exact definition.

Question 2: Is any further reporting required for CIL?

It is suggested that CIL should be used to implement the provisions of individual Strategic Infrastructure Plans (SIPs). Monitoring of how contributions are spent should be linked to this.

Paragraph 2.33: It is noted that Councils will not be required to prepare a list of projects to be funded through CIL. It is important that CIL responds to the needs and deficiencies outlined in the Strategic Infrastructure Plans.

Paragraph 2.51: Monitoring arrangements could be difficult if contributions are paid into a single CIL account and are not linked to specific development proposals.

Question 3: Is a 1 October deadline for reporting on the previous year's activity sufficient for local authorities? Will this timescale enable developers and local communities' to understand how CIL revenue has applied?

No comment at this stage

Question 4: Do you have any comments on any further matters raised in chapter 2 which are not covered by the questions above?

Para 2.15 states that CIL should not be used to remedy pre-existing deficiencies in infrastructure provision, except to the extent that they will be aggravated by new development. However, paragraph 2.18 encourages a degree of flexibility in how money is spent, the implication being that CIL should not be tied to specific development proposals.

Specific infrastructure issues arise from the majority of large scale development proposals. The guidance is unclear on the following points in this regard:

- Will there still be a requirement to address infrastructure issues resulting from specific development proposals?
- If the payment of a commuted sum means that developers are not liable to undertake infrastructure works resulting from development proposals, this burden and expense will be placed on the local authorities.

- What will happen in circumstances where infrastructure costs are higher than the standard CIL charge?

Question 5: Are there any circumstances where a normal CIL charging authority would not be able to fulfil its charging authority functions effectively?

The council notes at paragraph 3.5 of the consultation document that the Mayor of London is also a charging authority. There is concern that two lots of CIL will be charged in London. The scope of the GLA's remit will need to be clearly defined and taken into account when setting CIL for individual London Boroughs to ensure that it does not prohibit the Boroughs ability to collect the required CIL for their sub regional infrastructure needs.

Question 6: In deciding whether to use the power at Section 207 of the Act, should the government apply different criteria to those described above? Which functions should a joint committee perform?

No comment at this stage.

Question 7: Do you agree that differential rates should be based only on the economic viability of development:

With regard to paragraph 3.36 of the consultation document, the assessment of economic viability is critical to ensuring that CIL is set at an optimal rate to support development. If the rate is set too high it will stifle development and slow economic growth.

Paragraph 3.37: To be fully effective, the assessment of economic development will need to take account of the following factors:

- The land values for different uses in different parts of the borough
- Other CIL charges levied on development and subsidies that developer might receive
- The densities that are appropriate in different areas.

All of these issues are important in Hillingdon. For example, higher land values are likely to be achieved in the northern part of our borough where lower densities will be appropriate. Conversely, parts of the southern area around Hayes, West Drayton and Yiewsley attract higher densities, but land values may be lower.

These issues present a complex picture in relation to economic viability for different types of development and are likely to result in a number of different CIL charging zones around the borough.

Whilst economic viability is critical, contribution rates should also take account of the need for infrastructure types in certain parts of the borough and this should be reflected in regulation 24.

Question 8: Do you agree that CIL charges should be based on a metric of pounds per square metre?

The Council agrees that CIL should be charged at a metric of pounds per square metre.

Question 9: Would you prefer to have a choice of changing metrics and if so, can you suggest what and how the system could accommodate this choice without undue complexity and unfair distortions?

It is suggested that rates for commercial floorspace could reflect commercial rents, using a unit cost per square foot of floorspace.

Question 10: Do you agree with the Government's proposal to apply the charging metric to gross internal area of development or do you think there are advantages to levying CIL on the gross external area?

Contributions should relate to the useable, income generating part of the development, which is generally the internal area of a building.

Question 11: Do you agree that CIL should be levied on the gross development, rather than the net additional increase in development?

The Council agrees that CIL should be levied on the gross development area.

Question 12: Should authorities be required to index CIL charges?

Index linking would ensure that the CIL is not diminished through time and inflation, and therefore this approach is supported.

Question 13: Should indexation be based on a national index to provide simplicity, consistency and a readily understood index or, alternatively, should charging authorities be allowed to choose different indices in different places?

A national index may be appropriate, however further research would be required to understand there should be the flexibility to use other local indices in some cases.

Question 14: Do you agree with the Government's proposed choice of an index of construction costs?

Construction costs are monitored nationally, costs could be indexed against, for example, the BCIS.

Question 15: Are you content with indexation taking place to the point of the grant of planning permission or would you prefer charges to be indexed to the point when development commences?

It is considered that the indexing should start from the date of planning permission as this will ensure CIL contributions are not devalued through inflation.

Question 16: Do you think it is right to apply the index on an annual basis or do you see advantages in applying it monthly?

Application of indexation monthly would help to ensure CIL funding is not diminished through inflation.

Question 17: Do you agree that charging authorities should be able to index their charges from 1 January each year (Taking the November index)

No objection would be raised to this approach.

Question 18: Do you agree with the Government's proposal to allow joint charging schedule/ development plan examinations.

The Council notes that some items of infrastructure will cross local authority boundaries, or will result in joint use between different local authority areas. To some extent, this issue will need to be addressed in the Strategic Infrastructure Plan (SIP). Given the discretionary nature of CIL, the proposal to allow joint examinations is accepted.

Question 19: Do regulations need to cover any additional matters relating to joint examination?

It is suggested that this issue could be addressed through the use of good practice examples, as and when they become available.

Question 20: Should the CIL examiner be able to modify a draft charging schedule to increase the proposed CIL rate

The CIL rate should be set by local authorities to reflect local circumstances. As such, and to ensure a consistent approach, the CIL examiner should not be able increase the proposed CIL rate.

Question 21: Do you have comments on any other matters raised in Chapter 3 which are not covered by the questions above?

No further comments at this stage.

Question 22: Do you agree with the chosen definitions of building, planning permission and 'first permits'? If not, what changes would you wish to see that strike the right balance between simplicity, fairness and minimising distortions?

No objection is raised in relation to the above definitions.

Question 23. Do you agree with our approach to when CIL is chargeable on outline and reserved planning permissions. If not, what changes would you wish to see that deal fairly with these types of permissions?

The approach is considered reasonable.

Question 24: What are your views on the principle of providing a reduced rate of CIL for all affordable housing development? What do you think the likely consequences of providing such a discount might be?

A reduced CIL for affordable housing proposals would encourage this form of development, although as a consequence the impact and infrastructure costs attributable to the development would not be off set. There is likely therefore to be adverse implications arising from this approach.

The proposals in relation to affordable housing would have to take account of the need for limited retention of S106 planning obligations.

Question 25: If the Government were to provide a reduced rate of CIL for affordable housing development, do you think that the proposed definition of affordable housing is workable in practice.

While the definition is considered workable, it excludes (by definition) privately funded affordable housing development. This would have the effect of reducing affordable housing provision.

Question 26: If the proposed definition provides a workable basis for any reduced rate of CIL for affordable housing, should CIL relief for charities building affordable housing be applied according to this definition or according to whether it fulfils the charity's charitable purposes?

For consistency it is considered that CIL relief for charities building affordable housing be applied according to this definition.

Question 27: Should LCHO properties where receipts from staircasing are recycled for additional affordable housing, not be subject to any clawback? If LCHO properties where receipts are not recycled are subject to clawback of the CIL discount, should there be a time limit up till when staircasing to full ownership would invoke clawback? How should such a clawback operate?

To recoup the CIL in an instance where LCHO afford residents the opportunity to 'stair case' or purchase the remaining share of a property, the CIL would need to be embedded in the cost of purchase, which may well result in the property not being affordable. Further analysis is required to assess this issue.

Question 28: Is 7 years an acceptable time period for clawback to operate over?

No objection is raised.

Question 29: Is it reasonable to ask a claimant to submit an apportionment of liability in this way?

While no objection is raised to a formal process being in place for charities etc to follow when seeking exemption from the CIL, this involves an administrative burden for both the applicant and Council, the implications of which require further investigation.

Question 30: Do you agree that it is best not to have a special procedure for developments that have difficulty in paying the advertised rate of CIL? If not, how could it be done in a way that is fair, non-distortionary and not open to abuse?

It is not considered that a special procedure is necessary. The proposed process provides sufficient flexibility. Further procedures would place additional administrative burdens on local authorities.

Question 31: Do you agree with the Government's proposals for liable parties and assumption of liability?

The approach is considered reasonable.

Question 32: Are these timescales for the transfer of CIL revenue from the collecting authority to the charging authority the right ones?

Requiring transfers less frequently would reduce administrative burdens for collecting authorities.

Question 33: Do you think that the final regulations should provide for the payment of CIL in-kind?

In kind provision is appropriate and this approach is supported

Question 34: If you think they should, can you suggest how CIL could be paid in-kind without incurring the difficulties outlined above?

Direct provision of infrastructure by developers will always be preferable to the provision of a commuted sum for local authorities to undertake works. This process already takes place under the existing S106 procedures and is considered workable.

Question 35: Should payment by instalments be provided for in the final CIL regulations in addition to the ability to pay CIL by phases of development? How should the instalments be structured?

Payments of CIL in instalments is supported. There is concern that the viability of development would be adversely affected if payment in full was required immediately upon implementation.

Question 36: Do you agree that payment on account should not be provided for in the final CIL regulations?

No, collection of CIL should only occur if a scheme is implemented. Payment on account would also unnecessarily increase the administrative burden for collecting authorities.

Question 37: Should the collecting authority be under a duty to remove the charge automatically on payment of the full CIL liability?

While no objection is raised to this approach, there will be an administrative burden for collecting authorities. At this stage no additional resources have been proposed to assist with administering the CIL process.

Question 38: Should the draft regulations be amended to require collecting authorities to have to issue a warning to liable parties (in writing and possibly by posting a warning on the site in question) before being able to impose a late payment surcharge?

A warning is considered appropriate and in line with current enforcement procedures.

Question 39: Are the means of recovering CIL debts sufficient or would further methods, such as the ability to impose attachment of earnings orders, be helpful?

The measures are considered sufficient.

Question 40: Should the Government provide for specific enforcement measures in regulations to allow collecting authorities to penalise and deter breaches of the conditions for relief?

Enforcement measures are essential to ensure the CIL is workable.

Question 41: Is a bespoke compensation regime required for CIL where enforcement action is inappropriately taken or would the Ombudsman route suffice?

No bespoke compensation regime is required.

Question 42: Do you have comments on any other matters raised in Chapter 4 which are not covered by the questions above?

No further comments at this stage.

Question 43: What do you think about the Government's proposal as set out in draft regulation 94 to scale back the use of planning obligations?

Formalisation of the policy tests into law would be undesirable, inflexible and add another layer of complexity. There are still a number of uncertainties about how CIL will be implemented and particularly about how it will operate in London, it is essential that boroughs are able to continue using existing approaches for collecting developer contributions until such time as CIL can be seen to have worked.

Question 44: Do you think the wording of the five tests as set out in draft regulation 94 is appropriate? Is each of the five tests meaningful and workable in practice, or could any be expressed in a better way?

The tests reflect those set out in Circular 05/05 and are considered appropriate.

Question 45: Do you think that a transitional period, beyond the commencement of CIL regulations in April 2010, would be required to restrict use of planning obligations to the Circular 5/05 tests, and if so what should it be and why is such a period required?

Yes, a transitional period is required to assist in the smooth introduction of the CIL process.

The tests contained in Circular 05/05 are considered sound, however consideration should be given to the provision of social infrastructure needs arising from specific development proposals.

Question 46: Do you agree that a scale back of planning obligations as set out in draft regulation 94 should apply universally across England and Wales regardless of whether a local authority has a CIL or not?

No objection raised to the application of CIL nationally, however as discussed above a transitional period should be provided to assist in the smooth introduction of the CIL process, and further consideration needs to be given to the provision of social infrastructure needs arising from specific development proposals.

Question 47: Should a scale back of the use of planning obligations go further and prevent the future use of planning obligations for pooled contributions and tariffs?

The flexibility to allow the pooling of S106 contributions for site specific impacts should be retained.

Question 48: Do you think the Government's proposal to provide an additional legal criterion to restrict the use of planning obligations to address planning impacts 'solely' caused by a CIL chargeable development is workable in practice? If not, please state why not. Can you think of an alternative which would have the same or similar effect?

The implementation of this proposal would necessitate the introduction of the CIL process by all authorities. This is at odds with the principle of discretionary implementation outlined in this consultation document.

Question 49: What transitional period, beyond the commencement of CIL regulations in April 2010, would be required to restrict use of planning obligations to mitigate impacts 'solely' caused by CIL chargeable developments?

The proposed transitional period is unduly restrictive, given the complexity of the process involved in preparing and agreeing the CIL. The transitional period should extend until such time as the individual local authority has prepared and implemented the CIL.

Question 50: Do you agree that a restriction of planning obligations to prevent their use for pooled contributions or tariffs should apply universally across England and Wales regardless of whether a local authority has a CIL or not?

As commented in response to question 46, no objection is raised to the application of CIL nationally, however as discussed above a transitional period should be provided to assist in the smooth introduction of the CIL process, and further consideration needs to be given to the provision of social infrastructure needs arising from specific development proposals.

Question 51: What transitional period in London do you think would be required before a scale back of the use of planning obligations which prevented the use of pooled contributions and tariffs could take effect, to ensure a smooth transition from the existing to the new planning obligations regime taking account for the need to use planning obligations for Crossrail purposes?

As commented in response to question 49, the transitional period should extend until such time as the individual local authority has prepared and implemented the CIL.

This question implies that implementation of the CIL process will be required by all authorities which is at odds with the principle of discretionary implementation outlined in this consultation document.

Question 52: In revising Circular 5/05 in light of the introduction of CIL, what further policy or areas of clarification do you think might be required with regards to the use of planning obligations?

No further comment at this stage.

Question 53: Do you think any further guidance (additional to a revised Circular 5/05) is required to support the use of planning obligations or CIL, and if so who would be best to provide it?

No further comment at this stage.

Question 54: Do you have comments on any other matters raised in Chapter 5 which are not covered by the questions above?

No further comment at this stage.

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COUNCIL BUDGET - MONTH 5 2009/10 REVENUE AND CAPITAL MONITORING

Cabinet Member	Councillor Jonathan Bianco
Cabinet Portfolio	Finance and Business Services
Report Author	Paul Whaymand, Finance and Resources
Papers with report	None

HEADLINE INFORMATION

Purpose of report	<p>The report sets out the council's overall 2009/10 revenue & capital position, as forecast at the end of Month 5 (August). The in year revenue position on normal activities is forecast as being £713k less net expenditure than budgeted, a favourable movement of £278k on the month 4 position. This favourable movement is primarily due to favourable client trends in the Learning Disabilities service. There is an exceptional pressure of £1,830k related to asylum funding which has increased by £210k from the month 4 position. To help mitigate these pressures the £1m in-year savings programme was put in place. The net consequence to date is the overall revenue position forecast is £117k more net expenditure than the revised budget, a favourable movement of £68k on month 4.</p> <p>Total forecast capital expenditure for the year is estimated to be £88,647k, which is £15,115k less than the latest budget and £2,459k less than that forecast in month 4.</p>
Contribution to our plans and strategies	Achieving value for money is an important element of the Council Plan for 2009/10.
Financial Cost	N/A
Relevant Policy Overview Committee	Corporate Services and Partnerships
Ward(s) affected	All

RECOMMENDATIONS

That Cabinet:

1. Note the forecast budget position for revenue and capital as at Month 5.
2. Note the treasury management update in Appendix B.

INFORMATION

Reasons for Recommendations

1. The reason for the monitoring recommendation is to ensure the Council achieves its budgetary objectives. The report informs Cabinet of the latest forecast revenue and capital position for the current year 2009/10.

Alternative options considered

2. There are no other options proposed for consideration.

SUMMARY

A) Revenue

3. The in year revenue position on normal activities is forecast as being £713k less net expenditure than budgeted, a favourable movement of £278k on the month 4 position. The main reason for the favourable movement is due to an increased favourable trend in the Learning disabilities services (£230k). However, there is an increased exceptional pressure of £1,830k related to asylum funding which has increased by £210k from the month 4 position.
4. In light of the forecast pressure in relation to asylum, all Groups have been working up an in-year savings strategy in Month 4 to achieve a further £1m in savings on top of those already agreed at Council Tax setting. The cash limits for Groups were reduced by £1m and they are reporting against these lower cash limits.
5. The overall revenue position taking account of the exceptional asylum pressure and the £1m in-year savings programme is £117k more net expenditure than budgeted, a favourable movement of £68k on month 4.
6. The most significant pressures for which contingency provides are in relation to Asylum spend, Transitional Children, Homelessness and Mental Health pressures. All of these have corporate contingencies set aside in budget setting in recognition of these pressures. However, at Month 5 the pressures are forecast to be £1,417k more than the contingency budget provides. This is primarily due to the forecast asylum spend being £1,830k more than the contingency provides. This has arisen from the proposed moderation of the under 18's claim, and a newly announced change to the indirect cost model for grant claims, creating a significant budget pressure rather than an overall improvement in the funding regime assumed at budget setting.
7. There continue to be pressures from the downturn particularly in relation to the property market and the effect this has on planning income. These are treated as contingency items and at Month 5 show an adverse variance of £110k, a favourable movement of £35k on month 4. Projected development control and building control income have improved by £35k since month 4.
8. Capital financing costs are still forecast to underspend by £120k as a result of debt refinancing work undertaken since the start of the year.
9. The balances brought forward at 31st March 2009 were £16,234k. £3,540k of this sum was applied in support of the 2009/10 budget as part of the budget strategy agreed at Council Tax setting. An additional £694k, in excess of the £12,000k target level of balances is earmarked for potential business efficiency investment.

10. The forecast balances as at 31st March 2010 based on the current forecast overspend of £117k are £11,833k.

B) Capital

11. Total forecast capital expenditure for the year is estimated to be £88,647 (£92,085k month 4), £15,115k less than the latest budget. This month's reduction is primarily due to the rephasing of Education two year Schools Kitchen Programme by £1,743k into 2010/11 and the change in outturn on the New Years Green Lane project £1,200k in MCP. The projections also assume that the remainder of contingency will not be drawn down.
12. The £8,800k budgeted level of capital receipts for 2009/10 looks increasingly difficult to deliver. There are a range of outcomes still possible but receipts could fall as low as £3,500k.
13. The net effect of the reduction in forecast capital receipts and slippage on the programme is a decrease in the forecast use of unsupported borrowing of £920k, from £30,351k to £29,431k.

A) Revenue

14. Table 1 indicates the overall impact of the expenditure forecasts now reported on the approved budget and the resulting balances position.

Table 1

2009/10 Original Budget	Budget Changes		2009/10 (As at Month 5)		Variances (+ adv/- fav)		
			Current Budget	Forecast	Variance (As at Month 5)	Variance (As at Month 4)	Change from Month 4
£'000	£'000		£'000	£'000	£'000	£'000	£'000
217,419	-1,103	Directorates Budgets on normal activities	216,316	215,723	-593	-315	-278
-25,844	103	Corporate Budgets on normal activities	-25,741	-25,861	-120	-120	0
191,575	-1,000	Sub-total Normal Activities	190,575	189,862	-713	-435	-278
1,210		Exceptional Items - Asylum	1,210	3,040	+1,830	+1,620	+210
	1,000	In-year recovery savings	1,000		-1,000	-1,000	0
191,575	0	Total net expenditure	192,785	192,902	+117	+185	-68
189,245	0	Budget Requirement	189,245	189,245	0	0	0
3,540		Net total	3,540	3,657	+117	+185	-68
-16,234		Balances b/f 1/4/09	-16,234	-16,234	0	0	0
0		Transfer to earmarked reserves	694	694	0	0	0
-12,694	0	Balances c/f 31/3/10	-12,000	-11,883	+117	+185	-68

Directorates' Forecast Expenditure Month 5

15. Table 2 shows further details on the budget, forecast and variance at Directorate level now reported. Further detail on each directorate is shown in Appendix A.

Table 2

2009/10 Original Budget	Budget changes	2009/10 Current Budget (as at Month 5)	Directorate	2009/10 Forecast (as at Month 5)	Variances (+ adv/- fav)		
					Variance (As at Month 5)	Variance (As at Month 4)	Change from Month 4
£'000	£'000	£'000		£'000	£'000	£'000	£'000
84,879	-815	84,064	Adult Social Care, Health & Housing	84,074	+10	+262	-252
37,274	-384	36,890	Environment & Consumer Protection	36,890	0	0	0
57,577	-830	56,747	Education & Children's Services	56,747	0	0	0
13,810	-290	13,520	Planning & Community Services	13,520	0	0	0
15,179	1,361	16,540	Central Services	16,540	0	0	0
6,900	-40	6,860	Developments Contingency	6,447	-413	-387	-26
0	0	0	Pay Award	-190	-190	-190	0
1,800	-105	1,695	Growth to be allocated	1,695	0	0	0
217,419	-1,103	216,316	Sub-Total	215,723	-593	-315	-278
			Exceptional items:				
1210	0	1,210	Exceptional pressure: Asylum funding	3,040	+1,830	+1,620	+210
0	1000	1,000	In-year savings	0	-1,000	-1,000	0
1,210	1,000	2,210	Sub-Total	3,040	+830	+620	+210
218,629	-103	218,526	Total	218,763	+237	+305	-68

16. **Adult Social Care, Health & Housing** are projecting a **pressure of £10k** as at Month 5.

This is primarily due to pressures on Mental Health Services (£291k) and equipment costs related to the changeover to a digital exchange for Careline (£90k). However there is an increased favourable variance in the Learning disability service of £387k reflecting care packages for new and transitional clients starting later. This forecast excludes sums for which contingency provides for Transitional Children (£1,675k), Mental Health Services (£450k) and Homelessness (£1,300k).

17. **Environment & Consumer Protection** are forecasting a **nil variance** as at Month 5 after identifying recovery savings to contain pressures. There is a pressure of £95k in the Street Cleansing service and residual costs and loss of economies of scale on Harlington Road Depot (£169k) net of actions being taken to reduce costs. Savings have now been identified in Waste Disposal (£50k), Trade waste (£40k) and Off-Street Car parking to reduce the amount of recovery plan savings needed. This forecast excludes the additional amount for the Waste Disposal Levy (£720k), Waste and Recycling services (£200k) and Vehicle Fuel costs (£85k) which are contingency items, where the forecasts are in line with the original budgeted amounts. There is also a further pressure on the Waste service on recycling costs

which could be contained utilising the £300k provided for within the HIP initiatives for recycling projects.

18. **Education & Children's Services** are forecasting a **nil variance** as at Month 5 on normal activities. There is now a favourable variance of £290k in Children and Family services which is contributing to reducing the recovery plan savings target. These pressures exclude the pressure on asylum (£2,465k) and Exhausted All Appeal cases (£575k) which are being treated as contingency items. The Month 5 forecast for asylum represents a pressure of £1,830k on the contingency budget assumptions.
19. **Planning & Community Services** are projecting a **nil variance** as at Month 5 on normal activities and pressures are expected to be managed within services. However this excludes pressures on Development Control (£377k), Building Control (£149k) and Land Charges (£757k) income and Golf (£262k) for which contingency provides. In total there is currently a forecast pressure of £110k on these contingency funded items.
20. **Central Services** are forecasting a **nil variance** as at Month 5. There are pressures totalling £397k including Democratic Services (£82k), Human Resources (£118k), an ongoing pressure of £142k on income streams from commercial properties, a shortfall of £20k on income from schools buy back of Facilities Management services and a pressure of £15k due to maintaining and keeping secure surplus properties prior to their disposal. A recovery plan has been put in place to identify savings across the 2 Groups designed to achieve a balanced budget by the year end.
21. **Pay award:** The 2009/10 budget was based on an assumed pay award of 1.5%. Of that, 0.3% was utilised to fund the late additional award for 2008/09, leaving a balance of 1.2%. Employers originally offered 0.5%, which equated to a 0.7% saving, resulting in an underspend of around £660k. However, this has been increased to 1% which will reduce the underspend to around £190k.

Development & Risk Contingency: £1,417k pressure (£186k adverse)

22. £8,110k of potential calls on the Development & Risk Contingency were identified as part of the budget setting process for 2009/10, £7,320k is held in the base budget and £790k is to be met from balances. Table 3 shows the amounts that have been allocated or committed as at Month 5.

Table 3

Development and Risk Contingency	2009/10 Budget	Agreed	Forecast as needed	Variance (+adv / -sav)
<i>2009/10 allocations:</i>	£'000	£'000	£'000	£'000
Allocations approved				
Christmas Lights Fund for Town Centres		30	30	30
Commitments:				
General Contingency	500			-500
Increase in Transitional Children due to Demographic Changes	1,675		1,675	0
Increase in Mental Health Packages due to Demographic Changes	450		450	0
Homelessness Budget - Reduction in DWP Funding	1,050		1,300	250
Asylum non-EAA monitoring pressure	660		2,465	1,805
Asylum Exhausted All Appeals	550		575	25
Waste Disposal Levy	720		732	12
Cost Pressures on Recycling Service	200		200	0
Vehicle Fuel Monitoring Pressure	85		60	-25
Local Land Charges Income	715		757	42
Development Control Income	350		377	27
Building Control Income	108		149	41
Golf Courses Income	262		262	0
Uninsured claims	450		450	0
Legal Challenges	120		40	-80
Civic Centre Energy Monitoring Pressure	100			-100
Provision for Planning Inquiries	75			-75
Joint Appointment of Director of Public Health	40		5	-35
Total budgeted allocations	7,610	30	9,527	
Balance remaining to mitigate other pressures	500		0	
Total net contingency	8,110		9,527	+1,417

23. A large proportion of the total contingency is expected to be required in full and the pressure on asylum in particular has resulted in an overall pressure of £1,417k on the contingency budget. If the asylum pressure were excluded there would be an underspend of £422k on contingency.

24. The forecast asylum spend is £3,040k in excess of base budget provision within Children's Services. This is £1,830k in excess of the net sum for which contingency provides (£1,210k). The pressure on the non EAA element of Asylum (£2,465k) comprises a pressure on over 18's due to the ongoing demand for service and the continued under-funding by the Government and a pressure on under 18's due to the moderation of the special circumstances claim. The adverse movement of £210k is due to changes in the Indirect Cost Model which will reduce the amount we can claim on these costs. The current forecast in Exhausted all Appeals cases (£575k) represents an adverse variance of £25k.

25. Within ASCH&H the contingency items in relation to Transitional Children and Mental Health are forecast to be needed in full at this early stage of the year. The pressure on the

Homelessness contingency budget due to a reduction in DWP funding (£1,050k) is now expected to exceed this by £250k due to inflation on Private Sector Landlord rents and capped housing benefit.

26. Pressures related to the economic downturn which were highlighted in 2008/09 as exceptional items are in 2009/10 budgeted within contingency. However, as at Month 5 they are projected as being £110k more than provided within contingency. Development control income is forecast as a gross pressure of £377k, £27k in excess of that provided for within contingency. The main area of pressure is due to the limited number of major applications, however this is a volatile area and given the scale of the fees the position could change during the year. Land charge income has moved to a cost recovery basis due to a change in regulations enacted in December 2008 and current projections show a pressure on contingency of £42k. The forecast for building control income is a gross pressure of £149k, £41k above that provided for within contingency based on a reduction in income of 10% from the same period in 2008/09.
27. A sum of £85k has also been included in the contingency to cover fuel pressures. At month 5 it is forecast that £60k will be needed.
28. In addition it is forecast that £450k will be required from contingency for uninsured claims, £200k for the Recycling service and £262k for Golf income.

Priority Growth: Nil variance (No change)

29. £1,800k was included in the 2009/10 budget for priority growth of which, £1,100k was for HIP Initiatives. The HIP Initiatives Budget includes £300k of ongoing base funding as well as £800k of new growth. This provides for the continuation of schemes developed in 2008/09 including Hillingdon First and recycling pilots developed through the Waste and Energy project. In addition there is £700k of unallocated non specific growth.
30. Table 4 summarises the position with regards to each element of priority growth.

Table 4

Priority Growth	2009/10 Budget	Agreed draw downs	Commitments	Unallocated
<i>2009/10 Unallocated Priority Growth at start of the year</i>	£'000	£'000	£'000	£'000
HIP Initiatives New budget:	500			489
Agreed:				
Civic Pride/Angling		11		
Organisation People & Performance - PADA Audit work		6		
Corporate finance		65		
Communications		75		
Waste and energy	300	22	278	0
HIP Initiatives Ongoing budget:				
Customer Experience - Hillingdon First	300	77	223	0
HIP Initiatives unallocated balance	1,100	256	501	343
Unallocated non specific growth	700			700
Balance of unallocated growth	700	0	0	700
Total	1,800	256	501	1,043

31. HIP Steering group have approved £256k of allocations so far this year the detail of which is set out in table 4. In addition there are expected further commitments of £223k on Hillingdon First and £278k on Waste and Energy that will require HIP revenue funding. There is a pressure on the recycling base budgets within E&CP associated with the ongoing cost of HIP approved recycling projects, this monitoring report assumes that this sum will be funded from the £300k provided for this within HIP budgets.
32. September HIP Steering Group also agreed to release £75k for Communications on various workstreams.
33. There is also a commitment of up to £100k not included in the table above, for the two town centre pilot wireless schemes, to be approved once the final costings have been agreed.
34. As at Month 5 there is an estimated £343k remaining from the HIP initiatives budget, and £700k of unallocated non-specific priority growth budget. The Month 5 forecast assumes that the balance of unallocated growth will be spent.

Corporate Budgets' Forecasts: £120k favourable (No change)

35. Table 5 shows budget, forecast and variance now reported on corporate budgets as at Month 5.

Table 5

2009/10 Original Budget	Budget Changes	2009/10 Current Budget (as at Month 5)	Corporate Budgets	2009/10 Forecast Outturn (as at Month 5)	Variances (+ adv/- fav)		
					Variance (As at Month 5)	Variance (As at Month 4)	Change from Month 4
£'000	£'000	£'000		£'000	£'000	£'000	£'000
-1,892	115	-1,777	Unallocated savings	-1,777	0	0	0
9,026	18	9,044	Financing Costs	8,924	-120	-120	0
			FRS 17 Pension				
3,690	0	3,690	Adjustment	3,690	0	0	0
			Asset Management				
-24,703	0	-24,703	A/c	-24,703	0	0	0
-11,965	-13	-11,978	Corporate Govt Grants	-11,978	0	0	0
-25,844	120	-25,724	Corporate Budgets	-25,844	-120	-120	-120

36. Debt financing costs are now forecast to be underspent by around £120k due to debt refinancing work undertaken since the start of the year. A summary of treasury management activity is attached at Appendix B.

B) Capital

Background

37. A budget of £88,195k was set by council in February 2009 which was revised to £94,806k following the amendments to budgets, as a result of the final outturn in 2008/9.

38. The revised budget for August 2009 is now £103,762k (£104,741k month 4). The decrease in this month's budget is due to the rephasing of the Schools Kitchen Programme grant monies that the Council will receive which is a two year grant.

Current Year Expenditure

39. Table 6 shows the actual spend to date and the projected outturn for 2009/10.

Table 6

Group	Original Budget £'000	Revised Budget £'000	Capital Spend Month 5 £'000	Actual Spend % of Revised Budget %	Forecast outturn (Month 5) £'000	Variance (Current Month) £'000
Adult Social Care, Health & Housing	3,715	6,590	2,087	32%	5,933	-657
Environment & Consumer Protection	8,193	8,519	2,483	29%	9,002	+483
Education & Children's Services	23,613	30,527	1,527	5%	21,568	-8,959
Planning & Community Services	2,351	2,061	241	12%	2,071	+10
Finance & Resources	2,576	2,898	623	21%	2,739	-159
Deputy Chief Executive	2,125	1,925	258	13%	1,925	0
Major Construction Projects	29,181	34,267	10,670	31%	33,491	-776
Group Total	71,754	86,787	17,889	21%	76,729	-10,058
Recovery from Contingency					-788	-788
Programme Contingency	3,196	3,196	0	0%	686	-2,510
Contingency	1,500	1,472	0	0%	102	-1,370
Contingency Total	4,696	4,668	0	0%	0	-4,668
HRA	11,745	12,307	2,853	23%	11,918	-389
Total	88,195	103,762	20,742	20%	88,647	-15,115

A summary of the programme for the Major Construction Projects is shown below as this has a direct bearing on the budgets above:

MCP Group	Original Budget £'000	Revised Budget £'000	Capital Spend Month 5 £'000	Actual Spend % of Revised Budget %	Forecast outturn (Month 5) £'000	Variance (Current Month) £'000
Planning & Community Services Projects Subtotal	17,682	19,607	7,106	36%	20,291	+684
Education & Children's Projects Subtotal	9,884	13,045	3,564	27%	12,790	-255
Finance and Resources Projects Subtotal	15	15	0	0%	10	-5
Environment Projects Subtotal	1,600	1,600	0	0%	400	-1,200
MCP Group Total	29,181	34,267	10,670	31%	33,491	-776

40. The overall Capital Programme budget is projecting an underspend of £15,115k as at Month 5 (£12,656k month 4), an increase of £2,459k on Month 4 reported projections. This is detailed in table 6.
41. Actual spend to date is £20,742k, which equates to 20% of the programme. This is an increase of 4% from month 4, however this spend trend is slightly distorted as the schools report quarterly. We anticipate a significant increase when the quarter 2 returns are submitted to reflect the works that have taken place over the school holiday period.
42. There are a number of schemes currently forecasting a potential overspend. These potential overspends total £2,700k, a large proportion of these schemes are schemes that are not fully funded through Council resources e.g. TFL, Schools, S106 etc. In addition where possible Council funded scheme overspends will be funded by virement from other parts of the capital programme within the Group concerned. After taking these factors into account the remaining potential pressure on contingency is around £788k. Further work will be undertaken to refine the pressure and identify options to fund.

Current Year Financing

43. Table 7 shows the financing of both the budget and the expected outturn.

Table 7

2009/10	Unsupported £'000	Capital Receipts £'000	Supported £'000	Grants £'000	HRA (inc MRA) £'000	Section 106 and other contributions £'000	Total Capital Programme £'000
Revised budget 2009/10	30,351	8,800	9,176	39,381	10,406	5,648	103,762
Outturn 2009/10	29,431	3,500	4,699	36,400	10,166	4,451	88,647

44. The level of unsupported borrowing forecast as at month 5 is £29,431k, a decrease of £920k on the original budget. This is primarily due to the reduction in the forecast outturn on New Years Green Lane by £1,200k in month 5.
45. The £8,800k budgeted level of General Fund capital receipts for 2009/10 continues looking increasingly more difficult to deliver. There are a range of outcomes still possible but receipts could fall as low as £3,500k. General Fund receipts to date are in the region of £50k but a number of other General Fund sites are now programmed for sale later in the financial year.

CORPORATE CONSULTATIONS CARRIED OUT

Financial Implications

46. The financial implications are contained in the body of the report.

CORPORATE IMPLICATIONS

Corporate Finance

47. This is a Corporate Finance report.

Legal

48. There are no legal implications arising from this report.

BACKGROUND PAPERS

49. Monitoring report submissions from Groups.

APPENDIX A – Detailed Group Forecasts

Adult Social Care, Health and Housing (ASCH&H)

Revenue: **£10k Pressure (£252k favourable)**

1. The ASCH&H budgets are predominantly demand led and affected by demographic trends requiring robust and positive management. The pattern of demand for the current year is indicating pressures first identified in the latter part of last year across a range of service areas, most notably Mental Health. However due to a favourable movement in Learning Disability services the Month 5 report is showing a marginally adverse variance of £10k reflecting a favourable movement of £252k from the Month 4 position. The overall position for ASCH&H is set out in the table below.

Division of Service	Forecast Variance Month 5 £'000	Forecast Variance Month 4 £000	Change from Month 4 £000
Older Peoples Services	0	0	0
Physical & Sensory Disability Services	0	0	0
Learning Disability Services	-387	-157	-230
Mental Health Services	+291	+318	-27
Housing Benefits	0	0	0
Housing Need Services	0	0	0
ASC,H&H Other Services	+105	+101	+4
ASCH&H - Total	+10	+262	-252

Older People Services: Nil variance (No change)

2. This service is managing a gross budget of £41.7m, received £170k of unavoidable growth, £38k of growth; and a savings target of £1.1m as part of the 2009/10 budget setting process.
3. The service continues to manage underlying pressures from an increased demand for Nursing care and additional costs incurred in arranging alternative residential and nursing placements which have resulted from concerns about the quality of care delivered by one provider.

Physical Disabilities: Nil variance (No change)

4. This service is managing a gross budget of £10.1m, and has a savings target of £100k as part of the 2009/10 budget setting process.
5. This service is currently forecasting outturn to be on budget.

Learning Disability: £387k favourable (£230k improvement)

6. This service is managing a gross budget of £31.5m, received £935k of unavoidable growth; and a savings target of £100k as part of the 2009/10 budget setting process.
7. The favourable movement first reported in Month 4 has shown a continuing favourable trend which the Month 5 forecast reflects. In the context of a gross spend of £31.5m and residential care packages that average £60k per annum and can be double this figure in extreme cases, this movement is accepted as being within tolerance.
8. The reasons for this favourable movement include new and transitional clients starting later than previously expected; revised arrangements with the PCT following national changes in funding

regimes; and management action. The forecast also assumes that the £1.7m corporate contingency held for transitional children is received.

Mental Health: £291k adverse (£27k improvement)

9. This service is managing a gross budget of £5.3m, received £208k of unavoidable growth; and a savings target of £25k as part of the 2009/10 budget setting process.
10. The forecast shows a marginal and favourable movement of £27k from the Month 4 position. The forecast also assumes that the £450k corporate contingency held for Mental Health Services is received reducing the gross pressure from £741k to £291k reported in this forecast.

Housing Benefits: Nil variance (No change)

11. The service is managing a gross budget of over £138m and at this stage is forecasting to be on budget. However, as reported previously this budget is under pressure as a result of increased benefit uptake. Benefit applications within the privately rented accommodation area is showing increases of around 20%. This has reduced from the 35% indicated in the last report. However, unless this reduces further a pressure of around £243k could be likely. At this stage a nil variance is being reported as additional one-off admin grant funding and other compensating actions available to the service, which are being actively pursued, should mitigate the pressure.

Housing Need Services: Nil variance (No change)

12. This service is managing a gross budget of £39m and received £550k of unavoidable growth as part of the 2009/10 budget setting process; this budget line includes Homelessness.
13. As reported last month a number of measures identified to contain the pressures are to date being successful in reducing the pressure to just over £170k. This mitigating action needs to be maintained in order to further reduce pressures on this budget and as at Month 5 this underlying pressure remains around the level reported last month. Officers are continuing to focus staffing efforts to contain this adverse pressure, and although further reductions are likely to prove more difficult a nil variance is being forecast. As reported previously, efforts to contain this pressure is putting at risk the council's ability to achieve the government's 2010 temporary accommodation target.
14. The forecast assumes that the £1.3m corporate contingency held for Homelessness is received.

Other ASCH&H Services: £105k adverse (£4k adverse)

15. Careline: £90k adverse variance. It is necessary to carry out works costing £90k to change the existing equipment from an analogue to a digital signal. The Council has no discretion in the matter and expenditure is now being incurred for the switchover. Although forecast as an overspend Officers continue to work at containing this spend within existing budgets if possible.
16. There is also an adverse variance of £14k for the Colne Park caravan site, which has resulted from legal costs associated with an Anti Social Behaviour Order (ASBO).

Housing HRA

17. The HRA has a gross budget of £48.8m. The forecast for Month 5 shows an overall favourable variance of £538k , an improvement of £257k, as set out in the table below:

Division of Service	Forecast Variance Month 5 £000	Forecast Variance Month 4 £000	Change from Month 4 £000
HH Ltd: General and Special Services	0	0	0
HH Ltd: Repairs Services	0	0	0
LBH: General and Special Services	-5	+43	-48
LBH: Repairs Services	0	0	0
Other Expenditure	-312	-189	-123
Income	-221	-111	-110
In Year (Surplus) / Deficit	-538	-257	-281

Hillingdon Homes: Nil variance (No change)

18. Hillingdon Homes are experiencing a pressure of £178k due to higher utility costs (£100k), and increased insurance costs. However, Hillingdon Homes officers are examining the overall General and Special Services budget with a view to containing these pressures. As a result a nil variance is being shown although it may be necessary to review the budget in the near future.

LBH General and Special Services: £5k favourable (£48k improvement)

19. The LBH General and Special Services forecast has improved as a result of reduced staffing costs in the homelessness areas and a number of other smaller variations.

Other Expenditure £312k favourable (£123k improvement)

20. The forecast improvement has resulted primarily from reduced projections for capital spending from revenue. This includes work at the Coaxden Day Centre, and continuing delays in the hostels programme.

Income: £221k favourable (£110 improvement)

21. The favourable improvement in the income forecast results from an improved void performance, which is well below the 2% target.

Environment and Consumer Protection (E&CP)

Revenue: Nil Variance (No change)

1. At month 5, the Group is continuing to forecast a nil variance. The forecast variances are expressed net of any contingency provisions, which are detailed within the report.

	Forecast Variance Month 5	Forecast Variance Month 4	Change from Month 4
Division of Service	£'000	£'000	£'000
Street Cleansing	+95	+95	0
Harlington Road Depot	+169	+179	-10
Waste Disposal	-50	0	-50
Trade & Clinical Waste net	-40	0	-40
Off Street Parking Income	-80	0	-80
Recovery Plan Savings	-94	-274	+180
E&CP - Total	0	0	0

Contingent Items

2. The Council's 2009/10 contingent budget contains sums relating to the Waste Disposal Levy, and cost pressures on Recycling Services and Vehicle Fuel which impact on the ECP Group position. West London Waste have set the 2009/10 levy and this utilises the full amount of the contingency with a minor adverse variance of £12k. The Borough's recycling activity continues to exceed base budgeted levels, and the position this month suggests full use of the contingency. The situation on vehicle fuel continues to be extremely volatile and highly dependent on market trends and economic recovery during 2009/10. However given the actual usage and price trends to date, combined with the current forecast trend in prices, a modest reduction in the potential contingency usage of £25k is being assumed at this time.

	Gross Pressure Month 5	Gross Pressure Month 4	Change from Month 4	Contingency	Net Pressure
Division of Service	£'000	£'000	£'000	£'000	£'000
Waste Disposal Levy	732	732	0	720	+12
Recycling Services	200	166	+34	200	0
Vehicle Fuel	60	85	-25	85	-25
E&CP - Total	992	983	+9	1,005	-13

Street Cleansing: £95k adverse (no change)

3. The net forecast pressure across Street Cleansing services relates to activity required to maintain service standards. The group are currently examining options to reduce this pressure.

Public Conveniences: Nil variance (no change)

4. A balanced position is currently forecast. Management action is being undertaken to minimise the one-off demolition and installation costs for the units, and as far as possible to offset these from the running costs savings from delays in commissioning the units.

Waste Services: £90k underspend (£90k favourable)

5. **Recycling Costs:** The gross pressure on Recycling is forecast at £500k, reflecting a minor deterioration from the month 4 position of £490k. The major elements of the variance relate to Gate Fees and recycling bags, reflecting a continuing improvement in recycling performance. This position also allows for the continuation of new initiatives that were implemented during 2008/09, for Estates Based recycling, the Blue Sky scheme, Specialist collections and Battery Banks. The future funding of these schemes is being considered via the HIP Steering Group. The actual overspend for the first five months is £173k, but the forecast position makes some allowance for seasonal variations in the income and expenditure profiles. There is £200k available in the contingency for Waste & recycling cost pressures that can partially offset this position, along with a balance of £300k in the HIP initiatives budget to provide for the continuation of the recycling schemes.
6. **Waste Disposal:** The gross pressure of £732k reflects the increase in the 2009/10 waste levy that has now been confirmed by West London Waste Authority (WLWA) and is currently held in contingency. If this is released the current forecast for this area is a variance of £12k. The Section 52(9) budget has been reset as part of the 2009/10 levy setting. The latest tonnage figures from WLWA continue to show the drop in tonnages shown in the first quarter across the constituent Boroughs compared to budgeted levels. The trends in tonnages are susceptible to many variables and highly seasonal, and this position will be closely monitored as the year progresses. It is currently anticipated that an underspend of at least £50k is likely. The current tonnages also indicate that WLWA is able to stay within the Landfill Allowance Trading Scheme (LATS) allowances for 2009/10, and therefore avoid any potential penalties that would ultimately be borne by the constituent Boroughs.
7. **Trade Waste:** An overachievement of income of £70k is forecast, representing an improvement of £20k on the month 4 position. There are some indications that the level of business coming to the Council is reducing due to the combined effect of cumulative increases in fees (in line with the Landfill Tax accelerator), and the economic downturn. The aged debt position on this service is also being closely monitored given the economic conditions. The overachievement on this service has been reduced by the forecast pressure on Clinical Waste.
8. **Civic Amenity Sites:** A nil variance is forecast across this service area. The position on this service area will continue to be closely monitored in line with variations in activity.
9. **Clinical Waste:** The collection and disposal of Clinical waste from residents' homes has to date been undertaken by Hillingdon Primary the Care Trust (HPCT). All associated costs of the service have also been covered by HPCT. However recently the Council have been approached by the Trust and asked to take responsibility for delivering this service. This can be required as the Environmental Protection Act 1990 clearly places the responsibility for such collection on the local authority. The other West London boroughs are already providing this service.
10. The details of the service provision are still under discussion with the PCT, however based on the client data provided to date the potential pressure from taking responsibility for this service will be £30k for 2009/10, based on half year provision. If client numbers change the costs will vary accordingly.

Harlington Road Depot: £169k adverse (£10k favourable)

11. The site has experienced a significant reduction in the intensity of usage, with the movement of Council services to the Civic Centre, together with the loss of Hillingdon Homes contributions as they move services to alternative providers. The Group are actively trying to mitigate the pressures in this area through a number of workstreams concerning the rationalisation and usage of the space to achieve net savings, including potentially letting space to external

contractors currently working with the Council. The initial work is indicating that savings of approximately £40k can be made subject to the timing of implementing such changes.

Off-Street Parking: £80K favourable (£80k favourable)

12. The favourable movement represents a forecast improvement in the position on Season Ticket income, based on a revision to the capital financing arrangements for the Car Parks Improvements capital project.

Recovery Plan Savings: £92k target (£180k favourable)

13. Management action will continue to be undertaken across the group to address the residual pressures and seek reductions that can bring the overall position for the group in balance.

Vehicle Fuel Pressure – contingency item: £25k underspend (£25k favourable)

14. The bulk diesel purchase price has averaged around 85 pence per litre for the first five months of 2009/10. The prices remain higher than at the end of 2008/09 when they dropped back to 79 pence per litre, with an underlying upward trend. In the first two weeks of September prices have risen to just under 88 pence per litre, reflecting the fuel price duty increase put in place as part of the budget set by government in April. Commentators continue to be divided on where the oil price – and therefore diesel prices – will ultimately finish at the end of 2009/10. Most are continuing to predict a steady increase, though this is considered to be dependent on factors such as the speed and extent of any economic recovery and any constraints imposed on supplies.

15. As part of the 2009/10 MTF work a sum of £85k was included in the contingency to cover fuel pressures. At this stage a cautious reduction of £25k is being forecast against this sum. This reflects the actual usage and price trends in the first five months of the year, and an expectation of a lower rate of increase over the rest of the year than has been forecast to date. Given the volatility of this area, a close focus on trends in the market will continue to be undertaken. The impact on prices of oil based/dependent materials also continues to be closely monitored.

Education and Children Services (E&CS)

Revenue: Nil variance (No change)

1. The Group is projecting a nil variance as at Month 5 for the 2009/10 financial year.
2. This excludes the overall pressure on asylum funding and the cost of exhausted all appeals cases which are reported under exceptional items elsewhere in this report.
3. The projected variances at Month 5 are summarised in the following table:

Division of Service	Forecast Variance Month 5 £'000	Forecast Variance Month 4 £'000	Change from Month 4 £'000
Schools	0	0	0
Director & Youth Services	-31	-31	0
Resources, Policy & Performance	-19	-15	-4
Learning & School Effectiveness Service	0	+58	-58
E&CS Central Budget	+913	+913	0
Children & Families Service	-290	0	-290
Recovery Plan Savings	-573	-925	+352
E&CS - Total	0	0	0

Schools: Nil variance (No change)

4. The Schools Budget is ring fenced and funded from the DSG. Schools' payroll and non-payroll expenditure is monitored quarterly with any forecast year-end deficits being the subject of detailed discussions with the schools concerned. Schools forecasting deficits are required to supply recovery plans identifying how they intend to eliminate their deficit, but these do not affect the general fund.
5. Any underspend or overspend of the Schools Budget in 2009-10 would be carried forward into 2010-11 and would have no effect on the General Fund.

Director & Youth Services: £31k underspend (No change)

6. There has been no change to the improvement reported within the Youth & Connexions Services.

Resources, Policy & Performance: £19k underspend (£4k improvement)

7. The improvement of £4K follows receipt of tenders for feasibility study on school places.

Learning & School Effectiveness: Nil variance (£58k improvement)

8. School Improvement Services has identified a one off saving from delayed recruitment. Music Services remain a high risk area based on the current expenditure pattern. The service might overspend further than the £58k already reported without implementation of mitigating action. The manager is exploring options to minimise the pressure.

E&CS Central Budget: £913k Pressure (No change)

9. As reported previously £653k of the previous year's MTF savings agreed by members have not yet been allocated to individual areas. The remaining £260k is the additional savings allocated to the Group in Month 2.
10. An action plan is currently being implemented by the group and to date £340k savings has been identified to offset the pressures identified above.

Children and Families: £290k underspend (£290k improvement)

11. The Children & Families projecting an underspend of £290k, an improvement of £290k from Month 4. The improvement is due to over 18's client group moving to Adult services and changes in unit costs within the P & V areas.

Recovery Plan Savings: £573k target (£352k improvement)

12. The group has implemented an action plan to address the budget pressure through reviewing all ECS grant allocations to apply funding where possible. Also recruitment to new and vacant posts continue to be closely monitored and challenged by senior management.

Exceptional Items: Asylum Service £3,040k (£1,830k greater than that provided for in contingency – £210k adverse movement from Month 4)

13. The Asylum Service is reporting a budget pressure of £2,465k, an adverse movement of £210k. The pressure is due to the ongoing demand for the service and the continued under-funding by the Government and in respect of the moderation of the Special Circumstances grant for under 18's.
14. The £210k adverse movement is due to recent guidance issued by the UKBA on Indirect Cost Model on new daily rates for under 18's. The new condition states from 1 October 2009 to 31 March 2010 that LA's will only be allowed to claim £35 per child/young person per day for UASC aged under 16 and £30 per day for those aged 16 and 17.
15. There is no change in the reported pressure of £575k for Exhausted All Appeal.
16. Action has already been undertaken to reduce the shortfall on Asylum funding whilst maintaining service levels. However, the age profile of the clients has led to a decrease in grant income as more asylum seekers turn 18. This has led to the net position being worse than in previous years even though numbers are falling. However, continuing to provide services to asylum seekers as over 18's costs the authority less than provision for general non-asylum Leaving Care clients, so this in effect reduces the overall Council pressure.

Planning and Community Services (P&CS)

Revenue: Nil variance

- The Group has a draft outturn position of nil variance, this excludes all pressure areas that have identified contingent provisions.

Division of Service	Forecast Variance Month 5 £'000	Forecast Variance Month 4 £'000	Change from Month 4 £'000
Community Safety	0	0	0
Arts Service	0	0	0
Libraries	0	0	0
Adult Education	0	0	0
Leisure	0	0	0
Planning & Transportation	0	0	0
Group Directorate	0	0	0
P&CS - Total	0	0	0

Contingent Items

- The Planning income streams were identified as exceptional items last year. This was due to the downturn in the economy which had impacted the housing market severely and has continued to depress these income streams. The Authority's 2009/10 contingent budget contains provision for these affected income streams. The net position after the application of the contingency is shown in the table below

Contingent Item	Gross Pressure Month 5 £'000	Month 4	Change from Month 4	Contingency £'000	Net Pressure £'000
Development Control	+377	+386	-9	+350	+27
Building Control	+149	+175	-26	+108	+41
Land Charges	+757	+757	0	+715	+42
Golf	+262	+262	0	+262	0
P&CS - Total	+1,545	+1,580	-35	+1,435	+110

Development Control Income: £377k Gross Pressure (£9k favourable)

- The forecast for Development Control income is a gross pressure of £377k the net position after the contingency would be £27k. The main areas of pressures are the fees for Major applications that are currently forecast to fall by 30% compared to 2008/09. This is a volatile area given the significant scale of fees, and the limited volume of applications. Major applications normally accounts for 2/3rds of the Development Control Income. The other areas of income that are for Minor and Other applications continue to be depressed and are now down by 34% and 24% respectively from the 3 year average levels, which is a deterioration from the 28% and 23% fall reported previously.

Building Control Income: £149k Gross Pressure (£26k favourable)

- The forecast for Building Control income is a gross pressure of £149k the net position is now forecast to be £41k. Income for April to August is 10% down from the same period in 2008/09.

Land charges: £42k Gross Pressure (No change)

5. Land charge income has moved to a cost recovery basis due to a change in regulations enacted in December 2008.
6. Not reflected in the forecast yet is the potential impact of from the recent guidance issued from the Information Commission Office (ICO). The guidance suggests that the majority of property search data is Environmental Information and that Local Authorities are therefore obliged to allow inspection of this information at no charge. The LGA on behalf of local authorities are set to challenge the guidance so it is not clear at this stage if this will be upheld.

Golf: £262k Gross Pressure (No change)

7. This position assumes the allocation of £262k from contingency for Golf. The Golf budgets have been set to match the expected income from Mack trading. The fixed contract element is £280k (£210k courses and £70k driving range) and a further £100k for the variable element for the driving range, £380k in total.

Community Safety: Nil variance (No Change)

8. The underspend is due to lower staffing expenditure.

9. Arts Service: Nil variance (No Change)

As previously reported the service is reporting a pressure on its income streams, this is due to range of factors related to the general difficulties arising from the current economic conditions, e.g. cancellation of bookings. However action is being taken to mitigate these pressures from within the Arts budgets.

Libraries: Nil variance (No change)

10. The Library service is currently forecasting a nil variance

Adult Education: Nil variance (No change)

11. The grant allocation for 2009/10 is still subject to negotiation, however the service is not expecting there to be any budget pressures, and is reporting a balanced position.

Leisure: Nil variance (No Change)

12. For Leisure facilities there are significant savings targets to be achieved, which are linked with the contracting out of Leisure services for the new build leisure centre at Botwell and other existing in-house sites. The outcome of this was reported to Cabinet in July. The effect on the 2009/10 budget will be reported when the contract is finalised which is expected to be completed in September, but the current assumption is that the savings targets will be achieved.

Planning and Transportation: Nil variance (No change)

13. With the exception of planning income streams that are outlined above as part of the contingency section, the rest of the service is reporting a nil variance.

2009/10 In-year Efficiency Target

14. The Group is looking to meet its in-year savings target of £90k by slowing down some of the recruitment to its vacant posts.

Central Services

Revenue: Nil variance (No change)

1. The forecast position for the central services revenue budget is a breakeven position. However, the 2 departments have pressures totalling £295k, an improvement of £102k on last months projections, for which they have developed mitigating savings plans.

Division of Service	Forecast Variance Month 5 £000	Forecast Variance Month 4 £000	Change From Month 4 £000
Deputy Chief Executive's Office	+118	+235	-117
Finance and Resources	+177	+162	+15
Recovery Plan Savings	-295	-397	+102
Central Services - Total	0	0	0

Deputy Chief Executive's Office: £118k pressure (£117k improvement)

2. The Deputy Chief Executive's Office budgets are projecting a pressure of £118k at month 5, an improvement of £117k from month 4. This is due to an ongoing projected pressure of £118k (which has improved by £35k) in Human Resources, which relates to the need for agency staff in both the new HR team and the new Payroll team, whilst the permanent structure is being recruited to, this includes the costs of the Head of the service up to the point of handover to the now permanent Head. This pressure has reduced due to a review of the agency spend and the cost and delivery of the Occupational Health Service.
3. The pressure of £82k reported in Democratic Services, has been managed down to a breakeven position, following a review of non-staffing costs (including printing), and introducing a new process to enable the Registrars to create capacity to generate more income from nationality checking and citizenship.

Finance & Resources: £177k pressure (£15k adverse)

4. The Finance & Resources Directorate budgets are projecting a pressure of £177k at month 5, an adverse movement of £15k on last month's projections. This is due to ongoing pressures within Corporate Property Services, as set out below:
 - There is an ongoing pressure on income streams from commercial properties of £142k, due to a number of vacant tenancies in the Warnford Industrial Estate (£98k), 192 High Street, where the premises have remained vacant for a number of months (£29k) and a recent vacant unit that exists in Uxbridge Market (£15k).
 - There is an anticipated shortfall of £20k on income from schools buy back of FM services, due to schools opting to procure services directly rather than through the FM Team.
 - There is a pressure of £15k on the cost of maintaining and keeping secure surplus properties prior to their disposal.

Recovery Plan Savings: £295k target (£102k favourable)

5. Identified recovery savings are now being factored into the relevant services where applicable. The remaining saving targets relates to one off reductions in costs that will occur in this year and other planned activity, yet to be implemented.

Capital Programme: £15,115k underspend (£2,459k improvement)

1. The overall Capital Programme budget is projecting an underspend of £15,115k as at Month 5 (£12,656k month 4), an improvement of £2,459k on the Month 4 reported projections.
2. Expenditure to month 5 across the whole capital programme budget is £20,742k which equates to 20% of the programme. Further detail is provided below for each individual department.

HRA: £389k underspend (£390k improvement)

3. A summary of the programme for HRA is shown below :

Capital Schemes 2009/10	Original Budget	Revised Budget	Budget Released	Capital Spend Month 5	Actual % of Revised Budget	Forecast Outturn	Variance (Current Month)
	£' 000	£' 000	Y/N	£' 000	%	£' 000	£' 000
Capital Works	10,000	9,762	Y	2,624	27%	9,762	0
Estates Improvements	1,125	1,125	Y	0	0%	945	-180
Cash Incentive Scheme	100	100	Y	25	25%	100	0
New Build – Redevelopment	290	330	N	0	0%	120	-210
New Build – Long Lane	30	30	Y	0	0%	31	1
Other Projects	200	300	Y	24	8%	300	0
Townfield Community Centre		660	Y	180	27%	660	0
HRA – Total	11,745	11,647		2,673	23%	11,258	-389

4. Expenditure to date is £2,673k out of a revised budget of £11,647k, which accounts for 23% of the total programme budget.
5. The projected underspend of £210k on the New Build – Redevelopment is due to the refurbishment project at Coaxden Day centre, which has now been subject to a full review and a revised design is being considered. This change will affect the project timetable, and hence has been forecasted not to spend fully in this financial year.
6. The underspend reported of £180k on Estate Improvements relates to Triscott House. This scheme is now under review. This is a possible use of the Social Housing Grant. Confirmation of switching the above funding is being sought. Until this is received, the original project will be on hold.

Adult Social Care, Health and Housing: £657k underspend (£324k improvement)

7. A summary of the programme for Adult Social Care, Health and Housing is shown below :

Capital Schemes 2009/10	Original Budget £' 000	Revised Budget £' 000	Budget Released Y/N	Capital Spend Month 5 £' 000	Actual % of Revised Budget %	Forecast Outturn £' 000	Variance (Current Month) £' 000
100% Grant Funded							
PSRSG for WL Empty Property Grant	0	1,867	Part	340	18%	1,867	0
Mental Health – Mead House	114	345	Y	0	0%	345	0
Improving Care Homes Environment for OP	0	3	Y	0	0%	0	-3
ASC,H&H (Non HRA – 100% Grant Funded) – Total	114	2,215		340	15%	2,212	-3
Non-Grant Funded							
Disabled Facilities Grants	2,040	2,017	Y	1,265	63%	2,017	0
Private Sector Renewal Grants	390	390	Y	82	21%	390	0
Colne Park Caravan Sites	302	374	Part	9	2%	75	-299
Improving Information Management and ESCR	218	565	Part	128	23%	565	0
Enabling Electronic Social Care Record	100	276	Y	263	95%	276	0
Learning Disability Modernisation Programme	243	375	N	0	0%	277	-98
Mental Health Phase 2 – Hayes Park House	0	40	N	0	0%	0	-40
Mental Health Phase 3 – Group Homes	0	30	N	0	0%	0	-30
Purchase of Benefits customer self-service facilities	225	225	N	0	0%	121	-104
Purchase of Supporting People software	83	83	N	0	0%	0	-83
ASC,H&H (Non HRA – Non Grant Funded) – Total	3,601	4,375		1,746	40%	3,721	-654
ASC,H&H – Total	3,715	6,590		2,087	32%	5,933	-657

8. Expenditure to date is £2,087k out of a revised budget of £6,590k, which accounts for 32% of the total programme budget. The original budget has been increased by grant relating to empty properties.

9. The projected underspend of £657k relates primarily to a delay in the refurbishment of Colne Park Caravan Site (£299k), which is anticipated to slip into 2010/11. The underspend of £70k across the Mental Health (Phases 2 and 3) and the £83k Purchase of Supporting People software is due to costs being met from the HRA or from the revenue account.

10. The Purchase of Benefits customer self service facilities is reporting a reduced outturn of £121k on the £225k budget. A capital release report is in the process of being drafted. This project is expected to slip into 2010/11 due to software compatibility issues. To resolve the delay it is hoped that a single tender process action can be adopted. If however this is unsuccessful then this will delay the entire project until April 2010. Hence a prudent forecast has been submitted on the grounds of a successful single tender implementation.

Environment and Consumer Protection: 483k Overspend (£483k adverse)

11. A summary of the programme for Environment and Consumer Protection is shown below.

Capital Schemes 2009/10	Original Budget	Revised Budget	Budget Released	Capital Spend Month 5	Actual % of Revised Budget	Forecast Outturn	Variance (Current Month)
	£' 000	£' 000	Y/N	£' 000	%	£' 000	£' 000
Highways Improvements	1,358	1,358	N	-15	-1%	1,358	0
Cabinet Member Initiatives – Highways							
Road Safety	250	250	N	0	0%	250	0
Traffic Congestion Mitigation	200	200	N	0	0%	200	0
Street Lighting	300	300	N	63	21%	300	0
Cabinet Member Initiatives - Parks & Streetscene							
Green Spaces Strategy	250	250	N	136	54%	250	0
Street Scene	250	250	N	-34	-14%	250	0
Cabinet Member Initiatives – Improvement, Partnerships & Community Safety							
Breakspear Crematorium	1,700	1,876	Y	1,314	70%	1,876	0
Car Park Schemes	200	200	N	0	0%	200	0
Ruislip Lido	0	18	Y	18	100%	18	0
Hillingdon First – Parking Meters	0	192	Y	0	0%	192	0
Other Schemes - Public Conveniences	0	185	Y	181	98%	215	30
E&CP – Sub Total	4,508	5,079		1,663	33%	5,109	30
BSP funded by Transport for London	3,685	3,440	Y	820	24%	3,893	453
TFL (100% Grant Funded) – Sub Total	3,685	3,440		820	24%	3,893	453
E&CP – Total	8,193	8,519		2,483	29%	9,002	483

12. Expenditure to date is £2,483k out of a budget of £8,519k, which accounts for 29% of the total programme budget. Seven schemes have yet to be released. Expenditure incurred on these schemes in 2009/10 relates to programmes of works that started in 2008/09.

13. The majority of the expenditure to date has been incurred on Breakspear Crematorium (£1,314k), where the project is expected to be completed by the end of the calendar year.

14. The overspend of £30k on the Public Conveniences (where public toilets sited in Northwood Hills, Eastcote and West Drayton have been purchased and are in the process of being sited and installed) relates to an additional cost of the connection of water/drainage.

15. The overspend of £459k on the BSP funded by Transport for London projects, relates to all costs incurred in the implementation of the 2008-09 programme. The deadline to recharge TfL for these costs was 31 August 2009, and it is expected that all of the costs incurred will be fully funded by TfL and £6k from Section 106.

16. A programme for Highways Improvements for £827k has been drafted and the schemes are ready to be commissioned to Enterprise-Mouchel, the Highways commissioning contractor. The programme is currently subject to the moratorium; therefore the ability to spend this on this programme will be dependent on the timing of the approval process.

Education and Children's Services: £8,959k underspend (£128 k improvement)

17. A summary of the programme for Education and Children's Services is shown below:

Capital Schemes 2009/10	Original Budget	Revised Budget	Budget Released Y/N	Capital Spend Month 5	Actual % of Revised Budget	Forecast Outturn	Variance (Current Month)
	£' 000	£' 000		£' 000	%	£' 000	£' 000
100% Grant/Externally Funded							
Early Years Foundation Stage – Surestart	0	282	Y	277	98%	282	0
Extended Schools	606	773	Part	129	17%	445	-328
Extension of Nursery Care / Education	1,854	1,249	Part	24	2%	1,249	0
Formula Capital Devolved to Schools	6,388	8,193	N/A	412	5%	5,023	-3,170
Guru Nanak - Expansion 2010	3,000	2,886	Y	306	11%	2,886	0
Home Access for Targeted Groups	0	95	Y	62	65%	95	0
Information Systems – Every Child Matters	0	41	N	41	100%	41	0
ISPP Project (Parents & Providers)	0	24	Y	0	0%	24	0
Pathfinder (Playgrounds)	0	530	N	0	0%	530	0
Pinkwell	0	709	Y	0	0%	0	-709
Primary Capital Programme – indicative	3,893	3,893	N	0	0%	3,893	0
Rosedale College S106 – only	26	26	Y	0	0%	26	0
Ruislip High School	0	327	N	0	0%	60	-267
School travel Plans	112	126	Y	5	4%	126	0
Schools Kitchens	594	1,466	N	0	0%	1,466	0
Specialist Schools	0	193	Y	7	4%	193	0
Surestart - AHDC short breaks	157	157	N	0	0%	157	0
Investment in Young People's Facilities	0	167	N	25	15%	167	0
Total 100% Grant/Externally Funded	16,630	21,137		1,288	6%	16,663	-4,474
Non Grant Funded							
Expansion Haydon	726	930	Y	43	5%	930	0
School Improvement Programme	2,000	4,203	Part	171	4%	2,475	-1,728
School Places Provision (Basic Needs)	3,757	3,757	N	5	0%	1,000	-2,757
Schools Access Programme	500	500	N	20	4%	500	0
Total 100% Non Grant Funded	6,983	9,390		239	3%	4,905	-4,485
E&CS – Total	23,613	30,527		1,527	5%	21,568	-8,959

18. Expenditure to date is £1,527k out of a budget of £30,527k, which accounts for 5% of the total programme budget. The original budget of £23,613k has been increased to £30,527k, due to the receipt of a number of grants.

19. To date only 13 schemes out of a total of 21 schemes have been released or partially released from the capital moratorium. The other schemes have not yet been released, which could affect the outturn.

20. The £267k underspend on Ruislip High school is earmarked for the project currently in MCP to cover the projected overspend, however this budget amount remains in E&CS until it has been released.

21. The budget for the Schools Kitchens has been re phased over two years to reflect the fact this is a two year grant. The scheme is pending members approval. When authorisation is obtained the confirmation letter to the DCSF can be submitted to release the grant payments. Delay in starting the scheme may affect the outturn and the ability to fully utilise the grant.

Planning and Community Services: £10k overspend (£165 improvement)

22. A summary of the programme for Planning and Community Services is shown below:

Capital Schemes 2009/10	Original Budget	Revised Budget	Budget Released	Capital Spend Month 5	Actual % of Revised Budget	Forecast Outturn	Variance (Current Month)
	£' 000	£' 000	Y/N	£' 000	%	£' 000	£' 000
100% Grant/Externally Funded							
SSCF	0	100	Y	5	5%	100	0
S106/S278 Schemes	411	411	Y	36	9%	246	-165
NLDC	0	10	Y	9	90%	10	0
Total 100% Grant/Externally Funded	411	521		50	10%	356	-165
Non Grant Funded							
Assisted Funding	150	150	N	10	7%	150	0
Libraries Refurbishment	1,500	1,100	N	181	16%	1,275	175
Voltage Optimisation Equipment	40	40	N	0	0%	40	0
CCTV Programme	250	250	N	0	0%	250	0
Total Non Grant Funded	1,940	1,540		191	12%	1,715	175
P&CS – Total	2,351	2,061		241	12%	2,071	10

23. Expenditure to date is £241k out of a budget of £2,061k, which accounts for 12% of the total programme budget. The original budget of £2,351k has decreased by £290k to £2,061k, due to the transfer of balances relating to the slippage of 2008/09 schemes and a transfer of resources from the Library Refurbishment programme for the fit out of the Botwell Library.

24. To date 3 schemes out of a total of 7 schemes, have been released from the capital moratorium. The other 4 schemes have not yet been released.

25. The projected overspend of £10k reported relates to the anticipated total cost of the Library Refurbishment programme and the reported underspend on Section 106.

Major Construction Projects: £776k underspend (£730k improvement)

A summary of the programme for the newly created Major Construction Projects is shown below:

Capital Schemes 2009/10	Original Budget	Revised Budget	Budget Released	Capital Spend Month 5	Actual % of Revised Budget	Forecast Outturn	Variance (Current Month)
	£' 000	£' 000	Y/N	£' 000	%	£' 000	£' 000
Planning and Community Services							
Brookfield – Second Floor	0	264	Y	94	36%	262	-2
Hillingdon Sports and Leisure Centre	8,707	8,468	Y	2,974	35%	8,468	0
Botwell Green (including Gymnastics Centre and Library fit out)	8,645	10,545	Y	4,003	38%	11,190	645
Boxing Club	0	0	Y	35	No Budget	41	41
Minet Cycle Club	250	250	N	0	0%	250	0
Queensmead Fitness Centre Refurbishment	80	80	N	0	0%	80	0
Education and Children's Services – 100% Grant/Externally Funded							
Children's Centres – Phase 2	2,075	1,645	Y	1,909	116%	2,079	434
Children's Centres – Phase 3	0	2,473	N	119	5%	2,473	0
Longmead	2,323	2,185	Part	98	4%	1,491	-694
Pinkwell New Classrooms	1,199	400	Y	142	36%	400	0
Education and Children's Services – Non Grant Funded							
Harefield School Nursery	52	1,247	Y	0	0%	1,247	0
Glebe Primary School	0	229	Y	96	42%	229	0
Heathrow Primary	0	181	Y	6	3%	172	-9
Ruislip High School	0	41	Y	7	17%	308	267
Targeted Capital - Oak Farm	45	398	Y	0	0%	398	0
Targeted Capital - Uxbridge High	1,180	1,247	Y	1,105	89%	1,604	357
New Young People's Centre	3,010	2,999	Part	82	3%	2,389	-610
Finance & Resources							
Farm Barns	15	15	N	0	0%	10	-5
Environment and Consumer Protection							0
New Years Green Lane Civic Amenity Site	1,600	1,600	N	0	0%	400	-1,200
Major Construction Projects – Total	29,181	34,267		10,670	31%	33,491	-776

26. Expenditure to date is £10,670k out of a budget of £34,267k, which accounts for 31% of the total programme budget. The original budget of £29,181k has increased by £5,086k to £34,267k, due to new schemes being added into the work programme of the team. To date 5 schemes have not yet been released out of a total of eighteen.

27. There are a number of variances reported, which relate to the following schemes:

- a. The Botwell Green Leisure Development is now reporting an overspend of £645k an increase of £245k on last month's projections due primarily to Groundwork's, the incorporation of the Gymnastics Centre, the addition of a fitness suite and delays in design information. Officers are currently looking at ways to manage this down including the application of S106.
- b. Children's Centres – Phase 2 are projecting an overspend of £434k, an increase of £84k reported in month 4. A due diligence review has been carried out by MCP, which has highlighted additional costs that were not previously taken into account. A review of all funding sources and projected expenditure continues.

- c. The Ruislip High School project is projecting an overspend of £267k. A review of all funding sources is currently being undertaken to identify whether any further grant monies or S106 monies can be applied.

Central Services: £159k overspend (£67k improvement)

28. A summary of the programme for Central Services is shown below:

Capital Schemes 2009/10	Original Budget	Revised Budget	Budget Released	Capital Spend Month 5	Actual % of Revised Budget	Forecast Outturn	Variance (Current Month)
	£' 000	£' 000	Y/N	£' 000	%	£' 000	£' 000
Leader's Initiative	200	200	N	0	0%	200	0
Chrysalis	1,000	1,000	Y	258	26%	1,000	0
Town Centre Initiative	325	325	N	0	0%	325	0
HIP Projects	600	400	N	0	0%	400	0
DCE - Total	2,125	1,925		258	13%	1,925	0
ICT Asset Management Strategy	500	500	N	4	1%	500	0
ICT Works at the Crematorium	0	97	Y	19	20%	106	9
Property Enhancement Programme	500	500	N	23	5%	360	-140
Victoria Hall	0	63	Y	51	81%	63	0
Manor Farm	0	0	Y	46	No Budget	102	102
YOT Consolidation Link 1A/Cashiers	372	413	Y	34	8%	380	-33
Civic Centre Electrical Works	2	55	Y	212	385%	238	183
Hillingdon First Card	182	200	Y	200	100%	200	0
Civic Centre Security Improvements	236	236	N	0	0%	136	-100
Civic Centre - Photovoltaic Cells	34	34	Y	34	100%	34	0
Civic Centre Enhancements	750	750	N	0	0%	567	-183
Civic Centre Boilers	0	50	Y	0	0%	53	3
F&R - Total	2,576	2,898		623	21%	2,739	-159
Central Services - Total	4,701	4,823		881	18%	4,664	-159

29. Expenditure to date is £881k out of a revised budget of £4,824k, which accounts for 18% of the total programme budget.

30. There are a number of variances reported, which relate to the following schemes:

- A review of the overspend of £350k reported in month 4 on the Manor Farm project has resulted in a reduced projection to reflect the committed items and retention amount. This project was completed in 2008/09. There are still disputed amounts being investigated so there is a risk this amount may increase, however this may not be realised in the current financial year.
- The £183k variance on the Civic Centre Electrical Works is due to a number of complications that were identified as part of the installation process that needed to be addressed before any further works could be completed. Officers are exploring options to ensure that these are contained within the directorate's overall capital programme budget. The first call on the Civic Centre Enhancements could be utilised to fund the pressure identified on the Civic Centre Electrical Work.
- There are early indications that not all of the funds will be needed in respect of Civic Centre Security Improvements, which could result in an underspend of £100k.
- The underspend of £140k on the Property Enhancement Programme, reflects the difference between the budget and the schemes proposed for implementation in this financial year.

Capital Contingency: £3,880k underspend (£32k change)

31. A summary of the programme contingency is shown below:

Capital Schemes 2009/10	Original Budget	Revised Budget	Capital Spend Month 5	Actual Spend % of Revised Budget	Forecast Outturn	Variance (Current Month)
	£' 000	£' 000	£' 000	%	£' 000	£' 000
Programme Contingency	3,196	3,196	0	0%	686	-2,510
Contingency	1,500	1,472	0	0%	102	-1,370
Contingency – Total	4,696	4,668	0	0%	788	-3,880

32. The forecast outturn of £788k (£820k, month 4) assumes that all of the pressures identified below will need to be funded from the contingency.

Scheme	Funding	Revised Budget	Actual Spend (incl accruals)	Forecast Outturn (Month 5)	Variance (Current Month)
		£'000	£'000	£'000	£'000
Programme contingency					
Boxing Club	Council	0	35	41	+41
Leisure Development - Botwell Green, Hayes	Council	10,145	4,003	10,790	+645
Sub Total		10,145	4,038	10,831	+686
General contingency					
Manor Farm	Council	0	46	102	+102
Sub Total		0	46	102	+102
Total		10,145	4,084	10,933	+788

APPENDIX B

Treasury Management Update

1. The following information is provided to update you on the activities on the Treasury function for the month of August.
2. As at 31 August 2009 the Council's portfolio of deposits and debt was as follows, deposit balances can move substantially from day to day in line with cash flow requirements.

Outstanding Deposits

	Actual £m	Actual %	Bench- mark %
Up to 1 Month	13.3	18.89	35.00
1-2 Months	5.6	7.95	25.00
2-3 Months	6.0	8.52	10.00
3-6 Months	22.9	32.53	10.00
6-9 Months	3.0	4.26	15.00
9-12 Months	2.0	2.84	5.00
12-18 Months	0	0.00	0.00
18-24 Months	0	0.00	0.00
Subtotal	52.8	75.00	100
Unpaid Maturities	17.6	25.00	0.00
Total	70.4	100	100

Average Rate of Return on Deposits: 1.80%

3. With the exception of the unpaid Icelandic investments, our deposits are held with UK institutions and Money Market Funds, which hold AA- or AAA long-term credit ratings.
4. Deposits are currently held with the following institutions; Abbey, Royal Bank of Scotland, Barclays Bank, Lloyds TSB Banking Group, Clydesdale & Nationwide.
5. During August fixed-term investments have continued to mature in line with our cash flow requirements, any surplus funds have been placed in instant access accounts, in order to meet future cash flow requirements.
6. In order to cover the NNDR3 return the short-term balance was built up during June and July. A large proportion of this balance was utilised during August when the outstanding £22.6m for the NNDR3 return was paid.

Outstanding Debt

	Actual £m	Actual %
PWLB	124.6	72
Long-Term Market	48.0	28
Temporary	0	0
Total	172.6	100

Average Interest Rate on Debt: 4.05%

7. No loans matured during August and the opportunity to reschedule debt did not arise.

Ongoing Strategy

8. Longer-term investments are already in place so the current strategy will be to build up short-term balances to provide liquid funds for future cash flow commitments.
9. Over the coming months opportunities for restructuring debt will continue to be monitored.

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